



**Receipt of  
City Attorney Memo  
and  
Standard Operating Procedures  
Confirmation**

All new members of City Council appointed Boards, Commissions or Committees are required to complete and return this form acknowledging receipt of the information contained in the City Attorney's Memo on Open Meetings Law and Public Records Law and receipt of the Standard Operating Procedures Policy for All City Council appointed Boards, Commissions and Committees.

Your Name: \_\_\_\_\_

Name of City Council appointed Board, Commission or Committee:  
\_\_\_\_\_

I have received a copy of the City Attorney memo dated January 31, 2017 and the attachments thereto concerning the Open Meetings Law and the Public Records Law. I have also received a copy of the Standard Operating Procedures Policy for All City Council appointed Boards, Commissions and Committees.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Please sign and return this form to:  
City Clerk's Office, 1st Floor of City Hall, 405 6th Street, Sioux City, Iowa, 51101  
or mail to City Clerk's Office, PO Box 447, Sioux City, IA 51102-0447.**

**Thank you!**



## **MEMO *City of Sioux City***

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**TO** : All Members of City Council Appointed Boards, Commissions and Committees

**FROM** : Mayor and City Council

**DATE** : January 31, 2017

**RE** : City Council Policy on Boards, Commissions and Committees  
Standard Operating Procedures for All City Council Appointed Boards,  
Commissions and Committees

### **STATEMENT OF PURPOSE**

This purpose of this policy is to establish the minimum guidelines under which the meetings of the all City Council appointed Boards, Commissions and Committees of the City of Sioux City will be conducted. The City Council has issued this policy statement to all City Council appointed Boards, Commissions and Committees and to their memberships in order to provide uniformity of procedures throughout the various Boards, Commissions and Committees.

### **POLICY**

I. Open Meetings.

The Iowa "open meetings law" is codified as Chapter 21 of the Iowa Code. The law states that all meetings are required to be public meetings, open to the public at all times except for certain expressed conditions:

"when necessary to prevent irreparable and needless injury to the reputation of an individual whose employment or discharge is under consideration, or to prevent premature disclosure of information on real estate proposed to be purchased, or for some other exceptional reason so compelling as to override the general public policy in favor of public meetings."

The law further requires that a two-thirds affirmative vote of members present is required to hold a closed session; the vote of each member on the question is to be recorded and reported in the minutes along with the reason for the closed session. However, any final action on any matter must be taken in public meeting and not in closed session. A memo prepared by the City Attorney pertaining to Open Meetings Law and Public Records Law is attached for your information.

## II. Public Records.

All members of City Council appointed Boards, Commissions or Committees and employees thereof will familiarize themselves with the "public records" law as provided in Chapter 22 of the Iowa Code relative to public records. A memo prepared by the City Attorney pertaining to Open Meetings Law and Public Records Law is attached for your information.

## III. Announcement of Meetings.

Chapter 21, Section 21.4 of the Iowa Code requires advanced public notice will be given at least twenty-four hours prior to the commencement of any meeting and will be provided to the public and media. The above-noted chapter allows for emergency meetings without notice; however, the law does require that minutes be taken in which notation is made of the nature of the emergency. The public notice requirement applies to all meetings, whether formal or informal, and regardless of where such meetings are held.

Each City Council appointed Board, Commission or Committee, through City staff assigned to coordinate the Board, Commission or Committee, will insure that the provisions of Chapter 21, Section 21.4 of the Iowa Code are met. This will be done through publication of all meeting notices in coordination with City staff and the City Clerk's Office in advance of all meetings.

Each City Council appointed Board, Commission or Committee will prepare in advance an agenda for each meeting. The agenda should be sent to the City Clerk's Office one week in advance of the meeting and will serve as the public notice of meeting. Attached is a Sample Agenda Format for your information.

## IV. Minutes.

Chapter 21, Section 21.3 requires that minutes be kept of all meetings. Such minutes are public records, are subject to inspection upon request, and at a minimum must contain: (1) the time and place of the meeting; (2) members present; and (3) any actions taken. The City Council requires all minutes be submitted to the City Clerk's Office through City staff, in a timely matter. The City Clerk will place the minutes on the City Council Regular Agenda for approval. Attached is a Sample Minutes Format for your information.

## V. Annual Reports.

Under the Iowa Code, the following Boards, Commissions and Committees are statutorily required to file an annual report with the City Council: The Airport Board of Trustees and The Board of Trustees of the Public Library. These annual reports are required to be timely filed with the City Clerk through City staff; staff will cause a resolution to appear on the City Council's agenda calling for the Council's acknowledgment of the receipt of the report and approval of it. The above-noted Boards, Commissions and Committees will prepare the report according to the information required by the Code of Iowa, 330.22 and 336.11.

Despite the lack of specific statutory mandate requiring the preparation and filing of an annual report, the City Council requires that all City Council appointed Boards, Commissions and Committees prepare and submit an Annual Report by December 31st of each year, the Annual Report will contain:

- Accomplishments for the prior fiscal year.
- General description of activities.
- Goals for the upcoming year.

VI. Conflicts of Interest.

City Council appointed Board, Commission and Committee members will exercise extreme caution in voting or participating in debate upon any matters in which they may possibly be construed as having a personal, private interest. Any questions regarding potential individual conflicts of interest regarding particular issues should be addressed by a Board, Commission or Committee member's private attorney or the City Attorney for legal advice on this matter.

VII. Disclosure of Interest

All City Council appointed Board, Commission and Committee members and employees thereof should familiarize themselves with the disclosure of interest law as provided in the Code of Iowa 403.16 relative to property holdings in Urban Renewal project areas.

VIII. Attendance

By acceptance of an appointment to a City Council appointed Board, Commission or Committee membership, members have accepted the responsibility to actively participate in the business of the Board, Commission or Committee. Regular attendance at the Board, Commission or Committee meetings is the first prerequisite to becoming actively involved. Each member should attend all meetings; if any member is absent from twenty-five percent or more meetings within any 12 month period, the Board, Commission or Committee will recommend to the Mayor and the City Council that the member's resignation be requested unless it is determined by affirmative vote that there is sufficient excuse for such non-attendance.

Attached to this memo you will find a copy of Chapter 21 of the Iowa Code, Iowa Open Meetings Law, and Chapter 22, Iowa Open Records Law. If you have questions about the application of any aspect of Chapter 21 or 22 of Iowa Code, pertaining to the operation of your specific City Council appointed Board, Commission or Committee, you should consult with the City Attorney.

**Attachments:**

City Attorney's Memo on Open Meetings Law and Public Records Law

Chapter 21 of the Iowa Code

Chapter 22 of the Iowa Code

Sample agenda format

Sample minutes format



# MEMO City of Sioux City

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**TO :** City Council-Appointed Boards, Commissions and Committees  
**FROM :** Nicole M. Jensen-Harris, City Attorney  
**DATE :** January 31, 2017  
**RE :** Open Meetings Law and Public Records Law

Pursuant to Iowa Code Section 21.10, the City is required to provide members of all City Council-Appointed Boards, Commissions and Committees with information concerning the State's "Official Meetings Open to Public" law and its "Examination of Public Records" law.

Open meetings are governed by Chapter 21 of the Iowa Code and a copy of that chapter is being attached for your review. Under that law, boards and commissions are considered to be governmental bodies and any gathering of a majority for deliberation or action is considered to be a meeting. All meetings must be open to the public and must be preceded by at least 24 hours notice. The notice must include the date, time, place and tentative agenda of the meeting. Minutes must be kept of all meetings showing the date, time, and place, the members present and the action taken at each meeting. A record of all votes must be shown. A closed session of the board or commission may be held for the limited purposes set forth in Section 21.5. It is recommended that you do not go into a closed session without consulting the Legal Department in advance. However, it should be remembered that the law generally demands public meetings and all doubts are generally settled in favor of openness.

A failure to abide by the provisions of Chapter 21 can result in a lawsuit in which you may be assessed a fine not to exceed \$500.00, court costs and attorney fees. However, if a member of a governmental body knowingly participates in a violation of Chapter 21, damages shall be in the amount of not more than two thousand five hundred dollars and not less than one thousand dollars. Also any action taken by a board contrary to Chapter 21 can be voided.

Public records are governed by Chapter 22, Code of Iowa, and a copy of that chapter is also being provided to you. Unless a record is found to be confidential under Section 22.7, it is a public record subject to public examination. The public has an absolute right to examine all public records and may seek a court order to enforce that right. The Iowa Code on examination of public records requires that each board or commission pass the attached resolution designating a specific employee as the person for implementing the requirements of Chapter 22 of the Iowa Code entitled "Examination of Public Records".

You should read and become familiar with both Chapters 21 and 22. If you have questions concerning those chapters, please feel free to contact the Assistant City Attorney which handles the legal work for your City Council Appointed Board, Commission or Committee.

Attachments

**RESOLUTION NO. 2017 - \_\_\_\_\_**

RESOLUTION DELEGATING TO A CERTAIN EMPLOYEE RESPONSIBILITY FOR IMPLEMENTING THE REQUIREMENTS OF THE IOWA PUBLIC RECORDS LAW.

WHEREAS, Chapter 22 "Examination of Public Records" of the Code of Iowa provides that the **[Board/Commission]** as the lawful custodian of the public records of the **[Name of Agency]** shall delegate to a particular employee the responsibility for implementing the requirements of said chapter; and

WHEREAS, the **[Board/Commission]** is of the opinion and belief that Chapter 22 of the Code of Iowa can best be implemented by delegating enforcement responsibility to **[Title]**.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE **[Board/Commission]** that the **[Title]**, be, and the same is hereby delegated as the employee responsible for implementing the requirements of Chapter 22 "Examination of Public Records" of the **[Name of Agency]** maintained under the **[Board/Commission]** **[Name of Agency]**'s supervisory control.

PASSED AND APPROVED: \_\_\_\_\_  
DATE

\_\_\_\_\_  
CHAIRPERSON

ATTEST: \_\_\_\_\_  
SECRETARY/VICE-CHAIR

## **CHAPTER 21 OFFICIAL MEETINGS OPEN TO PUBLIC (OPEN MEETINGS)**

### **21.1 Intent — declaration of policy.**

### **21.2 Definitions.**

### **21.3 Meetings of governmental bodies.**

### **21.4 Public notice.**

### **21.5 Closed session.**

### **21.6 Enforcement.**

### **21.7 Rules of conduct at meetings.**

### **21.8 Electronic meetings.**

### **21.9 Employment conditions discussed.**

### **21.10 Information to be provided.**

### **21.11 Applicability to nonprofit corporations.**

#### **21.1. Intent--declaration of policy**

This chapter seeks to assure, through a requirement of open meetings of governmental bodies, that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people. Ambiguity in the construction or application of this chapter should be resolved in favor of openness.

Credits Transferred from § 28A.1 by the Code Editor for Code 1985.

#### **21.2. Definitions**

As used in this chapter:

1. "Governmental body" means:

- a. A board, council, commission, or other governing body expressly created by the statutes of this state or by executive order.
- b. A board, council, commission, or other governing body of a political subdivision or tax-supported district in this state.
- c. A multimembered body formally and directly created by one or more boards, councils, commissions, or other governing bodies subject to paragraphs "a" and "b" of this subsection.
- d. Those multimembered bodies to which the state board of regents or a president of a university has delegated the responsibility for the management and control of the intercollegiate athletic programs at the state universities.
- e. An advisory board, advisory commission, or task force created by the governor or the general assembly to develop and make recommendations on public policy issues.
- f. A nonprofit corporation other than a fair conducting a fair event as provided in chapter 174, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D or a nonprofit corporation which is a successor to the nonprofit corporation which built the facility.
- g. A nonprofit corporation licensed to conduct gambling games pursuant to chapter 99F.
- h. An advisory board, advisory commission, advisory committee, task force, or other body created by statute or executive order of this state or created by an executive order of a political subdivision of this state to develop and make recommendations on public policy issues.
- i. The governing body of a drainage or levee district as provided in chapter 468, including a board as defined in section 468.3, regardless of how the district is organized.
- j. An advisory board, advisory commission, advisory committee, task force, or other body created by an entity organized under chapter 28E, or by the administrator or joint board specified in a chapter 28E agreement, to develop and make recommendations on public policy issues.

2. "Meeting" means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.

3. "Open session" means a meeting to which all members of the public have access.

Credits Transferred from § 28A.2 by the Code Editor for Code 1985. Amended by Acts 1989 (73 G.A.) ch. 73, § 1; Acts 1990 (73 G.A.) ch. 1175, § 1, eff. April 19, 1990; Acts 1990 (73 G.A.) ch. 1271, § 701, eff. Sept. 1, 1991; Acts 1991 (74 G.A.) ch. 258, § 26; Acts 1993 (75 G.A.) ch. 25, § 1; Acts 2004 (80 G.A.) ch. 1019, § 1; Acts 2009 (83 G.A.) ch. 132, S.F. 437, § 1; Acts 2009 (83 G.A.) ch. 179, S.F. 478, § 31.

#### **21.3. Meetings of governmental bodies**

Meetings of governmental bodies shall be preceded by public notice as provided in section 21.4 and shall be held in open session unless

closed sessions are expressly permitted by law. Except as provided in section 21.5, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.

Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

Credits Transferred from § 28A.3 by the Code Editor for Code 1985. Amended by Acts 1993 (75 G.A.) ch. 25, § 2.

#### **21.4. Public notice**

1. Except as provided in subsection 3, a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

2. a. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to persons with disabilities.

b. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

3. Subsection 1 does not apply to any of the following:

a. A meeting reconvened within four hours of the start of its recess, where an announcement of the time, date, and place of the reconvened meeting is made at the original meeting in open session and recorded in the minutes of the meeting and there is no change in the agenda.

b. A meeting held by a formally constituted subunit of a parent governmental body during a lawful meeting of the parent governmental body or during a recess in that meeting of up to four hours, or a meeting of that subunit immediately following the meeting of the parent governmental body, if the meeting of that subunit is publicly announced in open session at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.

Credits Transferred from § 28A.4 by the Code Editor for Code 1985. Amended by Acts 1996 (76 G.A.) ch. 1129, § 113; Acts 2011 (84 G.A.) S.F. 289, § 4, eff. May 12, 2011.

#### **21.5. Closed session**

1. A governmental body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:

a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.

b. To discuss application for letters patent.

c. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.

d. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.

e. To discuss whether to conduct a hearing or to conduct hearings to suspend or expel a student, unless an open session is requested by the student or a parent or guardian of the student if the student is a minor.

f. To discuss the decision to be rendered in a contested case conducted according to the provisions of chapter 17A.

g. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.

h. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution, or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.

i. To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.

j. To discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price the governmental body would receive for that property. The minutes and the audio recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.

k. To discuss information contained in records in the custody of a governmental body that are confidential records pursuant to section 22.7, subsection 50.

l. To discuss patient care quality and process improvement initiatives in a meeting of a public hospital or to discuss marketing and pricing strategies or similar proprietary information in a meeting of a public hospital, where public disclosure of such information would harm such a hospital's competitive position when no public purpose would be served by public disclosure. The minutes and the audio recording of a closed session under this paragraph shall be available for public inspection when the public disclosure would no longer harm the hospital's competitive position. For purposes of this paragraph, "public hospital" means the same as defined in section 249J.3. This paragraph does not apply to the information required to be disclosed pursuant to section 347.13, subsection 11, or to any discussions relating to terms or conditions of employment, including but not limited to compensation of an officer or employee or group of officers or employees.

2. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.

3. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.

4. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also audio record all of the closed session. The detailed minutes and audio recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the court in an action to enforce this chapter, the detailed minutes and audio recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and audio recording by the party seeking enforcement of this chapter. A governmental body shall keep the detailed minutes and audio

recording of any closed session for a period of at least one year from the date of that meeting, except as otherwise required by law.

5. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.

Credits Transferred from § 28A.5 by the Code Editor for Code 1985. Amended by Acts 2002 (79 G.A.) ch. 1076, § 1; Acts 2007 (82 G.A.) ch. 63, S.F. 161, § 1, eff. April 16, 2007; Acts 2008 (82 G.A.) ch. 1191, H.F. 2700, § 33; Acts 2009 (83 G.A.) ch. 110, H.F. 260, § 1; Acts 2011 (84 G.A.) S.F. 289, §§ 5, 6, eff. May 12, 2011.

## 21.6. Enforcement

1. The remedies provided by this section against state governmental bodies shall be in addition to those provided by section 17A.19. Any aggrieved person, taxpayer to, or citizen of, the state of Iowa, or the attorney general or county attorney, may seek judicial enforcement of the requirements of this chapter. Suits to enforce this chapter shall be brought in the district court for the county in which the governmental body has its principal place of business.

2. Once a party seeking judicial enforcement of this chapter demonstrates to the court that the body in question is subject to the requirements of this chapter and has held a closed session, the burden of going forward shall be on the body and its members to demonstrate compliance with the requirements of this chapter.

3. Upon a finding by a preponderance of the evidence that a governmental body has violated any provision of this chapter, a court:

a. Shall assess each member of the governmental body who participated in its violation damages in the amount of not more than five hundred dollars and not less than one hundred dollars. However, if a member of a governmental body knowingly participated in such a violation, damages shall be in the amount of not more than two thousand five hundred dollars and not less than one thousand dollars. These damages shall be paid by the court imposing it to the state of Iowa, if the body in question is a state governmental body, or to the local government involved if the body in question is a local governmental body. A member of a governmental body found to have violated this chapter shall not be assessed such damages if that member proves that the member did any of the following:

(1) Voted against the closed session.

(2) Had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with all the requirements of this chapter.

(3) Reasonably relied upon a decision of a court, a formal opinion of the attorney general, or the attorney for the governmental body, given in writing, or as memorialized in the minutes of the meeting at which a formal oral opinion was given, or an advisory opinion of the attorney general or the attorney for the governmental body, given in writing.

b. Shall order the payment of all costs and reasonable attorney fees in the trial and appellate courts to any party successfully establishing a violation of this chapter. The costs and fees shall be paid by those members of the governmental body who are assessed damages under paragraph "a". If no such members exist because they have a lawful defense under that paragraph to the imposition of such damages, the costs and fees shall be paid to the successful party from the budget of the offending governmental body or its parent.

c. Shall void any action taken in violation of this chapter, if the suit for enforcement of this chapter is brought within six months of the violation and the court finds under the facts of the particular case that the public interest in the enforcement of the policy of this chapter outweighs the public interest in sustaining the validity of the action taken in the closed session. This paragraph shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

d. Shall issue an order removing a member of a governmental body from office if that member has engaged in a prior violation of this chapter for which damages were assessed against the member during the member's term.

e. May issue a mandatory injunction punishable by civil contempt ordering the members of the offending governmental body to refrain for one year from any future violations of this chapter.

4. Ignorance of the legal requirements of this chapter shall be no defense to an enforcement proceeding brought under this section. A governmental body which is in doubt about the legality of closing a particular meeting is authorized to bring suit at the expense of that

governmental body in the district court of the county of the governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body.

Credits Transferred from § 28A.6 by the Code Editor for Code 1985. Amended by Acts 1999 (78 G.A.) ch. 9, § 1; Acts 2005 (81 G.A.) ch. 99, H.F. 772, § 1; Acts 2011 (84 G.A.) S.F. 289, § 7, eff. May 12, 2011.

### **21.7. Rules of conduct at meetings**

The public may use cameras or recording devices at any open session. Nothing in this chapter shall prevent a governmental body from making and enforcing reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators.

Credits Transferred from § 28A.7 by the Code Editor for Code 1985.

### **21.8. Electronic meetings**

1. A governmental body may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical and only if the governmental body complies with all of the following:

a. The governmental body provides public access to the conversation of the meeting to the extent reasonably possible.

b. The governmental body complies with section 21.4. For the purpose of this paragraph, the place of the meeting is the place from which the communication originates or where public access is provided to the conversation.

c. Minutes are kept of the meeting. The minutes shall include a statement explaining why a meeting in person was impossible or impractical.

2. A meeting conducted in compliance with this section shall not be considered in violation of this chapter.

3. A meeting by electronic means may be conducted without complying with paragraph "a" of subsection 1 if conducted in accordance with all of the requirements for a closed session contained in section 21.5.

Credits Transferred from § 28A.8 by the Code Editor for Code 1985. Amended by Acts 2007 (82 G.A.) ch. 22, S.F. 272, § 11.

### **21.9. Employment conditions discussed**

A meeting of a governmental body to discuss strategy in matters relating to employment conditions of employees of the governmental body who are not covered by a collective bargaining agreement under chapter 20 is exempt from this chapter. For the purpose of this section, "employment conditions" mean areas included in the scope of negotiations listed in section 20.9.

Credits Transferred from § 28A.9 by the Code Editor for Code 1985.

### **21.10. Information to be provided**

The authority which appoints members of governmental bodies shall provide the members with information about this chapter and chapter 22. The appropriate commissioner of elections shall provide that information to members of elected governmental bodies.

Credits Added by Acts 1989 (73 G.A.) ch. 73, § 2. Current with legislation from the 2011 Reg.Sess.

### **21.11. Applicability to nonprofit corporations**

This chapter applies to nonprofit corporations which are defined as governmental bodies subject to section 21.2, subsection 1, paragraph "f", only when the meetings conducted by the nonprofit corporations relate to the conduct of pari-mutuel racing and wagering pursuant to chapter 99D.

Credits Added by Acts 1990 (73 G.A.) ch. 1175, § 2, eff. April 19, 1990. Current with legislation from the 2011 Reg.Sess.

## **CHAPTER 22 - EXAMINATION OF PUBLIC RECORDS (OPEN RECORDS)**

### **22.1 Definitions.**

### **22.2 Right to examine public records — exceptions.**

### **22.3 Supervision — fees.**

### **22.3A Access to data processing software.**

### **22.4 Hours when available.**

### **22.5 Enforcement of rights.**

### **22.6 Repealed by Acts 2011**

### **22.7 Confidential records.**

### **22.8 Injunction to restrain examination.**

### **22.9 Denial of federal funds — rules.**

### **22.10 Civil enforcement.**

### **22.11 Fair information practices.**

### **22.12 Political subdivisions.**

### **22.13 Settlements — governmental bodies.**

### **22.14 Public funds investment records in custody of third parties.**

#### **22.1. Definitions**

1. The term "government body" means this state, or any county, city, township, school corporation, political subdivision, tax-supported district, nonprofit corporation other than a fair conducting a fair event as provided in chapter 174, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D; the governing body of a drainage or levee district as provided in chapter 468, including a board as defined in section 468.3, regardless of how the district is organized; or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official, or officer of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter.

2. The term "lawful custodian" means the government body currently in physical possession of the public record. The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. The records relating to the investment of public funds are the property of the public body responsible for the public funds. Each government body shall delegate to particular officials or employees of that government body the responsibility for implementing the requirements of this chapter and shall publicly announce the particular officials or employees to whom responsibility for implementing the requirements of this chapter has been delegated. "Lawful custodian" does not mean an automated data processing unit of a public body if the data processing unit holds the records solely as the agent of another public body, nor does it mean a unit which holds the records of other public bodies solely for storage.

3. a. As used in this chapter, "public records" includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, township, school corporation, political subdivision, nonprofit corporation other than a fair conducting a fair event as provided in chapter 174, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or tax-supported district in this state, or any branch, department, board, bureau, commission, council, or committee of any of the foregoing.

b. "Public records" also includes all records relating to the investment of public funds including but not limited to investment policies, instructions, trading orders, or contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.

Credits Transferred from § 68A.1 by the Code Editor for Code 1985. Amended by Acts 1990 (73 G.A.) ch. 1271, § 702, eff. Sept. 1, 1991; Acts 1991 (74 G.A.) ch. 258, § 27; Acts 1992 (74 G.A.) ch. 1156, §§ 6, 7, eff. April 28, 1992; Acts 2004 (80 G.A.) ch. 1019, § 2; Acts 2005 (81 G.A.) ch. 19, H.F. 227, § 15; Acts 2009 (83 G.A.) ch. 132, S.F. 437, § 2; Acts 2009 (83 G.A.) ch. 179, S.F. 478, § 32.

#### **22.2. Right to examine public records—exceptions**

1. Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record. The right to copy a public record shall include the right to make photographs or photographic copies while the public record is in the possession of the custodian of the public record. All rights under this section are in addition to the right to obtain a certified copy of a public record under section 622.46.

2. A government body shall not prevent the examination or copying of a public record by contracting with a nongovernment body to perform any of its duties or functions.

3. However, notwithstanding subsections 1 and 2, a government body is not required to permit access to or use of the following:

a. A geographic computer database by any person except upon terms and conditions acceptable to the governing body. The governing body shall establish reasonable rates and procedures for the retrieval of specified records, which are not confidential records, stored in the database upon the request of any person.

b. Data processing software developed by the government body, as provided in section 22.3A.

Credits Transferred from § 68A.2 by the Code Editor for Code 1985. Amended by Acts 1989 (73 G.A.) ch. 189, § 1; Acts 1996 (76 G.A.) ch. 1099, § 14; Acts 1998 (77 G.A.) ch. 1224, § 17.

### 22.3. Supervision—fees

1. The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian's authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or by electronic means. Fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of expenses to be incurred in fulfilling the request and such estimated expenses shall be communicated to the requester upon receipt of the request. The lawful custodian may adopt and enforce reasonable rules regarding the examination and copying of the records and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for the examination and copying of the records, but if it is impracticable to do the examination and copying of the records in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for the examination and copying.

2. All expenses of the examination and copying shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian's authorized designee in supervising the examination and copying of the records. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian.

Credits Transferred from § 68A.3 by the Code Editor for Code 1985. Amended by Acts 2001 (79 G.A.) ch. 44, § 2; Acts 2005 (81 G.A.) ch. 103, S.F. 403, § 1; Acts 2006 (81 G.A.) ch. 1010, H.F. 2543, § 14.

### 22.3A. Access to data processing software

1. As used in this section:

a. "Access" means the instruction of, communication with, storage of data in, or retrieval of data from a computer.

b. "Computer" means an electronic device which performs logical, arithmetical, and memory functions by manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, and communication facilities which are connected or related to the computer including a computer network. As used in this paragraph, "computer" includes any central processing unit, front-end processing unit, miniprocessor, or microprocessor, and related peripheral equipment such as data storage devices, document scanners, data entry terminal controllers, and data terminal equipment and systems for computer networks.

c. "Computer network" means a set of related, remotely connected devices and communication facilities including two or more computers with capability to transmit data among them through communication facilities.

d. "Data" means a representation of information, knowledge, facts, concepts, or instructions that has been prepared or is being prepared in a formalized manner and has been processed, or is intended to be processed, in a computer. Data may be stored in any form, including but not limited to a printout, magnetic storage media, disk, compact disc, punched card, or as memory of a computer.

e. "Data processing software" means an ordered set of instructions or statements that, when executed by a computer, causes the computer to process data, and includes any program or set of programs, procedures, or routines used to employ and control capabilities of computer hardware. As used in this paragraph "data processing software" includes but is not limited to an operating system, compiler, assembler, utility, library resource, maintenance

routine, application, computer networking program, or the associated documentation.

2. A government body may provide, restrict, or prohibit access to data processing software developed by the government body, regardless of whether the data processing software is separated or combined with a public record. A government body shall establish policies and procedures to provide access to public records which are combined with its data processing software. A public record shall not be withheld from the public because it is combined with data processing software. A government body shall not acquire any electronic data processing system for the storage, manipulation, or retrieval of public records that would impair the government body's ability to permit the examination of a public record and the copying of a public record in either written or electronic form. If it is necessary to separate a public record from data processing software in order to permit the examination or copying of the public record, the government body shall bear the cost of separation of the public record from the data processing software. The electronic public record shall be made available in a format useable with commonly available data processing or data base management software. The cost chargeable to a person receiving a public record separated from data processing software under this subsection shall not be in excess of the charge under this chapter unless the person receiving the public record requests that the public record be specially processed. A government body may establish payment rates and procedures required to provide access to data processing software, regardless of whether the data processing software is separated from or combined with a public record. Proceeds from payments may be considered repayment receipts, as defined in section 8.2. The payment amount shall be calculated as follows:

a. The amount charged for access to a public record shall be not more than that required to recover direct publication costs, including but not limited to editing, compilation, and media production costs, incurred by the government body in developing the data processing software and preparing the data processing software for transfer to the person. The amount shall be in addition to any other fee required to be paid under this chapter for the examination and copying of a public record. If a person accesses a public record stored in an electronic format that does not require formatting, editing, or compiling to access the public record, the charge for providing the accessed public record shall not exceed the reasonable cost of accessing that public record. The government body shall, if requested, provide documentation which explains and justifies the amount charged. This paragraph shall not apply to any publication for which a price has been established pursuant to another section, including section 2A.5.

b. If access to the data processing software is provided to a person for a purpose other than provided in paragraph "a", the amount may be established according to the discretion of the government body, and may be based upon competitive market considerations as determined by the government body.

3. A government body is granted and may apply for and receive any legal protection necessary to secure a right to or an interest in data processing software developed by the government body, including but not limited to federal copyright, patent, and trademark protections, and any trade secret protection available under chapter 550. The government body may enter into agreements for the sale or distribution of its data processing software, including marketing and licensing agreements. The government body may impose conditions upon the use of the data processing software that is otherwise consistent with state and federal law.

Credits Added by Acts 1996 (76 G.A.) ch. 1099, § 15. Amended by Acts 1998 (77 G.A.) ch. 1224, § 18; Acts 1999 (78 G.A.) ch. 207, § 12; Acts 2003 (80 G.A.) ch. 35, § 38, eff. April 14, 2003; Acts 2011 (84 G.A.) H.F. 646, § 45, eff. July 18, 2011, retroactive to July 1, 2011. Current with legislation from the 2011 Reg.Sess.

### 22.4. Hours when available

The rights of persons under this chapter may be exercised at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. Monday through Friday, excluding legal holidays, unless the person exercising such right and the lawful custodian agree on a different time.

Credits Transferred from § 68A.4 by the Code Editor for Code 1985. Current with legislation from the 2011 Reg.Sess.

## 22.5. Enforcement of rights

The provisions of this chapter and all rights of persons under this chapter may be enforced by mandamus or injunction, whether or not any other remedy is also available. In the alternative, rights under this chapter also may be enforced by an action for judicial review according to the provisions of the Iowa administrative procedure Act, chapter 17A, if the records involved are records of an "agency" as defined in that Act.

Credits Transferred from § 68A.5 by the Code Editor for Code 1985. 22.6. Repealed by Acts 2011 (84 G.A.) S.F. 289, § 16, eff. May 12, 2011 Current with legislation from the 2011 Reg.Sess.

## 22.7. Confidential records

The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

1. Personal information in records regarding a student, prospective student, or former student maintained, created, collected or assembled by or for a school corporation or educational institution maintaining such records. This subsection shall not be construed to prohibit a postsecondary education institution from disclosing to a parent or guardian information regarding a violation of a federal, state, or local law, or institutional rule or policy governing the use or possession of alcohol or a controlled substance if the child is under the age of twenty-one years and the institution determines that the student committed a disciplinary violation with respect to the use or possession of alcohol or a controlled substance regardless of whether that information is contained in the student's education records. This subsection shall not be construed to prohibit a school corporation or educational institution from transferring student records electronically to the department of education, an accredited nonpublic school, an attendance center, a school district, or an accredited postsecondary institution in accordance with section 256.9, subsection 47.

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a crime victim and the victim's counselor are not subject to disclosure except as provided in section 915.20A. However, the Iowa department of public health shall adopt rules which provide for the sharing of information among agencies and providers concerning the maternal and child health program including but not limited to the statewide child immunization information system, while maintaining an individual's confidentiality.

3. Trade secrets which are recognized and protected as such by law.

4. Records which represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body.

5. Peace officers' investigative reports, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation, except where disclosure is authorized elsewhere in this Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual. Specific portions of electronic mail and telephone billing records may only be kept confidential under this subsection if the length of time prescribed for commencement of prosecution or the finding of an indictment or information under the statute of limitations applicable to the crime that is under investigation has not expired.

6. Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.

7. Appraisals or appraisal information concerning the sale or purchase of real or personal property for public purposes, prior to the execution of any contract for such sale or the submission of the appraisal to the property owner or other interest holders as provided in section 6B.45.

8. Iowa department of economic development information on an industrial prospect with which the department is currently negotiating.

9. Criminal identification files of law enforcement agencies. However, records of current and prior arrests and criminal history data shall be public records.

10. [Deleted by Acts 2011 (84 G.A.) S.F. 289, § 9, eff. May 12, 2011.]

11. a. Personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies. However, the following information relating to such individuals contained in personnel records shall be public records:

(1) The name and compensation of the individual including any written agreement establishing compensation or any other terms of employment excluding any information otherwise excludable from public information pursuant to this section or any other applicable provision of law. For purposes of this paragraph, "compensation" means payment of, or agreement to pay, any money, thing of value, or financial benefit conferred in return for labor or services rendered by an official, officer, or employee plus the value of benefits conferred including but not limited to casualty, disability, life, or health insurance, other health or wellness benefits, vacation, holiday, and sick leave, severance payments, retirement benefits, and deferred compensation.

(2) The dates the individual was employed by the government body.

(3) The positions the individual holds or has held with the government body.

(4) The educational institutions attended by the individual, including any diplomas and degrees earned, and the names of the individual's previous employers, positions previously held, and dates of previous employment.

(5) The fact that the individual was discharged as the result of a final disciplinary action upon the exhaustion of all applicable contractual, legal, and statutory remedies.

b. Personal information in confidential personnel records of government bodies relating to student employees shall only be released pursuant to 20 U. S.C. § 1232g.

12. Financial statements submitted to the department of agriculture and land stewardship pursuant to chapter 203 or chapter 203C, by or on behalf of a licensed grain dealer or warehouse operator or by an applicant for a grain dealer license or warehouse license.

13. The records of a library which, by themselves or when examined with other public records, would reveal the identity of the library patron checking out or requesting an item or information from the library. The records shall be released to a criminal or juvenile justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The records shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.

14. The material of a library, museum or archive which has been contributed by a private person to the extent of any limitation that is a condition of the contribution.

15. Information concerning the procedures to be used to control disturbances at adult correctional institutions. Such information shall also be exempt from public inspection under section 17A.3. As used in this subsection disturbance means a riot or a condition that can reasonably be expected to cause a riot.

16. Information in a report to the Iowa department of public health, to a local board of health, or to a local health department, which identifies a person infected with a reportable disease.

17. Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the public bonds or obligations. However, the issuer of the public bonds or obligations and a state or federal agency shall have the right of access to the records.

18. Communications not required by law, rule, procedure, or contract that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination. As used in this subsection, "persons outside of government" does not include persons or employees of persons who are communicating with respect to a consulting or contractual relationship with a government

body or who are communicating with a government body with whom an arrangement for compensation exists. Notwithstanding this provision:

a. The communication is a public record to the extent that the person outside of government making that communication consents to its treatment as a public record.

b. Information contained in the communication is a public record to the extent that it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

c. Information contained in the communication is a public record to the extent that it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger.

19. Examinations, including but not limited to cognitive and psychological examinations for law enforcement officer candidates administered by or on behalf of a governmental body, to the extent that their disclosure could reasonably be believed by the custodian to interfere with the accomplishment of the objectives for which they are administered.

20. Information concerning the nature and location of any archaeological resource or site if, in the opinion of the state archaeologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the state historic preservation officer pertaining to access, disclosure, and use of archaeological site records.

21. Information concerning the nature and location of any ecologically sensitive resource or site if, in the opinion of the director of the department of natural resources after consultation with the state ecologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the director of the department of natural resources and the state ecologist pertaining to access, disclosure, and use of the ecologically sensitive site records.

22. Reports or recommendations of the Iowa insurance guaranty association filed or made pursuant to section 515B.10, subsection 1, paragraph "a", subparagraph (2).

23. Information or reports collected or submitted pursuant to section 508C.12, subsections 3 and 5, and section 508C.13, subsection 2, except to the extent that release is permitted under those sections.

24. [Deleted by Acts 2011 (84 G.A.) S.F. 240, § 1.]

25. Financial information, which if released would give advantage to competitors and serve no public purpose, relating to commercial operations conducted or intended to be conducted by a person submitting records containing the information to the department of agriculture and land stewardship for the purpose of obtaining assistance in business planning.

26. Applications, investigation reports, and case records of persons applying for county general assistance pursuant to section 252.25.

27. Marketing and advertising budget and strategy of a nonprofit corporation which is subject to this chapter. However, this exemption does not apply to salaries or benefits of employees who are employed by the nonprofit corporation to handle the marketing and advertising responsibilities.

28. The information contained in records of the centralized employee registry created in chapter 252G, except to the extent that disclosure is authorized pursuant to chapter 252G.

29. Records and information obtained or held by independent special counsel during the course of an investigation conducted pursuant to section 68B.31A. Information that is disclosed to a legislative ethics committee subsequent to a determination of probable cause by independent special counsel and made pursuant to section 68B.31 is not a confidential record unless otherwise provided by law.

30. Information contained in a declaration of paternity completed and filed with the state registrar of vital statistics pursuant to section 144.12A, except to the extent that the information may be provided to persons in accordance with section 144.12A.

31. Memoranda, work products, and case files of a mediator and all other confidential communications in the possession of a mediator, as provided in chapters 86 and 216. Information in these confidential communications is subject to disclosure only as provided in sections 86.44 and 216.15B, notwithstanding any other contrary provision of this chapter.

32. Social security numbers of the owners of unclaimed property reported to the treasurer of state pursuant to section 556.11, subsection 2, included on claim forms filed with the treasurer of state pursuant to section 556.19, included in outdated warrant reports received by the treasurer of state pursuant to section 556.2C, or stored in record systems maintained by the treasurer of state for purposes of administering chapter 556, or social security numbers of payees included on state warrants included in records systems maintained by the department of administrative services for the purpose of documenting and tracking outdated warrants pursuant to section 556.2C.

33. Data processing software, as defined in section 22.3A, which is developed by a government body.

34. A record required under the Iowa financial transaction reporting Act listed in section 529.2, subsection 9.

35. Records of the Iowa department of public health pertaining to participants in the gambling treatment program except as otherwise provided in this chapter.

36. Records of a law enforcement agency or the state department of transportation regarding the issuance of a driver's license under section 321.189A.

37. Mediation communications as defined in section 679C.102, except written mediation agreements that resulted from a mediation which are signed on behalf of a governing body. However, confidentiality of mediation communications resulting from mediation conducted pursuant to chapter 216 shall be governed by chapter 216.

38. a. Records containing information that would disclose, or might lead to the disclosure of, private keys used in an electronic signature or other similar technologies as provided in chapter 554D.

b. Records which if disclosed might jeopardize the security of an electronic transaction pursuant to chapter 554D.

39. Information revealing the identity of a packer or a person who sells livestock to a packer as reported to the department of agriculture and land stewardship pursuant to section 202A.2.

40. The portion of a record request that contains an internet protocol number which identifies the computer from which a person requests a record, whether the person using such computer makes the request through the lowAccess network or directly to a lawful custodian. However, such record may be released with the express written consent of the person requesting the record.

41. Medical examiner records and reports, including preliminary reports, investigative reports, and autopsy reports. However, medical examiner records and reports shall be released to a law enforcement agency that is investigating the death, upon the request of the law enforcement agency, and autopsy reports shall be released to the decedent's immediate next of kin upon the request of the decedent's immediate next of kin unless disclosure to the decedent's immediate next of kin would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual. Information regarding the cause and manner of death shall not be kept confidential under this subsection unless disclosure would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual.

42. Information obtained by the commissioner of insurance in the course of an investigation as provided in section 523C.23.

43. Information obtained by the commissioner of insurance pursuant to section 502.607.

44. Information provided to the court and state public defender pursuant to section 13B.4, subsection 5; section 814.11, subsection 7; or section 815.10, subsection 5.

45. The critical asset protection plan or any part of the plan prepared pursuant to section 29C.8 and any information held by the homeland security and emergency management division that was supplied to the division by a public or private agency or organization and used in

the development of the critical asset protection plan to include, but not be limited to, surveys, lists, maps, or photographs. However, the administrator shall make the list of assets available for examination by any person. A person wishing to examine the list of assets shall make a written request to the administrator on a form approved by the administrator. The list of assets may be viewed at the division's offices during normal working hours. The list of assets shall not be copied in any manner. Communications and asset information not required by law, rule, or procedure that are provided to the administrator by persons outside of government and for which the administrator has signed a nondisclosure agreement are exempt from public disclosures. The homeland security and emergency management division may provide all or part of the critical asset plan to federal, state, or local governmental agencies which have emergency planning or response functions if the administrator is satisfied that the need to know and intended use are reasonable. An agency receiving critical asset protection plan information from the division shall not disseminate the information without prior approval of the administrator.

46. Military personnel records recorded by the county recorder pursuant to section 331.608.

47. A report regarding interest held in agricultural land required to be filed pursuant to chapter 10B.

48. Sex offender registry records under chapter 692A, except as provided in section 692A.121.

49. Confidential information, as defined in section 86.45, subsection 1, filed with the workers' compensation commissioner.

50. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.

a. Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack.

b. This subsection shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this subsection applies and which is contained in such a record.

51. The information contained in the information program established in section 124.551, except to the extent that disclosure is authorized pursuant to section 124.553.

52. a. The following records relating to a charitable donation made to a foundation acting solely for the support of an institution governed by the state board of regents, to the board of the Iowa state fair foundation when the record relates to a gift for deposit in or expenditure from the Iowa state fairgrounds trust fund as provided in section 173.22A, to a foundation acting solely for the support of an institution governed by chapter 260C, to a private foundation as defined in section 509 of the Internal Revenue Code organized for the support of a government body, or to an endow Iowa qualified community foundation, as defined in section 15E.303, organized for the support of a government body:

(1) Portions of records that disclose a donor's or prospective donor's personal, financial, estate planning, or gift planning matters.

(2) Records received from a donor or prospective donor regarding such donor's prospective gift or pledge.

(3) Records containing information about a donor or a prospective donor in regard to the appropriateness of the solicitation and dollar amount of the gift or pledge.

(4) Portions of records that identify a prospective donor and that provide information on the appropriateness of the solicitation, the form of the gift or dollar amount requested by the solicitor, and the name of the solicitor.

(5) Portions of records disclosing the identity of a donor or prospective donor, including the specific form of gift or pledge that could identify a donor or prospective donor, directly or indirectly,

when such donor has requested anonymity in connection with the gift or pledge. This subparagraph does not apply to a gift or pledge from a publicly held business corporation.

b. The confidential records described in paragraph "a", subparagraphs (1) through (5), shall not be construed to make confidential those portions of records disclosing any of the following:

(1) The amount and date of the donation.

(2) Any donor-designated use or purpose of the donation.

(3) Any other donor-imposed restrictions on the use of the donation.

(4) When a pledge or donation is made expressly conditioned on receipt by the donor, or any person related to the donor by blood or marriage within the third degree of consanguinity, of any privilege, benefit, employment, program admission, or other special consideration from the government body, a description of any and all such consideration offered or given in exchange for the pledge or donation.

c. Except as provided in paragraphs "a" and "b", portions of records relating to the receipt, holding, and disbursement of gifts made for the benefit of regents institutions and made through foundations established for support of regents institutions, including but not limited to written fund-raising policies and documents evidencing fund-raising practices, shall be subject to this chapter.

d. This subsection does not apply to a report filed with the ethics and campaign disclosure board pursuant to section 8.7.

53. Information obtained and prepared by the commissioner of insurance pursuant to section 507.14.

54. Information obtained and prepared by the commissioner of insurance pursuant to section 507E.5.

55. An intelligence assessment and intelligence data under chapter 692, except as provided in section 692.8A.

56. Individually identifiable client information contained in the records of the state database created as a homeless management information system pursuant to standards developed by the United States department of housing and urban development and utilized by the Iowa department of economic development.

57. The following information contained in the records of any governmental body relating to any form of housing assistance:

a. An applicant's social security number.

b. An applicant's personal financial history.

c. An applicant's personal medical history or records.

d. An applicant's current residential address when the applicant has been granted or has made application for a civil or criminal restraining order for the personal protection of the applicant or a member of the applicant's household.

58. Information filed with the commissioner of insurance pursuant to sections 523A.204 and 523A.502A.

59. The information provided in any report, record, claim, or other document submitted to the treasurer of state pursuant to chapter 556 concerning unclaimed or abandoned property, except the name and last known address of each person appearing to be entitled to unclaimed or abandoned property paid or delivered to the treasurer of state pursuant to that chapter.

60. [Deleted by Acts 2011 (84 G.A.) H.F. 590, § 39, eff. July 18, 2011, retroactive to July 1, 2011.]

61. Information in a record that would permit a governmental body subject to chapter 21 to hold a closed session pursuant to section 21.5 in order to avoid public disclosure of that information, until such time as final action is taken on the subject matter of that information. Any portion of such a record not subject to this subsection, or not otherwise confidential, shall be made available to the public. After the governmental body has taken final action on the subject matter pertaining to the information in that record, this subsection shall no longer apply. This subsection shall not apply more than ninety days after a record is known to exist by the governmental body, unless it is not possible for the governmental body to take final action within ninety days. The burden shall be on the governmental body to prove that final action was not possible within the ninety-day period.

62. Records of the department on aging pertaining to clients served by the office of substitute decision maker.

63. Records of the department on aging pertaining to clients served by the elder abuse prevention initiative.

64. Information obtained by the superintendent of credit unions in connection with a complaint response process as provided in section 533.501, subsection 3.

65. Information obtained by the commissioner of insurance in the course of an examination of a cemetery as provided in section 523I.213A, subsection 7.

Credits Transferred from § 68A.7 by the Code Editor for Code 1985. Amended by Acts 1985 (71 G.A.) ch. 134, § 16; Acts 1985 (71 G.A.) ch. 175, § 1; Acts 1985 (71 G.A.) ch. 208, § 1; Acts 1986 (71 G.A.) ch. 1184, § 1; Acts 1986 (71 G.A.) ch. 1228, § 1; Acts 1987 (72 G.A.) ch. 223, § 20; Acts 1988 (72 G.A.) ch. 1010, § 1, eff. March 3, 1988; Acts 1988 (72 G.A.) ch. 1256, § 1; Acts 1989 (73 G.A.) ch. 194, § 1; Acts 1989 (73 G.A.) ch. 304, § 102; Acts 1989 (73 G.A.) ch. 311, § 22; Acts 1990 (73 G.A.) ch. 1017, § 1; Acts 1990 (73 G.A.) ch. 1271, § 703, eff. Sept. 1, 1991; Acts 1992 (74 G.A.) ch. 1212, § 3; Acts 1993 (75 G.A.) ch. 79, § 2; Acts 1993 (75 G.A.) ch. 163, § 27, eff. May 28, 1993; Acts 1994 (75 G.A.) ch. 1023, § 76; Acts 1994 (75 G.A.) ch. 1064, § 1; Acts 1994 (75 G.A.) ch. 1092, § 1; Acts 1994 (75 G.A.) ch. 1174, § 1; Acts 1995 (76 G.A.) ch. 100, § 1, eff. April 26, 1995; Acts 1995 (76 G.A.) ch. 129, § 1; Acts 1995 (76 G.A.) ch. 191, § 1; Acts 1996 (76 G.A.) ch. 1037, § 1; Acts 1996 (76 G.A.) ch. 1099, § 16; Acts 1996 (76 G.A.) ch. 1133, § 38; Acts 1996 (76 G.A.) ch. 1150, § 1; Acts 1996 (76 G.A.) ch. 1212, § 10; Acts 1997 (77 G.A.) ch. 92, § 1, eff. May 1, 1997; Acts 1997 (77 G.A.) ch. 159, § 1; Acts 1998 (77 G.A.) ch. 1062, §§ 8, 9; Acts 1998 (77 G.A.) ch. 1073, § 9; Acts 1998 (77 G.A.) ch. 1090, § 59, eff. Jan. 1, 1999; Acts 1999 (78 G.A.) ch. 88, § 1, eff. July 1, 2000; Acts 1999 (78 G.A.) ch. 146, § 43; Acts 2000 (78 G.A.) ch. 1014, § 1; Acts 2000 (78 G.A.) ch. 1140, § 1; Acts 2000 (78 G.A.) ch. 1147, § 27; Acts 2000 (78 G.A.) ch. 1161, § 1; Acts 2000 (78 G.A.) ch. 1189, § 25; Acts 2001 (79 G.A.) ch. 24, § 17; Acts 2001 (79 G.A.) ch. 108, § 1; Acts 2002 (79 G.A.) ch. 1038, § 1; Acts 2002 (79 G.A.) ch. 1067, § 13; Acts 2002 (79 G.A.) ch. 1076, § 2; Acts 2002 (79 G.A.) ch. 1098, § 1; Acts 2002 (79 G.A.) ch. 1117, § 53, eff. April 22, 2002; Acts 2003 (80 G.A.) ch. 114, § 1; Acts 2003 (80 G.A.) ch. 145, § 286; Acts 2003 (80 G.A.) ch. 179, § 157; Acts 2004 (80 G.A.) ch. 1091, § 3; Acts 2004 (80 G.A.) ch. 1104, § 4; Acts 2004 (80 G.A.) ch. 1147, § 6; Acts 2004 (80 G.A.) ch. 1161, § 65, eff. Jan. 1, 2005; Acts 2004 (80 G.A.) ch. 1175, § 462, eff. May 17, 2004; Acts 2005 (81 G.A.) ch. 19, H.F. 227, § 16; Acts 2005 (81 G.A.) ch. 68, S.F. 323, § 2; Acts 2005 (81 G.A.) ch. 168, S.F. 342, § 8, eff. July 1, 2005; Acts 2006 (81 G.A.) ch. 1054, H.F. 2590, §§ 1, 2; Acts 2006 (81 G.A.) ch. 1117, S.F. 2364, § 2; Acts 2006 (81 G.A.) ch. 1122, H.F. 2562, § 1; Acts 2006 (81 G.A.) ch. 1127, H.F. 2706, § 1; Acts 2006 (81 G.A.) ch. 1147, H.F. 722, § 1, eff. May 31, 2006; Acts 2006 (81 G.A.) ch. 1148, H.F. 2571, § 1; Acts 2006 (81 G.A.) ch. 1185, H.F. 2797, §§ 57, 58, 92; Acts 2007 (82 G.A.) ch. 37, S.F. 202, § 1; Acts 2007 (82 G.A.) ch. 62, S.F. 140, § 1; Acts 2007 (82 G.A.) ch. 126, S.F. 333, § 11; Acts 2007 (82 G.A.) ch. 175, S.F. 559, § 1; Acts 2008 (82 G.A.) ch. 1144, S.F. 2422, § 2, eff. May 7, 2008; Acts 2008 (82 G.A.) ch. 1191, H.F. 2700, § 34; Acts 2009 (83 G.A.) ch. 23, S.F. 204, § 6; Acts 2009 (83 G.A.) ch. 48, H.F. 180, § 1; Acts 2009 (83 G.A.) ch. 119, S.F. 340, § 33; Acts 2010 (83 G.A.) ch. 1121, S.F. 2201, § 1; Acts 2011 (84 G.A.) S.F. 289, §§ 8 to 10, eff. May 12, 2011; Acts 2011 (84 G.A.) S.F. 470, § 3; Acts 2011 (84 G.A.) S.F. 240, § 1; Acts 2011 (84 G.A.) S.F. 361, § 2; Acts 2011 (84 G.A.) H.F. 590, § 39, eff. July 18, 2011, retroactive to July 1, 2011.

## 22.8. Injunction to restrain examination

1. The district court may grant an injunction restraining the examination, including copying, of a specific public record or a narrowly drawn class of public records. A hearing shall be held on a request for injunction upon reasonable notice as determined by the court to persons requesting access to the record which is the subject of the request for injunction. It shall be the duty of the lawful custodian and any other person seeking an injunction to ensure compliance with the notice requirement. Such an injunction may be issued only if the petition supported by affidavit shows and if the court finds both of the following:

- That the examination would clearly not be in the public interest.
- That the examination would substantially and irreparably injure any person or persons.

2. An injunction shall be subject to the rules of civil procedure except that the court in its discretion may waive bond.

3. In actions brought under this section the district court shall take into account the policy of this chapter that free and open examination of public records is generally in the public interest even though such examination may cause inconvenience or embarrassment to public officials or others. A court may issue an injunction restraining examination of a public record or a narrowly drawn class of such records, only if the person seeking the injunction demonstrates by clear and convincing evidence that this section authorizes its issuance. An injunction restraining the examination of a narrowly drawn class of public records may be issued only if such an injunction would be justified under this section for every member within the class of records involved if each of those members were considered separately.

4. Good-faith, reasonable delay by a lawful custodian in permitting the examination and copying of a government record is not a violation of this chapter if the purpose of the delay is any of the following:

- To seek an injunction under this section.
- To determine whether the lawful custodian is entitled to seek such an injunction or should seek such an injunction.
- To determine whether the government record in question is a public record, or confidential record.
- To determine whether a confidential record should be available for inspection and copying to the person requesting the right to do so. A reasonable delay for this purpose shall not exceed twenty calendar days and ordinarily should not exceed ten business days.

e. Actions for injunctions under this section may be brought by the lawful custodian of a government record, or by another government body or person who would be aggrieved or adversely affected by the examination or copying of such a record.

f. The rights and remedies provided by this section are in addition to any rights and remedies provided by section 17A.19.

Credits Transferred from § 68A.8 by the Code Editor for Code 1985.

## 22.9. Denial of federal funds—rules

If it is determined that any provision of this chapter would cause the denial of funds, services or essential information from the United States government which would otherwise definitely be available to an agency of this state, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds, services, or essential information.

An agency within the meaning of section 17A.2, subsection 1, shall adopt as a rule, in each situation where this section is believed applicable, its determination identifying those particular provisions of this chapter that must be waived in the circumstances to prevent the denial of federal funds, services, or information.

Credits Transferred from § 68A.9 by the Code Editor for Code 1985. Current with legislation from the 2011 Reg.Sess.

## 22.10. Civil enforcement

1. The rights and remedies provided by this section are in addition to any rights and remedies provided by section 17A.19. Any aggrieved person, any taxpayer to or citizen of the state of Iowa, or the attorney general or any county attorney, may seek judicial enforcement of the requirements of this chapter in an action brought against the lawful custodian and any other persons who would be appropriate defendants under the circumstances. Suits to enforce this chapter shall be brought in the district court for the county in which the lawful custodian has its principal place of business.

2. Once a party seeking judicial enforcement of this chapter demonstrates to the court that the defendant is subject to the requirements of this chapter, that the records in question are government records, and that the defendant refused to make those government records available for examination and copying by the plaintiff, the burden of going forward shall be on the defendant to demonstrate compliance with the requirements of this chapter.

3. Upon a finding by a preponderance of the evidence that a lawful custodian has violated any provision of this chapter, a court:

- Shall issue an injunction punishable by civil contempt ordering the offending lawful custodian and other appropriate persons to comply with the requirements of this chapter in the case before it and, if appropriate, may order the lawful custodian and other appropriate persons to refrain for one year from any future violations of this chapter.
- Shall assess the persons who participated in its violation damages in the amount of not more than five hundred dollars and not less than one hundred dollars. However, if a person knowingly participated in such a violation, damages shall be in the amount of not more than two thousand five hundred dollars and not less than one thousand dollars. These damages shall be paid by the court imposing them to the state of Iowa if the body in question is a state government body, or to the local government involved if the body in question is a local government body. A person found to have violated this chapter shall not be assessed such damages if that person proves that the person did any of the following:

- Voted against the action violating this chapter, refused to participate in the action violating this chapter, or engaged in reasonable efforts under the circumstances to resist or prevent the action in violation of this chapter.
- Had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with the requirements of this chapter.
- Reasonably relied upon a decision of a court, a formal opinion of the attorney general, or the attorney for the government body, given in writing, or as memorialized in the minutes of the meeting at which a formal oral opinion was given, or an advisory opinion of the attorney general or the attorney for the government body, given in writing.

c. Shall order the payment of all costs and reasonable attorney fees, including appellate attorney fees, to any plaintiff successfully establishing a violation of this chapter in the action brought under this section. The costs and fees shall be paid by the particular persons who were assessed damages under paragraph "b" of this

subsection. If no such persons exist because they have a lawful defense under that paragraph to the imposition of such damages, the costs and fees shall be paid to the successful plaintiff from the budget of the offending government body or its parent.

d. Shall issue an order removing a person from office if that person has engaged in a prior violation of this chapter for which damages were assessed against the person during the person's term.

4. Ignorance of the legal requirements of this chapter is not a defense to an enforcement proceeding brought under this section. A lawful custodian or its designee in doubt about the legality of allowing the examination or copying or refusing to allow the examination or copying of a government record is authorized to bring suit at the expense of that government body in the district court of the county of the lawful custodian's principal place of business, or to seek an opinion of the attorney general or the attorney for the lawful custodian, to ascertain the legality of any such action.

Credits Added by Acts 1984 (70 G.A.) ch. 1185, § 9. Amended by Acts 2005 (81 G.A.) ch. 99, H.F. 772, § 2; Acts 2011 (84 G.A.) S.F. 289, §§ 11, 12, eff. May 12, 2011.

#### **22.11. Fair information practices**

This section may be cited as the "Iowa Fair Information Practices Act". It is the intent of this section to require that the information policies of state agencies are clearly defined and subject to public review and comment.

1. Each state agency as defined in chapter 17A shall adopt rules which provide the following:

a. The nature and extent of the personally identifiable information collected by the agency, the legal authority for the collection of that information, and a description of the means of storage.

b. A description of which of its records are public records, which are confidential records, and which are partially public and partially confidential records and the legal authority for the confidentiality of the records. The description shall indicate whether the records contain personally identifiable information.

c. The procedure for providing the public with access to public records.

d. The procedures for allowing a person to review a government record about that person and have additions, dissents, or objections entered in that record unless the review is prohibited by statute.

e. The procedures by which the subject of a confidential record may have a copy of that record released to a named third party.

f. The procedures by which the agency shall notify persons supplying information requested by the agency of the use that will be made of the information, which persons outside of the agency might routinely be provided this information, which parts of the information requested are required and which are optional and the consequences of failing to provide the information requested.

g. Whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

2. A state agency shall not use any personally identifiable information after July 1, 1988, unless it is in a record system described by the rules required by this section.

Credits Added by Acts 1984 (70 G.A.) ch. 1185, § 10. Current with legislation from the 2011 Reg.Sess.

#### **22.12. Political subdivisions**

A political subdivision or public body which is not a state agency as defined in chapter 17A is not required to adopt policies to implement section 22.11. However, if a public body chooses to adopt policies to implement section 22.11 the policies must be adopted by the elected governing body of the political subdivision of which the public body is a part. The elected governing body must give reasonable notice, make the proposed policy available for public inspection and allow full opportunity for the public to comment before adopting the policy. If the public body is established pursuant to an agreement under chapter 28E, the policy must be adopted by a majority of the public agencies party to the agreement. These policies shall be kept in the office of the county auditor if adopted by the board of supervisors, the city clerk if adopted by a city, and the chief administrative officer of the public body if adopted by some other elected governing body.

Credits Added by Acts 1984 (70 G.A.) ch. 1185, § 11. Current with legislation from the 2011 Reg.Sess.

#### **22.13. Settlements--government bodies**

When a government body reaches a final, binding, written settlement agreement that resolves a legal dispute claiming monetary damages, equitable relief, or a violation of a rule or statute, the government body shall, upon request and to the extent allowed under applicable law, prepare a brief summary of the resolution of the dispute indicating the identity of the parties involved, the nature of the dispute, and the terms of the settlement, including any payments made by or on behalf of the government body and any actions to be taken by the government body. A government body is not required to prepare a summary if the settlement agreement includes the information required to be included in the summary. The settlement agreement and any required summary shall be a public record.

Credits Added by Acts 1991 (74 G.A.) ch. 96, § 1. Amended by Acts 2011 (84 G.A.) S.F. 289, § 13, eff. May 12, 2011. Current with legislation from the 2011 Reg.Sess.

#### **22.14. Public funds investment records in custody of third parties**

1. The records of investment transactions made by or on behalf of a public body are public records and are the property of the public body whether in the custody of the public body or in the custody of a fiduciary or other third party.

2. If such records of public investment transactions are in the custody of a fiduciary or other third party, the public body shall obtain from the fiduciary or other third party records requested pursuant to section 22.2.

3. If a fiduciary or other third party with custody of public investment transactions records fails to produce public records within a reasonable period of time as requested by the public body, the public body shall make no new investments with or through the fiduciary or other third party and shall not renew existing investments upon their maturity with or through the fiduciary or other third party. The fiduciary or other third party shall be liable for the penalties imposed under statute, common law, or contract due to the acts or omissions of the fiduciary or other third party.

Credits Added by Acts 1992 (74 G.A.) ch. 1156, § 8, eff. April 28, 1992. Amended by Acts 2011 (84 G.A.) S.F. 289, § 14, eff. May 12, 2011. Current with legislation from the 2011 Reg.Sess.



## BOARD OF (XYZ) TRUSTEES AGENDA

City Hall, 5th Floor Conference Room  
405 6th Street, Sioux City, IA 51101  
Wednesday, February 1, 2017  
9:00 a.m.

1. Call of Roll
2. Reading of Minutes of January 1, 2017.
3. Appointment and Discussion – Citizen's group wishes to speak to the Board regarding contracts for repair of the building.
4. Discussion of Board's 2018 Budget requests to be presented to the City Council.
5. Resolution authorizing the Board to enter into a contract with the ABC Company for consulting services.
6. Other business.
7. Adjournment.

### **ADA NOTICE**

*The City of Sioux City does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need auxiliary aids for effective communication in programs and services of the City of Sioux City are invited to make their needs and preferences known to the ADA Compliance Officer, City Hall, 405 - 6th Street, Room 204, 712-279-6259. This notice is provided as required by Title II of the Americans with Disabilities Act of 1990.*



**XYZ BOARD OF TRUSTEES  
MEETING MINUTES  
February 1, 2017**

A meeting of the **XYZ BOARD OF TRUSTEES** was held at 9:00 a.m., City Hall, 5th Floor Conference Room, 405 6th Street, Sioux City, IA 51101.

<u>BOARD PRESENT</u>	<u>STAFF PRESENT</u>	<u>OTHERS</u>
<u>BOARD ABSENT</u>		

1. CALL OF THE ROLL

Meeting was called to order by John Doe.

2. Reading of Minutes of January 1, 2017.

(Include abbreviated information pertaining to items discussed.)

3. Appointment and Discussion – Citizen's group wishes to speak to the Board regarding contracts for repair of the building.

4. Discussion of Board's 2018 Budget requests to be presented to the City Council.

5. Resolution authorizing the Board to enter into a contract with the ABC Company for consulting services.

6. Other business.

7. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:00 a.m., on motion by **Member 1**, seconded by **Member 2**; all voting aye.

Respectfully submitted:  
Joe Smith, Secretary