

**CITY OF SHOREVIEW  
AGENDA  
CITY COUNCIL WORKSHOP  
SEPTEMBER 9, 2013  
7:00 P.M.**

1. ROLL CALL
2. DISCUSSION REGARDING RAILROAD QUIET ZONES
3. REVIEW OF DRAFT COMMITTEE/COMMISSION HANDBOOK
4. OTHER ISSUES
5. ADJOURNMENT

**TO:** Mayor, City Council and City Manager  
**FROM:** Kathleen Nordine, City Planner  
**DATE:** September 3, 2013  
**SUBJECT:** Canadian Pacific Railroad/Cardigan Junction

Throughout the past month, Council members have received a number of complaints regarding the use of the Canadian Pacific Rail lines located within the City and the Cardigan Junction area. The concerns expressed include noise associated with train horn use, increased activity on the rail lines and the use of Cardigan Junction. In addition, there have been complaints about the length of time at-grade crossings are blocked by trains. In response, the Staff has been in contact with representatives of Canadian Pacific Railroad and the Federal Railroad Administration.

Within the City, there are two main rail lines owned and operated by Canadian Pacific Railroad with the first line running parallel to County Road E and the second line being east of Lake Owasso, Wabasso Lake and Grass Lake. These lines converge at Cardigan Junction which is located north of Interstate 694, east of Grass Lake. There are four at-grade crossings in the City: Lexington Avenue, north of County Road E; Victoria Street, at County Road E; North Owasso Boulevard, east of Rice Street and at Jerrold Avenue, east of Rice Street. Attached is a map identifying these facilities.

Brenda Rivera, Community Relations – Canadian Pacific Railway, indicated that use of the rail lines has increased recently due to the improving economy and demand from North Dakota. Congestion has been occurring on the main lines required additional operations at the switching yards and junctions. Concerns related to this increased usage can be classified into two categories – noise associated with the at-grade crossings and the increased activity, including noise, at Cardigan Junction.

#### **Train Horn Use – At-grade Crossings**

Rail operations are regulated in accordance with Federal Rules administered by the Federal Railroad Administration (FRA).

In accordance with Federal Regulations (Train Horn Rule), locomotive engineers are required to use the train horn when approaching public at-grade crossings. In addition, the use of horns is required when approaching switching yards or junctions where people are working on or near the rail tracks, and in emergency situations. At road crossings, the horn must be sounded for a minimum of 15 seconds and a maximum of 20 seconds and when feasible be sounded in a standardized pattern of 2 long, 1 short and 1 long. The horn must continue to sound until the lead locomotive or train car occupies the grade crossing. The volume level for the horns must be within a range of 96 to 110 decibels.

The FRA train horn rule provides localities nationwide with the opportunity to establish quiet zones. The federal rule pre-empts all applicable state laws. A quiet zone is a railroad grade crossing at which trains are prohibited from sounding their horns in order to decrease the noise level for nearby residential neighborhoods. To qualify, communities wishing to establish quiet zones must equip proposed grade crossings with adequate safety measures to overcome the decrease in safety created by silencing the train horns. The additional safety measures must be constructed at the community's own expense and must meet federal specifications. The City of Vadnais Heights has adopted partial quiet zones for three crossings near residential neighborhoods. At these crossings, train horn use is not permitted between the hours of 10:00 pm and 7:00 am.

Those crossings in Shoreview that have residential land uses nearby include Victoria Street, Jerrold Avenue and North Owasso Boulevard. Additional information regarding these crossings is needed to determine what level of improvements may be needed to meet the federal crossing standards for quiet zones.

### **Cardigan Junction**

Cardigan Junction consists of the two main lines and some additional siding track lines. The junction is designed to route trains and switch train cars as needed. Noise generated from this use includes the movement of the freight cars, braking, cars bumping and engine idling. Noise emissions from rail operations are regulated by the Environmental Protection Agency (EPA). The emission standards vary depending on the operation of the train (stationary, moving, rail speed, retarders, car coupling, and load cells) and measurement criteria have been established to determine compliance. Ms. Rivera has indicated that noise concerns should be directed to Community Relations office at Canadian Pacific Rail. Otherwise, the City would need to work with the FRA or EPA to resolve non-compliant noise emissions.

### **Recommendation**

The use of the rail lines is federally regulated which pre-empts local authority. While rail use within the Cardigan Junction area cannot be regulated further, the City may be able to address the use of horns at rail crossings through the establishment of quiet zones. If the Council would like to explore the use of quiet zones further, the Staff will continue to work with representatives of the rail and the FRA and bring additional information back to the Council.

Attachments:

- 1) Federal Railroad Administration Train Horn Rule Fact Sheet
- 2) Canadian Pacific – FAQ's
- 3) Cardigan Junction Aerial
- 4) Rail Line Map



M O V I N G   T H E  
**AMERICAN  
ECONOMY**

***Federal Railroad Administration  
Train Horn Rule Fact Sheet***

**Purpose:**

The goal of the Federal Railroad Administration (FRA) in developing the train horn rule is to ensure safety for motorists at highway-rail grade crossings while allowing communities the opportunity to preserve or enhance quality of life for their residents by establishing areas/times in which train horns are silenced.

**Historical Background:**

Since their inception, railroads have sounded locomotive horns or whistles in advance of grade crossings and under other circumstances as a universal safety precaution. During the 20<sup>th</sup> century, nearly every state in the nation enacted laws requiring railroads to do so. Some states allowed local communities to create whistle bans where the train horn was not routinely sounded.

In the early 1990's, the FRA observed a significant increase in train-vehicle collisions at certain gated grade crossings in Florida which coincided with a statewide whistle ban on the Florida East Coast Railroad (FECR). In 1993, FRA issued Emergency Order #15 requiring trains on the FECR to sound their horns again, pre-empting the 1984 Florida statute that created the ban. The number and rate of collisions at affected crossings returned to pre-whistle ban levels.

In 1994, Congress mandated that the FRA issue a federal regulation requiring the sounding of locomotive horns or whistles at all public highway-rail grade crossings; and to provide for exceptions to that requirement by allowing communities to establish "quiet zones." In 1996, Congress added that special consideration be given to communities with long-standing or legacy whistle bans.

Before finalizing the rule, FRA held public meetings around the country and solicited comment from scores of affected communities and stakeholders. Based upon the voluminous input received, FRA published an Interim Final Rule in December 2003, refining its original proposal and inviting additional public comment. The final federal train horn rule became effective on June 24, 2005.

The rule provides the first opportunity ever for many local communities around the country affected by train horn noise the option of silencing horns by establishing quiet zones.

**Sounding the Locomotive Horn:**

Under the Train Horn Rule, locomotive engineers must sound train horns for a minimum of 15 seconds, and a maximum of 20 seconds, in advance of all public grade crossings, except:

- If a train is traveling faster than 45mph, engineers will not sound the horn until it is within ¼ mile of the crossing, even if the advance warning is less than 15 seconds.
- If a train stops in close proximity to a crossing, the horn does not have to be sounded when the train begins to move again.
- There is a "good faith" exception for locations where engineers can't precisely estimate their arrival at a crossing.

Wherever feasible, train horns must be sounded in a standardized pattern of 2 long, 1 short and 1 long. The horn must continue to sound until the lead locomotive or train car occupies the grade crossing.

For the first time, a maximum volume level for the train horn has been established at 110 decibels. The minimum sound level remains 96 decibels. Railroads have until 2010 to fully comply with the maximum volume level requirement.

**Establishing a New Quiet Zone:**

A new quiet zone must be at least ½ mile in length and have at least one public highway-rail grade crossing. Every public grade crossing in a new quiet zone must be equipped at minimum with the standard or conventional flashing light and gate automatic warning system. A quiet zone may be established to cover a full 24-hour period or only during the overnight period from 10:00 P.M. to 7:00 A.M.

Local governments must work in cooperation with the railroad that owns the track, and the appropriate state transportation authority to form a diagnostic team to assess the risk of collision at each grade crossing where they wish to silence the horn. An objective determination is made about where and what type of additional safety engineering improvements are necessary to effectively reduce the risk associated with silencing the horns based on localized conditions such as highway traffic volumes, train traffic volumes, the accident history and physical characteristics of the crossing, including existing safety measures.

Examples of additional safety engineering improvements that may be necessary to reduce the risk of collisions include: medians on one or both sides of the tracks to prevent a motorist from driving around a lowered gate; a four-quadrant gate system to block all lanes of highway traffic; converting a two-way street into a one-way street; permanent closure of the crossing to highway traffic; or use of wayside horns posted at the crossing directed at highway traffic only.

Once all necessary safety engineering improvements are made, the local community must certify to FRA that the required level of risk reduction has been achieved. A quiet zone becomes effective and train horns go silent only when all necessary additional safety measures are installed and operational.

**Quiet Zone Exceptions:**

In a quiet zone, engineers have no legal duty to sound the horn, but do have discretion to do so during emergency situations (i.e. the presence of a vehicle or a person on the track).

Under federal regulations, engineers must sound the horn to warn railroad maintenance employees or contractors working on the tracks.

**Monitoring Quiet Zones:**

If a railroad or particular engineer is observed failing to sound horns as required or is repeatedly and unnecessarily sounding the horn in an established quiet zone, FRA will seek to remedy the situation or take enforcement action.

**Effect of the Rule on Pre-Existing Whistle Bans:**

Legacy whistle bans were established by local ordinance or through agreements with specific railroads in accordance with existing state law, or through informal agreements honored or abided by a railroad. The new rule required communities with whistle bans to affirmatively state their intention to preserve it by submitting specific paperwork converting the ban to a "pre-rule quiet zone." Those that failed to do so by a specified deadline lost their special status and railroads resumed routine sounding of horns.

Pre-rule quiet zone communities that completed the required paperwork have been granted an extended grace period (from 5 to 8 years) to achieve compliance with certain rule requirements. During the grace period, local communities must periodically file paperwork to demonstrate their progress toward compliance or the horns will start sounding again.

The Chicago area's numerous pre-existing whistle bans are temporarily excepted from compliance with the rule because of their unique experience with this issue. After an ongoing collaborative review is completed, the FRA will determine the final status of the Chicago pre-rule quiet zones.

**For a list of key terms and definitions click [here](#)  
To view the Federal Register posting of the Train Horn Rule click [here](#)  
For more detailed information about the Train Horn Rule click [here](#)**

For additional information, please contact  
FRA Public Affairs (202) 493-6024 or [www.fra.dot.gov](http://www.fra.dot.gov).  
December 2006

# CANADIAN PACIFIC

## FAQs

If you've got a question about Canadian Pacific, we're ready with an answer. Choose from the list of questions below or download a brochure that explains our railway or helps you understand our commitment to working with your community.

- [Why should I care about having the railway as a neighbour?](#)
- [When can I expect a train?](#)
- [How many times a day does a train pass by a particular location or neighbourhood?](#)
- [What is CP's approach to vegetation management and use of pesticides?](#)
- [Who is responsible for maintaining the RoW \(Right of Way\) and how wide are they?](#)
- [Why do trains whistle at crossings?](#)
- [How can whistles be stopped?](#)
- [How do you set your train schedules?](#)
- [What kinds of noises can I expect from a train?](#)
- [Why are some rail operations located in residential areas?](#)
- [What is in a typical train?](#)
- [Does CP transport hazardous materials?](#)
- [How fast do trains travel?](#)
- [Is it okay to walk along the railway track?](#)
- [Where can I get used rail ties?](#)
- [Do you have any merchandise available?](#)
- [Do you have any passenger service?](#)
- [Do you do anything differently because you operate in both the U.S. and Canada?](#)
- [Are the Soo Line, D&H Railway, DM&E and IC&E part of CP?](#)
- [Who can I contact if I have questions?](#)

### **Why should I care about having the railway as a neighbour?**

If you're considering moving near a rail line or yard, we recommend you ask a few important questions before buying. By finding out more about what Canadian Pacific

transports, how often trains run and how we use our property, potential homebuyers can avoid surprises. Although we do our best to be a reasonable neighbour, you need to know what to expect from CP's round-the-clock railway operation.

### **When can I expect a train?**

Canadian Pacific is a crucial link in a continental transportation network. Its timely, competitive rail service moves Canadian goods to market and delivers the products we use in our homes every day. CP must operate around the clock in order to meet these customer requirements and remain competitive.

This means trains can run 24 hours a day, seven days a week. On some branch lines you may see only one or two trains a week, while busy mainline corridors can have more than 30 trains a day.

Extra trains or 'unit trains' (full trainloads of one commodity) often handle temporary increases in volumes and can run any time of day. If the demand for a commodity goes up you can expect additional trains to handle the volume, the opposite if demand decreases.

### **How many times a day does a train pass by a particular location?**

Trains operate 24 hours a day, 7 days a week. Our Community Connect Line (1-800-766-7912 or [email using this form](#)) can help answer this question regarding CP train traffic – all that you need to supply is your address. If you are thinking of buying a home next to a rail line this is a great place to start, and may help to make your decision a little easier. It is important to remember that this number can change at any time – traffic can either increase or decrease, the number given is merely a snapshot in time.

### **What is CP's approach to vegetation management and use of pesticides?**

Canadian Pacific is committed to using only those herbicides and pesticides that are safe. These products have been thoroughly inspected to ensure they meet rigorous health and environmental safety standards. All herbicide use is accounted for, and our vegetation management program is continually evaluated. Read more about our [Integrated Vegetation Management Program here](#).

### **Who is responsible for maintaining the right-of-way (RoW) and how wide are they?**

Canadian Pacific is responsible for maintaining our right-of-way. If there are concerns regarding a particular right-of-way we forward complaints/concerns to track maintenance supervisors or the CP Police Service as the situation warrants.

In most areas, the right-of-way extends approximately 50 feet from the center of the track on both sides.

### **Why do trains whistle at crossings?**

In Canada, trains are required under the Railway Safety Act of 1988 to whistle at all public crossings. The train must begin sounding its whistle a quarter mile from the crossing and

repeat it until the train is on the crossing. Train crews will also sound the whistle if their view is restricted or they perceive a danger, such as someone walking on the track.

In the United States, under the Train Horn Rule, locomotive engineers must sound train horns for a minimum of 15 seconds, and a maximum of 20 seconds, in advance of all public grade crossings (some exceptions apply). Wherever feasible, train horns must be sounded in a standardized pattern of 2 long, 1 short and 1 long. The horn must continue to sound until the lead locomotive or train car occupies the grade crossing. For the first time, a maximum volume level for the train horn has been established at 110 decibels. The minimum sound level remains 96 decibels.

These rules apply 24 hours a day and are intended to alert motorists and pedestrians of the approaching train. Whistles must be sounded even if the crossing has lights, bells and crossing arms. The only exception to the whistling regulations are crossings where federally approved whistle prohibitions have been put in place.

### **How can whistles be stopped?**

There are several steps involved in applying for a whistle ban at a designated crossing. First, the municipality must pass a resolution supporting a whistle ban at a specified crossing. Then both Canadian Pacific and Transport Canada undertake a series of crossing inspections before approving the proposal. If the proposal is approved, CP enters a liability agreement with the municipality and a whistle ban is implemented.

For more information on applying for a whistle ban, contact Rick Poznikoff, Community Relations: [rick\\_poznikoff@cpr.ca](mailto:rick_poznikoff@cpr.ca)

### **How do you set your train schedules?**

Freight trains do not run on a set schedule like passenger trains do. They can run at any time, depending on what customers need and changes in business cycles. A train schedule may be based on the requirements of a port 2,000 miles away. Or it may be based on the needs of a customer who relies on just-in-time delivery of goods to a factory. Other schedules may be flexible because the crew has to stop many times to pick up and drop off freight cars.

### **What kinds of noises can I expect from a train?**

Unlike a highway or busy road, the track is generally a very quiet place. When a train passes, you will hear the locomotives followed by the movement of freight cars and wheels making contact with the rails as the train passes. If it stops or starts, you may hear the sound of brakes being applied or air under pressure passing through brake pipes on each car. You may also hear cars bumping together when slowing, or the slack being taken up when a train accelerates.

You will likely hear additional noises if you live near a rail yard, siding or terminal. In these areas, trains may stand for extended periods with their engines idling, as train crews wait

for a train to pass or permission to pull out of the yard. Intermodal terminals are served by trucks, trains and mobile equipment for moving and stacking containers; all of which operate around the clock.

### **Why are some rail operations located in residential areas?**

Most rail yards and many railway lines were built many years ago in undeveloped areas, far from homes and businesses. As towns and cities grew, many new neighbourhoods were built near pre-existing rail operations. Canadian Pacific does its best to be a reasonable neighbour, but people living near the railway must expect to see and hear a certain amount of activity from its operations.

### **What is in a typical train?**

Canadian Pacific handles a wide variety of materials related to agriculture, manufacturing and heavy industry. Trains up to 14,000 feet long can carry grain, coal, automobiles, steel, lumber, paper, fertilizers, fuels, chemicals and all types of manufactured goods. The trains may be made up of mixed commodities or carry the same commodity in every car or container. Virtually everything you have in your house likely moved on a train at some point.

### **Does CP transport hazardous materials?**

Many everyday products contain hazardous materials, and these must be transported some way to and from manufacturers. Rail is one of the safest modes of transport and Canadian Pacific moves these products in line with strict federal rules and industry guidelines.

Safety initiatives include rail car safety features, loading and unloading procedures and employee training. CP works with municipalities and first responders to prepare emergency response plans for railway incidents. We are also a member of Responsible Care, an international chemical industry initiative which promotes the safe handling and transport of dangerous goods.

### **How fast do trains travel?**

There are different allowable train speeds for every section of track, including maximum speeds through cities, towns and crossings.

The speed at which trains can safely operate is determined by many factors, including the condition of the roadbed and track structure. In Canada, Canadian Pacific works to Transport Canada standards when setting maximum track speeds. Transport Canada Surface, under the authority of the Railway Safety Act, is responsible for ensuring railways operate within these standards.

The U.S. Federal Railroad Association's Track Safety Standards establish track structure and track geometry requirements for nine separate classes of track (Sec. 213.9 and Sec. 213.307) with maximum speeds designated for each class. Railroads indicate the class to which each track belongs. Once the designation is made, the railroads are held responsible

for maintaining each track to specified tolerances for its designated class.

CP's operating, mechanical and engineering managers also ensure the above standards are met and trains operate at speeds that do not compromise the safety of the public, the environment and our employees.

### **Is it okay to walk along the railway track?**

No. It is both illegal and extremely dangerous to walk, drive, cycle or snowmobile on or alongside the railway line. Trains move quickly and quietly. They cannot swerve or stop suddenly to avoid an accident. At 10,000 tonnes or more, it can take a freight train more than a mile to stop in an emergency.

The CP Police Service carries out extensive community outreach programs to educate children and adults about railway safety. Anyone found on CP property may be charged with trespassing under the Railway Safety Act.

### **Where can I get used rail ties?**

Rail ties are not for sale, nor do we give them away.

Canadian Pacific has implemented a proactive program for managing scrap railway ties from cradle to grave to ensure regulatory compliance. Under this program, railway ties are not sold or given away for landscape purposes or other non-railway uses. All rail ties that can no longer be used in a railway track are shipped to co-generation facilities permitted to accept creosote treated wood, for use as a supplemental fuel to generate energy and produce electric power.

This "waste to energy" program is a "win-win" as it not only minimizes the use of landfills but is also an economically viable solution for both CP and co-generation facilities.

### **Do you have any merchandise available?**

Canadian Pacific has its own unique retail store, CP Shops, where you can find many different types of items. It also offers a service for creating custom merchandise. [Click here for further information](#) to see everything that CP Shops has available.

### **Do you have any passenger service?**

Canadian Pacific does not operate any regular scheduled passenger service. We do operate the [Royal Canadian Pacific](#), a luxury passenger train that operates in Western Canada.

### **Do you do anything differently because you operate in both the U.S. and Canada?**

Borders do not make a difference when operating a safe railway. We use the same technology, methods and training on both sides of the border. There are however different laws and regulating agencies in both countries to which Canadian Pacific needs to be responsive. When there is a notable difference, we have discussed it in the frequently asked questions above.

### **Are the Soo Line, D&H Railway and DM&E part of CP?**

Yes they are. The D&H, Soo Line and DM&E are wholly owned subsidiaries of Canadian Pacific. For historical information regarding these parts of our rail network please [click here](#).

### **Who can I contact if I have questions?**

Canadian Pacific's toll-free Community Connect Line is dedicated to handling questions and concerns from members of the public. Call 1-800-766-7912 or [email using this form](#) for information about CP's operations.

## **STILL HAVE QUESTIONS?**

Use our form to get in touch with the Community Connect team

[Community Connect form](#)

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# Cardigan Junction



## Legend



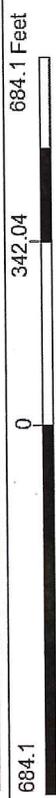
- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Boundaries

## Notes

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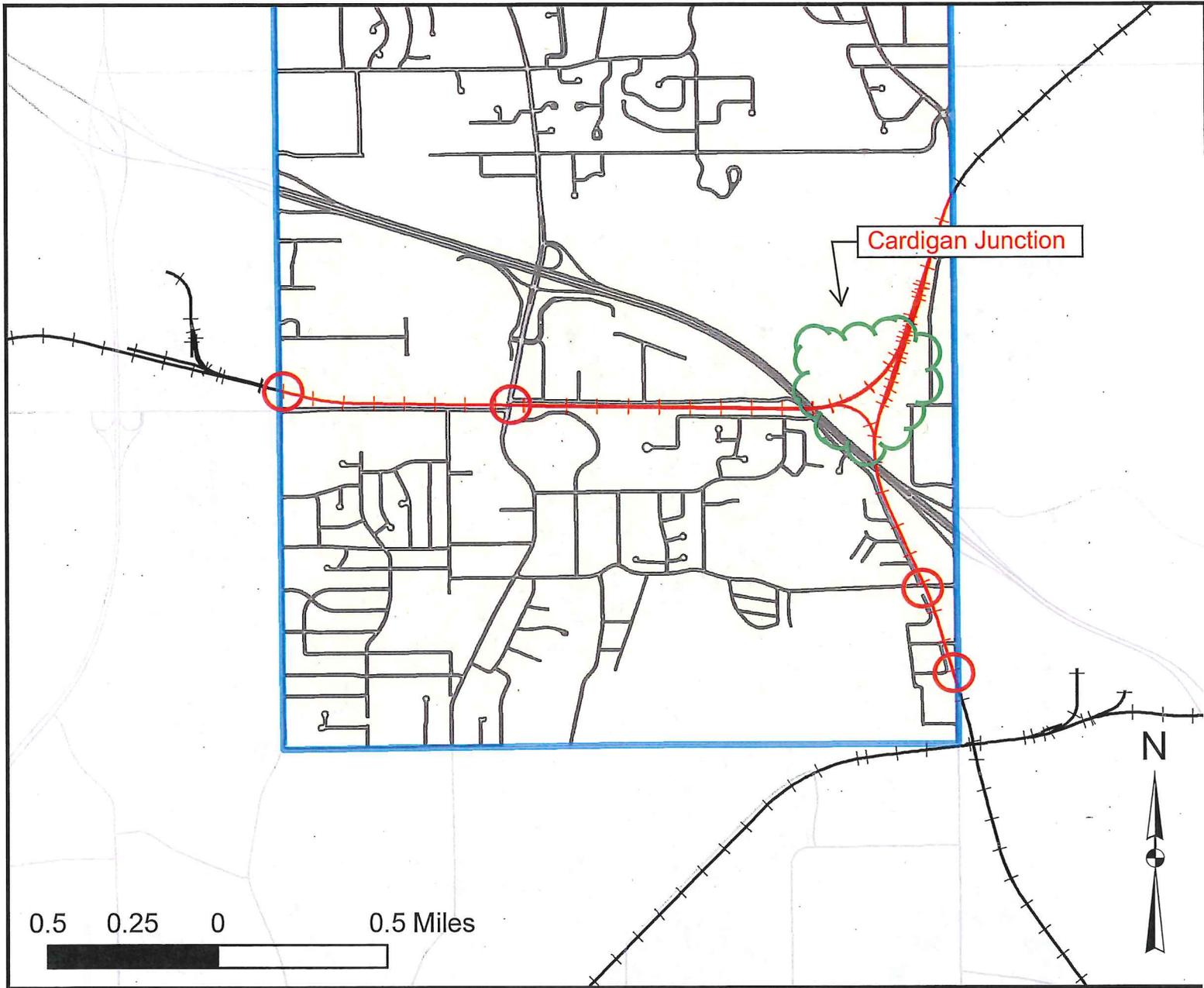
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



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 © Ramsey County Enterprise GIS Division

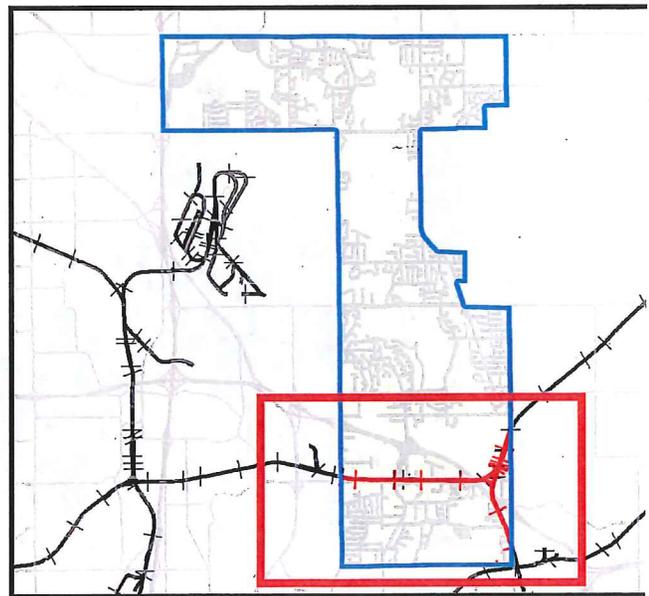
# Shoreview Railroad Crossings



## Legend

—+— Railroad in Shoreview Boundaries

○ At Grade Crossings



**TO: MAYOR AND CITY COUNCIL**

**FROM: TESSIA MELVIN**  
**ASSISTANT TO CITY MANAGER**

**DATE: MONDAY, SEPTEMBER 9**

**SUBJECT: SHOREVIEW COMMISSION/COMMITTEE HANDBOOK**

## **INTRODUCTION**

City staff has benchmarked with several cities to collect ideas and suggestions for updating the Commission/Committee Handbook. The purpose of this project was to provide more clear and concise roles and responsibilities of commission/committee members and add additional resources that address the social media revolution (social media, media relations and open meeting laws). The goal is to create a more comprehensive Commission/Committee Handbook that reflects the direction of the City Council and expectations on roles, conduct and interaction with advisory bodies.

## **BACKGROUND**

The Commission/Committee Handbook was last updated in 2003 with general committee/commission provisions. Since the addition of the Economic Development Authority in 2008, Council has asked staff to review and update the Committee Handbook. In 2012, the Council specifically discussed commission/committee policies and procedures in regards to open appointment and appearance. At that time the Council asked staff to revise the Commission/Committee Handbook.

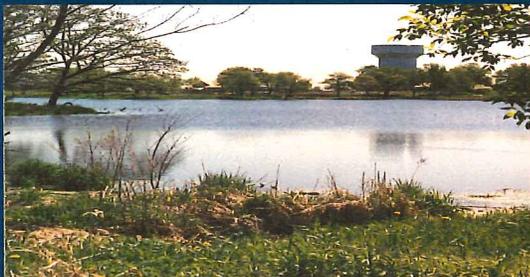
After benchmarking with several cities, staff updated the Open Appointment Policy, Code of Ethics and Standards of Appearance and added the following sections to the Handbook:

- City Organizational Chart
- Roles and Responsibilities of City Council and City Manager
- Volunteer Recognition
- City Council Goals
- Commission/Committee Provisions
  - Training and Travel
  - Communications and Media Relations
- Meeting Procedures
  - Attendance Standards
  - Role of Staff Liaisons and Commission/Committee Chairperson(s)
  - Role of Commission/Committee Members

## **RECOMMENDATION**

Staff recommends the Council make comments, edits and suggestions to the Commission/Committee Handbook. The next suggested steps would then include the following:

- Council formal adoption of resolution with all of the changes made to the Commission/Committee Handbook.
- Staff liaisons will meet with commissions/committee to discuss the changes and review their mission.
- Committees/Commissions will review and present workplans to ensure that they are serving their mission and purpose to the City Council.
- Committees/Commissions will schedule to attend future Council workshops to review and discuss their workplans.



The City of Shoreview is comprised of a Mayor and four Councilmembers. Shoreview has adopted the Plan B Council/Manager form of government. The City Council appoints persons to the many advisory committees/commissions. All Committees / Commissions, with the exception of the Planning Commission and Economic Development Authority serve as an advisory role to the Council.

## Committee and Commission Handbook

Bikeways and Trails Committee

Economic Development Authority

Economic Development Commission

Environmental Quality Committee

Human Rights Commission

Lake Regulations Committee

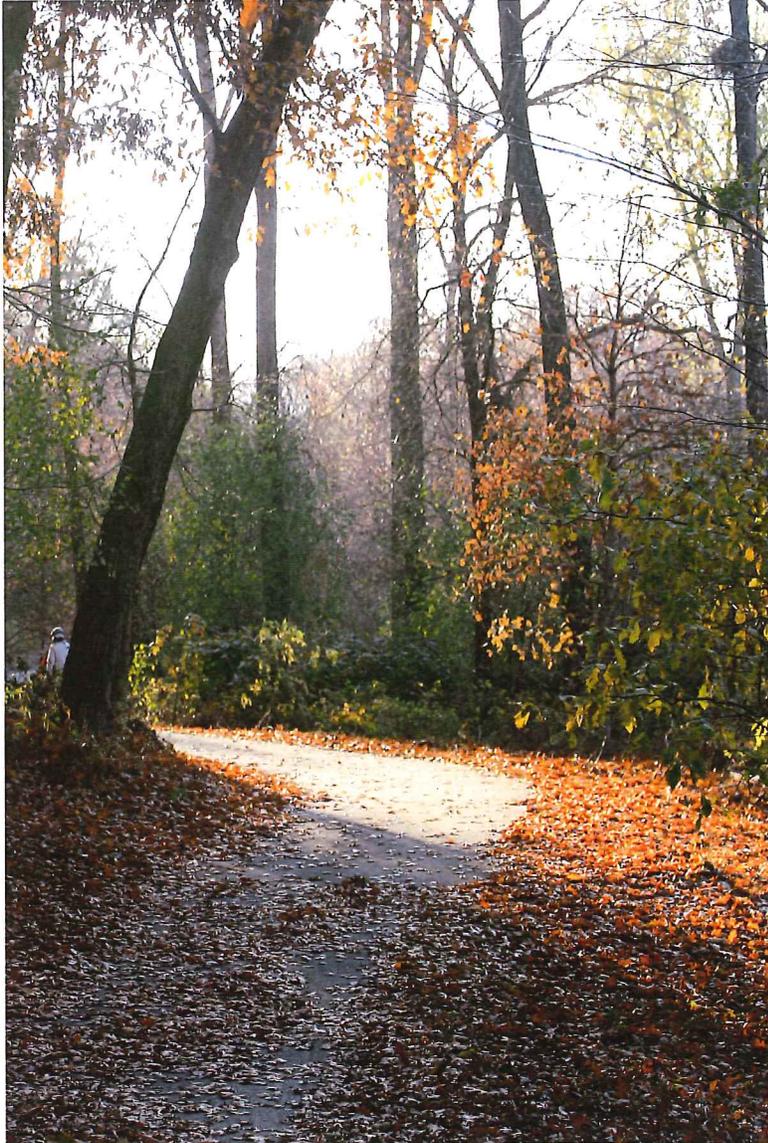
Parks and Recreation Commission

Planning Commission

Public Safety Committee

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## Introduction and Purpose

## **INTRODUCTION**

The City Council wishes to thank you for volunteering to serve on our citizen commissions/committees. We extend our sincere thanks and appreciation to you who give so much of your time, energy and talent to help make our community a better place to live, work and play.

Shoreview is recognized for its exceptional quality of life, vibrant economy, outstanding schools and scenic parkland, but those are just a few reasons why Shoreview is such a great place to work, play and live—we could not maintain our quality of life without the work of our commission/committee members.

Mayor Sandy Martin

## **PURPOSE**

The City Council and staff look forward to working with you and receiving the benefit of your insight and guidance. As a Commission or Committee member, you will serve in an advisory capacity to the City Council. Your job is to help address community needs; you have the opportunity to share your vision and to help direct the future of Shoreview.

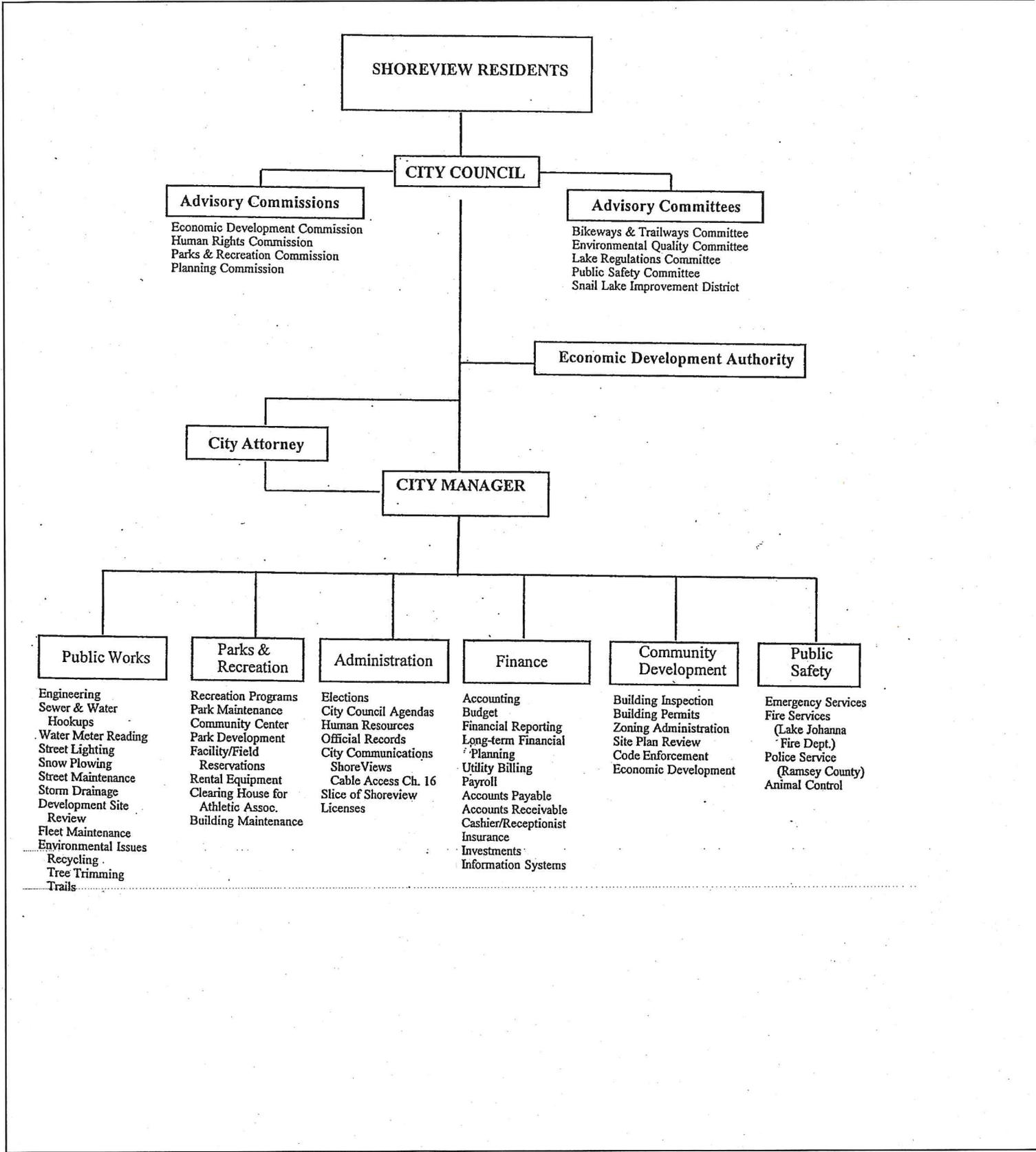
This Handbook is designed to serve as a reference for the basic protocols that apply to all City advisory bodies. As a new member, you may want to meet with the staff liaison of your commission/committee to get a better sense of your role and the ongoing business of the commission/committee. You may also want to review agendas and minutes from recent meetings to see what current issues have been under consideration, as well as the advisory body's current goals.

Learning your role and developing an effective voice takes time and familiarity. We hope this Handbook will assist you towards a satisfying and productive experience. Your participation is deeply appreciated by the City Council, City staff and the community. The vitality and strength of our community results from the willingness of people like you to serve.



## Organizational Chart

# ORGANIZATIONAL CHART





## Roles and Responsibilities

## **ROLES AND RESPONSIBILITIES**

As a Commission or Committee member, you are essential to the City's commitment to developing policies, programs and services which reflect the needs and values of the community. In carrying out your role and responsibilities, you will work closely with your fellow commissioners/committee members, the City Council and staff – who all play critical roles in the operation of our City government.

### **Form of Government**

The City of Shoreview adopted the council-manager plan as its form of government. The council-manager plan combines the political leadership of elected officials with the managerial experience of an appointed official. The Council is the policy making and legislative body; while the City Manager is responsible for the day-to-day administration of the City.

### **City Council**

The City Council is the governing body of the City. It is vested with broad powers in areas of legislative policy, budgetary adoption and establishment of service levels. The City Council, elected at large, represents the entire community, and serves as the "Board of Directors" for the municipal corporation.

The City Council is composed of a mayor and four council members. All are elected at-large. City Council terms are four years and the Mayor serves a two-year term.

### **City Manager**

The City Manager serves the council and citizens of the community through day-to-day administration of local government services and projects. Councilmembers and citizens rely on the City Manager to provide unbiased and objective information while presenting both sides of an issue and information about long-term consequences.

Since the City Manager is the staff member hired by the council, it is important that requests for information or community issues be brought directly to the City Manager. The City Manager is in the best position to provide a response because many issues involve multiple departments or work may be already in progress.

### **City Departments and Public Safety**

The City Manager is responsible for the day-to-day management of the City. The City Manager supervises the organization through department directors. There are five departments including Administration, Community Development, Finance, Parks and Recreation and Public Works. The City contracts for its police service with Ramsey County Sheriff's Department and its fire service with Lake Johanna Fire Department.

### **Staff**

The City Staff, under the direction of the City Manager, is responsible for carrying out the policy of the City Council and implementing the programs and services set out in the

budget and identified in the Council Goals. The City Manager and City Attorney are appointed by the City Council. Department Heads and staff members are appointed by and responsible to the City Manager.

Committees and Commissions work closely with the staff liaison; however, they do not have the authority to supervise or direct the work of staff. Special assignments to staff are made through the City Manager.

### **Commissions**

Commissions are standing bodies established by City ordinance and appointed by the City Council to provide ongoing input on major policy areas. Their responsibilities are advisory and include:

- A. Providing ongoing recommendations to the City Council and staff regarding special program areas
- B. Identifying issues that the Commission believes should be addressed by the City Council or staff
- C. Providing education and awareness opportunities for residents on policy issues and concerns

### **Committees**

Committees are standing bodies appointed by the City Council to provide input in specific areas. Their responsibilities are advisory and include:

- A. Providing ongoing recommendations to the City Council, Commissions as appropriate and staff regarding special program areas
- B. Identifying issues that the Committee believes should be addressed by the Commission, City Council or staff
- C. Providing education and awareness opportunities for residents on issues and concerns

### **Recognition**

Each fall, generally in October or early November, the City Council hosts a Volunteer Recognition Dinner to recognize the work of our many commission/committee members. Commission members may invite a spouse or partner and are encouraged to attend the annual event.



City  
Council  
Goals

## CITY COUNCIL GOALS

The City Council typically holds a strategic planning session every two years to establish the priorities and goals for the next two years. During this time, the City Council and staff identify key success, recent accomplishments and to create Council goals for the City Council, staff and commissions/committees to understand and align their work priorities to achieving these goals.

### Keys to City's Success

- Talented and Committed elected officials
- Staff stability
- Long-term focus
- Planning emphasis with funding commitments
- Strong financial reserves
- Residents have strong trust
- Strong/diverse tax base

1. Financial Stability – continuously work to maintain and further improve long-term financial stability of the City.

2. Community Facilities – update and expand public facilities, parks, and trails to enhance the City's quality of life and provide a "community for all ages."

3. Economic Development - improve the environment for business expansion, redevelopment, and neighborhoods through outreach and selected financial participation.

4. Community for All Ages – continue to develop Shoreview as a "community for all ages" that provides housing choices, public amenities, services and resources for all residents regardless of age.



General  
Commission/  
Committee  
Provisions

## **GENERAL COMMISSION AND COMMITTEE PROVISIONS**

### **Open Appointment Policy**

#### **A. Purpose**

To provide an open, accessible appointment process which invites all interested citizens to become involved in city government to seek available appointments. It is the Council's desire to effect full citizen participation in the development and implementation of the policies of the City of Shoreview. Therefore, it is policy of the City Council that membership on the various boards and commissions shall be open to all residents.

#### **B. General Guidelines to Commission/Committee Appointment**

1. Announcement of vacancies will be published in the official city newspaper, website and other usual sources once a year during the fall, unless a commission/committee membership falls below quorum requirements.
2. A minimum application period of four weeks will be provided and a deadline date will be specified, however, the City Council may consider applications received after the deadline date as long as they are received prior to review by the City Council.
3. The City Manager and Deputy Clerk will maintain a central file with appropriate security.
4. Nominations will be made only from those with applications on file.
5. Ordinances, resolutions and budgetary data relating to the commission/committee will be available for applicants to review.
6. Applications from all candidates will be provided to the City Council prior to the consideration of appointments.
7. Except in unusual situations, individuals will only serve on one commission/committee at a time. The exception is the Economic Development Authority that has three councilmembers and at least one member of the Economic Development Commission.

#### **C. Appointment Process**

1. Applications will be forwarded to the appropriate commission/committee for review following the close of the application period. The exceptions are the Planning Commission and the Economic Development Authority, which are reviewed directly by the City Council.
2. Applications will be considered within a timely manner and scheduled for appointment by the City Council after the following:
  - a) Scheduled interviews with the applicants, if desired by commission/committee;
  - b) Commission/committee provides recommendation to the City Council.
3. Current Planning Commission members must complete process again after their term is over.

#### **D. REAPPOINTMENT**

Upon completion of term, commission/committee members **must submit a letter or e-mail of intention to their staff liaison indicating interest in continuing on the commission/committee. Commissioners are required to attend 75 percent of the regularly scheduled meetings during their term to be eligible for reappointment. All recommendations by commissions/committees must be provided to the City Council for final appointment.**

#### **E. RESIGNATION**

In the event a member is unable to continue serving because of change in residence, health, business requirements or personal reasons, a formal letter or e-mail of resignation must be submitted to the staff liaison and City Manager. Upon completion of service to the community, commission/committee members are required to return equipment acquired during the term. Examples include: computers, copies of Shoreview's city code and key cards.

#### **Training and Travel Policy**

Training and development that contributes to improving the quality of services through commission/committee is allowable via consent of the City Manager. Commission/committee staff liaisons can request budgeting for training through the City Manager and Assistant to City Manager.

#### **Travel Information/policies**

- Travel involving an overnight stay
  - Give prior notice to staff liaison and City Manager before traveling on overnight business explaining the trip's purpose, travel dates and other details.
- Travel expenses

- Audit standards require fully itemized claim for expense reimbursement along with any unexpended portion of the advance, to be submitted to the City Manager's office within 15 days of the travel period.
- Transportation costs are reimbursed at the most reasonable means of transport.
- Hotel/motel accommodations are reimbursed up to the established city reimbursement schedule.
- Receipts must accompany all reimbursement claims.

### **COMMUNICATIONS AND MEDIA RELATIONS**

As a commission/committee member, you have a responsibility to communicate information to the public. Communicating accurate, timely and professional information is important to the quality and credibility of information being provided to the public. Things to remember as a commission/committee member:

- You are an ambassador of the city. Refrain from talking ill about staff, councilmembers or facilities.
- If you are asked to be interviewed as a commission/committee member, talk with your staff liaison

Communications not considered public record may still be public information (i.e., e-mail, text messages). Those interested in copies of these items must file a public disclosure request. Requests for private data or information outside of the scope of a commission/committee member should be routed to your staff liaison.

#### **Align with Minnesota Open Meeting Law**

Information posted or responded to should be done in alignment with the open meeting law ([www.house.leg.state.mn.us/hrd/pubs/openmtg.pdf](http://www.house.leg.state.mn.us/hrd/pubs/openmtg.pdf)) or see Appendix B.

Commission/committee members should generally act with caution when using electronic means to communicate with one another. If commission/committee members wish to share information with other members, do so through the staff liaison. Materials relating to agenda items for city business (including e-mail) must be provided to the public at the meeting.

E-mail or social media communications shared among four or more members should take place at an open meeting:

- Example of a violation: A member posts a comment on Facebook page about a proposed ordinance violation. A second member comments that they agreed and a third and fourth member click the "like" button.

#### **Written correspondence**

Commission/committee members that need to write letters to citizens, businesses or

other public agencies, should use City letterhead and envelopes. Contact your staff liaison to assist with these items.

### **Recommendation letters**

Commission/committee members may be occasionally asked to prepare letters of recommendation for students or others seeking employment or appointments. Please check with your staff liaison on these items.

### **Communication tips**

- As a commission/committee member, you are looked at as a representative of the City of Shoreview.
- Since the public connects to commission/committee members, it's important to clarify official perspectives from individual perspectives.
- Any published information, written or electronic, may be considered public information or considered under the Minnesota Data Practices Act. See Appendix C for more information. Informal messages not related to public officials's role, such as meeting notices, reminders, telephone messages and informal notes are not public record.
- Remember that information posted on social media is public and online for a long-time. Always be professional and avoid political comments if you are using it as a commission/committee member.
- Serial communication is also considered a violation of the Open Meeting Law.

### **Media Relations**

Commission/committee members are encouraged to refer all media inquiries to the City Manager prior to commission/committee discussion. Following these guidelines is important to the democratic process because it avoids creating the public perception that a vote or decision has been made on a topic. The City Manager's role is to communicate on behalf of the city in interviews, publications, news releases and social media issues.

## **CODE OF CONDUCT**

The following principles help ensure that the commission/committee operates with the maximum of efficiency and effectiveness.

1. Commission/committee members should attend all meetings, listen to each other with respect, and with the knowledge that reasonable people with the best of intentions may disagree with one another.

2. If you are going to miss a commission/committee meeting, please contact your staff liaison prior to the meeting. This helps ensure that the commission/committee will have a quorum at the meeting.

3. By listening to one another, the possibilities for arriving at a consensus or a compromise that can be supported by all members increases.

4. When disagreement on an issue is unavoidable, it should be tempered by a respect for the opinions of others while pointing out the objective reasons for the disagreement. It is important to disagree agreeably.

5. Disagreements should be set aside once each issue is decided. Each individual member should respect the official position or action of the commission/committee.

6. Commission/committee members should share relevant information with one another so that each member has the same information. Please channel all written or e-mail communications to commission/committee members through the staff liaisons in accordance with the open meeting law.

7. Issues and decisions should be openly discussed at all meetings.

8. Commission/committee members are subject to the City's adopted Code of Ethics, which are attached in Appendix A.

Commission and Committee members follow the Code of Ethics (Appendix A), which are published in the City Municipal Code.

### **CONFLICT OF INTEREST**

Generally, state law prohibits public officials from having a personal financial interest in a sale, lease or contract they are authorized to make in their official capacity. In addition, commission/committee members may experience a conflict of interest based on the following issues:

- nature of the decision being made;
- nature of the financial interest
- effect of the individual interest on the outcome of the decision by the commission/committee

Another conflict of interest situation may occur when the commission/committee member's interest is so distinct from the public interest that the member cannot be expected to represent the public interest fairly in deciding the matter.

Commission/committee members should contact their staff liaison if issues arise.

### **Standards of appearance**

Commission/committee members are subject to the Employee Appearance and Dress Code. The following information should guide commission/committee members in their decision on dress while attending meetings and city functions. These guidelines have been established based on public image, safety and personal hygiene. Clothing that is torn, dirty or frayed is not acceptable. Any clothing that has words, terms or pictures that may be offensive to the public or staff is also unacceptable.

The following items are considered inappropriate attire for commission/committee members.

- Jeans
- Sweatshirts
- T-shirts
- Tube tops, halter tops, tank tops or muscle shirts
- Body-hugging clothes (leggings, spandex)\*
- Shorts (skorts are appropriate)
- Clothing that is overly revealing or outlandish so as to cause distraction
- Clothing that reveals the midriff
- Clothing that is overly worn, faded or in disrepair
- Casual sandals and flip-flops

\*Note: Leggings may be worn under another garment that basically reaches the mid-thigh.



Meeting  
Procedures

## MEETING PROCEDURES

### Attendance Standards

A quorum (or majority) of the commission/committee is necessary to conduct business. Commission/committee members are expected to attend 50%-75% of the regularly scheduled meetings (depending upon commission/committee) during their term. Annual attendance reports are submitted by the staff liaison of each commission/committee.

The commissions/committees need the benefit of every member's expertise and judgment in formulating recommendations to the City Council. Members are expected to be prepared to vote on all issues before each meeting. If a member must miss a meeting because of extended business trip, vacation or illness, the member should advise the staff liaison before the scheduled meeting. Repeated absences or lack of participation can be grounds for City Council to consider termination or replacement of a member.

### Role of Staff Liaisons

The staff liaison role includes serving as the liaison between the Commission/Committee, staff and the City Council. Typically the staff liaison is responsible for orienting and helping train new commission/committee member, facilitating meetings, minute taking, providing necessary documents, providing information regarding rules and regulations, preparing and presenting reports to the commission/committee and answering any questions that may arise at meetings. The staff liaison will track the attendance. Other duties include:

- Ensure that a work plan for the coming calendar year and summary of accomplishments in the prior calendar year is submitted by the Commission or Committee to the City Council.
- Provide administrative support to the Commission or Committee.
- Work with the Chair to prepare agendas.
- Post agendas in compliance with the state open meeting law. See Appendix B.
- Distribute meeting packets to members.
- Prepare summary or action minutes and distribute them to the City Council when they are approved.
- Staff may present an accompanying report that contains a recommendation for action.
- Submit budget requests for the Commissions/Committee members to attend training sessions or other events related to the Commission/Committee areas of responsibility.

### **Role of Chairperson(s)**

Most commissions/committees elect their own chairperson(s). The chairperson frames, leads and acts upon the matters referred to the commission/committee. The chairperson must ensure that decisions are made in a timely manner, yet be careful not to limit discussion or cut off fellow members.

### **Role of Member**

Serving on a commission/committee is a privilege that implies a responsibility to act in the best interest of the City of Shoreview and the objectives of the commission/committee. A member shall:

- Attend scheduled meetings or provide an excused absence to staff liaison.
- Fully participate in meetings and carry out assignments.
- Utilizes community members to obtain feedback on topics under consideration.
- Is considerate of fellow members and staff.

### **Open Meeting Law and Data Practices**

Commissions/committees are subject to the Open Meeting Law. A meeting is defined as the convening of members of a governmental body for the purpose of exercising the responsibility, authority, power or duties delegated to that body. A meeting is subject to the law whenever the governmental body meets for official purposes. A meeting does not include social or chance gatherings not intended to avoid the law. When one-half or more of the members of a governmental body are present, however, a meeting is “rebuttably presumed” to be for official purposes.

### **Public Notice**

The heart of the Open Meeting Law is the requirement that all meetings of a governmental body be preceded by an official public notice. Public notice should be provided in the following manner:

- As required by state statutes;
- Notice shall set forth the time, date, place and the subject matter of the meeting; and
- Notice shall be made public at least 24 hours prior to the commencement of such meeting, or 2 hours under special circumstances.

## APPENDIX A

### 309 CODE OF ETHICS

**309.010 Declaration of Policy.** Public officials should be held to a high standard of conduct and responsibility due to the nature of their duties and responsibilities. The proper operation of democratic government requires that public officials be independent, impartial and responsible to the people that government decisions and policy be made through the proper channels of the government structure; that public office not be used for personal financial gain; and that the public have confidence in the integrity of its government. In recognition of these goals and pursuant to Minnesota Statute 471.895, there is hereby established a Code of Ethics for public officials of the City. The purposes of this code is to establish ethical standards of conduct for all such public officials while acting in their official capacity representing the City by setting forth those acts or actions that are incompatible with the best interests of the City.

**309.020 Definition of Terms.** Whenever used herein, the following words and phrases shall have the meanings set forth below:

(A) **City.** The City of Shoreview.

(B) **Public Official.** Any person holding a position by election or appointment in the service of the municipality, whether paid or unpaid, including members of the City Council and all City boards, committees, commissions, and task forces.

(C) **Anything of Value.** Money, real or personal property, a permit or license, a favor, a service, forgiveness of a loan or promise of future employment. It does not mean reasonable compensation or expenses paid to an official by the government of Shoreview for work performed.

(D) **Compensation.** A payment of "anything of value" to an individual in return for that individual's services of any kind.

(E) **Interested Person.** A person or a representative of a person or association that has a direct financial interest in a decision that a public official is authorized to make.

(F) **Gifts.** A trinket or memento costing \$5 or less.

**309.040 Ethical Standards.** In general, public officials are to serve all persons fairly and equitably without regard to their personal or financial benefit. The credibility of City government hinges on the proper discharge of duties in the public interest. Public officials must ensure that the independence of their judgment and actions is preserved without any consideration for personal gain. The following specific ethical standards shall guide public officials:

(A) **Incompatible Offices.** A public official shall not hold another

"incompatible" office as that term has been defined in Minnesota Statutes and interpreted by the Courts. The City Manager shall not hold an incompatible office or outside employment without prior notice to and approval by the City Council.

(B) **Undue Influence and Disqualification**. A public official shall not hold other office or be employed in a job which compromises the performance of the public official's duties without disclosure of such potentially conflicting office or employment; and, in any event, public officials shall disqualify themselves from participating in actions which might be compromised by their holding of another office or means of employment.

(C) **Open Meeting Law**. A public official shall not violate the open meeting law except as permitted under Minnesota Statute 13D.

(D) **Use of Confidential Information**. Public officials shall not disclose to others, or use to further their personal interest, confidential information, as defined by the Minnesota Data Privacy Act, acquired by them in the course of their official duties.

(E) **Not Public Data**. A public official shall not disclose to the public, or use for the public official's gain or another person's personal gain, information that was obtained due to person's public position if the information was not public data or was discussed at a closed session of the City Council.

(F) **Attorney-Client Privilege**. A public official shall not disclose information that was received, discussed, or decided in conference with the City's legal counsel that is protected by the attorney-client privilege unless a majority of the City Council has authorized the disclosure.

(G) **Solicitation of or Receipt of Anything of Value**. A public official shall not solicit or receive anything of value from any interested person or association, directly or indirectly, in consideration of some action to be taken or not to be taken in the performance of the public official's duties. Incidental items provided to public officials in the due course of business while attending conferences, seminars, and training sessions, shall be exempt from this provision.

(H) **Holding Investments**. No public official shall hold any investment which might compromise the performance of his/her duties without disclosure of said investment to the City Attorney and self disqualification from any particular action which might be compromised by such investment, except as permitted by statute, such as Minnesota Statute 471.88.

(I) **Representation of Others**. A member of the City Council shall not represent interested persons or associations in dealings with the City in consideration of anything of value.

(J) **Financial Interest**. Where a public official has a financial interest in any matter being considered by the public official, such interest (if known to the public official) must be disclosed to the City Attorney, and the public official shall be disqualified from further participation in the matter.

- (K) **City Property**. No public official shall use City owned property such as vehicles, equipment, or supplies for personal convenience or profit except when such property is available to the public generally, or where such property is provided by specific City policy in the conduct of official City business.
- (L) **Special Consideration**. No public official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
- (M) **Authority**. No public official shall exceed his/her authority, or breach the law, or ask others to do so.
- (N) **Giving Anything of Value**. No elected public official shall give anything of value to potential voters in return for their votes, promises, or financial consideration which would be prohibited by the State of Minnesota Fair Campaign Practices statute.
- (O) **Public Funds**. No public official shall use City public funds, personnel, equipment or facilities, for private gain or political campaign activities, unless such equipment and facilities are available to the public.
- (P) **Use of Logo or Other City Symbols**. Use of the City's logo or any other symbol for non-official City business without approval of the City Council is prohibited.
- (Q) **Expenses**. Public officials shall provide complete documentation to support requests for expense reimbursement. Expense reimbursement shall be made in accordance with City policy.
- (R) **Donations**. No public official shall take any action which will benefit any person or entity because of a donation of anything of value to the City by such a person or entity.
- (S) **Official Action**. No public official shall take an official action which will benefit any person or entity where such public official would not otherwise have taken such action but for the public official's family relationship, friendship, or business relationship with such person or entity.
- (T) **Compliance with Laws**. Public officials shall comply with all City ordinances and state and federal statutes, including but not limited to, the Criminal Code, Fair Campaign Practices Act, and laws governing the functioning of municipalities, their elected and appointed officials.
- (U) **Acceptance of Donations to the City**. Public officials may accept donations on behalf of the City regardless of value, and said donations shall become the property of the City.
- (V) **Acceptance of Personal Gifts**. Public officials may personally accept nonmonetary gifts (trinkets and mementos) costing \$5 or less.
- (W) **Knowledge of Violations**. Public officials shall disclose any possible violations of the City's Ethics Policy to the City Attorney.
- (X) **Public Interest**. Public officials shall act with the best interests of the City

in mind.

**309.050 Complaint Review Process.**

(A) **Complaints Against Public Officials.** Allegations of violations against public officials shall be reviewed by the City Attorney who shall:

(1) Make recommendations to the City Council for disposition of complaints including, but not limited to, the referral of the complaint and/or investigation to an independent counsel or to an administrative law judge; or

(2) Refer allegations which may constitute a violation of federal, state, or local statutes to the appropriate authority.

(B) Complaints against Public Employees. Allegations made against public employees who are subordinate to the City Manager shall be reviewed by the City Manager who will determine the appropriate responsive action.

(C) Complaints against Contract Service Providers. Allegations made against persons or entities providing service to the City under a contract shall be reviewed by the City Manager. The City Manager shall mail a copy of the City's Ethics Policy to contractors providing service to the City. Any violation of the provisions of this policy may result in termination of contract or service agreement.

**APPENDIX B**  
**Minnesota Open Meeting Law**

# Minnesota Open Meeting Law

The Minnesota Open Meeting Law requires that meetings of governmental bodies generally be open to the public. This information brief discusses the groups and types of meetings covered by the open meeting law, and then reviews the requirements of and exceptions to the law and the penalties for its violation.

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## Executive Summary

The Minnesota Open Meeting Law was originally enacted in [Laws 1957, chapter 773](#), section 1. It is now codified in [Minnesota Statutes, chapter 13D](#). The Minnesota Supreme Court has articulated three purposes of the open meeting law:

- To prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed about a public board's decisions or to detect improper influences
- To assure the public's right to be informed
- To afford the public an opportunity to present its views to the public body<sup>1</sup>

“These purposes are deeply rooted in the fundamental proposition that a well-informed populace is essential to the vitality of our democratic form of government.”<sup>2</sup> Courts interpret the law liberally and in favor of openness.

**Entities covered by the law.** The law applies to state and local multimember governmental bodies, including committees and subcommittees, and nonprofits created by political subdivisions. A separate law applies to the legislature.

**Situations where the law applies.** A meeting is a “meeting” for purposes of the law when a quorum or more of the governmental body is gathered—in person or by electronic means, whether or not action is taken or contemplated. Serial meetings of less than a quorum held with the intent to avoid the law may be found to be in violation of the law.

**What constitutes an open meeting.** A meeting is open when proper notice was given in advance of the meeting, the public may attend and observe, and relevant materials are available to the public.

**Exceptions to the law.** A meeting may be closed based on a limited attorney-client privilege, and for the purposes of labor negotiations, employee evaluations, and discussion of security issues and property transactions. The law does not apply to a governmental body exercising quasi-judicial functions.

**Violations of the law.** While actions taken at a meeting held in violation of the law are still valid, the law provides for penalties and potentially removal from office.

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<sup>1</sup> *Prior Lake American v. Mader*, 642 N.W.2d 729, 735 (Minn. 2002) (en banc) (citing *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1, 4 (Minn. 1983)). While the courts consistently say that the open meeting law is to afford the public an opportunity to present its views to the public body, there is no general right for members of the public to speak at a meeting. Some statutes, and perhaps some home rule charters, specify that a hearing on a particular matter must be held at which anyone who wishes to address the public body may do so. See, e.g., [Minn. Stat. § 117.0412](#), subd. 2.

<sup>2</sup> *Prior Lake American*, 642 N.W.2d at 735.

**Where to get advice.** A governmental entity can seek advice from its attorney, the Minnesota Attorney General, or the Commissioner of Administration. An individual may seek advice from a private attorney or the Commissioner of Administration.

## Groups and Meetings Governed by the Open Meeting Law

**The law applies to all levels of state and local government.**

The open meeting law applies to:

- a state agency, board, commission, or department when it is required or permitted by law to transact public business in a meeting;
- the governing body of any school district, unorganized territory, county, city, town, or other public body;
- a committee, subcommittee, board, department, or commission of a public body subject to the law; and
- the governing body or a committee of a statewide or local public pension plan.<sup>3</sup>

“Public body” is not defined but the Minnesota Supreme Court has stated that “[i]n common understanding, ‘public body’ is possibly the broadest expression for the category of governmental entities that perform functions for the public benefit.”<sup>4</sup>

In determining whether the open meeting law applies to a particular entity, one should look at all of the entity’s characteristics. For example, in a 1998 case, the Minnesota Supreme Court held that because the statute authorizing creation of a municipal power agency authorized an agency to conduct its affairs as a private corporation, it could hold closed meetings.<sup>5</sup> The court held so notwithstanding the statute that provides for municipal power agencies to be political subdivisions of the state.<sup>6</sup>

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<sup>3</sup> [Minn. Stat. § 13D.01](#), subd. 1.

<sup>4</sup> *Star Tribune Co. v. University of Minnesota Board of Regents*, 683 N.W.2d 274, 280 (Minn. 2004) (en banc) (holding that the open meeting law and the Government Data Practices Act apply to the University of Minnesota Board of Regents, and the application of these laws to the university does not violate the university’s constitutional autonomy). In 2002, Mark Yudof resigned from the presidency of the University of Minnesota. When finalists for the position had been selected but not announced, the Board of Regents closed a meeting to interview them, ensuring their privacy. The university asserted that its constitutional autonomy meant it was not subject to these laws. A number of newspapers sued, claiming that the university is subject to the open meeting law and Data Practices Act, and that it violated both laws. The district court and court of appeals agreed with the newspapers, and the state supreme court affirmed those decisions.

<sup>5</sup> *Southern Minn. Mun. Power Agency v. Boyne*, 578 N.W.2d 362, 364 (Minn. 1998) (en banc) (citing Minn. Stat. § 453.54, subd. 21, and discussing the factors that distinguish a public corporation from a private corporation).

<sup>6</sup> [Minn. Stat. § 453.53](#), subd. 1, para. (1) (The agency agreement shall state: “(1) That the municipal power agency is created and incorporated . . . as a municipal corporation and a political subdivision of the state, to exercise thereunder a part of the sovereign powers of the state;”).

**The law generally applies to nonprofit corporations created by governmental entities.**

The list of groups covered by the open meeting law does not refer to nonprofit corporations created by a governmental entity. However, the law creating a specific public nonprofit corporation may specify that it is subject to the open meeting law.<sup>7</sup> In addition, any corporation created by a political subdivision before May 31, 1997, is clearly subject to the open meeting law.<sup>8</sup>

**Gatherings of less than a quorum of a public body are not subject to the law; a “meeting” is held when the group is capable of exercising decision-making powers.**

The Minnesota Supreme Court has held that the open meeting law applies only to a quorum or more of members of the governing body or a committee, subcommittee, board, department, or commission of the governing body.<sup>9</sup> Serial meetings in groups of less than a quorum held in order to avoid open meeting law requirements may also be found to be a violation, depending on the facts of the case.<sup>10</sup>

A public body subject to the law should be cautious about using e-mail to communicate with other members of the body. Although the statute does not specifically address the use of e-mail, it is likely that the court would analyze use of e-mail in the same way as it has telephone conversations and letters.<sup>11</sup> That is, private communication about official business through telephone conversations or letters by a quorum of a public body subject to the law would violate the law. Serial communication through telephone conversations or letters by less than a quorum with the intent to avoid a public hearing or to come to an agreement on an issue relating to official business could also violate the law. In a 1993 case, the Minnesota Court of Appeals held that the open meeting law was not violated when two of five city council members attended private mediation sessions related to city business. The court determined that the two council

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<sup>7</sup> *E.g.*, [Minn. Stat. §§ 62Q.03](#), subd. 6 (Minnesota Risk Adjustment Association); [116O.03](#), subd. 5 (Enterprise Minnesota, Inc.); [116V.01](#), subd. 10 (Agricultural Utilization Research Institute); [116S.02](#), subds. 6 and 7 (Minnesota Business Finance, Inc.); [124D.385](#), subd. 4 (Minnesota Commission on National and Community Service may create a nonprofit but it is subject to the open meeting law); [128C.22](#) (State High School League); and [85B.02](#), subd. 6 (Lake Superior Center Authority).

<sup>8</sup> [Minn. Stat. § 465.719](#), subd. 9.

<sup>9</sup> *Moberg v. Independent School Dist. No. 281*, 336 N.W.2d 510 (Minn. 1983) (en banc).

<sup>10</sup> *Id.* at 518; *see also Mankato Free Press Co. v. City of North Mankato*, 563 N.W.2d 291, 295 (Minn. App. 1997). On remand to the district court for a factual finding on whether the city used serial interviews to avoid the open meeting law, the trial court found, and the court of appeals affirmed, that the serial meetings were not held to avoid the law. *Mankato Free Press Co. v. City of North Mankato*, No. C9-98-677, 1998 WL 865714 (Minn. App. 1998) (unpublished opinion), review denied (Minn. Feb. 24, 1999).

<sup>11</sup> *Moberg*, 336 N.W.2d at 518. The Commissioner of Administration stated in a July 9, 2008, opinion that an e-mail sent to all members of a city council by the city manager was effectively “printed material” that should be available to members of the public and also suggested that the legislature revise the statute to recognize the use of electronic and other types of communications. Minn. Dept. of Admin. Advisory Op. 08-015. A September 8, 2009, opinion by the commissioner states that the exchange of e-mails by staff and members of the Metro Gang Strike Force Advisory Board violated the open meeting law because it was not just a matter of a quorum receiving information, but a quorum of the body discussing and then giving the staff person direction on the action to take.

members did not constitute a committee or subcommittee of the council because the group was not capable of exercising decision-making powers.<sup>12</sup>

### **The law applies to informational meetings.**

The Minnesota Supreme Court has held that the open meeting law applies to all gatherings of members of a governing body, whether or not action is taken or contemplated. Thus, a gathering of members of a public body for an informational seminar on matters currently facing the body or that might come before the body must be conducted openly.<sup>13</sup> However, there are some exceptions. A 1975 attorney general opinion stated that city council attendance at a League of Minnesota Cities training program for city officials did not violate the open meeting law if the members did not discuss specific municipal business.<sup>14</sup> In 2010, the statute governing the Lessard-Sams Outdoor Heritage Council was amended to allow members of the council to travel together to visit sites and learn about projects without it being a violation of the law as long as the members do not decide, or agree to decide, matters under the council's jurisdiction.<sup>15</sup>

### **The law does not cover chance or social gatherings.**

The open meeting law does not apply to chance or social gatherings of members of a public body.<sup>16</sup> However, a quorum of a public body may not, as a group, discuss or receive information on official business in any setting under the guise of a private social gathering.<sup>17</sup>

### **The law does not apply to certain types of advisory groups.**

The Minnesota Court of Appeals has held that the open meeting law does not apply to certain types of advisory groups.<sup>18</sup> In that case, a presidential search advisory committee to the University of Minnesota Board of Regents was held not to be a committee of the governing body for purposes of the open meeting law. In reaching its holding, the court pointed out that no regents were on the search committee and that the committee had no power to set policy or make a final decision. It is not clear if a court would reach the same result if members of the governing body were also on the advisory committee. Depending on the number of members of the governing body involved and on the form or extent of the delegation of authority from the governing body to the members, a court might consider the advisory committee to be a committee of the governing body.

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<sup>12</sup> *Sovereign v. Dunn*, 498 N.W.2d 62 (Minn. App. 1993), *review denied* (Minn. May 28, 1993).

<sup>13</sup> *St. Cloud Newspapers, Inc.*, 332 N.W.2d 1.

<sup>14</sup> Op. Att'y Gen. 63a-5, Feb. 5, 1975.

<sup>15</sup> *Minn. Stat. § 97A.056*, subd. 5, para. (b), provides "Travel to and from scheduled and publicly noticed site visits by council members for the purposes of receiving information is not a violation of paragraph (a). Any decision or agreement to make a decision during the travel is a violation of paragraph (a)."

<sup>16</sup> *St. Cloud Newspapers, Inc.*, 332 N.W.2d at 7.

<sup>17</sup> *Moberg*, 336 N.W.2d at 518.

<sup>18</sup> *The Minnesota Daily v. University of Minnesota*, 432 N.W.2d 189 (Minn. App. 1988).

### **A separate law applies to the legislature.**

In 1990, the legislature passed a law separate from the open meeting law that requires all legislative meetings be open to the public.<sup>19</sup> The law applies to House and Senate floor sessions and to meetings of committees, subcommittees, conference committees, and legislative commissions. For purposes of this law, a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction of the group. Similarly, a meeting of the Legislative-Citizen Commission on Minnesota Resources occurs when a quorum is present and action is taken.<sup>20</sup> Each house of the legislature must adopt rules to implement these requirements. Remedies provided under these rules are the exclusive means of enforcing this law.

## **Requirements of the Open Meeting Law**

### **The primary requirement of the open meeting law is that meetings be open to the public.**

The law also requires that votes in open meetings be recorded in a journal and that the journal be open to the public. The vote of each member must be recorded on appropriations of money, except for payments of judgments and claims and amounts fixed by statute.<sup>21</sup> A straw ballot to narrow the list of candidates for city administrator and not made public was held to be a secret vote in violation of the open meeting law, particularly in light of the fact that the straw vote was acted on and given the same effect as an official act.<sup>22</sup>

Open meetings must be held in a public place within the borders of the public body.<sup>23</sup>

Meetings may be held by interactive television if specified conditions are met to ensure openness and accessibility for those who wish to attend.<sup>24</sup>

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<sup>19</sup> [Minn. Stat. § 3.055](#) (added by [Laws 1990, ch. 608](#), art. 6, § 1).

<sup>20</sup> [Minn. Stat. § 116P.08](#), subd. 5, “(a) Meetings of the commission, committees or subcommittees of the commission, technical advisory committees, and peer review panels must be open to the public. The commission shall attempt to meet throughout various regions of the state during each biennium. For purposes of this subdivision, *a meeting occurs when a quorum is present and action is taken* regarding a matter within the jurisdiction of the commission, a committee or subcommittee of the commission, a technical advisory committee, or a peer review panel.

(b) For legislative members of the commission, enforcement of this subdivision is governed by [section 3.055](#), subdivision 2. For nonlegislative members of the commission, enforcement of this subdivision is governed by [section 13D.06](#), subdivisions 1 and 2.” (emphasis added) (Enacted in 2007)

<sup>21</sup> [Minn. Stat. § 13D.01](#), subds. 4 and 5.

<sup>22</sup> *Mankato Free Press Co.*, 563 N.W.2d at 295-96. In contrast, the Commissioner of Administration issued an advisory opinion finding that a secret straw ballot taken and its results described and discussed at the same meeting as the ballot was not a violation. Dept. of Admin. Advisory Op. 10-011.

<sup>23</sup> *Quast v. Knutson*, 276 Minn. 340, 341, 150 N.W.2d 199, 200 (1967) (school board meeting held 20 miles outside the jurisdiction of the school board at a private office did not comply with open meeting law; consolidation proceedings were fatally defective because the resolution by which the proceedings were initiated was not adopted at a public meeting as required by law).

A state entity may hold meetings by telephone or other electronic means as long as specified conditions are met to ensure openness and accessibility for those who wish to attend. In addition, a meeting of any public body (state or local) may be conducted by telephone or other electronic means if a health pandemic or other emergency makes meeting in person impractical or imprudent and all of the same conditions as for other meetings held by telephone or other electronic means are met, unless unfeasible due to the pandemic or emergency.

In general, those conditions include the following:

- All members of the body can hear one another and can hear all discussion and testimony
- Members of the public at the regular meeting location can hear all discussion, testimony, and votes
- At least one member of the body (or, in the case of a health pandemic or other emergency, the chief legal counsel or chief administrative officer) is present at the regular meeting location
- All votes are conducted by roll call
- The public body must allow a person to monitor the meeting electronically from another location. The body may require the person to pay for any documented additional costs the body incurs as a result of the additional connection
- The public body must give notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the right of the public to monitor the meeting from another location<sup>25</sup>

### **The law requires public bodies to give notice of their meetings.**

In 1974, the Minnesota Supreme Court held that failure to give notice of a meeting is a violation of the open meeting law.<sup>26</sup> The court has also held that it is a violation of the open meeting law to conduct business before the time publicly announced for a meeting.<sup>27</sup>

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<sup>24</sup> [Minn. Stat. § 13D.02](#). See also [Minn. Stat. § 471.59](#), subd. 2 (joint powers board for educational purposes).

<sup>25</sup> [Minn. Stat. §§ 13D.015](#) (state entities), [13D.021](#) (state or local entities in the case of health pandemic, other emergency). Various statutes for specific public bodies also allow for meetings by interactive television, telephone, or other electronic means: [Minn. Stat. §§ 35.0661](#) (Board of Animal Health during restricted travel for animal health reasons); [41A.0235](#) (Minnesota Agricultural and Economic Development Board); [41B.026](#) (Rural Finance Agency); [116J.68](#), subd. 5 (Small Business Development Center Advisory Board); [116L.03](#), subd. 8 (Minnesota Jobs Skills Partnership Board); [116L.665](#), subd. 2a (Governor's Workforce Development Council); [116M.15](#), subd. 5 (Urban Initiative Board); [116U.25](#) (Explore Minnesota Tourism Council); [123A.16](#), subd. 1 (school boards); [129C.105](#) (Board of the Perpich Center for Arts Education); [248.10](#) (Rehabilitation Council for the Blind); [256.482](#), subd. 5b (Minnesota State Council on Disability); [256.975](#), subd. 2a. (Minnesota Board on Aging); [256C.28](#), subd. 7 (Commission of Deaf, DeafBlind and Hard-of-Hearing Minnesotans); [268A.02](#), subd. 3 (State Rehabilitation Council and Statewide Independent Living Council); [326B.32](#), subd. 7 (Board of Electricity); [326B.435](#), subd. 7 (Board of Plumbing); [462A.041](#) (Minnesota Housing Finance Agency).

<sup>26</sup> *Sullivan v. Credit River Township*, 299 Minn. 170, 217 N.W.2d 502 (1974).

<sup>27</sup> *Merz v. Leitch*, 342 N.W.2d 141, 145 (Minn. 1984) (en banc).

In 1987, the legislature spelled out the notice requirements in statute for regular, special, emergency, and closed meetings. Public bodies must do the following:

- Keep schedules of *regular* meetings on file at their offices<sup>28</sup>
- Post notice of *special* meetings (meetings held at a time or place different for regular meetings) on their principal bulletin board. The public body must also either mail notice to people who have requested such mailings, or publish notice in the official newspaper, at least three days before the meetings<sup>29</sup>
- Make good faith efforts to notify news media that have filed written requests (with telephone numbers) for notice of *emergency* meetings (special meetings called because of circumstances that require immediate consideration)<sup>30</sup>

The same notice requirements apply to closed meetings.<sup>31</sup>

For state agencies, absent any other specific law governing notice, publication requirements can be satisfied by publishing notice in the State Register.<sup>32</sup>

### **The law requires relevant materials to be publicly available.**

The open meeting law requires that for open meetings, at least one copy of any printed material prepared by the public body and distributed or available to all members of the public body also be available in the meeting room for inspection by the public. This requirement does not apply to materials that are classified as other than public under the Government Data Practices Act.<sup>33</sup>

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<sup>28</sup> Minn. Stat. § 13D.04, subd. 1.

<sup>29</sup> Minn. Stat. § 13D.04, subd. 2; *Rupp v. Mayasich*, 533 N.W.2d 893 (Minn. App. 1995) (bulletin board must be reasonably accessible to the public). A February 3, 2004, advisory opinion by the Commissioner of Administration stated that a public body's actions at a special meeting are limited to those topics included in the notice of special meeting. Minn. Dept. of Admin. Advisory Op. 04-004.

<sup>30</sup> Minn. Stat. § 13D.04, subd. 3.

<sup>31</sup> Minn. Stat. § 13D.04, subd. 5.

<sup>32</sup> Minn. Stat. § 13D.04, subd. 6.

<sup>33</sup> Minn. Stat. § 13D.01, subd. 6.

## Exceptions to the Open Meeting Law

A closed meeting, except one closed under the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.<sup>34</sup>

### **The law does not apply to state agency disciplinary hearings.**

The open meeting law does not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary hearings.<sup>35</sup>

### **Certain meetings involving employee evaluation or discipline must be closed.**

A public body must close meetings for preliminary consideration of allegations or charges against an individual subject to its authority.<sup>36</sup> If the members of the public body conclude that discipline may be warranted as a result of those charges, further meetings or hearings relating to the charges must be open. Meetings must also be open at the request of the individual who is the subject of the meeting.

Statutes other than the open meeting law may permit or require closed meetings for certain local governmental bodies to conduct specific kinds of disciplinary hearings. For example, school board hearings held to discharge or demote a teacher are private unless the affected teacher wants a public hearing.<sup>37</sup>

A public body may close a meeting to evaluate the performance of an individual who is subject to its authority.<sup>38</sup> Before closing a meeting, the public body must identify the individual to be evaluated. The public body must summarize the conclusions of the evaluation at its next open meeting. An evaluation meeting must be open at the request of the subject of the meeting.

A meeting must be closed if an individual's medical records governed by [Minnesota Statutes, sections 144.291 to 144.298](#), are discussed.<sup>39</sup>

### **A meeting may be closed to discuss labor negotiations.**

The open meeting law permits a public body to hold a closed meeting to discuss strategy and proposals for labor negotiations conducted under the Public Employment Labor Relations Act.<sup>40</sup> The statute specifies procedures for tape-recording of these meetings, and for the recordings to

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<sup>34</sup> [Minn. Stat. § 13D.05](#), subd. 1.

<sup>35</sup> [Minn. Stat. § 13D.01](#), subd. 2.

<sup>36</sup> [Minn. Stat. § 13D.05](#), subd. 2.

<sup>37</sup> [Minn. Stat. § 122A.41](#), subd. 9.

<sup>38</sup> [Minn. Stat. § 13D.05](#), subd. 3.

<sup>39</sup> [Minn. Stat. § 13D.05](#), subd. 2.

<sup>40</sup> [Minn. Stat. § 13D.03](#), subd. 1.

become public when negotiations are completed.<sup>41</sup> Another law permits the Commissioner of the Bureau of Mediation Services to close negotiations and mediation sessions between public employers and public employees. These negotiations are public meetings, unless the commissioner closes them.<sup>42</sup>

### **The law permits closed meetings based on a limited attorney-client privilege.**

In 1976, the Minnesota Supreme Court held that there is a limited exception, based on the attorney-client privilege, for meetings to discuss strategy for threatened or pending litigation.<sup>43</sup> In 1990, the legislature added the attorney-client exception to the open meeting law.<sup>44</sup> Although the statute is not limited, the court has since held that the scope of the exception remains limited in relation to the open meeting law.<sup>45</sup>

The attorney-client privilege exception does not apply to a mere request for general legal advice. Nor does it apply when a governing body seeks to discuss with its attorney the strengths and weaknesses of a proposed legislative enactment (like a city ordinance) that may lead to future lawsuits because that can be viewed as general legal advice. Furthermore, discussion of proposed legislation is just the sort of discussion that should be public.<sup>46</sup>

In order to close a meeting under the attorney-client privilege exception, the governing body must give a particularized statement describing the subject to be discussed. A general statement that the meeting is being closed to discuss pending or threatened litigation is not sufficient.<sup>47</sup>

### **A meeting may be closed to address certain security issues.**

If disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses, a meeting may be closed to:

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<sup>41</sup> [Minn. Stat. § 13D.03](#), subd. 2.

<sup>42</sup> [Minn. Stat. § 179A.14](#), subd. 3.

<sup>43</sup> *Minneapolis Star & Tribune Co. v. Housing & Redevelopment Auth.*, 310 Minn. 313, 324, 251 N.W.2d 620, 626 (1976).

<sup>44</sup> [Minn. Stat. § 13D.05](#), subd. 3.

<sup>45</sup> *Star Tribune v. Board of Ed., Special School Dist. No. 1*, 507 N.W.2d 869 (Minn. App. 1993) *review denied* (Minn. Dec. 22, 1993). The court of appeals did not accept the argument that the statutory exception encompassed the full attorney-client privilege because that would result in the exception swallowing the rule in favor of open meetings. In 2002, the Minnesota Supreme Court restated that the attorney-client privilege exception only applies when the purposes for the exception outweigh the purposes of the open meeting law. In that case, the city council was threatened with a lawsuit if it did not grant a request. The court found that the threat of a lawsuit did not warrant closing the meeting. *Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002) (en banc). *Cf. Brainerd Daily Dispatch v. Dehen*, 693 N.W.2d 435 (Minn. App. 2005) (applying analysis of *Star Tribune* and *Prior Lake American*, finding threats were sufficiently specific and imminent that confidential consultation with legal counsel appointed by city's insurer to discuss defense strategy or reconciliation to address a threatened lawsuit justified closing the meeting).

<sup>46</sup> *Star Tribune*, 507 N.W.2d at 872.

<sup>47</sup> *The Free Press v. County of Blue Earth*, 677 N.W.2d 471 (Minn. App. 2004).

- receive security briefings and reports,
- discuss issues related to security systems,
- discuss emergency response procedures, and
- discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities.

Before closing a meeting, the public body must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape-recorded at the expense of the governing body, and the recording must be preserved for at least four years.

Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting.<sup>48</sup>

**A meeting may be closed to discuss certain issues relating to government property sales or purchases.**

A public body may close a meeting to:

- determine the asking price for real or personal property to be sold by the government entity;
- review confidential or nonpublic appraisal data; and
- develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting, the public body must identify on the record the particular property that is the subject of the closed meeting. The proceedings must be tape-recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other than discussions allowed under this exception was transacted at a closed meeting held during the time when the tape is not available to the public, the court would review the recording of the meeting *in camera* and either dismiss the action if the court finds no violation, or permit use of the recording at trial (subject to protective orders) if the court finds there is a violation.<sup>49</sup>

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at

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<sup>48</sup> [Minn. Stat. § 13D.05](#), subd. 3.

<sup>49</sup> [Minn. Stat. § 13D.05](#), subd. 3, referring to [§ 13D.03](#), subd. 3.

an open meeting after the notice period required by statute or the governing body's internal procedures, and the purchase price or sale price is public data.<sup>50</sup>

**There is a narrow exception for certain meetings of public hospital boards.**

Boards of public hospitals and certain health organizations may close meetings to discuss competitive market activities and contracts.<sup>51</sup>

**On-site inspections by town board members are not subject to the law.**

The law does not apply to a gathering of town board members to perform on-site inspections, if the town has no employees or other staff able to perform the inspections and the town board is acting essentially in a staff capacity. The town board must make good faith efforts to provide notice of the inspections to the media that have filed a written request, including a telephone number, for notice. Notice must be by telephone or by any other method used to notify the members of the public body.<sup>52</sup>

**The law does not apply to meetings of the Commissioner of Corrections.<sup>53</sup>**

**The law specifies how it relates to the Government Data Practices Act.**

Except as specifically provided, public meetings may not be closed to discuss data that are not public data under the Government Data Practices Act.<sup>54</sup> Data that are not public may be discussed at an open meeting without liability, if the matter discussed is within the public body's authority and if it is reasonably necessary to conduct the business before the public body.<sup>55</sup>

A portion of a meeting must be closed if the following data are discussed:

- Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults
- Active investigative data collected by a law enforcement agency, or internal affairs data relating to alleged misconduct by law enforcement personnel
- Certain types of educational, health, medical, welfare, or mental health data that are not public data<sup>56</sup>

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<sup>50</sup> [Minn. Stat. § 13D.05](#), subd. 3. Property appraisal data covered by this law is described in [Minnesota Statutes, section 13.44](#), subdivision 3.

<sup>51</sup> [Minn. Stat. § 144.581](#), subds. 4 and 5.

<sup>52</sup> [Minn. Stat. § 366.01](#), subd. 11.

<sup>53</sup> [Minn. Stat. § 13D.01](#), subd. 2. This exception does not make sense. Until 1982, the exception was for meetings of the Corrections Board—a multimember body. A 1983 instruction directed the revisor of statutes to change “Corrections Board” to “Commissioner of Corrections” throughout the statutes. [Laws 1983, ch. 274](#) § 18.

<sup>54</sup> [Minn. Stat. § 13D.05](#), subd. 1.

<sup>55</sup> [Minn. Stat. §§ 13.03](#), subd. 11; [13.05](#), subd. 4; and [13D.05](#), subd. 1.

<sup>56</sup> [Minn. Stat. § 13D.05](#), subd. 2.

## Penalties

The open meeting law provides a civil penalty of up to \$300 for intentional violation.<sup>57</sup> A person who is found to have intentionally violated the law in three or more legal actions involving the same governmental body forfeits the right to serve on that body for a time equal to the term the person was serving. The Minnesota Supreme Court has held that this removal provision is constitutional as to removal of elected officials only if the conduct constitutes malfeasance or nonfeasance and provided that the violations occurred after the person had a reasonable amount of time to learn the responsibilities of office.<sup>58</sup>

A public body may not pay a civil penalty on behalf of a person who violated the law. However, a public body may pay any costs, disbursements, or attorney fees incurred by or awarded against a member of the body in an action under the open meeting law if the member was found not guilty of a violation.<sup>59</sup>

A court may award reasonable costs, disbursements, and reasonable attorney fees of up to \$13,000 to any party in an action under the open meeting law. However, the following conditions apply:

- A court may award costs and attorney fees to a defendant only if it finds that the action was frivolous and without merit
- A court may award monetary penalties or attorney fees against a member of a public body only if the court finds there was an intent to violate the open meeting law

The court must award reasonable attorney fees to a prevailing plaintiff if the public body was also the subject of a prior written opinion issued by the Commissioner of Administration, and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not follow the opinion.<sup>60</sup>

The appropriate mechanism to enforce the open meeting law is to bring an action in district court seeking injunctive relief or damages. The statute does not provide for a declaratory judgment action.<sup>61</sup>

The Minnesota Supreme Court has held that actions taken at a meeting held in violation of the open meeting law are not invalid or rescindable.<sup>62</sup>

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<sup>57</sup> Minn. Stat. § 13D.06, subd. 1.

<sup>58</sup> Minn. Stat. § 13D.06, subd. 3; *Claude v. Collins*, 518 N.W.2d 836, 843 (Minn. 1994); see also *Brown v. Cannon Falls Township*, 723 N.W.2d 31, 41-44 (Minn. App. 2006) (discussing the statutory history and that since 1994 the statute has required three or more legal actions).

<sup>59</sup> Op. Att’y Gen. 471-a, Dec. 31, 1992; Minn. Stat. § 13D.06, subd. 4.

<sup>60</sup> Minn. Stat. § 13D.06, subd. 4.

<sup>61</sup> *Rupp v. Mayasich*, 561 N.W.2d 555 (Minn. App. 1997).

<sup>62</sup> *Sullivan v. Credit River Township*, 299 Minn. 170, 176-177, 217 N.W.2d 502, 507 (Minn. 1974).

## Advice

Public bodies subject to the open meeting law may seek advice on the application of the law and how to comply with it from three sources:

- The governmental entity's attorney
- The attorney general<sup>63</sup>
- The Commissioner of Administration<sup>64</sup>

An individual may seek advice from two sources:

- The individual's attorney
- The Commissioner of Administration<sup>65</sup>

An individual who disagrees with the manner in which members of a governing body perform their duties under the open meeting law may request the Commissioner of Administration to give a written opinion on the governing body's compliance with the law.

A governing body or person requesting an opinion of the Commissioner of Administration must pay a \$200 fee if the commissioner issues an opinion.

The commissioner may decide not to issue an opinion. If the commissioner decides not to issue an opinion, the commissioner must notify the requester within five days of receipt of the request. If the commissioner decides to issue an opinion, it must be done within 20 days of the request (with a 30-day extension possible for good cause and notice to the requester). The governing body must be allowed to explain how it performs its duties under the law.

Opinions of the Commissioner of Administration are not binding, but a court must give the opinions deference. However, a governing body that follows an opinion is not liable for fines, attorney's fees or any other penalty, or forfeiture of office.

*For more information about open meetings and other issues related to the government, visit the government operations area of our website, [www.house.mn/hrd/hrd.htm](http://www.house.mn/hrd/hrd.htm).*

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<sup>63</sup> Under [Minnesota Statutes, section 8.06](#), the attorney general is the attorney for all state officers and boards or commissions created by law. Under [Minnesota Statutes, section 8.07](#), the attorney general, on request from an attorney for a county, city, town, public pension fund, school board, or unorganized area, gives written opinions on matters of public importance.

<sup>64</sup> [Minn. Stat. § 13.072](#), subs. 1 and 2.

<sup>65</sup> *Id.*; see [www.ipad.state.mn.us/opinions/index.html](http://www.ipad.state.mn.us/opinions/index.html) for access to prior opinions of the Commissioner of Administration or to find out how to request an opinion.

**APPENDIX C**  
**Minnesota Data Practices Act**

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# **Minnesota Government Data Practices Act**

## **An Overview**

The Government Data Practices Act, Minnesota Statutes, chapter 13, creates a presumption that state and local government records are accessible to the public, unless a statute or rule provides otherwise. This information brief outlines the most significant procedural features, rights, and remedies in the act, as amended through the 2010 first special session.

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The Government Data Practices Act contains many of the statutory provisions that classify government data as other than public, and thus restricts access to the data in some way. The act also contains the following major features:

- Procedures for government agencies to follow in collecting and keeping records
- Procedures for individuals to follow in inspecting and copying government records
- Special protections for individuals who are being asked to supply information about themselves, seeking to obtain records government holds on them, or wishing to correct erroneous government data about themselves
- Procedures for getting advisory opinions on access to government data
- Civil and administrative remedies and criminal penalties for violating the act

## Data and Entities Covered by the Act

The act applies to information in any form held by certain government agencies.

**Data Covered** All information in any form (written, computerized, on recording tape, microfilm, etc.) collected, created, received, maintained, or disseminated by government ([Minn. Stat. § 13.02](#), subd. 7)

**Entities Covered** State agencies  
  
The University of Minnesota and Minnesota State Colleges and Universities  
  
Political subdivisions  
  
Statewide systems (record-keeping systems used in common by multiple state agencies and/or political subdivisions)  
  
Corporations and nonprofit social service agencies under contract with a government entity ([Minn. Stat. §§ 13.02](#), subd. 7; [13.05](#), subd. 6)

**Entities Excluded** Judicial branch data classifications and access are governed by the rules of public access to records of the judicial branch, adopted by the Minnesota Supreme Court ([Minn. Stat. § 13.90](#))  
  
For purposes of this act, townships located outside of the seven-county metro area are not included in the definition of “political subdivision” ([Minn. Stat. § 13.02](#), subd. 11)  
  
The legislature as a whole is not subject to the act, but individual legislators are subject to certain provisions governing elected officials and candidates for elected office

## Data Classifications

The act establishes a presumption that unless otherwise provided by law, all government data are public. The act then specifies (1) by what authority public access can be limited, and (2) possible data classifications other than public.

### Presumption

All government data are public (can be inspected and copied by anyone) ([Minn. Stat. § 13.03](#), subd. 1), but access may be limited by:

- federal statute
- state statute
- temporary classification issued by the Commissioner of Administration

([Minn. Stat. § 13.03](#), subd. 1)

### Kinds of Classifications

Data governed by state law that are classified as something other than public are classified in one of the following ways:

- **private:** data identifying an individual that are only available to the individual or with the individual's consent ([Minn. Stat. § 13.02](#), subd. 12)
- **confidential:** data identifying an individual that are not available to anyone outside the entity holding the data, including the individual ([Minn. Stat. § 13.02](#), subd. 3)
- **nonpublic:** data on a business or other entity that are only available to the subject of the data or with the subject's consent ([Minn. Stat. § 13.02](#), subd. 9)
- **protected nonpublic:** data on a business or other entity that are not available to the subject of the data or anyone else outside the entity holding the data ([Minn. Stat. § 13.02](#), subd. 13)

<b>Classifications of Data Under the Minnesota Government Data Practices Act</b>			
<b>Type of Data</b>	<b>Subject of Data (individual or entity)</b>	<b>Access (to whom data are available now)</b>	<b>When Data Become Available to Public</b>
<b>General Rule</b>	Individual, business, or other entity	Public	Upon creation or receipt of the data
<b>Private Data</b>	Individual	Individual who is the subject of the data	(1) Immediately with consent of data subject, or (2) The later of 30 years after creation or ten years after death of the subject
<b>Confidential Data</b>	Individual Government entity	only	The later of 30 years after creation or ten years after death of the subject
<b>Nonpublic</b>	Business or other entity	Business or entity that is the subject of the data	(1) Immediately with consent of data subject, or (2) Ten years after creation or receipt (unless agency determines not in public interest)
<b>Protected Nonpublic</b>	Business or other entity	Government entity only	Ten years after creation or receipt (unless agency determines not in public interest)

## Data Classification Changes

In general, data retains the classification provided in statute even if it is transferred from one entity to another. The act contains provisions on when the original classification of various types of data changes.

**Statutes and Rules on Particular Data**      A particular data classification changes (1) if a specific statute so provides, or (2) if change is required by judicial or administrative rules of procedure. Access to data is controlled by the law at the time of the request, regardless of the law when the data were collected or created. ([Minn. Stat. § 13.03](#), subs. 4 and 9)

**Data on Entities**      All nonpublic and protected nonpublic data, except for security information,<sup>1</sup> become public either:

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<sup>1</sup> “Security information” means government data whose disclosure would jeopardize the security of information, possession, individuals, or property against theft, improper use, temporary, attempted escape, illegal disclosure, trespass, or physical injury. [Minn. Stat. § 13.37](#), subd. 1, para (a).

- ten years after the government agency created it, or
- ten years after the government agency received it, unless the agency decides that reclassification would do more harm than benefit to the public or data subject. Anyone who objects to this decision may bring a district court action for release of the data. ([Minn. Stat. § 13.03](#), subd. 8)

### **Data on Decedents**

When an individual who was the subject of government data dies, data on the individual changes classification as follows:

- Data that were private or confidential during the individual's lifetime become public ten years after the actual or presumed death and 30 years after creation of the data. An individual is presumed dead 90 years after the individual's birth or the creation of the data, whichever is earlier. The presumption does not apply if evidence shows the individual is still living. ([Minn. Stat. § 13.10](#), subd. 2)
- The representative of the decedent's estate or a trustee appointed in a wrongful death action may exercise the data subject rights conferred on the decedent by the act. Nonpublic data concerning a decedent created or collected after death are accessible to this representative. Any person may bring an action in district court to obtain release of private or confidential data on a decedent. ([Minn. Stat. § 13.10](#))

### **Data in Archives**

When government data are transferred to the state archives, whether the data relate to individuals or entities, they are no longer classified as anything other than public. Transfer of data, and its subsequent access and use are determined by the statute governing the state archives, [Minnesota Statutes, section 138.17](#). ([Minn. Stat. § 13.03](#), subd. 7)

## **Commissioner of Administration's Duties**

The Commissioner of Administration has three major responsibilities under the act as it applies to all government entities: (1) issue rules to implement and enforce the act; (2) issue temporary data classifications as appropriate; and (3) issue advisory opinions as requested.

### **Rulemaking**

Rules must be adopted under the Administrative Procedures Act. Rules may not alter the statutory provisions on the rights of data subjects. The rules are codified at Minnesota Rules, chapter 1205. ([Minn. Stat. § 13.07](#))

## **Temporary Classifications**

The act allows a state agency, statewide system, or political subdivision to apply to the Commissioner of Administration for a temporary data classification, which remains in effect until the legislature has had the opportunity to act on a proposed statute that would codify the classification permanently into law. The application for the classification is public. ([Minn. Stat. § 13.06](#), subd. 1)

The application must establish that no existing statute classifies the data in question and either:

- (1) similar data has been classified as not public in the hands of other government entities; or
- (2) public access to the data would make a program unworkable.

The applicant must also establish that there is a compelling need for immediate classification so as not to adversely affect the health, safety, or welfare of the public, or the well-being or reputation of the data subject. ([Minn. Stat. § 13.06](#), subd. 3)

If the commissioner determines that a particular classification request by one government agency should reasonably apply to similar data held by all similar agencies, the commissioner has the power to grant the classification to all appropriate agencies. ([Minn. Stat. § 13.06](#), subd. 4)

An application may be withdrawn by the requesting government entity prior to the commissioner granting or disapproving the application. A withdrawal request must be made in writing and state the reason the temporary classification is no longer necessary. ([Minn. Stat. § 13.06](#), subd 4a)

Once an application has been received by the commissioner, the data have the requested classification for 45 days or until the commissioner acts on the application, whichever is first. ([Minn. Stat. § 13.06](#), subd. 1)

If the commissioner denies an application, he or she must explain why. A rejected application may be amended and resubmitted once for any single file or system. ([Minn. Stat. § 13.06](#), subd. 5)

If approved, a temporary classification is effective immediately and must be submitted to the legislature in bill form the next year. It also must be submitted to the attorney general for review for form and legality. A temporary classification expires August 1 of the year after it is submitted to the legislature, unless otherwise enacted into law by that time. During the period a temporary classification is in effect, the responsible authority of a government entity may request approval from the commissioner for a new or different use or dissemination of the data. ([Minn. Stat. § 13.06](#), subds. 6a and 7)

**Commissioner's  
Data Practices  
Opinions**

The act authorizes the Commissioner of Administration to give a written opinion on a question about access to government data, rights of data subjects, or data classifications under any provision of Minnesota Statutes. It allows the commissioner, on request of a person who disagrees with a data practices determination by a state agency, state system, or political subdivision, to give a written opinion about the person's access rights or rights as a subject of data. The commissioner must release opinions under this section to the public. ([Minn. Stat. § 13.072](#), subs. 1 and 2)

If the commissioner decides not to issue an opinion, he or she must so notify the requester. When an opinion is to be issued, the entity holding the data must be allowed to explain its decision regarding access. The commissioner or other entity may choose to notify the data subject of the dispute about the data. ([Minn. Stat. § 13.072](#), subd. 1)

An entity or person that conforms to a written commissioner's opinion is not liable for civil damages or criminal penalties under the act. ([Minn. Stat. § 13.072](#), subd. 2)

A commissioner's opinion under this section does not bind the entity whose data are the subject of the opinion, but must be given deference by a court in a proceeding involving the data. ([Minn. Stat. § 13.072](#), subd. 2)

A formally issued written attorney general's opinion takes precedence over an opinion issued by the Commissioner of Administration. ([Minn. Stat. § 13.072](#), subd. 1, para. (f))

This section does not preclude a person from bringing another action under chapter 13 or other law in addition to, or instead of, getting an opinion under the act. ([Minn. Stat. § 13.072](#), subd. 2)

The section does not apply to a question about specified determinations made by the Commissioner of Health. ([Minn. Stat. § 13.072](#), subd. 1, para. (e))

**Public Information  
Policy Training  
Program**

The commissioner is authorized to establish a program to train state and local government officials and employees on government data practices laws and records management statutes. Currently, these programs are administered through the Information Policy Analysis Division of the Department of Administration. ([Minn. Stat. § 13.073](#))

## Responsible Authority Duties

Besides the statewide responsibilities imposed on the Commissioner of Administration, the act requires each covered government entity to designate an individual to perform various duties regarding the agency's records. This individual is the "responsible authority" for the government entity.

<b>Responsible Authority</b>	The responsible authority is the individual in a state agency or statewide system who is made responsible for the entity's data by law or by the Commissioner of Administration. In a political subdivision, the responsible authority is the individual designated to be responsible for data by the local governing body. ( <a href="#">Minn. Stat. § 13.02</a> , subd. 16)
<b>Data Description; Procedures</b>	Each responsible authority must prepare (1) a public document that describes every kind of private or confidential data the agency has, and (2) a document on the rights of data subjects and the procedures for data access by the subject of the data. The authority must develop procedures to assure that data on individuals are accurate, complete, current, and secure. ( <a href="#">Minn. Stat. § 13.05</a> , subds. 1, 5, and 8)
<b>Permitted Data</b>	Data on individuals must be collected and stored only as needed to administer programs authorized by law. ( <a href="#">Minn. Stat. § 13.05</a> , subd. 3)
<b>Permitted Data Purposes</b>	Data on an individual must be used only for the purpose stated to the individual when the data was collected, unless: <ul style="list-style-type: none"><li>• a law enacted or a rule issued after collection of the data authorizes a different use;</li><li>• the commissioner specifically approves a different use necessary to carry out a function provided by law; or</li><li>• the data subject gives informed consent as determined by the commissioner's rules. (<a href="#">Minn. Stat. § 13.05</a>, subd. 4)</li></ul>

## Data Practices Compliance Official

**Duties** Each government entity must appoint a data practices compliance official. The responsible authority may fill this role. The public may direct to this individual questions and concerns about data access or other data problems. ([Minn. Stat. § 13.05](#), subd. 13)

## Access to Government Data

The act guarantees anyone the right to see and copy data classified as public. It requires an explanation if access is denied on grounds that data are not public. Further, it regulates data sharing by government agencies.

**No Identification or Justification Required** Unless authorized by statute, a government entity may not require an individual to identify herself or himself or to explain why public data are being requested (except for the sole purpose of facilitating data access). ([Minn. Stat. § 13.05](#), subd. 12)

**Convenient Use** Records containing government data must be kept in an arrangement and condition that makes them conveniently accessible. ([Minn. Stat. § 13.03](#), subd. 1)

**Inspection; Fee** Upon request, a person may inspect public government data at a reasonable time and place for no charge. Inspection includes being able to view and download or print government data stored in electronic form and made available to the public on a remote access basis (such as an agency's web site). An entity is not required to print a copy of public data for no charge, unless printing is the only way to provide for inspection of the data. ([Minn. Stat. § 13.03](#), subd. 3)

A government entity may charge for remote access to data if: (1) it has specific statutory authority, or (2) it enhances the data or the access at the request of the person seeking the data. ([Minn. Stat. § 13.03](#), subd. 3)

**Copying; Fees** A person who requests a copy of public data or electronic transmittal of data may be required to pay the actual costs respectively of (1) searching for, retrieving, copying, and certifying the copies, or (2) electronically transmitting the data. An additional charge for development costs may be imposed if the requested material has commercial value (such as a database).<sup>2</sup> An agency may not charge for separating public from not public data.

If 100 or fewer pages of black and white paper copies are requested, the agency may charge no more than 25 cents for each page copied. Copies must be provided as soon as reasonably possible, if the entity is not able to provide them at the time of the request. ([Minn. Stat. § 13.03](#), subd. 3)

Data maintained on computer must be provided in electronic form if

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<sup>2</sup> Further, a person who requests private data about an individual, with the individual's consent, may be required to pay actual costs of making, certifying, and compiling the copies.

that can be reasonably done. Information does not have to be provided in an electronic format or program different from that in which the government entity maintains the data. ([Minn. Stat. §§ 13.03](#), subd. 3; [13.05](#), subd. 4, para. (d))

**Summary Data**

Unless a specific law provides otherwise, upon request, a responsible authority must prepare a statistical record or report which is available to the public and is known as summary data. Summary data are prepared by eliminating all identifying features from confidential or private data. The requesting person must pay the cost of making the summary. A person outside the agency may be allowed to prepare the summary, if that would not compromise the security of the data. ([Minn. Stat. § 13.05](#), subd. 7)

**Denial of Access**

If a responsible authority determines that requested data are not public, it must notify the individual requesting the data and cite the applicable law or temporary classification that prevents the data from being made public. ([Minn. Stat. § 13.03](#), subd. 3, para. (f))

**Intergovernmental Data Access**

Government entities may share data that are not public with each other only if provided by law. The requesting entity may be required to pay the sending entity's actual cost of supplying the data. ([Minn. Stat. § 13.05](#), subd. 9)

Data that is shared between entities maintains the same classification in the hands of the receiving entity as it had in the hands of the entity providing the data. ([Minn. Stat § 13.03](#), subd. 4)

**Discoverability of Not Public Data**

In a lawsuit, arbitration, or administrative action, parties may seek discovery of government data or have a court order for release of data. The responsible authority will refuse to comply if the data are classified as not public. The party seeking release may then bring an action to compel discovery. The presiding officer will decide (1) whether the data are discoverable under applicable rules of evidence or procedure, and (2) if so, whether the benefit of access outweighs the harm to confidentiality interests of the agency holding the data, the person providing the data, or the privacy of an individual identified in the data. ([Minn. Stat. § 13.03](#), subd. 6)

## Data Subjects' Rights

Individuals about whom the government has data have the following rights:

- to know why requested data is being collected
- to know whether the government has data about them
- to contest the accuracy and completeness of data about them

### Data Subject Warning

An individual asked to supply private or confidential data about himself or herself (other than to law enforcement officers in an investigation) must be told the intended use of the data, whether the individual is legally required to provide the data, any known consequences of giving or withholding the data, and which other agencies or persons are authorized by law to receive the data. This notice is commonly known as the "Tennessee Warning." ([Minn. Stat. § 13.04](#), subd. 2)

### Subject's Access to Data

Upon request, an individual must be told whether an agency has data about the individual and how the data are classified. The individual has a right to see (without charge) and copy (for a fee) public or private data about herself or himself immediately if possible or otherwise within ten business days. The right to access may be exercised every six months, or more often if more data are added or the individual is in a dispute with the agency. ([Minn. Stat. § 13.04](#), subd. 3)

### Data Corrections

An individual may contest the accuracy or completeness of public or private data on the individual. The individual must describe in writing the nature of his or her objections. Within 30 days the responsible authority must (1) correct or complete the data and notify past recipients of any error in the data, or (2) notify the subject that the authority believes the data are correct.

The subject may appeal the responsible authority's decision regarding the contested data in a "contested case hearing" following procedures established in the Administrative Procedures Act. ([Minn. Stat. ch. 14](#))

Data successfully challenged must be completed, corrected, or destroyed. The authority may keep a copy of any order issued in the dispute or a summary of the dispute that does not contain any details of the challenged data. ([Minn. Stat. § 13.04](#), subd. 4)

## Computer Access Data

**Notice and Use** A government entity that tracks users' access to government computers for purposes of obtaining or transferring information or to use government services must inform users if it collects or keeps such information or installs permanent "cookies" on users' computers. The notice must be provided before a person is asked to give identifying data to the government entity. The government entity must notify persons who access its computers how the data about their access will be used. In particular, users must be notified that the data will be used to evaluate electronic government services, to prevent unlawful intrusion into government electronic systems, or for any other purpose provided by law.

A person who refuses to accept a cookie must still be allowed to access or transfer information or obtain government services by the government entity's computer. ([Minn. Stat. § 13.15](#))

## Notice of Breach of Security of State Agency Data

**Notice Provisions** A state agency that discovers a breach in the security of private or confidential data it holds must notify affected individuals by first-class mail or e-mail as provided by the statute. If a breach requires notice to more than 1,000 individuals, the agency must also notify all consumer credit reporting agencies. If a breach would require notice to more than 500,000 individuals or would cost more than \$25,000, the agency may provide the notice by doing all of the following:

- sending an e-mail notice to all affected individuals, to the extent the agency has e-mail addresses for those individuals;
- providing a conspicuous notice on the state agency's web site; and
- notifying major media outlets.

Notice must be provided promptly unless a law enforcement agency determines it would impede a criminal investigation. ([Minn. Stat. § 13.055](#))

## Remedies and Penalties for Violation

There are civil and administrative remedies, as well as criminal penalties in some cases, for violations of the act, including the failure of a government entity to comply with the act's provisions.

### Civil Action

An individual or the representative of a decedent damaged by a government agency's violation of the act may recover damages, costs, and attorney fees as part of a civil action in action in district court. For a willful violation, exemplary damages of \$1,000 to \$15,000 per violation may be imposed. The district court may also issue an injunction ordering a government agency not to violate the act. ([Minn. Stat. § 13.08](#), subs. 1 and 2)

The act also allows a special district court action in which an aggrieved person seeking access to data or enforcement of other rights under the act may seek an order to compel a noncompliant government entity to follow the requirements of the law. If such an order is issued, and the court determines that the offending entity has not substantially complied with the requirements of the act, the court may impose a civil penalty of up to \$1,000 against that entity, payable to the state general fund. ([Minn. Stat. § 13.08](#), subd. 4)

### Administrative Remedy

For actions commenced on or after July 1, 2010, the act provides for an administrative process, as an expedited alternative to a more formal civil court action to compel a government entity to comply with the act. Only actions to enforce compliance with the act may use this process. Actions in which a person seeks recovery of damages for a violation of the act must use the district court process described above.

A complaint of a violation under this process is reviewed by an administrative law judge and, if appropriate, a hearing on the matter is conducted. The administrative law judge may find that a violation of the act has occurred, impose a civil penalty against a government entity of up to \$300, order the entity to comply with the act's provisions (including setting a date for production of public data, if necessary), and refer the matter to an appropriate authority for consideration of criminal charges, if necessary. A successful complainant may be entitled to an award of attorney's fees and a refund of all but \$50 of the fee for filing a complaint using this process. ([Minn. Stat. § 13.085](#), subd. 5)

### Criminal Penalty

A person who willfully violates the act or its associated rules is guilty of a misdemeanor. ([Minn. Stat. § 13.09](#))

<b>Public Employee Sanctions</b>	Willful violation of the act by a public employee is just cause for suspension without pay or dismissal from employment. ( <a href="#">Minn. Stat. § 13.09</a> )
<b>Failure to Comply with Commissioner's Opinion</b>	A government entity that fails to act in conformity with an opinion issued to that entity by the Commissioner of Administration must be ordered to pay a complainant's reasonable attorney's fees, if the contents of the opinion are directly related to the matter under dispute. In actions involving the administrative process described above, the attorney fee award is capped at \$5,000. ( <a href="#">Minn. Stat. §§ 13.08</a> , subd. 4; <a href="#">13.085</a> , subd. 6)
<b>Immunities</b>	<p>A government entity or other person is immune from civil and criminal liability for releasing data that are not public, if the data is released pursuant to a court order, including an order issued by an administrative law judge. (<a href="#">Minn. Stat. § 13.08</a>, subd. 5)</p> <p>A government entity or other person that acts in conformity with an order issued by an administrative law judge is not liable for compensatory or exemplary damages, or awards of attorney fees in a civil action, and is not subject to a criminal penalty for acting in conformity with the order. (<a href="#">Minn. Stat. § 13.085</a>, subd. 5, para. (f))</p> <p>A government entity or other person that conforms to a written opinion of the Commissioner of Administration is not liable for compensatory or exemplary damages, or awards of attorney fees in a civil action, and is not subject to a criminal penalty for acting in conformity with the opinion. (<a href="#">Minn. Stat. § 13.072</a>, subd. 2)</p>
<b>Frivolous Claims</b>	<p>If a court finds that a claim brought in district court to compel compliance with the act is frivolous, the court is permitted to award costs and attorney fees to the affected government entity. (<a href="#">Minn. Stat. § 13.08</a>, subd. 4)</p> <p>If an administrative law judge determines that a complaint filed is frivolous or brought for purposes of harassment, the judge must order that the complainant pay the government entity's reasonable attorney's fees, up to \$5,000. (<a href="#">Minn. Stat. § 13.085</a>, subd. 6)</p>

## Specific Data Classifications

The act contains specific classifications for numerous types of data, held by a variety of government entities. The sections of the act are largely organized by subject matter; in some cases, data is explicitly classified within a section of the act itself, and unique requirements for access to the data are provided along with the classification. In other cases, the act provides cross-references to sections of statute that are contained outside of chapter 13, but that provide classifications of data and requirements for its access as part of a more general statutory framework on that particular issue.

The following table provides the relevant sections of the act based on the subject matter of the data.

<b>Data Category</b>	<b>Statutory References</b>	<b>Types of data covered</b>
Computer data	<a href="#">§ 13.15</a>	Data related to a person's accessing of a government entity's computer
Political subdivision data	<a href="#">§§ 13.201-13.203</a>	Miscellaneous data related to local units of government
Educational data	<a href="#">§§ 13.319-13.322</a>	Data related to public educational institutions, covering pre-kindergarten programs through postsecondary institutions, including the University of Minnesota
General data	<a href="#">§§ 13.34-13.37</a>	Miscellaneous data classifications, including data affected by a federal contract, the use of Social Security numbers, and security and trade secret information
Health and medical	<a href="#">§§ 13.3805-13.386</a>	Public health issues, health regulatory data, health occupations investigative data, certain medical data, and genetic information
Attorney, audit, and investigative data	<a href="#">§§ 13.39-13.393</a>	Civil investigations, internal audits, and access to data by government attorneys
Library data	<a href="#">§§ 13.40-13.401</a>	Library patron records and data held by historical records repositories and the state archives
Licensing	<a href="#">§§ 13.41-13.411</a>	Data related to various government-licensed occupations
Personnel; salary benefits	<a href="#">§§ 13.43-13.435</a>	Data related to employees of a government entity and applicants for employment
Property data	<a href="#">§§ 13.44-13.441</a>	Data related to the use of real property, code violations, and appraisals of real or personal property

<b>Data Category</b>	<b>Statutory References</b>	<b>Types of data covered</b>
Family, welfare, and benefit data	§§ 13.46-13.468	Human services, human services-related benefits, family and domestic relations, and foster care
Employment and training data	§ 13.47	Data related to employment and training programs funded using federal, state, or local resources
Business organization and trade regulation	§§ 13.48-13.487	Data related to business operations and consumer issues
Taxation and assessments	§§ 13.495-13.52	Various classifications of data related to taxes and property assessments
Facility, event, and recreational data	§§ 13.548-13.55	Local social or recreational programs and major event facilities
Human rights	§ 13.552	Data related to the Minnesota Human Rights Act
Housing, development, and business data	§§ 13.585-13.598	Public housing agencies, redevelopment authorities, and employment and economic development
Grants	§ 13.599	Grant applicants and grant proposal responses
Elected and appointed officials; legislative data	§§ 13.601-13.606	Data related to elected officials, the legislative process, and certain legislative entities
Ethics and elections	§ 13.607	Voting, elections, campaign finance, and conflicts of interest
Retirement	§§ 13.63-13.632	Data related to various retirement funds and programs
State agencies	§§ 13.635	Data related to miscellaneous state agencies and boards
Administration and finance	§§ 13.64-13.6401	Miscellaneous data related to the Department of Administration and the Department of Management and Budget
Agriculture §	§ 13.643-13.6435	Data held by the Department of Agriculture or related to agricultural issues
Attorney general	§ 13.65	Data related to the attorney general, including investigative data and consumer complaint issues
Employee relations	§§ 13.67-13.6705	Employee data held by the Department of Management and Budget and use of data held by employees of the executive branch
Energy and utilities	§§ 13.679-13.685	Data related to energy and public utilities

<b>Data Category</b>	<b>Statutory References</b>	<b>Types of data covered</b>
Public safety	§§ 13.69-13.6905	Data held by the Department of Public Safety or related to public safety issues
Commerce, banking, and insurance	§§ 13.711-13.7191	Miscellaneous data related to commerce, banking, and insurance
Transportation data	§§ 13.72-13.721	Data held by the Department of Transportation or related to transportation issues
Environmental protection	§§ 13.741-13.7411	Data related to pollution control and environmental quality
Racing; gaming data	§§ 13.745-13.746	Horse-racing data, gambling, and the state lottery
Veterans	§ 13.785	Data held by the Department of Veterans Affairs or related to veterans issues
Labor and industry	§§ 13.79-13.791	Data related to the Department of Labor and Industry, the Bureau of Mediation Services, and rehabilitation services
Biotechnology	§ 13.7911	Data related to bioprocess piping and equipment
Private donor gifts	§ 13.792	Data related to private donors to various government entities (such as the Minnesota Zoological Garden, the University of Minnesota, Minnesota State Colleges and Universities, and State Services for the Blind)
Natural resources	§§ 13.793-13.7932	Data held by the Department of Natural Resources or related to natural resources issues, including data on state mineral leases and exploration, and logger safety and educational programs
Law enforcement; Judicial; Corrections; Criminal justice	§§ 13.80-13.90	Various provisions related to law enforcement and criminal judicial processes, corrections, crime victims, court services, and juvenile justice

*For more information about government data, visit the privacy area of our web site, [www.house.mn/hrd/hrd.htm](http://www.house.mn/hrd/hrd.htm).*