

## HIGHLIGHTS OF CHANGES TO OPEN MEETING LAW<sup>i</sup>

### Effective July 1, 2010

CURRENT	NEW – AS OF JULY 1 <sup>st</sup>
48-hour posting notice of any public meeting, excluding Sundays & Holidays ( <u>including Saturdays</u> )	48-hour posting notice of any public meeting, <u>excluding Saturdays</u> , Sundays & Holidays (Monday meeting would have to be posted no later than Thursday)
No requirement to prepare or post an <u>agenda</u> prior to a meeting.	Posting notice must include an <u>agenda</u> which includes as a minimum all topics the Chair reasonably anticipates will be discussed, at least 48 hours in advance of a meeting (excluding Saturdays, Sundays & Holidays)
<u>Location of posting</u> must be in the office of the Town Clerk or on the “principal official bulletin board of the City or Town”	Notice shall be filed and posted “in a manner conspicuously <u>visible to the public at all hours in or on the municipal building</u> in which the Town Clerk’s Office is located”
Definition of “ <u>Deliberation</u> ” (must be held in an open session) – “a verbal exchange between a quorum of members of a governmental body attempting to arrive at a decision on any public business within its jurisdiction”	Revised definition of “ <u>Deliberation</u> ” (must be held in an open session) <u>to include e-mails</u> : “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.”
Definition of “ <u>Meeting</u> ” specifically <u>excludes</u> on-site inspections and chance or social meetings at which matters relating to official business are discussed, so long as no final agreement is reached. Chance and social meetings shall not be used to circumvent the spirit or requirements of the OML.	Definition of “ <u>Meeting</u> ” specifically <u>excludes</u> on-site inspections (providing the members do not deliberate); attendance by a quorum at a public or private gathering, including a conference or training program or a media, social or other event (so long as the members do not deliberate); attendance by a quorum at a meeting of another public body that has complied with the notice requirements of the OML (so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate among themselves).
<u>Minutes</u> shall include as a minimum “the date, time, place, members present or absent and action taken at each meeting, including executive sessions.”	<u>Minutes</u> , including executive sessions, must contain more detailed information. In addition to date, time, place & members present or absent, they must also include “a summary of the discussion on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.”

**CURRENT**

**NEW – AS OF JULY 1<sup>st</sup>**

No requirement for documents used or referenced at the meeting to be attached to the minutes.

No provision for “remote participation” by committee members – physical presence is required in order to be counted in the quorum and in order to vote.

Meeting may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction or by means of videotape equipment fixed in one or more designated locations determined by the governmental body (except for executive sessions), provided that there is no active interference with the conduct of the meeting.

Guidelines and complaints are handled by the Offices of the Local District Attorneys. Guidelines and interpretations of the law vary among the various DA Offices. DA Offices handle enforcement. Fines not to exceed \$1,000 for each violation.

Citizens may complain directly to the local District Attorney Office, with the governmental body frequently only finding out about the complaint when the DA’s Office calls to investigate.

“Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.”

The Attorney General is drafting regulations which will likely include the possibility of remote participation (conference call, audio or video conferencing). While yet to be formalized, the revised statute provides for the following: (1) a quorum of the body, including the chair, must be physically present at the meeting location; (2) the absent members and all persons present at the meeting location are clearly audible to each other; (3) the person(s) participating remotely will be allowed to deliberate and vote, and the vote can be counted. In addition, such authorized members participating remotely shall not be deemed absent for the purposes of Chapter 39, §23D. The regulations are anticipated to be released by early June 2010.

After notifying the Chair, any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the Chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting, the Chair shall inform other attendees of any such recordings.

Jurisdiction as of July 1 moved to the Attorney General’s Office, which will centralize all guidelines and interpretations of the OML and will be responsible for enforcement. Intentional violations subject to a fine not to exceed \$1,000 for each violation.

Citizens making complaints of OML violations must file a written complaint to the governmental body first within 30 days of the alleged violation. The governmental body submits a reply to the complainant and to the Attorney General’s Office within 14 days of receipt of the complaint. Further appeal provision of appeal to AG’s Office at least 30 days following complaint filed locally.

<sup>i</sup> Sources: (1) Summary of Changes to Open Meeting Law prepared by Mass. City Solicitors & Town Counsel Association, January 2010; (1) “Top Ten Changes to Watch for in the New Open Meeting Law” prepared by Kopelman & Paige, P.C., January 2010; (3) “Current Developments in Municipal Law” prepared by Dept. of Revenue, October 2009