

FAQ: Handling Disruptions At City Meetings

by Lyndee R. Fritz



1) Can cities establish their own policies for conducting meetings?

Yes. Cities have the authority to set rules and regulations to ensure efficient city meetings. State statutes provide guidance, such as:

- **§ 77.090 RSMo:** Allows city councils to enforce rules for attendance and efficient business transactions.
- **§ 79.150 RSMo & § 80.080 RSMo:** Grant similar authority to city boards and trustees.

Most cities adopt **Robert's Rules of Order** to govern meeting procedures. Additionally, governing bodies have broad authority to enact any policies and regulations that align with constitutional and state laws, including rules on public participation and meeting conduct (**§ 77.260, § 77.590, § 79.110, § 80.090 RSMo**).

2) Does the First Amendment guarantee citizens the right to speak at council meetings?

Not necessarily. While the First Amendment protects the right to petition the government, it does not automatically grant a right to speak at public meetings. Council meetings are business meetings of the city and are appropriately classified as limited public forums that means reasonable time, place and manner restrictions that are content neutral and further the government's interest in conducting business are permissible. See *Thornton v. City of Kirkwood*, No. 4:07CV79 CDP, 2008 U.S. Dist. LEXIS 6062, at *12 (E.D. Mo. Jan. 28, 2008). The **Missouri Sunshine Law (§ 610.020 RSMo)** ensures citizens can *attend* and *record* public meetings but does not require public comment periods at public meetings. However, if there is not going to be a public comment period at public meetings, governing bodies should provide reasonable access for citizens to engage with their representatives to remain compliant with the First Amendment.

3) How is the meeting agenda set? Can anyone request to be on it?

The **Sunshine Law (§ 610.020.3 RSMo)** requires at least 24 hours' notice for a public meeting, including a tentative agenda that reasonably informs the public about matters to be discussed. Agenda-setting processes vary by city and can be outlined in local ordinances. Many cities establish deadlines for council members or other city officials in submitting agenda items to the City Clerk, Mayor, or City Administrator. Some also establish regulations that require citizens to sign up for public comment before the meeting. Others request citizens to sign-up for public comment at the meeting. Either way, requiring citizens to request to speak at the meeting is a good practice for good recordkeeping, to assist in drafting meeting minutes, as well as having information on hand in the event follow-up is necessary.



4) Must all discussion topics be on the agenda?

Not always, but if action is required of the governing body, the best practice is for the item to be on the agenda. The Sunshine Law allows for emergency additions with proper justification, recorded in meeting minutes. **§ 610.020.4 RSMo**. So, it is not impossible for the government to take action on an item that was not on the agenda, so long as the provisions of this statute are met, though this should be used sparingly and only as needed. However, routine discussions, updates to the public, and non-action items do not necessarily require agenda inclusion. Best practice: Include as much information as possible on the tentative agenda for the sake of transparency and to ensure compliance with the Sunshine Law.

5) Can a council limit public speaking time? Should this be a written policy?

Sure, as discussed in #1 and #2, the council can set regulations for meeting procedure, including restrictions on public comment. These need to be content-neutral and applicable to all. Some popular examples include time limitations or require topics to be relevant to items on the tentative agenda. A written policy is best practice because it ensures fairness and prevents selective enforcement that lessens the city's liability. The council may allow flexibility for specific cases, such as extended presentations. Having a formal policy also helps protect the city from claims of bias.

6) What if the same citizen repeatedly raises the same issue?

While it may be repetitive, the risk of limiting speech is often greater than allowing it. The city could include in regulations that public comment be limited to discussion of items on the agenda, or that individuals may only speak on the same topic every other month, perhaps, but you need to ensure that these restrictions are content neutral and that they do not unreasonably burden the public.

7) What is the difference between a public hearing and a regular council meeting?

A public hearing is a more formal process that involves testimony and the collection of evidence. Some hearings, such as those for zoning amendments (**§§ 89.050, 89.060 RSMo**), have statutory notice requirements. Other public hearings may have requirements such as the hearing being recorded, witnesses being sworn under oath, and the parties right to counsel, that bring the public hearing into the realm of a contested case hearing under **Chapter 536 RSMo**. Not all public hearings rise to the level of contested case hearings under **Chapter 536 RSMo**, but they may carry greater legal significance than regular meetings. It is important to consult with your city attorney when dealing with public hearings to ensure compliance with any statutory requirements, as well as local code provisions because there may be more or less detail required than a regular meeting. In most cases, citizens will have a right to speak at public hearings, so this is something to keep in mind.

8) Can a city prohibit vulgar or insulting language during a meeting?

Regulating speech is complex. Supreme Court precedent (*Cohen v. California*, 403 U.S. 15 (1971)) protects most forms of speech, even if offensive or vulgar. This case famously tells us that “one man’s vulgarity is another man’s lyric,” warning that the government’s banning the use of particular words could easily become a convenient guise for banning unpopular views that would undoubtedly be impermissible viewpoint discrimination. Obscenity is not protected, however, but just because a word is profane does not make it obscene. The focus should be on maintaining order, not on censoring specific words. If someone says a curse word during their 3-minute public comment period, but otherwise remains orderly and follows procedure, they should be left alone. If speech crosses into threats or harassment, removal may be justified.

9) What about speaking out of turn or disrupting the meeting? What steps can be taken to enforce policies about decorum?

A well-defined policy should outline decorum expectations, and this will assist in informing the public of the expectations before the meeting. It is recommended that this policy be available to the public. The mayor or chair presides over

the meeting and should issue a warning to a citizen who is speaking out of turn or disrupting the meeting that they are violating policy before taking any other action. If disruptions persist, the Sergeant at Arms (usually a police officer) can remove the individual. Officers should exercise discretion rather than taking direct orders from the mayor to avoid legal complications, especially if any ordinance violation will be issued to the citizen.

10) What if the disruption comes from a councilmember?

Councilmembers and elected officials must comply with state laws, as well as local code of conduct and ethics policies, so it is important to ensure these are in place and that elected officials are trained on their contents. Similarly, to #9, if councilmembers are speaking out of order or being disruptive, the mayor and/or other councilmembers can call for a point of order and inform the councilmember of their violation and disruption. Elected officials are also subject to censures, reprimands or even impeachment if their conduct raises to the level of a willful violation of duty. These processes are technical and could bring liability, though, so it is important to consult with your city attorney before doing so.

11) What if a councilmember refuses to sit at the dais? Can they still vote?

The Sunshine Law contemplates councilmembers attending meetings via electronic means, like telephone or videoconference, so generally they may still be able to vote even if they are not located at the dais. That said, as mentioned in #10, councilmembers must conform with code of conduct and ethics policies, and they have a duty to represent the city as elected officials. They cannot allow their personal capacity as a citizen to trump their obligation as a councilmember. The city could enact policies on attendance and expectation during meetings to help set expectations on councilmember conduct.

12) What if the mayor does not follow the rules?

If **Robert’s Rules of Order** govern the meeting, there is a process for calling a point of order on the chair of the meeting, who is usually the mayor, and allowing another to preside over the meeting. See (§ 62:2-62:10, Robert’s Rules of Order, Newly Revised, 12th Edition). If the problem persists consistently, the mayor is also subject to censure, reprimand and impeachment, see answer to #10.

13) How does a council close a meeting? Does the public need prior notice?

Section 610.022 of the Sunshine Law outlines how to close a public meeting, and **§ 610.021** contains all the eligible reasons that meetings/votes may be closed. The body must provide notice of the time, date and place of the closed meeting and the reason(s) for closing the meeting under **§ 610.021 RSMo**. This must also be included on the notice of the meeting and tentative agenda. To enter closed session at the meeting, the



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body must vote to enter closed session, and the specific reason for closing the meeting under **§ 610.021** must be stated in the motion to enter closed session. Entering closed session requires a roll call vote of the body.

14) What if individuals refuse to leave a closed meeting?

Once a meeting is lawfully closed, attendees can be asked to leave. However, if people refuse to leave, especially if there is a chance that the meeting will be opened again after the closed portion, the body can move to a secure, private location instead of asking members of the public to leave. 🌿

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