

6TH EDITION

# Meetings Organization and Public Access for Counties

A MODEL ORDINANCE



**ACCG**

Advancing Georgia's Counties.

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# Introduction

Properly organized meetings provide the structure through which a board of commissioners may debate issues and come to decisions that are necessary to manage county affairs. A well-organized commission meeting will be more productive, more efficient, and above all, more businesslike than a commission meeting lacking structure. The model ordinance provided here focuses on meeting organization and preparation.

Keep in mind, however, that this is a model ordinance for meetings of the board of commissioners. As a model, it suggests one approach to meetings organization. Provisions should be changed to conform to local legislation, existing meeting structure, and local preferences. For example, some counties have local legislation enacted by the General Assembly specifically requiring the chair to vote as any other commissioner, while some counties have local legislation that only allows the chair to vote in case of a tie. In other instances, local legislation may have quorum or majority vote requirements that vary from this model. Consequently, this model may need to be amended to conform to local legislation.

Other provisions of this model—such as order of business, how public participation is accommodated, use of a consent agenda, work sessions, whether the county manager or clerk prepares the agenda, certain executive session procedures, and other matters—reflect personal preferences of the writers. Therefore, consideration should be given to revising the model language to match local requirements and preferences.

The open meetings law not only applies to meetings of the board of commissioners, but also to meetings of any committee created by the board of commissioners and other public agencies. As such, it may be prudent to expand the model ordinance to apply to these meetings as well. Sections 1, 10, 11, 12, 16, 19, 20, 22, 23, and 24 of the model address, in part, requirements of the open meetings law found at O.C.G.A. § 50-14-1 *et seq.*

It is critical that the county attorney be directly involved in the adoption of any meetings procedure or rules of order since defective procedures may negate board decisions made during any such meeting. In addition to avoiding conflicts with local legislation, counties that have adopted zoning ordinances should consult with their county attorney to ensure that the model does not conflict with zoning ordinance requirements for meetings and hearings.

ACCG also has published *Parliamentary Procedure for Counties: A Guide and Model Ordinance*, which counties may want to consider as a simpler alternative to *Robert's Rules of Order*, and Georgia's *Open Meetings and Open Records Laws: A Guide for County Officials* that provides more in-depth information about the open meetings law.

# Model Ordinance

## Meetings Organization and Public Access

**WHEREAS**, well-organized meetings allow a board of commissioners to reach decisions in a fair and consistent manner; and

**WHEREAS**, efficiency is served when the process of planning for and conducting public meetings is clearly stated and understood by public officials and citizens; and

**WHEREAS**, public participation and access to the governmental decision-making process is a key element of our democratic system.

**NOW, THEREFORE, BE IT RESOLVED** that all meetings of the Board of Commissioners of \_\_\_\_\_ County shall be conducted in accordance with the provisions of this meetings organization ordinance.

**SECTION 1. OPEN MEETINGS** All meetings of the board of commissioners shall be held in accordance with the provisions of O.C.G.A. § 50-14-1 *et seq.* The public shall at all times be afforded access to all meetings other than executive sessions.

**SECTION 2. QUORUM** A quorum must be present for conducting meetings of the board. A quorum is a majority of all of the board members then in office. It is the duty of the chair to enforce this rule. Any commissioner may raise a point of order directed to the chair if he or she believes that a quorum is not present. If, during the course of a meeting, a commissioner or commissioners leave and a quorum no longer exists, the meeting may not continue. If a quorum is not attained within 30 minutes, the meeting may be rescheduled by the chair with the approval of a majority of the commissioners present.

**SECTION 3. CHAIR** The chair of the board of commissioners, as presiding officer, is responsible for the orderly conduct of the meeting. In order to fulfill this duty, the chair shall enforce the rules of procedure that are adopted by the board of commissioners. The chair shall be impartial and conduct the meetings in a fair manner. The chair *may/may not (choose one)* introduce motions or second motions, except that the chair may introduce or second a motion to go into executive session as authorized by Section 24 of this ordinance. The chair shall not vote except to break a tie (*include if applicable*).

(Note: The county's local enabling act should be consulted to determine whether it prohibits the chair from making motions or from voting. If it is addressed in the enabling act, then this section of the ordinance must be consistent with the act.)

**SECTION 4. VICE-CHAIR** The board shall select a vice-chair from the board members at the beginning of each calendar year. The vice-chair shall fulfill the duties of the chair if the chair is not in attendance.

**SECTION 5. PRESIDING OFFICER** If the chair and the vice-chair are absent or otherwise unable to serve as presiding officer at a meeting and a quorum of commissioners is present, the remaining commissioners shall select a commissioner to serve as presiding officer of the meeting until either the chair or vice-chair is present at the meeting.

**SECTION 6. PARLIAMENTARIAN** The county attorney shall serve as the parliamentarian for board meetings.

**SECTION 7. DECORUM** The chair shall enforce the rules of decorum. The purpose of meetings of the board of commissioners is to conduct the county's business. Meetings shall be conducted in an orderly and respectful fashion. They are not a forum to belittle, ridicule, or embarrass county commissioners, other county officials, county employees, or others in attendance at the meeting.

**(a) GENERAL CONDUCT OF THE PUBLIC IN MEETINGS.**

- (1) All cell phones and other communications devices shall be turned off or switched to silent mode; provided, however, that a cell phone or device may be used to make a video or audio recording of the meeting.
- (2) All meeting attendees must be silent during the meeting while business is conducted.
- (3) Anyone who wants to speak must first be recognized by the chair.
- (4) All comments must be directed to the chair and not to individual commissioners, staff, or others.
- (5) All meeting attendees must conduct themselves in a respectful manner.
- (6) Personal attacks and derogatory or inappropriate remarks are not permitted.
- (7) There shall be no use of profanity during the meeting.

**(b) CONDUCT OF MEMBERS OF THE BOARD OF COMMISSIONERS.**

- (1) Commissioners should arrive on time for a meeting and be prepared.
- (2) Commissioners should attend the entire meeting.
- (3) Cell phones or other communications devices shall be turned off or in silent mode.
- (4) Commissioners should not take phone calls, text, e-mail, or use social networking sites, chat rooms, or other Internet sites during a meeting.
- (5) Commissioners shall conduct themselves in a professional and respectful manner.
- (6) Commissioners desiring to speak must first be recognized by the chair.
- (7) Commissioners may only address the motion that is being discussed.
- (8) Commissioners shall direct their remarks to the chair and not to individual commissioners, staff, or citizens in attendance.
- (9) Only one commissioner at a time is permitted to speak. Commissioners shall not interrupt any other person who has the floor.
- (10) Personal attacks and inappropriate remarks shall be ruled out of order by the chair. Commissioners may not use commission meetings to make derogatory comments about particular employees or to air their personal grievances with other commissioners.
- (11) There shall be no use of profanity during the meeting.

- (12) Remarks may not address the character of the person involved.
- (13) Commissioners shall not confront other board members, department heads, employees, or other officials in an accusatory manner.
- (14) Commissioners may raise a point of order if a rule is believed to have been broken. A second is not required. The chair may rule on the question or may allow the board to debate the issue and decide by majority vote.
- (15) While commissioners may not agree with all decisions of the board, all commissioners shall recognize the validity of any action approved by a majority of the board. Commissioners shall not refuse to sign any ordinance, resolution, contract, or other document because he or she did not vote for the action taken.
- (16) Commissioners shall keep an open mind on all issues before the board.

**(c) CONDUCT OF THE CHAIR OR PRESIDING OFFICER.** In addition to rules of decorum applicable to commissioners generally, the following rules shall apply to the chair or presiding officer:

- (1) The chair or presiding officer shall recognize any commissioner who has the right to speak.
- (2) The chair or presiding officer shall rule out of order any discussion on topics other than the motion being discussed.
- (3) The chair or presiding officer shall only permit one commissioner at a time to speak.
- (4) Personal attacks, breaches of the rules of decorum, and inappropriate remarks shall be ruled out of order by the chair or presiding officer.
- (5) The chair or presiding officer shall not confront other board members, department heads, employees, or other officials in an accusatory manner.
- (6) While the chair or presiding officer may not agree with all decisions of the board, he or she shall recognize the validity of any action approved by a majority of the board. The chair or presiding officer shall not refuse to sign any ordinance, resolution, contract, or other document because he or she did not vote for the action taken.
- (7) The chair or presiding officer shall keep an open mind on all issues coming before the board.

**SECTION 8. RULES OF ORDER AND AMENDMENTS TO THE RULES** The board of commissioners shall adopt rules of order to govern the conduct of meetings of the board. Any amendments to the rules of order shall be submitted by a commissioner in writing to the county clerk three business days before a regular meeting of the board. The proposed amendment shall be included in the agenda for that meeting and distributed to all board members. All amendments require a two-thirds vote of the board to be adopted.

**SECTION 9. SUSPENDING THE RULES OF ORDER** Rules of order may be suspended in the case of an emergency. A motion to suspend the rules requires a second, is debatable, and requires a two-thirds vote of the board. Rules governing quorums (Section 2), voting methods and requirements (Section 16), abstentions (Section 17), notification of meetings (Section 11(a) and (b)) and rules necessary for compliance with state law may not be suspended; provided, however, in the event that a state of emergency is declared by the Governor or other authorized state official, the board may waive certain time-consuming procedures and formalities imposed by state law to the extent authorized by O.C.G.A. § 38-3-54.

**SECTION 10. REGULAR MEETINGS** Regular (regularly scheduled) meetings of the board of commissioners shall be held at a.m./p.m. on the \_\_\_\_\_ and \_\_\_\_\_ days of each month. All regular meetings shall be held in the county site in Room \_\_\_\_\_ of the County Courthouse [or *Administration Building or Annex*]. A notice containing the foregoing information shall be posted at least one week prior to the meeting and maintained in a conspicuous place available to the general public at the regular meeting place of the board and on the county website (*include if applicable*).

[O.C.G.A. § 50-14-1(d); Note: The county's enabling act often dictates the time and place of regular commission meetings.]

**SECTION 11. MEETINGS OTHER THAN REGULAR MEETINGS** The board may meet at times and locations other than those for regularly scheduled meetings.

**(a) SPECIAL AND RESCHEDULED REGULAR MEETINGS.** A regular meeting of the board of commissioners may be canceled, rescheduled, or moved to a new location within the county site by the chair for any reason. Other special meetings may be scheduled by the chair or at the request of at least two commissioners. Whenever a rescheduled regular meeting or any other special meeting is to be held at a time or place other than the regularly scheduled time or place, written notice of the change shall be posted for at least 24 hours at the regular meeting place and on the county website (*include if applicable*). In addition, written or oral notice shall be given by the county clerk at least 24 hours in advance of the meeting to either the legal organ of the county or a newspaper having general circulation at least equal to that of the legal organ, as well as to each member of the county governing authority.

[O.C.G.A. § 50-14-1(d); Note: In those counties where the legal organ is published less often than four times weekly, a written notice must be posted at the regular meeting place for at least 24 hours in advance of the meeting. Also, notice must be given at least 24 hours before the meeting by telephone, fax, or email to any local media outlet that has provided a written request for information and operates business or physical facilities within the county.]

**(b) EMERGENCY MEETINGS WITH LESS THAN 24 HOURS' NOTICE.** When emergency circumstances occur, the board may hold a meeting with less than 24 hours' notice to the public. When such meetings are to be held, the county clerk shall provide notice to the legal organ of the county or a newspaper with a general circulation at least equal to that of the legal organ and to each member of the county governing authority as soon as possible. The notice shall include the subjects expected to be considered at the meeting. In addition, the minutes shall reflect the reason for the emergency meeting and the nature of the notice given to the media.

[O.C.G.A. § 50-14-1(d)(3)]

**(c) MEETINGS DURING DECLARED STATE OF EMERGENCY.** When it is imprudent, inexpedient, or impossible to hold board meetings at the regular meeting place due to an emergency or disaster resulting from man-made or natural causes, as declared by the governor or other authorized state official, the board may meet anywhere within or outside of the county. Such a meeting may be called by the chair or by any two commissioners. At the meeting, the commissioners shall establish and designate emergency temporary meeting locations where public business may be transacted during the emergency. Any action taken in such meetings shall have the same effect as if performed at the regular meeting site.

[O.C.G.A. §§ 50-14-1(d)(3), 38-3-54, and 38-3-55]

**SECTION 12. VISUAL AND SOUND RECORDINGS** Visual, and/or sound recordings shall be permitted for all open meetings.

[O.C.G.A. § 50-14-1(c)]

**SECTION 13. ORDER OF BUSINESS** All regular board meetings shall substantially comply with the following order of business:

- I. Call to order
- II. Minutes
- III. Invited guests
- IV. Reports from committees and departments
- V. Consent agenda
- VI. Old business
- VII. New business
- VIII. Public comments
- IX. Adjournment

**SECTION 14. AGENDA** The *county manager/administrator/clerk (choose one)*, with the advice of the chair and the commissioners, shall prepare an agenda of subjects to be acted on for each meeting. An agenda work session shall be held by the chair to finalize the agenda. The chair and all commissioners may participate in the work session. Whenever a quorum of the board is present for an agenda work session, the meeting shall be open to the public and all notice and record-keeping requirements applicable to an open meeting shall be met. The agenda shall be provided to each of the commissioners at least three business days before every board meeting.

**(a) REQUESTS FOR AGENDA ITEMS.**

- (1) County commissioners who wish to have an item placed on the agenda must submit an agenda request with supporting documentation to the *county manager/administrator/clerk (choose one)* at least one week before the agenda work session.

- (2) Other county officials or department heads who wish to have an item placed on the agenda must submit an agenda request with supporting documentation to the *county manager/administrator/clerk (choose one)* at least one week before the agenda work session. Agenda requests shall include the following:
- (i) The date of the meeting that the proposed agenda item is requested to be considered
  - (ii) The amount of money required to implement the agenda item, if any, including whether the money has been appropriated and the budget line number, as appropriate
  - (iii) A clear statement of the agenda request, including why it is needed and its impact upon the county
  - (iv) A summary of any requirements, laws, regulations, or ordinances that necessitate the agenda item or apply to the agenda item (i.e., purchasing ordinance, advertising requirements, certifications, etc.) and a statement as to whether these requirements have been satisfied or will be satisfied
  - (v) A list of any options or alternatives that the board has in approving the request
  - (vi) A statement regarding the impact of the requested agenda item on other county departments
  - (vii) Analysis from the legal department or information technology department, if available
  - (viii) A recommendation for board action on the requested agenda item
- (3) Members of the public may request that a particular subject be placed on the agenda for a meeting. To be considered, this request shall be submitted in writing to the *county manager/administrator/clerk (choose one)* and received at least one week before the agenda work session.

(b) **CHANGING THE AGENDA.** The order of the agenda may be changed during a meeting by a majority vote of the board. A new item may be added to the agenda by a majority vote of the board only if it becomes necessary to address the item during the meeting.

(c) **AGENDA MUST BE MADE PUBLIC.** The agenda of all matters to come before the board shall be made available to the public upon request and shall be posted at the meeting site and on the county's website (*include if applicable*) as far in advance as reasonably possible during the two-week period prior to the meeting, but not more than two weeks prior to the meeting.

**SECTION 15. CONSENT AGENDA** A consent agenda may be prepared by the *county manager/administrator/clerk (choose one)* for the board of commissioners to unanimously adopt routine items. Any items of business that are expected to receive unanimous approval without debate may be placed on a consent agenda. At the appropriate time of the meeting, the chair shall read all of the items on the consent agenda. If a commissioner objects to an item being on the consent agenda, the chair shall move that particular item to the regular agenda. Following the reading of the consent agenda, the chair may ask for unanimous approval of the items on the consent agenda. If there are no objections, all the items on the consent agenda shall be approved by a majority vote of the board.

**SECTION 16. VOTING** Passage of a motion shall require the affirmative vote of a majority of commissioners present and voting at a meeting at which a quorum is present. Unless otherwise specified in this ordinance, a majority shall mean at least one-half of the commissioners present plus one commissioner, excluding abstentions. When a two-thirds majority is specified, a majority vote shall mean at least two-thirds of the commissioners present, excluding abstentions. In the event of a tie vote, the chair shall vote to break the tie.

[O.C.G.A. § 50-14-1(e)(2)(B); Note: (1) In counties where the chair has the right to vote, the last sentence should be deleted. (2) If a board of commissioners consists of only three members, the two-thirds vote becomes meaningless since it would take two votes for a simple majority as well. (3) The open meetings law presumes that all members in attendance voted in favor of the motion unless the minutes reflect the names of commissioners voting against the proposal or abstaining.]

**SECTION 17. ABSTENTIONS** A commissioner shall vote on all motions unless he or she has a conflict of interest preventing him or her from making a decision in a fair and legal manner. If a conflict of interest does exist, the commissioner shall explain for the record his or her decision to abstain on any vote, including but not limited to any vote on zoning decisions if the commissioner has an interest in property subject to rezoning.

[O.C.G.A. § 36-67A-2]

**SECTION 18. PUBLIC PARTICIPATION** Public participation in meetings of the board of commissioners shall be permitted in accordance with the provisions of this section.

(a) **PUBLIC COMMENTS.** The final agenda item of the meeting shall be reserved for comments from the public. Individuals may be allotted five minutes to make their comments and those comments shall be limited to their chosen topic. All members of the public wishing to address the board of commissioners shall submit their names and the topic of their comments to the *county manager/administrator/clerk (choose one)* at least one week before the agenda work session. If an individual wishes to oppose a rezoning action and has contributed more than \$250 to the campaign of a commissioner, the individual shall also file a campaign disclosure form as required by O.C.G.A. § 36-67A-3 at least five calendar days prior to the first hearing by the commissioners.

[O.C.G.A. § 36-67A-3]

(b) **PUBLIC PARTICIPATION ON AGENDA ITEMS.** By majority vote, the board may allow public comment on an agenda item at the time the item is being considered by the board. These comments shall be limited to the subject that is being debated. Members of the public may speak for five minutes and may speak only once. These limits may be waived by a majority vote of the board. Anyone wishing to speak at any board meeting must be recognized by the chair before addressing the board.

(c) **DECORUM.** Members of the public are expected to comply with the rules of decorum established in Section 7 of this ordinance. Individuals violating any rules of the board may be ruled out of order by the chair or on a point of order made by a commissioner. A majority vote of the board shall rule on the point of order. An individual violating the rules of decorum may be removed from the meeting at the direction of the chair.

**(d) PUBLIC HEARINGS.** The board may schedule public hearings for the purpose of soliciting public comment on any subject of interest to the board. Hearings may be held immediately prior to, during, or following a meeting of the board or at such other places and times as the board may determine. Time for public comment may be limited to a specified amount of time per side, except that at least 10 minutes per side shall be allowed for hearings on zoning decisions. Further, other policies and procedures regarding hearings on zoning decisions shall be governed in accordance with the zoning policies and procedures adopted by the board of commissioners as required by O.C.G.A. §§ 36-66-4 and 36-66-5.

(Note: Because of the special procedural requirements for zoning decisions, counties with zoning should review the section regarding public participation to ensure consistency with established zoning policies and procedures. In particular, note that 15 to 45 days' notice is required for hearings to consider a zoning decision.)

**SECTION 19. MEETING SUMMARY** The county clerk shall prepare a written summary of the subjects acted upon in a meeting and the names of the commissioners present at a meeting within two business days following the meeting. The meeting summary shall be made available to the public for inspection.

[O.C.G.A. § 50-14-1(e)(2)(A)]

**SECTION 20. MINUTES** The county clerk shall promptly record the minutes for each board meeting. The minutes shall specify the names of commissioners present, a description of each motion or other proposal made at the meeting, the name of the commissioner who proposed each motion, the name of the commissioner who seconded each motion, and a record of all votes. The name of each commissioner voting for or against a proposal shall be recorded. It shall be presumed that a commissioner has voted in the affirmative unless the minutes show otherwise. More detailed information may be included in the minutes at the request of the board.

The board shall approve the minutes before they may be considered as an official record of the board. The minutes shall be open for public inspection once approved as official by the board, but in no case later than immediately following the next regular meeting of the board. A copy of the minutes from the previous meeting shall be distributed to the commissioners at least three business days before the next meeting. The minutes of the previous meeting shall be corrected, if necessary, and approved by the board at the beginning of each meeting. A majority vote is required for approval. Conflicts regarding the content of the minutes shall be decided by a majority vote. Upon being approved, the minutes shall be signed by the chair and attested to by the county clerk.

[O.C.G.A. § 50-14-1(e)(2)(B)]

**SECTION 21. MAINTENANCE OF MINUTES AND OTHER DOCUMENTS** Minutes shall be maintained in the offices of the board of commissioners. Copies of contracts, maps, or similar documents related to actions by the commissioners during a meeting may be included in, or attached to, the minutes or incorporated by reference to an alternative location. Unless otherwise specified in the ordinance or resolution, contracts, maps, or similar documents not included in or attached to the minutes shall be stored in the office of \_\_\_\_\_.

[O.C.G.A. § 36-1-25]

**SECTION 22. COMMITTEES** The chair, with the concurrence of the board of commissioners, may create standing or temporary committees to study any issue before the board. Any such committees may make recommendations to the board, but no committee shall be empowered to make any final decision on any matter before it for consideration. Committees may include board members, other county officials, staff, citizens at large, or any combination thereof. Whenever a committee is created, its duties, any limitation on the scope of its duties, and the times, places, and periods of time for which the committee may operate shall be determined by the chair with the concurrence of the board and in accordance with the open meetings law. The chair shall serve as an ex officio member of all committees. Committee meetings shall be open to the public and shall comply with the requirements of this meeting organization ordinance and the open meetings law.

[O.C.G.A. § 50-14-1(a)(3)(A)(ii)]

## SECTION 23. PARTICIPATION BY TELECONFERENCE

- (a) **EMERGENCY MEETINGS OF THE BOARD.** The board of commissioners may meet by teleconference when an emergency arises involving public safety or the preservation of property or public services is a risk.
- (b) **PARTICIPATION DUE TO ABSENCE OR HEALTH.** Individual commissioners may participate in a meeting of the board by teleconference due to health reasons or absence from the county, so long as a quorum of commissioners is physically present at the meeting location and all other requirements of the open meetings law are met. Participation of a commissioner by teleconference cannot be utilized more than twice in one calendar year unless there is an emergency or a written opinion from a doctor or other health professional indicating that the commissioner cannot attend the meeting due to health reasons.
- (c) **PARTICIPATION DUE TO ACTIVE MILITARY SERVICE.** Individual commissioners may participate in a meeting of the board by teleconference when on active military duty pursuant to O.C.G.A. § 38-2-279(g).
- (d) **NOTICE AND PUBLIC ACCESS.** All meetings by teleconference authorized by this section are subject to the notice requirements of Sections 10 and 11 herein and are conditioned upon the public being afforded simultaneous access to the teleconference meeting. Access shall be provided *by telephone, through the Internet, over the public access channel (choose all that apply)* or through any other method that allows for simultaneous public access, as determined by the board and in accordance with the open meetings law. Commissioners participating remotely by teleconference are subject to the same requirements of this meeting organization ordinance as commissioners who are physically present at the meeting.

**SECTION 24. EXECUTIVE SESSIONS** As provided below or in accordance with Georgia law, the board may close a portion of a meeting to the public to discuss certain topics that are exempted from the open meetings law. Such meetings shall be referred to as executive sessions. Any portion of the meeting not subject to any exemptions authorized by law shall be open to the public.

(a) **TYPES OF EXECUTIVE SESSIONS.** Executive sessions of the board may be held for the purpose of discussing the following topics exempted from public access requirements by O.C.G.A. §§ 50-14-2 and 50-14-3(b):

(1) **Pending or Potential Litigation.** The board may close an open meeting to discuss topics subject to the attorney-client privilege to the extent the commissioners consult and meet with the county attorney or other legal counsel to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought by or against the county, a county official, or employee. The county attorney or other attorney representing the county must be present in the executive session. In order to close a meeting because of potential litigation, there must be a real and tangible threat of legal action indicated by a formal demand letter or other writing presenting a claim or a sincere intention to sue, previous or pre-existing litigation between the county and the other party, or the hiring of an attorney by the threatening party.

[O.C.G.A. § 50-14-2(1); *The Claxton Enterprise v. Evans County Board of Commissioners*, 280 Ga. App. 870 (2001)]

(2) **Confidential Tax Matters.** The board may close an open meeting to discuss tax matters that are otherwise made confidential by state law.

[O.C.G.A. § 50-14-2(2)]

(3) **Authorize Settlements to Lawsuits and Claims.** The board may close a meeting to discuss or vote to authorize settlements to lawsuits and claims involving the county. No vote by the commissioners in executive session to settle litigation, claims, or administrative proceedings is binding on the county until a subsequent vote is taken in an open meeting. The parties to the lawsuit or claim and principal settlement terms shall be disclosed before the vote.

[O.C.G.A. § 50-14-3(b)(1)(A)]

(4) **Real Estate Decisions by the County.** The board may close an open meeting to discuss or vote to

- (i) authorize negotiations to purchase, dispose of, or lease property;
- (ii) authorize the ordering of an appraisal related to the acquisition or disposal of real estate;
- (iii) enter into a contract or purchase, dispose of, or lease property subject to approval in a subsequent public vote; or
- (iv) enter into an option to purchase, dispose of, or lease real estate subject to approval in a subsequent public vote.

No vote in executive session to acquire, dispose of, or lease real estate, is binding on the county until a subsequent vote is taken in an open meeting where the identity of the property and the terms of the acquisition, disposal, or lease are disclosed before the vote.

[O.C.G.A. § 50-14-3(b)(1)]

**(5) Personnel Matters.** The board may close an open meeting to discuss or deliberate on the appointment, employment, compensation, hiring, disciplinary action, dismissal, or evaluation or rating of a county official or employee, or to interview applicants for the position of the executive head of the county. However, commissioners must receive evidence or hear arguments on proposed disciplinary action or dismissal of a county official or employee in an open meeting. Any votes by the board must be taken in an open meeting and be entered in the minutes of the open meeting. Meetings of the board of commissioners to discuss or take action on the filling of a vacancy on the board shall at all times be open to the public.

[O.C.G.A. § 50-14-3(b)(2)]

**(6) Exempt Records.** The board may close an open meeting to review or discuss records or portions of records that are exempt from the open records law if there is no other reasonable way for the county to discuss the record without disclosing the confidential part of the record.

[O.C.G.A. §§ 50-14-3(b)(4) and 50-18-72 *et seq.*]

**(b) PROCEDURE FOR ENTERING INTO EXECUTIVE SESSIONS.** An executive session shall not be held except pursuant to a majority affirmative vote of the board of commissioners taken in an open meeting. The minutes of the open meeting shall reflect the names of the commissioners present, those voting for the executive session, and the specific reasons for the executive session.

[O.C.G.A. § 50-14-4]

**(c) WHO CAN ATTEND EXECUTIVE SESSIONS.** Board members and only individuals necessary to conduct an executive session may be present. The county clerk, the county manager, and the county attorney shall be included in any executive session approved by the board of commissioners unless expressly barred by majority vote of the board prior to or during the course of an executive session. The county attorney or other attorney representing the board must be included in any executive session pertaining to litigation or claims against the county. Other individuals may be invited to participate in an executive session by majority vote of the board prior to or during the course of the executive session, but only if the presence of such individuals is consistent with the applicable exception authorizing the executive session. No other individuals shall be permitted in an executive session.

[O.C.G.A. § 50-14-2; *The Claxton Enterprise v. Evans County Board of Commissioners*, 280 Ga. App. 870 (2001); 1998 *Op. Att'y Gen. No. U98-31*]

**(d) NON-EXEMPT TOPICS.** If a commissioner or any other person in an executive session attempts to discuss a non-exempt topic during an executive session, the chair or presiding officer shall immediately rule that commissioner or other person out of order and such discussion shall cease. If the commissioner or other person persists in discussing the non-exempt topic, the chair or presiding officer shall adjourn the meeting immediately.

[O.C.G.A. § 50-14-4(b)(2)]

**(e) EXECUTIVE SESSION MINUTES.**

**(1) Content and Preparation.** Minutes of executive sessions shall be recorded, but are not subject to public inspection. The minutes shall specify each issue discussed in executive session. If matters subject to the attorney-client privilege are discussed in executive session, the fact that an attorney-client discussion occurred and its subject shall be identified, but the substance of the discussion need not be recorded and shall not be identified in the minutes. Draft minutes of executive sessions shall be prepared by the county clerk or some other person delegated to do so by the chair. (See Resources, Model Executive Session Minutes, p. 22)

**(2) Approval.** Draft executive session minutes shall be reviewed by the commissioners prior to the conclusion of the executive session. Following the conclusion of the executive session, the commissioners shall vote regarding approval of the minutes in an open meeting. The minutes of the executive session recorded and approved in accordance with the terms hereof shall be transmitted to the county clerk to be placed in proper form, kept in a confidential file, preserved for in-camera inspection in accordance with O.C.G.A. § 50-14-1(e)(2)(C).

(Note: The open records law is silent as to how executive session minutes are to be prepared and approved. As such, this model reflects but one approach. Other approaches that may also be acceptable include, but are not limited to, having the members indicate acceptance of the executive committee minutes without a vote by signing the executive session minutes immediately prior to adjourning the session or by approving the minutes in the next executive session. See Resources, Model Resolution Approving Executive Session Minutes, p. 25)

**(3) Maintenance.** Executive session minutes shall be kept and preserved in a confidential file, separate from open meetings minutes, for in-camera inspection by an appropriate court should a dispute arise as to the propriety of any executive session.

[O.C.G.A. § 50-14-1 (e)(2)(C)]

**(f) EXECUTIVE SESSION AFFIDAVIT.** The chair or other presiding officer shall execute an affidavit stating, under oath, that the executive session was devoted to topics exempt from the public access requirements. The affidavit shall include the specific exemption authorized by the open meetings law. The affidavit shall be notarized and filed with the minutes of the open meeting.

**OR**

**EXECUTIVE SESSION AFFIDAVIT.** The chair or other presiding officer and each member of the governing authority present at the executive session shall execute an affidavit stating, under oath, that the executive session was devoted to topics exempt from the public access requirements. The affidavit shall include the specific exemption authorized by the open meetings law. The affidavit shall be notarized and filed with the minutes of the open meeting.

[O.C.G.A. § 50-14-4; Note: The county may adopt a policy that requires each member of the board to execute a notarized affidavit along with the chair or presiding officer. See Resources, Model Executive Session Affidavits, p. 18]

**(g) DISCUSSION OF EXECUTIVE SESSION BUSINESS.** Commissioners, officials, employees, and other individuals who attend executive sessions are prohibited from discussing or in any other way disclosing confidential information, legal advice, and/or legal strategy discussed in the executive session unless

- (1) the disclosure is required by law;
- (2) the disclosure is part of a judicial or administrative proceeding; or
- (3) the majority of the board authorizes the disclosure.

In no way shall this subsection prevent a county attorney or other attorney representing the board from discussing any matters discussed in executive session relative to settlement or negotiation of a lawsuit or other claim against the county.

Any commissioner that divulges, has previously divulged, or has threatened to divulge confidential information, legal advice, or strategy discussion may be excluded from participation in an executive session by majority affirmative vote of the board of commissioners. A commissioner that divulges confidential information, legal advice, or strategy discussions may be publicly sanctioned or reprimanded by a majority affirmative vote of the board of commissioners.

## SECTION 25. REPEALER

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

## SECTION 26. EFFECTIVE DATE

The ordinance shall become effective \_\_\_\_\_, \_\_\_\_\_.

BE IT ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, by the Board of Commissioners of \_\_\_\_\_ County, Georgia.

\_\_\_\_\_  
Chair

### CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of an original ordinance duly adopted by the Board of Commissioners of \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

In witness whereof, I hereunto set my hand and affix the seal of the County, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
County Clerk  
[Affix Seal]



# Resources

# Model Executive Session Affidavits

*(A copy of the affidavit must be filed with the minutes of the open meeting.)*

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

## AFFIDAVIT OF PRESIDING OFFICER

\_\_\_\_\_, Chair of the \_\_\_\_\_ County Board of Commissioners, being duly sworn, states under oath that the following is true and accurate to the best of his/her knowledge and belief:

1.

The \_\_\_\_\_ County Board of Commissioners met in a duly advertised meeting on \_\_\_\_\_, \_\_\_\_\_.

2.

During such meeting, the board voted to go into executive session.

3.

The executive session was called to order at \_\_\_\_\_ a.m./p.m.

4.

The subject matter of the closed portion of the meeting was devoted to the following matter(s) within the exceptions provided in the open meetings law:

- Consultation with the county attorney or other legal counsel to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the county or any officer or employee or in which the county or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1)
- Discussion of tax matters made confidential by state law as provided by O.C.G.A. § 50-14-2(2) and *(insert the citation to the legal authority making the tax matter confidential)* \_\_\_\_\_
- Discussion or voting on
  - Authorizing a settlement as provided in O.C.G.A. § 50-14-3(b)(1)(A)
  - Authorizing negotiations to purchase, dispose of, or lease property as provided in O.C.G.A. § 50-14-3(b)(1)(B)
  - Authorizing an appraisal as provided in O.C.G.A. § 50-14-3(b)(1)(C)
  - Entering a contract for the purchase, disposal of, or lease of property as provided in O.C.G.A. § 50-14-3(b)(1)(D)
  - Entering into an option to purchase, dispose of, or lease property as provided in O.C.G.A. § 50-14-3(b)(1)(E)
  - Discussion or deliberation on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a county officer or employee as provided in O.C.G.A. § 50-14-3(b)(2)

Interviewing candidates for executive positions as provided in O.C.G.A. § 50-14-3(b)(2)

Other (*describe the exemption to the open meetings law*): \_\_\_\_\_  
\_\_\_\_\_ as provided in (*insert the citation to the legal authority exempting the topic*) \_\_\_\_\_

5.

During the course of the closed session devoted to exempt topics, an incidental remark regarding a non-exempt topic or an attempt to discuss a non-exempt topic was made.

The attempt was immediately ruled out of order and attempts to discuss same ceased immediately.

The attempt was immediately ruled out of order. However, the comments did not cease, so the closed/executive session was immediately adjourned without discussion or action being taken regarding any non-exempt topic.

6.

Minutes were taken of this meeting and will be filed and held for in-camera inspection only.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Chair

\_\_\_\_\_  
County Board of Commissioners

Sworn to and subscribed before me this \_\_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

### AFFIDAVIT OF ATTENDING MEMBERS

\_\_\_\_\_, Member of the \_\_\_\_\_ County Board of Commissioners, being duly sworn, states under oath that the following is true and accurate to the best of his/her knowledge and belief:

1.

The \_\_\_\_\_ County Board of Commissioners met in a duly advertised meeting on \_\_\_\_\_, \_\_\_\_\_.

2.

During such meeting, the Board voted to go into closed session.

3.

The executive session was called to order at \_\_\_\_\_ a.m./p.m.

4.

The subject matter of the closed portion of the meeting was devoted to the following matter(s) within the exceptions provided in the open meetings law:

- \_\_\_\_ Consultation with the county attorney or other legal counsel to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the county or any officer or employee or in which the county or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1)
- \_\_\_\_ Discussion of tax matters made confidential by state law as provided by O.C.G.A. § 50-14-2(2) and (*insert the citation to the legal authority making the tax matter confidential*) \_\_\_\_\_
- \_\_\_\_ Discussion or voting on
  - \_\_\_\_ Authorizing a settlement as provided in O.C.G.A. § 50-14-3(b)(1)(A)
  - \_\_\_\_ Authorizing negotiations to purchase, dispose of, or lease property as provided in O.C.G.A. § 50-14-3(b)(1)(B)
  - \_\_\_\_ Authorizing an appraisal as provided in O.C.G.A. § 50-14-3(b)(1)(C)
  - \_\_\_\_ Entering a contract for the purchase, disposal of, or lease of property as provided in O.C.G.A. § 50-14-3(b)(1)(D)
  - \_\_\_\_ Entering into an option to purchase, dispose of, or lease property as provided in O.C.G.A. § 50-14-3(b)(1)(E)
  - \_\_\_\_ Discussion or deliberation on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a county officer or employee as provided in O.C.G.A. § 50-14-3(b)(2)

Interviewing candidates for executive positions as provided in O.C.G.A. § 50-14-3(b)(2)

\_\_\_\_\_ Other (describe the exemption to the open meetings law): \_\_\_\_\_  
as provided in (insert the citation to the legal authority exempting the topic)

5.

\_\_\_\_\_ During the course of the closed session devoted to exempt topics, an incidental remark regarding a non-exempt topic or an attempt to discuss a non-exempt topic was made.

\_\_\_\_ The attempt was immediately ruled out of order and attempts to discuss same ceased immediately.

\_\_\_\_ The attempt was immediately ruled out of order. However, the comments did not cease, so the closed/executive session was immediately adjourned without discussion or action being taken regarding any non-exempt topic.

6.

Minutes were taken of this meeting in accordance with O.C.G.A. § 50-14-1(e)(2)(C) and will be filed and held for in-camera inspection only.

This              day of              ,              .

---

## Member

## County Board of Commissioners

Sworn to and subscribed before me this \_\_\_\_\_ day of

---

## Notary Public

My commission expires:

# Model Executive Session Minutes

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

## EXECUTIVE SESSION MINUTES

\_\_\_\_\_ (month), \_\_\_\_\_ (day), \_\_\_\_\_ (year)

The \_\_\_\_\_ County Board of the Commissioners met in Executive Session this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m. in \_\_\_\_\_ room of \_\_\_\_\_.

The following commissioners were present: \_\_\_\_\_

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A quorum being present, the meeting was called to order at \_\_\_\_\_ a.m./p.m. by \_\_\_\_\_, who presided at the meeting.

The subject matter of the closed portion of the meeting was devoted to the following matter(s) within the exceptions provided in the open meetings law:

\_\_\_\_\_ Consultation with the county attorney or other legal counsel to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the county or any officer or employee or in which the county or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1)

Details: \_\_\_\_\_

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\_\_\_\_\_ Discussion of tax matters made confidential by state law, as provided by O.C.G.A. § 50-14-2(2) and *(insert the citation to the legal authority making the tax matter confidential)* \_\_\_\_\_

Details: \_\_\_\_\_

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Discussion or voting on

- Authorizing a settlement as provided in O.C.G.A. § 50-14-3(b)(1)(A)
- Authorizing negotiations to purchase, dispose of, or lease property as provided in O.C.G.A. § 50-14-3(b)(1)(B)
- Authorizing an appraisal as provided in O.C.G.A. § 50-14-3(b)(1)(C)
- Entering a contract for the purchase, disposal of, or lease of property as provided in O.C.G.A. § 50-14-3(b)(1)(D)
- Entering into an option to purchase, dispose of, or lease property as provided in O.C.G.A. § 50-14-3(b)(1)(E)

Details: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Discussion or deliberation on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a county officer or employee as provided in O.C.G.A. § 50-14-3(b)(2)

Details: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Discussion or deliberation interviewing applicants for the position of the executive head of the county as provided in O.C.G.A. § 50-14-3(b)(2)

Details: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other (*describe the exemption to the open meetings law*): \_\_\_\_\_  
\_\_\_\_\_ as provided in (*insert the citation to the legal authority exempting the topic*) \_\_\_\_\_

Details: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For any votes put forth, the motion was \_\_\_\_\_, introduced by \_\_\_\_\_  
\_\_\_\_\_ and seconded by \_\_\_\_\_ with votes being

In favor:

Opposed:

Abstaining:

## **ADJOURNMENT**

There being no further business to come before the Executive Session, and on motion duly made by \_\_\_\_\_  
\_\_\_\_\_, seconded and carried by \_\_\_\_\_, the meeting was adjourned at \_\_\_\_\_  
a.m./p.m.

\_\_\_\_\_,  
Presiding Officer

\_\_\_\_\_,  
Commissioner

\_\_\_\_\_,  
Commissioner

\_\_\_\_\_,  
Commissioner

\_\_\_\_\_,  
Commissioner

\_\_\_\_\_,  
County Clerk

# Model Resolution Approving Executive Session Minutes

**NOTE:** The open records law is silent as to how executive session minutes are to be prepared and approved. As such, this model resolution reflects but one approach. Other approaches that may also be acceptable include, but are not limited to, having the members indicate acceptance of the executive committee minutes without a vote by signing the executive session minutes immediately prior to adjourning the session or by approving the minutes in the next executive session.

**RESOLUTION OF THE \_\_\_\_\_ COUNTY BOARD OF COMMISSIONERS  
REGARDING REVIEW AND APPROVAL OF MINUTES OF EXECUTIVE SESSIONS**

**WHEREAS**, O.C.G.A. § 50-14-1(e)(2)(C) states that

- (1) minutes of executive sessions shall be recorded but shall not be open to the public; and
- (2) such minutes shall specify each issue discussed in executive session and that if matters subject to the attorney-client privilege are discussed, then the fact that an attorney-client discussion occurred and its subject matter shall be identified, but the substance of the discussion need not be recorded and shall not be identified in the minutes; and
- (3) such minutes shall be kept and preserved for in camera inspection by an appropriate court should a dispute arise as to the propriety of any executive session; and

**WHEREAS**, minutes may be made and records kept by the clerk of the county or a person temporarily appointed to take such minutes, so long as the minutes accurately reflect the record of the meeting.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of \_\_\_\_\_ County hereby designates the chair or the chair's designee, which may include the clerk of the county, to record minutes of an executive session of the Board of Commissioners of \_\_\_\_\_ County.

**BE IT FURTHER RESOLVED** that, prior to the conclusion of the executive session, all members of the Board of Commissioners attending the executive session shall review the minutes recorded.

**BE IT FURTHER RESOLVED** that, following the conclusion of the executive session, and upon approval of such minutes by a majority of members in an open meeting, the minutes of the executive session recorded and approved in accordance with the terms hereof and as noted on the minutes shall be transmitted to the Clerk of the \_\_\_\_\_ County Board of Commissioners to be placed in proper form, kept in a confidential file, and preserved for in-camera inspection in accordance with O.C.G.A. § 50-14-1(e)(2)(C).

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by action of the \_\_\_\_\_  
County Board of Commissioners.

By: \_\_\_\_\_  
Chair

ATTEST: \_\_\_\_\_  
County Clerk

(County Seal)

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by action of the  
\_\_\_\_\_ County Board of Commissioners.

By: \_\_\_\_\_  
Chair

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
County Clerk

[Affix Seal]



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