



# CITY OF CONCORD

## CITY COUNCIL POLICY ON REVIEWING AND RELEASING NONPUBLIC MEETING MINUTES

Effective October of 2023, the state legislature amended NH RSA 91-A (Right-To-Know Law) to ensure that municipalities have a process by which non-public minutes are reviewed and released to the public as necessary. The new language under NH RSA 91-A:3, IV (a) and (b) states:

- (a) A public body or agency may adopt procedures to review minutes of meetings held in nonpublic session and to determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91-A:3, III no longer apply. If the public body determines that those circumstances no longer apply, the minutes shall be available for release to the public pursuant to this chapter.
- (b) In the absence of an adopted procedure to review and determine whether the circumstances no longer apply for meeting minutes kept from the public, the public body or agency shall review and determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91-A:3, III no longer apply. This review shall occur no more than 10 years from the last time the public body voted to prevent the minutes from being subject to public disclosure. Meeting minutes that were kept from the public prior to the effective date of this paragraph that are not reviewed by the public body or agency within 10 years of the effective date of this paragraph shall be subject to public disclosure without further action of the public body.

**This policy requires all sealed nonpublic meeting minutes to be reviewed and/or unsealed by October 3, 2033.** The City Council does not currently have a written policy for reviewing its non-public minutes with any regularity to determine which sealed minutes may now be released to the public, or to otherwise authorize individual City Council members to review non-public meeting minutes. The City Council hereby adopts this policy establishing clear guidelines and a schedule to review non-public minutes moving forward.

**Non-Public Minutes From 2015 to Present:** In the first instance, the City Clerk's office will create a database of all non-public meeting minutes from 2015 to the present. The City Manager, City Clerk and the City Solicitor's Office, as well as any applicable department head(s), will review all meeting minutes from 2015 to the present to make a recommendation to City Council on which minutes should remain sealed and which previously sealed minutes should be unsealed. The recommendation shall be discussed in a non-public meeting under

RSA 91-A:3, (m), however any vote to disclose minutes shall take place in public session. A document will be provided to City Council with a summary of the meeting minutes, the reason for the non-public session and the recommendation on unsealing the meeting minutes. The City Council may request to review any or all of the meeting minutes in non-public session before acting on the recommendation.

**Non-Public Minutes Before 2015:** Upon completion of a review of non-public meeting minutes from 2015 to the present, the City Manager, City Clerk and the City Solicitor's Office, as well as any applicable department head(s), will review all meeting minutes prior to 2015 to make a recommendation to City Council on which meeting minutes should remain sealed and which previously sealed minutes should be unsealed. The recommendation shall be discussed in a non-public meeting under RSA 91-A:3, (m), however any vote to disclose minutes shall take place in public session. A document will be provided to City Council with a summary of the meeting minutes, the reason for the non-public session and the recommendation on unsealing the meeting minutes. The City Council may request to review any or all of the meeting minutes in non-public session before acting on the recommendation.

**Future Non-Public Minutes:** Beginning in January 2027, and approximately each January thereafter, the City Manager and City Clerk, as well as any applicable department head(s), shall provide the City Council a confidential summary of any sealed meeting minutes of the City Council along with a recommendation on disposition after consultation with the City Solicitor and any applicable department head(s) for the City Council to review. The City Council shall thereafter vote whether to approve the unsealing of such minutes. The recommendation shall be discussed in a non-public meeting under RSA 91-A:3, (m), however any vote to disclose meeting minutes shall take place in public session. A document will be provided to City Council with a summary of the minutes, the reason for the non-public session and the recommendation on unsealing the minutes. The City Council may request to review any or all of the meeting minutes in non-public session before acting on the recommendation.

**Ad-Hoc Subcommittees and Other City Public Boards:** To the extent that non-public meeting minutes exist for City committees, subcommittees and/or other city boards, the applicable public body of the committee, subcommittee and/or board shall be responsible for voting on whether minutes should remain sealed and which previously sealed meeting minutes should be unsealed. Such a determination shall be made upon a recommendation by the City Manager, City Solicitor's Office and the applicable staff liaison. In the event that the City committees, subcommittees and/or other city boards are no longer in existence, the determination shall be made by the City Council.

**Review of Non-Public Minutes by City Councilors:** To the extent that a City Councilor seeks to review non-public minutes of the City Council outside of the recommendation/review process, a request shall be made to the Mayor who shall thereafter determine whether to make such sealed minutes available for review by the entire City Council at an upcoming non-public meeting.

The foregoing policy provides a procedure for the City moving forward that will ensure compliance with the intent of the NH Right-To-Know law.

*Voted and approved by City Council at its meeting on \_\_\_\_\_.*