

*This sample policy incorporates practices that have been expressly approved by federal courts; however, courts have also approved other practices, including having prayers delivered by **community volunteers, invited guests, chaplains, or elected officials**. To consult with an attorney and review other policies that may better fit the unique needs of a deliberative body, public officials should call Alliance Defending Freedom at 1-800-835-5233.*

**POLICY REGARDING OPENING INVOCATIONS  
BEFORE MEETINGS OF THE [NAME OF DELIBERATIVE BODY]**

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**WHEREAS**, the [name of deliberative body] (“the Council”) is an elected legislative and deliberative public body, serving the citizens of [locale, state]; and

**WHEREAS**, the Council wishes to solemnize its proceedings by allowing for an opening invocation before each meeting, for the benefit and blessing of the Council; and

**WHEREAS**, the Council now desires to adopt this formal, written policy to clarify and codify its invocation practices; and

**WHEREAS**, our country’s Founders recognized that we possess certain rights that cannot be awarded, surrendered, nor corrupted by human power, and the Founders explicitly attributed the origin of these, our inalienable rights, to a Creator. These rights ultimately ensure the self-government manifest in our deliberative bodies, upon which we desire to invoke divine guidance and blessing; and

**WHEREAS**, in *Marsh v. Chambers*, 463 U.S. 783 (1983), the United States Supreme Court validated the Nebraska Legislature’s practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and specifically concluded, “The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom.” *Id.* at 786; and

**WHEREAS**, in *Town of Greece v. Galloway*, 572 U.S. \_\_\_, 2014 WL 1757828 (May 5, 2014), the United States Supreme Court validated opening prayers at town council meetings finding that “legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society.” *Id.* at \*7; and

**WHEREAS**, the Council desires to avail itself of the Supreme Court’s recognition that it is constitutionally permissible for a public body to “invoke divine guidance” on its work. *Id.* at 792; and

**WHEREAS**, the Supreme Court has clarified that opening invocations are “meant to lend gravity to the occasion and reflect values long part of the Nation’s heritage” and should not

show over time “that the invocations denigrate nonbelievers or religious minorities, threaten damnation, or preach conversion.” *Town of Greece*, 2014 WL 1757828, at \*11 ; and

**WHEREAS**, in *Town of Greece* the Supreme Court rejected a challenge based on the religious content of the prayers and cautioned against government officials acting as “supervisors and censors of religious speech” by requiring that prayers be “generic” or “nonsectarian,” noting that “[t]he law and the Court could not ... require ministers to set aside their nuanced and deeply personal beliefs for vague and artificial ones.” *Id.* at \*10, \*11. Further, the Court stated: “Once it invites prayer into the public sphere, government must permit a prayer giver to address his or her own God or gods as conscience dictates.” *Id.* at \*11; and

**WHEREAS**, this Council is not establishing a policy that defines the constitutional limits for permissible public invocations; rather, this Council intends to adopt guidelines that are consistent with the guidance provided by several courts that have considered the validity of public invocations; and

**WHEREAS**, numerous courts have approved an invocation practice that incorporates a neutral system to invite religious leaders from the local community and/or volunteers to provide an invocation before public meetings. *Town of Greece*, 2014 WL 1757828; *see also Simpson v. Chesterfield Cnty. Bd. of Supervisors*, 404 F.3d 276 (4th Cir. 2005), *cert. denied*, 546 U.S. 937 (2005); *Pelphrey v. Cobb Cnty.*, 547 F.3d 1263 (11th Cir. 2008); *Rubin v. City of Lancaster*, 710 F.3d 1087 (9th Cir. 2013); and

**WHEREAS**, the Council intends to adopt a policy that does not proselytize or advance any particular faith, or show any purposeful preference of one religious view to the exclusion of others; and

**WHEREAS**, the Council intends to adopt a policy that will not show a purposeful preference of one religious view over another by not permitting the faith of the person offering the invocation to be considered when extending an invitation or scheduling participation; and

**WHEREAS**, the Council believes that clergy that serve the local community are peculiarly suited through training, tradition, and public service to petition for divine guidance upon the deliberations of the Council, and to accomplish the Council’s objective to solemnize public occasions, express confidence in the future, and to encourage the recognition of what is worthy of appreciation in society. *See Lynch v. Donnelly*, 465 U.S. 668, 693 (1984) (O’Conner, J., concurring); and

**WHEREAS**, the Council accepts as binding the applicability of general principles of law and all the rights and obligations afforded under the United States and [state] Constitutions and statutes.

**NOW, THEREFORE, BE IT RESOLVED** by the [name of deliberative body] of [locale, state], that the Council hereby adopts the following written policy regarding opening invocations before meetings of the Council, to wit:

1. It is the intent of the Council to allow a private citizen to solemnize the proceedings of the [name of deliberative body]. It is the policy of the Council to allow for an invocation, which may include a prayer, a reflective moment of silence, or a short solemnizing message, to be offered before its meetings for the benefit of the Council to accommodate the spiritual needs of the public officials.

2. No member or employee of the Council or any other person in attendance at the meeting shall be required to participate in any prayer that is offered and such decision shall have no impact on the ability of the person to actively participate in the business of the Council.

3. No member or employee of the Council will direct the public to stand, bow, or in any way participate in the prayers; make public note of a person's presence or absence, attention or inattention during the invocation; or indicate that decisions of the Council will in any way be influenced by a person's acquiescence in the prayer opportunity.

4. The invocation shall be voluntarily delivered by an appointed representative of Assemblies List for the [locale]. To ensure that such person (the "invocation speaker") is selected from among a wide pool of representatives, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

a. The Clerk to the [deliberative body] (the "Clerk") shall compile and maintain a database (the "Assemblies List") of the assemblies with an established presence in the [define the jurisdiction of the deliberative body or other relevant geographic boundaries] that regularly meet for the primary purpose of sharing a religious perspective (hereinafter referred to as a religious assembly).

b. The Assemblies List shall be compiled by referencing the listing for "churches," "synagogues," "congregations," "temples," "mosques" or other religious assemblies in the annual phonebook publication distributed by the company that holds the telecommunication franchise for the [locale], research from the Internet, and consultation with local chambers of commerce. All religious assemblies with an established presence in the [jurisdiction of the deliberative body] are eligible to be included in the Assemblies List, and any such religious assembly can confirm its inclusion by specific written request to the Clerk.

c. The policy is intended to be and shall be applied in a way that is all-inclusive of every diverse religious assembly serving the citizens of [locale]. The Assembly List is compiled and used for purposes of logistics, efficiency, and equal opportunity for all of the community's religious leaders, who may themselves choose whether to respond to the Council's invitation and participate. Should a question arise as to the authenticity of a religious assembly, the Clerk shall refer to criteria used by the Internal Revenue Service in its determination of those organizations that would legitimately qualify for I.R.C. § 501(c)(3) tax-exempt status.

- d. The Assemblies List shall also include the name and contact information of any chaplain who may serve one or more of the fire departments or law enforcement agencies of the [jurisdiction of the deliberative body].
- e. The Assemblies List shall also include the name and contact information of any religious assembly located outside the [jurisdiction of the deliberative body] if such assembly is attended by at least one resident of the [locale] and such resident requests the inclusion of the assembly by specific written communication to the Clerk.
- f. The Assemblies List shall be updated, by reasonable efforts of the Clerk, in November of each calendar year.
- g. Within thirty (30) days of the effective date of this policy, and on or about December 1 of each calendar year thereafter, the Clerk shall mail an invitation addressed to the “religious leader” of each entry on the Assemblies List.
- h. The invitation shall be dated at the top of the page, signed by the Clerk at the bottom of the page, and read as follows:

*Dear Religious Leader,*

*The [name of the deliberative body] makes it a policy to invite members of the clergy or religious representative in [locale] to voluntarily offer an invocation before the beginning of its meetings, for the benefit and blessing of the Council. As a representative of one of the religious congregations with an established presence serving the local community, or in your capacity as a chaplain for one of the local fire departments or law enforcement agencies, you are eligible to offer this important service at an upcoming meeting of the Council.*

*If you are willing to assist the Council in this regard, please send a written reply at your earliest convenience to the Clerk to the Council at the address included on this letterhead. Representatives are scheduled on a first-come, first-serve basis. The dates of the Council’s scheduled meetings for the upcoming year are listed on the following, attached page. If you have a preference among the dates, please state that request in your written reply.*

*This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. To maintain a spirit of respect and ecumenism, the Council requests only that the opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker or to*

*disparage any faith or belief different than that of the invocation speaker.*

*On behalf of the [name of deliberative body], I thank you in advance for considering this invitation.*

*Sincerely,  
Clerk to the Council*

- i. The respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver the invocation.
  - j. In the event an eligible representative of an Assembly serving the local community believes that the clerk has not complied with the terms of this policy, the representative has the right to have the matter reviewed by the Council.
5. No invocation speaker shall receive compensation for his or her service.
  6. No guidelines or limitations shall be issued regarding an invocation's content, except that the Council shall request by the language of this policy that no invocation should proselytize or advance any faith, or disparage the religious faith or non-religious views of others.
  7. The Clerk shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Council's meetings. In any event, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the Council or at more than three (3) Council meetings in any calendar year.
  8. Neither the Council nor the Clerk shall engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered by an invocation speaker.
  9. To clarify the Council's intentions, as stated herein above, the following disclaimer shall be included in at least ten (10) point font at the bottom of any printed program or schedule of events published by the Council:

*“Any invocation that may be offered before the official start of the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council and do not necessarily represent the religious beliefs or views of the Council in part or as a whole. No member of the community is required to attend or participate in the invocation and such decision will have no impact on their right to participate actively in the business of the Council. Copies of the policy governing invocations and setting forth the procedure to have a volunteer deliver an invocation are available upon written request submitted to the [deliberative body] Clerk.”*

10. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Council with, nor express the Council's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Council's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of [locale].

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that this policy shall become effective immediately upon adoption by the Council.

THUS INTRODUCED at the regular meeting of the [name of deliberative body] of [Locale, name of state], on \_\_\_\_\_, 20\_\_.

For: \_\_\_\_\_

Against: \_\_\_\_\_

THUS ADOPTED at the regular meeting of the [name of deliberative body] of [locale, name of state], on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
CHAIR of COUNCIL

*Information is general in nature and provided to educate the public and public officials. For community specific legal advice, contact Alliance Defending Freedom at [www.ADFLegal.org](http://www.ADFLegal.org) or 1-800-835-5233.*