



# **Handbook for Effective Meetings**

**Prepared by the League of Kansas Municipalities**





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# Introduction

This handbook is designed to be used in conjunction with the *Code of Procedure for Kansas Cities* and the *Code of Procedure for Kansas Local Governments*, published by the League of Kansas Municipalities (LKM). These *Codes* are a set of rules which establish the operating procedures for governing body meetings of cities, counties, and other entities. The *Codes* were crafted by LKM legal staff to incorporate common procedures and statutory requirements for governing body meetings.

In the past, many governmental entities, including a number of cities in Kansas, have adopted *Roberts' Rules of Order* as the guiding document for governing body meetings. However, these rules were originally designed for parliamentary bodies and have little legal or practical application to cities, counties, or other units of government.

To address the many procedural and legal questions which arise during meetings governing body meetings, LKM has developed the *Code of Procedure for Kansas Cities* and the *Code of Procedure for Kansas Local Governments*. These *Codes* contain rules of procedure for city governing body meetings, county commission meetings, and other local government entities. They can be adopted by reference in a fashion similar to the *Standard Traffic Ordinance* and the *Uniform Public Offense Code*.

The *Handbook for Effective Meetings* was created to provide further explanation about the legal requirements for effective meetings and the rationale for the rules established in the *Codes of Procedure*. It also includes information on how to adopt the *Codes of Procedure*.

Finally, as all of these documents are first edition publications, please contact LKM if you have any suggestions for changes, additions, or clarifications. We will be updating both documents from time to time as warranted.





# Chapter 1. Definitions

All municipalities are subject to a variety of legal requirements regarding meetings of the governing body. Some of the requirements are statutorily imposed by state law and others are imposed locally in an ordinance or rules of procedure.

**“Meetings.”** It is important to remember that all governing body meetings of Kansas cities and counties are subject to the Kansas Open Meetings Act (KOMA) which is codified at K.S.A. 75-4317 *et seq.* A “meeting” is defined in KOMA as “any gathering, assembly, telephone call or any other means of interactive communication by a majority of a quorum of the membership of a body or agency subject to this act for the purpose of discussing the business or affairs of the body or agency.” K.S.A. 75-4317a. For more information regarding KOMA, see the LKM publication *Kansas Open Meetings Manual* (2000).

**Quorum.** Absent statutory requirements to the contrary, the general legal rule is that a majority of a governing body constitutes a quorum. *See State v. Board of Sedgwick County Commissioners*, 244 Kan. 536, 540 (1989). State statutes have established some quorum requirements for cities. If there is no statutory requirement for a particular city, that city may choose to establish a quorum by regular ordinance. Because all of the statutory quorum requirements are non-uniform, cities may exempt themselves from the statutory requirement by passage of a charter ordinance.

Statutory quorum requirements for cities are as follows:

<u>Class</u>	<u>Form of Government</u>	<u>Statute</u>	<u>Quorum Requirement</u>
1 <sup>st</sup>	Mayor/Council	13-1410	Majority of councilmen elected
2 <sup>nd</sup>	Mayor/Council	14-111	Majority of councilmen elect
2 <sup>nd</sup>	Commission	14-1308	Majority of the board
3 <sup>rd</sup>	Mayor/Council	15-106	Majority of councilmen elect
3 <sup>rd</sup>	Commission	15-1409	Majority of board members

These statutes make it clear that only councilmembers or commissioners are counted when determining the number which constitutes a quorum. The mayor in council cities does not count for quorum determinations. However, in commission cities where the mayor is also a commissioner, the mayor is included in the quorum determination. The quorum requirement is static and does not change as a result of vacancies or abstentions.





## Chapter 2. Meetings

**Powers and Meetings.** The basic powers of cities and counties are vested in the governing body, and a governing body cannot legally function except in an official meeting. A mayor in mayor-council cities, commissioners in traditional commission cities, and certain appointed officers have individual statutory powers, but these are primarily of an administrative or executive nature. When the council or commission is not in session, the individual members have no more legal authority than do private citizens. Generally, when used in statutes granting or limiting the powers of city governments, or statutes prescribing procedures to be followed, the phrase "governing body" includes mayor and council, mayor and commissioners, or board of commissioners. (K.S.A. 12-104)

**Action Outside of Meetings Not Binding.** An action of a city governing body or county commission cannot be taken by individual members acting independently at different times and at different places, even though all of them vote in the affirmative. The governing body must act as a body or unit. Members of the governing body must assemble at a properly convened meeting in order for an action to become the action of the city or county. Any power members of the governing body attempt to exercise outside an official meeting of the governing body, as in the case of sub-committees, must be power specifically delegated by the governing body. The final, ultimate authority is in the duly constituted governing body of the city or the county as it meets.

**Where Meetings Held.** Generally, governing body meetings are held at city hall or the county courthouse at a time and place prescribed by city ordinance or county resolution. The area in which the meeting is held should be large enough to accommodate the governing body members, appointed officials and employees, the news media, and members of the public.

**Role of the Chair.** In cities, the mayor is the presiding officer at governing body meetings, but it is the council or commission that has meetings. In mayor-council cities, the mayor is not a member of the council. In commission and commission-manager cities, the mayor is a member of the board of commissioners. The president of the council, when presiding in the absence of the mayor, retains his or her rights as a councilmember. In counties, the chair of the county commission presides at meetings of the commission.

**Frequency of Meetings.** The frequency of governing body meetings varies from city to city and county to county according to the applicable statute and local law. Because none of these statutes are uniformly applicable, they are subject to home rule modification. While some cities or counties find it necessary to conduct weekly meetings, others find a meeting held once a month is adequate time in which to formulate policy and address the general affairs of the city. The governing body sets the day and time of regular meetings by city ordinance or county resolution. See the *Kansas Municipal Sourcebook* for details on the statutory requirements for the frequency of meetings.



**Regular Meetings.** For cities, the regular meetings of the governing body must be established in an ordinance. Most cities refer to the week within the month and the day of the week (e.g., the first Tuesday of every month). It is also recommended that provision be made in the ordinance for when the regular meeting day falls on an official holiday (i.e., whenever the regular meeting day shall fall on an official holiday of the city, such regular meeting shall be held on the following day). For counties, K.S.A. 19-206 requires counties with a population over 8,000 to meet in regular session on the first Monday in each month and K.S.A. 19-209 requires the commission to meet not less than twice each week. Because these statutes are non-uniform, they are subject to charter resolution.

**Special Meetings.** Only the business for which the special meeting is called may be considered and acted upon by the governing body. Simply stated, special meetings are for special purposes—regular business should be taken care of at regular meetings. See the *Kansas Municipal Sourcebook* for forms for calling and providing notice of a special meeting.

The procedure for calling a special meeting varies. Unless the city or county has adopted substitute provisions by charter ordinance or resolution, state statute requires:

(1) **Counties.** K.S.A. 19-206 provides that the chair of the county commission may call special sessions in counties over 8,000.

(2) **Cities of the First Class**

(a) *Mayor-council.* The mayor or any two councilmembers may call a special meeting of the council. The object of the meeting must be submitted to the council in writing, and the call, the object and the action of the council is entered into the journal by the clerk. No business may be transacted other than that mentioned in the call notice. (K.S.A. 13-510) Although the statute does not specifically require it, it is advisable that the call be in writing, stating the date, hour, place and object and signed by the mayor or two or more councilmembers. The mechanism for notifying the councilmembers of the special meeting is not prescribed by statute.

(b) *Mayor-council-manager under general statute.* Same as in (a) above.

(c) *Commission.* There are no statutory requirements, however, the following procedure is recommended: The mayor or any two commissioners may call a special meeting, with the object of the call submitted to the board in writing. The call and the object, as well as the action of the board thereon, are entered into the journal by the clerk. No other business may be transacted except that mentioned in the call. A written notice of the special meeting must be provided personally to each member of the board or left at his or her usual place of residence at least two hours before the time of the meeting. The notice must state the time, place and object of the meeting and is issued by the city clerk



to the chief of police, his or her deputy, or a police officer or other city employee. The person serving the notice must indicate in writing how the notice was received.

(d) *Commission-manager*. A call signed by a majority of the commission is sufficient warrant for a special meeting. It is suggested that the procedure in (c) above be used. (K.S.A. 12-1017; 12-1009)

(e) *Council-manager*. The procedure in (c) above should be used. (K.S.A. 12-1033; 12-1036)

### **(3) Cities of the Second Class**

(a) *Mayor-council*. Special meetings may be called by the mayor or acting mayor on the written request of any three members of the council, specifying the object and purpose of the meeting. The request is read at the meeting and entered at length in the journal. (K.S.A. 14-111) If the mayor is absent, the president of the council as acting mayor may make the call. The acting mayor may also sign the request as one of the three councilmembers. The statute does not state how the councilmembers are to be notified, and even those who sign the request should be notified as the mayor may not make a call.

(b) *Mayor-council-manager*. Same as in (a) above. (K.S.A. 14-111)

(c) *Commission*. The mayor and one commissioner may call a special meeting of the board of commissioners. The object of the meeting must be submitted to the board in writing. The call and the object, as well as the action of the board for the special meeting, are entered in the journal by the clerk, and no other business may be transacted except that mentioned in the notice. A written notice of the special meeting must be provided personally to each member of the board or left at his or her usual place of residence at least two hours before the time of the meeting. The notice should state the time, place and subject of the special meeting, and is issued by the city clerk to the chief of police, his or her deputy or a police officer, or other city employee, who must show, in writing, the manner of service and how it was received. (K.S.A. 14-1403)

(d) *Commission-manager*. Same as in (c) above.

### **(4) Cities of the Third Class**

(a) *Mayor-council*. Special meetings may be called by the mayor or acting mayor on written request of any three members of the council, specifying the object and purpose of the meeting. The request must be read at the meeting and entered at length in the journal. (K.S.A. 15-106)

(b) *Mayor-council-manager*. Same as for mayor-council. (K.S.A. 15-106)

(c) *Commission.* The mayor and any one commissioner may call a special meeting of the board of commissioners. The object of the meeting must be submitted to the board in writing, and the call and the object, as well as action taken by the board, is entered in the journal by the clerk. No other business can be transacted except that mentioned in the notice. A written notice of the special meeting must be provided personally to each member of the board or left at his or her usual place of residence at least two hours before the time of the meeting. The notice must state the time, place and object of the special meeting, and is issued by the city clerk to the chief of police, his or her deputy or a police officer, or other city employee. The person serving the notice must show, in writing, the manner of service and how it was received. (K.S.A. 15-1503)

(d) *Commission-manager.* A call signed by a majority of the commission is sufficient. It is suggested that the procedure as in (c) above be used.

**Adjournment.** The presiding officer cannot summarily adjourn a meeting. Before there can be an adjournment, the council or commission must, by proper action, move and vote for adjournment. Upon adjournment, the meeting is ended and no further business can be conducted.

**Adjourned Meetings.** If it is impossible for the governing body to complete all of its business within the allotted time, it is acceptable to move to adjourn the meeting to a specified later time and place. It is not advisable for a council or commission to adjourn to reconvene at "the call of the chair." When a quorum of the council or commission reconvenes, it takes up the business where it left off. It is not necessary for the members to be notified, though it is proper for the clerk to notify them as a matter of precaution and especially so in the case of a councilmember or commissioner not present at the regular meeting. It is a violation of the Kansas Open Meetings Act (KOMA) to adjourn a meeting *for the purpose of circumventing the policy of open public meetings.*

**News Media.** Under KOMA, the news media's representatives have no greater right to information or access to meetings than other members of the public. Due to the special role of the news media in helping inform citizens of the actions of the city or county, many governing bodies make special efforts to work with reporters and editors by providing copies of agendas and minutes. Some provide a special table(s) for the news media to sit comfortably and take notes. All of these practices are advisable. If a reporter or other person becomes disruptive in recording, filming or otherwise reporting on a meeting, KOMA authorizes the governing body to adopt reasonable rules designed to ensure orderly conduct of meetings. (K.S.A. 75-4318(e))

**Personnel in Attendance.** An effective governing body meeting will require the presence of a number of key staff.

(1) **City or County Clerk.** Every city and county has a clerk, who, in addition to regular administrative duties, serves as secretary or clerk of the governing body and is



expected to attend all meetings of the body. While in attendance, the clerk calls the roll, keeps the minutes (or journal) to assure a true and accurate record of the governing body proceedings, and assists the presiding officer in seeing that the governing body keeps to the regular order of business. The clerk reads the minutes, correspondence, reports, papers, ordinances, and resolutions at the appropriate time. By having these items in convenient order, the clerk will facilitate the meeting. If the clerk is absent from a meeting, these duties may be performed by another staff member.

**(2) *Manager or Administrator.*** In council-manager and commission-manager cities, the city manager is present and active in providing reports and policy advice to the governing body. State law (K.S.A. 12-1014) for commission-manager cities provides that the city manager "...shall prepare and submit the annual budget to the governing body and keep the city fully advised as to the financial conditions and needs of the city. He or she may make recommendations to the commissioners on all matters concerning the welfare of the city, and shall have a seat, but no vote, in all of the public meetings of the governing body." In some cities, city administrators play the same role as a city manager or a somewhat similar staff role, and their presence at the meeting is required. In counties where they have created the position of county administrator, that individual should also participate in meetings and acts in a capacity similar to city managers and administrators.

**(3) *Attorney.*** The city or county attorney (or county counselor) may be required to attend meetings to advise members of the governing body on legal questions that may arise. Under KOMA, the city or county attorney (or county counselor) must be present in executive session in order to discuss attorney-client matters.

**(4) *Other City Officials or Consultants.*** Some governing bodies require the presence of the chief of police or another law enforcement officer to preserve order in the chamber. Among other officers often rendering staff assistance at the meeting are the utility superintendent, city engineer or director of public works. When a public works program is pending, a consulting engineer may be present. Occasionally a representative from the city planning commission also will be in attendance. Provision should be made for other departmental personnel to be on hand when items affecting their departments are under consideration.

**Public Comment.** Governing bodies may wish to provide an opportunity (typically under old or new business) for the public to bring petitions and comments to the governing body. If your city or county allows public comment, make it clear to those who appear before the governing body the amount of time that they are allowed for their presentation.





## Chapter 3. Agenda

The manner in which governing body meetings are planned and organized can have a significant impact on their success. Following are some time tested suggestions for organizing and planning effective meetings.

**Master Meeting Calendar.** Prepare a calendar work sheet for the year, giving the meeting times and outlining the special business coming up at certain times of the year.

**Prepare an Agenda.** In advance of each meeting, prepare a written agenda and distribute it to the governing body and news media (as well as those who have requested it under KOMA) along with appropriate papers and memoranda, including minutes of the previous meeting.

**Keep to the Schedule.** Begin the meeting on time and stick to a schedule so far as possible.

**Use Motions to Permit Discussion.** Sometimes discussion on a particular topic can ramble without a clear sense of direction. In such cases, it can be helpful for the chair to ask if anyone would like to make a motion. While this should not be used to cut off legitimate debate on the topic, it often can help to focus a discussion on the specific question at hand.

**Use a Consent Agenda.** In some cities or counties, a special consent agenda is used to approve routine matters by a single motion and vote. Examples of such items include approval of minutes, payment of claims, routine renewal of leases, routine resolutions, certain staff reports, etc. If any governing body member wants to discuss any item on the consent agenda, that item is separated and considered at a later time on the agenda. A single motion to adopt or approve the remaining agenda is then taken, although the minutes of the meeting will show that each item was voted upon.

**Use Committees.** Delegate appropriate work and study on certain issues to committees or officers for consideration and recommendation.

**Importance of Formal Procedures.** Maintain some formality and the decorum appropriate for an official governing body meeting—informal procedures usually take more time! While there is no state law which requires that certain rules of order or parliamentary procedure be followed in conducting meetings of a council or commission, LKM recommends the adoption of the *Code of Procedure for Kansas Cities* or the *Code of Procedure for Kansas Local Governments* as a way to formalize meeting processes.

**Quorum Required.** At all meetings, there must be a quorum present in order to transact business. A quorum is a majority of the full number of councilmembers or commissioners (regardless of vacancies), or such other number established by charter ordinance or resolution. If there is no quorum, there is no meeting. There are no minutes to be recorded, but the clerk should note what happened in the minute book. Those in attendance may adjourn the meeting to a specified time and place and compel the attendance of the absent members. (K.S.A. 13-1410; 14-111; 15-106)

**"Public Hearings."** The governing body holds public hearings when it is considering a matter of significant community interest or when required by federal, state, or municipal law. The main purpose of such a hearing is to obtain testimony from the public. Because the issues discussed at public hearings may generate more citizen participation than can be accommodated at a regular meeting, special meetings of the governing body for the sole purpose of a public hearing may be advisable.

**Order of Business.** The governing body should specify on the agenda the order in which the various items of business will be taken up. If a governing body has adopted rules of order, they will usually include a specific order of business. Section 14 in the *Code of Procedure for Kansas Cities* and Section 15 in the *Code of Procedure for Kansas Local Governments* allow for the order of business to be amended or suspended.

### **Presentations to Governing Body**

**(1) Presentation of Petitions, Public Comments, etc.** The presentation of petitions and public comments usually happens early in the meeting. Usually the clerk has petitions and similar matters ready to present. When citizens appear at a meeting to present matters to the governing body, the question arises as to when they should be heard. As a general rule, it is better to hear citizens concerning items on the agenda at the beginning of the meeting so they will not have to wait through the entire meeting. Because it is possible to set reasonable limits upon the time for each presentation, and it is not always possible to limit the time other matters may require, allowing the citizens to present their matters at the beginning of the meeting is a reasonable and fair approach. The public comments part of the proceedings should be separate from governing body discussion of the issues. When the time for citizen comments has expired, they should not be permitted to discuss matters as if they were on the governing body.

**(2) Presentation of Claims.** Some governing bodies will not consider financial claims unless filed by a stated time before the meetings. This gives the clerk time to make up the appropriation ordinance and also the warrants (a warrant being voided if the claim is not passed in the appropriation ordinance). The claims are examined and audited before or at the meeting and are presented as supporting documents with the appropriation ordinance. It is not necessary for each member to review claims or vouchers; the adoption of the appropriation ordinance constitutes approval. Claim practices vary from city to city. For counties, see K.S.A. 19-208.



## Chapter 4. Motions

Official action of the governing body usually comes in the form of a motion which is made, seconded, and voted upon. Most motions simply require more "yes" votes than "no" votes to secure passage. Some special considerations are enumerated below.

**Substantive v. Procedural Motions.** As a general rule, there are two types of motions, those which are substantive in nature and those which are strictly procedural in nature. A motion to adopt an ordinance, for example, is a substantive motion. A motion to call for the previous question is a procedural motion. It is important to understand that a vote on a substantive motion, is a vote regarding the underlying issue itself, while a vote on a procedural motion only relates to the procedure in question.

### Example

The city council is debating a new dog ordinance. The debate has gone on for quite some time and Councilmember A makes the following motion, "I call for the question." Councilmember B seconds the motion.

At this point, debate on the underlying topic, the dog ordinance, ceases and a vote should be taken on the issue of whether to "call the question." This vote is strictly procedural in nature and does not answer the question as to whether the dog ordinance passes or fails.

If the vote to call the question passes, then the chair must move immediately to a vote on the dog ordinance. In other words, a separate vote must be held on the substantive motion. If the vote to call the question fails, then debate may continue on the dog ordinance.

**Consideration of City Ordinances.** An ordinance must be considered at a public meeting of the governing body unless otherwise provided by law or where a statute provides a different procedure for a specific purpose. (K.S.A. 12-3001) It is not necessary that the ordinance be read out loud section by section. It is not necessary to vote on each section nor record any vote on each section. While generally only one public hearing and one vote on an ordinance is required, there are sometimes sound reasons for requiring two readings of some ordinances, each at different sessions. The members of the governing body are given a chance to study the ordinance and thus possibly avoid enactment of unwise legislation. By statute, zoning ordinances (e.g., K.S.A. 12-757) require a special procedure for adoption. Ordinances in commission cities of the first class have a special procedure (K.S.A. 12-3001) which several cities have modified by passage of charter ordinances.

Also, there is a special procedure for ordinances under the initiative and referendum statute. (K.S.A. 12-3013). There is also a special procedure for city charter ordinances (Kansas Constitution, Article 12 § 5).

**Consideration of County Resolutions.** There are three types of legislation which can be considered by counties: ordinary resolutions, home rule resolutions, and charter resolutions. Ordinary resolutions are utilized when there is statutory authorization for some particular action. Home rule resolutions are authorized by K.S.A. 19-101a(b) and are utilized when state statutes are silent on an issue. County charter resolutions are utilized when a county is exempting itself from a non-uniform state statute and must follow the procedure set out in K.S.A. 19-101b.

**Addressing the Chair.** As presiding officer, the chair is charged with preserving order and decorum at the meeting. Preserving decorum usually means that the chair requires every member to address the chair and wait until he or she is recognized before proceeding. This is to prevent general conversation and to keep order.

**Calling a Speaker to Order.** If a member uses improper language or does not observe the rules, the chair may call the member to order by saying, "The speaker is out of order." If the chair neglects to do so, another member may say, "I call the member to order," in which case, the speaker must cease speaking until the chair decides whether the member is out of order.

**Problems With Informal Consideration.** While most councils and commissions proceed informally, some formality usually expedites meetings and promotes good decision making. Usually matters are discussed before motions are made and may be dropped without motion if it is the consensus of opinion that no action be taken. However, once a motion is made and seconded, something must be done with it. If, after considerable discussion, no one takes the initiative to bring action, it is the responsibility of the chair to ask: "Is there a motion?" If there is no motion, the chair should proceed to the next agenda item.

**Call for the Question.** Often after extensive debate of an issue for which a motion is on the floor, a member of the governing body will "call for the question," meaning that member has moved for an immediate vote on the primary motion, as amended up to that point. This is also known as "moving the previous question." Usually rules of order permit previous question motions to be made only on the item then under discussion. It is often the practice to cut off further debate and put the call for the previous question to a vote. If the call for the question vote is passed, debate stops on the underlying motion and a separate vote must be taken regarding the underlying motion. See *Code of Procedure for Kansas Cities* or *Code of Procedure for Kansas Local Governments*, § 23.

**Other Motions.** Local rules and customs will dictate the propriety of various types of motions at different points of a meeting.



**Point of Order.** A point of order may be raised by any member of the governing body who perceives that there is a procedural question which should be addressed. For example, if the chair mistakenly skips over an agenda item, a councilmember may raise a point of order to bring the chair's attention to the missed item.

**Appeal from the Decision of the Chair.** Once the chair has made a ruling, a councilmember may challenge the ruling. For example, the chair may refuse to entertain a motion even though the motion is in order. This may occur when the chair is unfamiliar with the rules of procedure or because of unfriendliness to the proposed action. The chair may also take an adverse attitude on other matters which the council or the commission would like to take action on or at least discuss. What does the council or the commission do in such cases?

**(1) Any Decision of the Presiding Officer is Subject to Appeal.** When governing body members believe the decision of the chair is contrary to parliamentary rule or law, they may appeal the decision of the chair to the council or commission. There is no reason for the chair to feel that such an appeal is a personal affront. Members have as much right to differ with the chair as they do with one another during debate.

**(2) Appeal Procedure.** When some member of the council or commission believes that the decision of the chair is wrong, the member may rise and say, "Mr. Chair, I appeal from the decision of the chair." The chair should then say, "The decision of the chair is appealed from." Limited debate is in order on the appeal. The question, when put, may be in the following form: "The question is, *shall the decision of the chair stand as the decision of the council (or commission)?* All in favor say aye." And then, "All opposed say nay." A majority vote in the negative is required to overrule the decision of the chair. If the decision of the chair is sustained no further action is taken, but if the decision of the chair is not sustained, the council or commission goes forward with a discussion of the motion or other matters before the body. In the event the chair is not sustained, there is no reason for the chair to step down and call some member to preside, nor is there any reason for a member to take over the presiding duties. It is the duty of the chair to recognize the rights of the council or commission even if he or she does not agree with the action proposed to be taken.

**(3) Improper Ruling By Chair.** On rare occasions, the chair in the heat of the moment rules the appeal is out of order or declares the meeting is adjourned. Both rulings are improper. A meeting cannot be summarily adjourned by the chair. If the appeal from the decision of the chair is made immediately following the ruling, it is not out of order. If the chair refuses to honor the appeal, the one making the appeal should then take it upon himself or herself to state the question, suggest limited debate and to put the question. This may call for courage on the part of the one appealing in the event the chair is gaveling for "order," attempting to proceed with other business or leaves the meeting; however it is the proper course of action. The other members of the council or commission should cooperate in properly disposing of the appeal, and in the event the appeal is successful (or

unsuccessful), the clerk should duly record it in the minutes even over the objection of the chair. As one authority on parliamentary law so well explains the matter, "The presiding officer of an assembly is the servant of the assembly and not its master."

**Putting the Question.** If the question is not debatable, or after debate if it is debatable, the chair puts the question. It may be put: "The question is . . . All those in favor say 'aye'; all opposed say 'nay'." If a roll call is required, the statement in regard to voting will have to be changed accordingly (i.e., "the clerk will call the roll").

**Stating the Result.** Immediately after the vote, the chair states the result. If the vote is by voice, the chair judges which side has won, but if by show of hands or standing vote, an actual count is made. The vote is announced by saying: "The aye's have it and the motion is carried" or "The nay's have it and the motion is not carried." When the vote is by show of hands or standing, the chair may say: "The affirmative has it and the motion is carried." When a vote by voice is about even, the chair may say: "The ayes seem to have it"—hesitate—"the ayes do have it, and the motion is carried." This gives a member a chance to call for a division if there is any doubt as to the correctness of the chair's decision.



## Chapter 5. Voting

**How Many Affirmative Votes are Required to do Business?** The answer to this question varies with the nature of the action. The number of affirmative votes required in order to pass an city ordinance is set by state statute. Non-ordinance matters are governed by the common law (i.e., judge-made) rules of voting. Of course, a quorum must always be present in order for there to be a validly called meeting to take binding action.

**(1) Ordinary City Ordinances and County Resolutions.** K.S.A. 12-3002 governs the passage of ordinances and requires that a vote be taken by yeas and nays and entered into the minutes by the clerk. A majority of the members-elect of the councilmembers or commissioners is required to pass an ordinary ordinance. This number is based upon the number of *positions* on the council or commission and does not vary because of vacancies or absent members. For example, in a city with a five member council, three affirmative votes are always needed in order to pass an ordinance. Abstentions are counted as “no” votes on ordinances. The same rule applies to ordinary county resolutions.

**(2) Charter Ordinances and Resolutions.** A city charter ordinance must be passed by two-thirds of the members-elect of the governing body. (Kan. Const. art 12, §5) Even if there is a vacancy, or one or more members are absent, the same vote is required. The term “governing body” includes the mayor. (See K.S.A. 12-104) For counties, on a three-member commission, a unanimous vote is required to pass a charter resolution unless submitted to a direct referendum, in which case the number is two-thirds, or two members. On a five or seven member commission, the number needed to pass a charter resolution is a two-thirds majority, unless submitted to a direct referendum, in which case the number is a simple majority. (See K.S.A. 19-101b)

**(3) Non-ordinance Matters.** Motions involving non-ordinance or county resolution matters simply require more “yes” votes than “no” votes in order to pass. Abstentions are counted on the prevailing side. The following scenarios demonstrate this point.

**Question:** What is the outcome when there is a 5 member council with 4 members present and the following votes: 2 yes, 1 no, 1 abstention?

**Answer:** The motion passes 3-1.

**Question:** What is the outcome where there is a 5 member council with 4 members present and the following votes: 1 yes, 1 no, 2 abstentions?

**Answer:** The motion fails 1-3.

**Special Provision for Commission Cities.** In commission cities of the second and third class, no final action can be taken on any matter respecting the department of an absent commissioner unless such business has been made a special order, with notice to the commissioner of the contemplated action, or unless such action is taken at a regular meeting of the board. (K.S.A. 14-1308, K.S.A. 15-1409)

### **Vote of the Mayor in a Council City**

**(1) Non-ordinance Matters.** In cities of the third class (K.S.A. 15-301) and second class (K.S.A. 14-301) with the mayor-council form of government the mayor has a tie-breaking vote when the council is equally divided. The statutes on cities of the first class are silent on the mayor's voting powers on non-ordinance matters. Local rules should be established.

**(2) Ordinances.** In voting on ordinances in any class of council city where the number of favorable votes is one less than required, the mayor has the power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002)

**(3) Confirmation of Council Appointments.** In cities of the second and third class, in voting upon the question of the confirmation of an appointment by the mayor, other than to fill a vacancy on the council, it seems probable that the mayor may cast the deciding vote. (*Carroll v. Wall*, 35 Kan. 36 (1886)) In cities of the third class voting upon the question of confirming an appointment by the mayor to fill a vacancy on the council, it appears the mayor may vote to break a tie in the council. (K.S.A. 15-301 and *Carroll v. Wall*, 35 Kan. 36 (1886)) In council cities of the second class, the mayor, as part of the governing body, participates and votes with the council in appointing a councilmember to fill a vacancy. (K.S.A. 14-308) In council cities of the first class, the "governing body" appoints the individual to fill the vacancy. Because the term "governing body" includes the mayor and the members of the council, it appears that the mayor has an original vote regarding the appointment. (K.S.A. 13-513) Because most cities of the first class have exempted themselves from this provision with a charter ordinance, this issue is not specifically addressed by the *Code of Procedure for Kansas Cities*.

**Vote of Mayor in a Commission City.** The mayor of a commission or commission-manager city votes as a commissioner. However, the mayor cannot cast a second vote to break a tie.



## Chapter 6. Application & Amendment

**Adoption of Rules of Procedure.** The *Code of Procedure for Kansas Cities* and the *Code of Procedure for Kansas Local Governments* may be adopted by your city or county as law without publishing any of the rules contained in the publication. Kansas law authorizes the adoption of an ordinance or resolution by reference to a model or standard compilation of rules that have been published in a book or pamphlet form by a federal or state agency or a municipality or an instrumentality thereof. This is done by passing and publishing an incorporating ordinance or resolution that contains a statement that a certain publication, described by title, publisher, compiler and edition, is "incorporated by reference."

The effect is that the provisions of the described publication become as much a part of the incorporating ordinance or resolution as though all of the provisions were included in the ordinance or resolution in the first place. For example, the first edition of the *Code of Procedure for Kansas Cities*, prepared and published by the League of Kansas Municipalities, may be made effective as the city's code of procedure without publishing any of its contents. It is only necessary to pass and publish the incorporating ordinance. A sample incorporating ordinance appears at the end of this section.

**Omissions, Changes, or Additions.** Not all of the provisions contained in the *Code of Procedure for Kansas Cities* or the *Code of Procedure for Kansas Local Governments* need to be incorporated by reference. Sections or portions thereof may be omitted by a statement in the incorporating ordinance or resolution that the particular portion is being omitted. Language of a particular section may be changed or additional language added to meet local needs. Any provisions changing or adding to the incorporated provisions must be stated in full and published as part of the incorporating ordinance or resolution. Caution should be exercised in changing the language of any provision of the *Code* which has a statutory reference to avoid conflict with statutory provisions. Local provisions which conflict with state provisions are abrogated and superceded by the state statute. If omissions, changes, or additions are to be made after the adoption of the incorporating ordinance or resolution, they must be made by enacting an ordinance or resolution amending the incorporating ordinance.

The information and forms herein are specific to the adoption of the *Code of Procedure for Kansas Cities* and the *Code of Procedure for Kansas Local Governments*. But, the same general procedure applies for incorporating by reference uniform codes or ordinances on such subjects as traffic, public offenses, building, plumbing, electrical wiring, gas piping, health and sanitation, or any other compilation of rules, regulations or laws covering a subject on which a city or county may properly legislate.

The statutes which authorize and establish the procedure for incorporation by reference are K.S.A. 12-3009 through 12-3012 and K.S.A. 12-3301 and 12-3302.

**Official Copies.** At least three copies of the *Code of Procedure for Kansas Cities* must be marked or stamped *OFFICIAL COPY AS INCORPORATED BY ORDINANCE [RESOLUTION] NO. \_\_\_\_\_*. A copy of the published incorporating ordinance or resolution must be attached to each official copy. Additional copies of the published incorporating ordinance or resolution may be obtained from the publisher. The published incorporating ordinance or resolution may either be stapled or pasted into the official copy of the *Code of Procedure for Kansas Cities*. All sections or portions thereof to be omitted must be marked to show such omission. The official copies shall be filed with the city or county clerk and open to inspection by the public during all reasonable business hours.

**Furnishing of Official Copies.** Official copies of the *Code of Procedure for Kansas Cities* and the *Code of Procedure for Kansas Local Governments* should be furnished to all governing body members and to each president, chairperson, or other person designated to conduct meetings of other boards, committees and commissions of the city or county, and to such others as may be deemed necessary. All such copies shall be furnished at the cost of the city or county.

**Amendment After Adoption.** Because the *Code of Procedure for Kansas Cities* and the *Code of Procedure for Kansas Local Governments* are to be incorporated by reference by passage of a regular ordinance or county resolution, amendments subsequent to the initial passage of the incorporating ordinance or resolution must be made by passage of an amending ordinance or resolution (See Section 42 of the *Code of Procedure for Kansas Cities* and Section 35 of the *Code of Procedure for Kansas Local Governments*.)

**Reference to Specific Edition.** It is important that the adopting ordinance or resolution (and any amending ordinance or resolution) specify which edition of the *Code of Procedure for Kansas Cities* or the *Code of Procedure for Kansas Local Governments* is being incorporated by the ordinance or resolution. A new ordinance or resolution will need to be adopted in order to incorporate subsequent editions of the *Code of Procedure for Kansas Cities* or the *Code of Procedure for Kansas Local Governments*.



**Model City Ordinance Incorporating  
the Code of Procedure for Kansas Cities  
by Reference:**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ESTABLISHING A CODE OF PROCEDURE FOR THE CONDUCT OF COUNCIL [COMMISSION] MEETINGS OF THE CITY OF \_\_\_\_\_; INCORPORATING BY REFERENCE THE "CODE OF PROCEDURE FOR KANSAS CITIES," FIRST EDITION (2004) [WITH CERTAIN OMISSIONS, CHANGES AND ADDITIONS]; [AND, REPEALING ORDINANCE(S) (CODE SECTION(S)) NUMBERED \_\_\_\_\_].

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF \_\_\_\_\_:

SECTION 1: INCORPORATING CODE OF PROCEDURE FOR KANSAS CITIES. There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of city council [commission] meetings of the City of \_\_\_\_\_, Kansas, that certain model code known as the "Code of Procedure for Kansas Cities," First Edition (2004), prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas [save and except for such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed].

SECTION 2: OFFICIAL COPIES. At least three copies of the "Code of Procedure for Kansas Cities" shall be marked or stamped *OFFICIAL COPY AS INCORPORATED BY ORDINANCE NO. \_\_\_\_\_*, [with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change] and to which shall be attached a copy of this ordinance. All official copies shall be filed with the city clerk to be open to inspection by the public during all reasonable business hours. Official copies of the "Code of Procedure for Kansas Cities" shall be furnished to all persons or departments charged with the enforcement of the code or to whom the Code is applicable and to such others as may be deemed necessary. All such copies shall be furnished at the cost of the city.

[SECTION \_\_\_\_: Section \_\_\_\_ (or subsection \_\_\_\_ of Section \_\_\_\_) of the "Code of Procedure for Kansas Cities" relating to \_\_\_\_\_ is hereby declared to be and is omitted and deleted.]

[SECTION \_\_\_\_: Section \_\_\_\_ of the "Code of Procedure for Kansas Cities" is hereby changed to read as follows: (Insert complete section as changed)].

[SECTION \_\_\_\_: REPEAL: Ordinance(s) (Code section(s)) numbered \_\_\_\_\_ and \_\_\_\_\_]

\_\_\_\_\_ are repealed.]

SECTION \_\_\_\_: EFFECTIVE DATE: This ordinance shall take effect and be in force from and after its publication in the official newspaper of the City of \_\_\_\_\_, Kansas.

Passed by the Council [Commission] this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Approved [Signed] by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

[SEAL]

**Note:** If no omissions or changes are made or no sections added or there are no ordinances or existing code sections being repealed, the words appearing in [brackets] should be omitted. Other optional language also appears in [brackets] and should be used, omitted or modified as needed. Always confer with your city attorney before taking any such action.



**Model City Ordinance Incorporating  
the Code of Procedure for Kansas Local Governments  
by Reference:**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ESTABLISHING A CODE OF PROCEDURE FOR THE CONDUCT COUNCIL [COMMISSION] MEETINGS OF BOARDS OF COMMISSIONS OF THE CITY OF \_\_\_\_\_;  
INCORPORATING BY REFERENCE THE "CODE OF PROCEDURE FOR KANSAS LOCAL GOVERNMENTS," FIRST EDITION (2004) [WITH CERTAIN OMISSIONS, CHANGES AND ADDITIONS]; [AND, REPEALING ORDINANCE(S) (CODE SECTION(S)) NUMBERED \_\_\_\_\_].

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF \_\_\_\_\_

SECTION 1: INCORPORATING Code of Procedure for Kansas Local Governments. There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of meetings of the boards and commissions of the City of \_\_\_\_\_, Kansas, that certain model code known as the "Code of Procedure for Kansas Local Governments," First Edition (2004), prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas [save and except for such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed].

SECTION 2: OFFICIAL COPIES. At least three copies of the "Code of Procedure for Kansas Local Governments" shall be marked or stamped *OFFICIAL COPY AS INCORPORATED BY ORDINANCE NO. \_\_\_\_\_*, [with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change] and to which shall be attached a copy of this ordinance. All official copies shall be filed with the city clerk to be open to inspection by the public during all reasonable business hours. Official copies of the "Code of Procedure for Kansas Local Governments" shall be furnished to all persons or departments charged with the enforcement of the code or to whom the Code is applicable and to such others as may be deemed necessary. All such copies shall be furnished at the cost of the city.

[SECTION \_\_\_\_: Section \_\_\_\_ (or subsection \_\_\_\_ of Section \_\_\_\_) of the "Code of Procedure for Kansas Local Governments" relating to \_\_\_\_\_ is hereby declared to be and is omitted and deleted.]

[SECTION \_\_\_\_: Section \_\_\_\_ of the "Code of Procedure for Kansas Local Governments" is hereby changed to read as follows: (Insert complete section as

changed)).

[SECTION \_\_: REPEAL: Ordinance(s) (Code section(s)) numbered \_\_\_\_\_ and \_\_\_\_\_ are repealed.]

SECTION \_\_: EFFECTIVE DATE: This ordinance shall take effect and be in force from and after its publication in the official newspaper of the City of \_\_\_\_\_, Kansas.

Passed by the Council [Commission] this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Approved [Signed] by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

[SEAL]

**Note:** If no omissions or changes are made or no sections added or there are no ordinances or existing code sections being repealed, the words appearing in [brackets] should be omitted. Other optional language also appears in [brackets] and should be used, omitted or modified as needed. Always confer with your city attorney before taking any such action.



**Model County Resolution Incorporating  
the Code of Procedure for Kansas Local Governments  
by Reference:**

RESOLUTION NO. \_\_\_\_\_

WHEREAS, the Code of Procedure for Kansas Local Governments has been published for the purpose of providing local rules regarding the operation of meetings of local government entities in Kansas; and

WHEREAS, the county desires to operate county commission meetings and the meetings of boards and commissions established by the county pursuant to these rules;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of \_\_\_\_\_, Kansas, sitting in regular session on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as follows:

1. There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of meetings of the county commission and the boards and commissions of the county of \_\_\_\_\_, Kansas, that certain model code known as the "Code of Procedure for Kansas Local Governments," First Edition (2004), prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas [save and except for such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed].

2. At least three copies of the "Code of Procedure for Kansas Local Governments" shall be marked or stamped *OFFICIAL COPY AS INCORPORATED BY RESOLUTION NO. \_\_\_\_\_*, [with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change] and to which shall be attached a copy of this ordinance. All official copies shall be filed with the county clerk to be open to inspection by the public during all reasonable business hours. Official copies of the "Code of Procedure for Kansas Local Governments" shall be furnished to all persons or departments charged with the enforcement of the code or to whom the Code is applicable and to such others as may be deemed necessary. All such copies shall be furnished at the cost of the county.

[SECTION \_\_\_\_: Section \_\_\_\_ (or subsection \_\_\_\_ of Section \_\_\_\_) of the "Code of Procedure for Kansas Local Governments" relating to \_\_\_\_\_ is hereby declared to be and is omitted and deleted.]

[SECTION \_\_\_\_: Section \_\_\_\_ of the "Code of Procedure for Kansas Local Governments" is hereby changed to read as follows: (Insert complete section as changed)].

[SECTION \_\_: REPEAL: Resolution(s) (Code section(s)) numbered \_\_\_\_\_ and \_\_\_\_\_ are repealed.]

BOARD OF COUNTY COMMISSIONERS  
\_\_\_\_\_ COUNTY, KANSAS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ATTEST:

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

**Note:** If no omissions or changes are made or no sections added or there are no ordinances or existing code sections being repealed, the words appearing in [brackets] should be omitted. Other optional language also appears in [brackets] and should be used, omitted or modified as needed. Always confer with your county attorney (or county counselor) before taking any such action.