

*If you're not sure what to do, ask:*

*Is it legal?*

*Is it ethical?*

*Is it the right thing to do?*



# Code of Meeting Procedure



City of Derby, Kansas

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## How to Aid Discussion by Asking the Right Questions

Questions are one of the most important tools you can use to obtain information, focus the group and facilitate decision making. Here are some samples:

### Asking of Colleagues

- What do you think about this item?
- What do you think the proposed action will accomplish?
- Would you please elaborate on your position?
- What results are we looking for?
- How does this fit into our priorities?

### Asking Staff

- What alternatives did you consider?
- What are we trying to accomplish with this?
- What are the benefits and drawbacks?
- Would you please explain the process?

### Asking of the Public

- How will this proposal affect you?
- What are your concerns?
- What other ways can you suggest for solving the issue?

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## Ethics

### Conflict of Interest

If a Governing Body member has a conflict of interest on a matter before the Governing Body, right after the City Clerk reads the title of the agenda item in question, that person should publicly announce the conflict and excuse himself/herself from the council chambers until the matter has been addressed by the remaining Governing Body members.

If there is a question of real or perceived conflict of interest, the affected Governing Body member should contact the City Manager and City Attorney for an interpretation of the situation prior to the meeting.

### Keeping Out of Trouble

The following are some common areas where you can get in trouble by violating state statute or City code:

- Violating the Kansas Open Meetings Act (KOMA). This can be done by five or more Council members meeting in person, conducting a “serial meeting” via email chain or in an internet chat room, or by any other means of interactive communication if any of the participants seeks to reach agreement on a matter that would require binding action by the Council or Governing Body.
- Not disclosing a conflict of interest during Governing Body deliberation or not abstaining from voting on something with which you have a conflict of interest.
- Disclosing information discussed in executive session to any person not present in the executive session.
- Not disclosing in an open meeting *ex parte* conversations with parties to an action before the Governing Body.
- Using your office for personal gain or profit.

authorized to sign or veto ordinances.

**Section 42. Same; Charter Ordinance.** The adoption of a charter ordinance requires 2/3rds (6 of 9) affirmative votes of the Governing Body. The Mayor is considered a member of the Governing Body and votes on charter ordinances.

**Section 43. Voting; Planning Commission Items.** Approval of an item recommended by the Planning Commission requires a simple majority (5 votes) of the Governing Body. If the Planning Commission sends no recommendation to the Governing Body, the Governing Body should consider such inaction as a negative recommendation. To override a negative recommendation or to amend a zoning classification for which a protest has been filed, six (6) affirmative votes of the Governing Body are required.

**Section 44. Same; Confirmation of Mayoral Appointment to Non-Elected Position.** The mayor may cast the deciding vote when the Governing Body is equally divided on a vote for the mayoral appointment to a non-elected position.

**Section 45. Same; Confirmation of Mayoral Appointment to Elected Position.** The mayor may cast the deciding vote when the Governing Body is equally divided on a vote to confirm a mayoral appointment to an elected position.

**Section 46. Consensus Vote.** When a formal motion or action is not required on a Governing Body opinion or guidance to the staff, a consensus voice vote will be taken. The Chair will state the opinion or guidance and each Governing Body member shall state his/her position by saying yes or no.

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### APPLICATION & AMENDMENT

For those matters not covered by these rules, the procedure shall be as decided by a majority vote of the Governing Body. Adopted rules may be amended by a majority vote of the Governing Body. The rules may not be suspended by the Governing Body during any meeting.

Adopted by the Governing Body on February 9, 2010

## DEFINITIONS

- Section 1. Charter Ordinance.** An ordinance exempting a City policy, practice, or procedure from a state statute; may also provide a local substitute for the state statute.
- Section 2. Governing Body.** The term Governing Body shall include the mayor and council.
- Section 3. Motion.** A course of action formally proposed to the Governing Body by one of its members.
- Section 4. Ordinance.** A local law enforced with the full force and authority of the City.
- Section 5. Quorum.** A majority of the members of the City Council. In determining the presence of a quorum, the mayor is not counted.
- Section 6. Resolution.** An act that is typically less formal than an ordinance, expressing the opinion or mind of the legislative body, and generally dealing with matters of a special or temporary character or establishment of policy.

## MEETINGS

- Section 7. Regular Meetings.** Regular meetings of the Governing Body will be held on the second and fourth Tuesday of every month at 6:30 p.m., unless changed by the Governing Body. Pursuant to the Kansas Open Meetings Act (KOMA), all meetings except for executive sessions are open to the public.

vote for the prevailing side.

- Section 37. Recording.** Upon final passage of a matter, the vote shall be recorded in the minutes.
- Section 38. Votes; Non-Ordinance Matters.** Unless otherwise specifically required by law, the adoption of resolutions and other motions shall be by a majority of those present. An abstention shall be counted with the prevailing side.
- Section 39. Same; Ordinary Ordinance.** The adoption of an ordinary ordinance requires five (5) affirmative votes of the Governing Body and the vote shall be taken by roll call.
- Section 40. Votes; Mayor.** The Mayor is considered a member of the Governing Body and votes on charter ordinances and on employment matters of the City Manager and Municipal Judge. The Mayor may also vote to break a tie when the Governing Body is equally divided on a vote.
- Section 41. Same; Ordinary Ordinance: Mayor's Veto.** The mayor may veto any ordinance passed by the Governing Body on or before the next regularly scheduled meeting with the exception of appropriation ordinances and ordinances on which the mayor casts the deciding vote. Ordinances not signed or vetoed by the mayor take effect without the mayor's signature. Any ordinance vetoed by the mayor may be passed over the veto by a vote of six Governing Body members. The Council President, acting in the absence of the mayor, is not

... 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. If the decision of the chair is not sustained, the Governing Body goes forward with a discussion of the motion or other matters pending before the body.

**VOTING**

**Section 33. Form of Vote.** All votes shall be by either a voice vote or, in the alternative, the chair may request that a vote be by “show of hands,” or by a roll call vote performed by the City Clerk. No vote shall be by secret ballot.

**Section 34. Voting Order.** Each time a roll call vote is requested or required during a meeting, the City Clerk will rotate the voting order until each voting member of the Governing Body has had the opportunity to vote first.

**Section 35. Division.** The mayor or any member may request a formal division of vote. At the discretion of the mayor, division may be by either a poll of each member or a show of hands.

**Section 36. Duty to Vote.** Members of the Governing Body have a duty to vote, but may abstain because of a conflict of interest or other conflict that appears to make voting on an issue improper. Any member who abstains must state, for the purpose of its inclusion in the minutes, the reason for the abstention. For all purposes other than adoption of an ordinance an abstention counts as a

**Section 8. Special Meetings.** Special meetings will be held only for a specific purpose. Special meetings may be called by a motion, second, and majority vote of the City Council during a regular meeting. Special meetings also may be called by the mayor or acting mayor; in such case, all members of the City Council must sign a Waiver of Notice. The date, time, and purpose of the special meeting must be specified. Public notification of the date, time, and purpose of special meetings is given in the same manner as it is done for regular meetings pursuant to the KOMA.

**Section 9. Workshops.** An informal meeting of the Governing Body. No agenda is required and no binding action may be taken. The Mayor chairs the workshop or the Council President in the Mayor’s absence.

**Section 10. Quorum.** A quorum is required for the Governing Body to take binding action.

**Section 11. Public Forum.** The Public Forum period provides an opportunity to address the Council on any subject relevant to the City government and its policies, operations, or services. Not all meetings will include a Public Forum.\* When a Public Forum is offered, each person addressing the Council shall provide his or her name for inclusion in the minutes of the meeting. All public comment must be made from the podium. Each presentation, whether by an individual or group, shall be limited to five (5) minutes. Upon request by the individual or group making the presentation, an additional three (3) minutes may be authorized by motion, second, and majority

vote of the Governing Body.

\* The Public Forum period is not intended as a venue for introduction or endorsement of candidates for public office or as a venue for degrading or defamatory comments directed at or concerning a person, business or organization. Any person who abuses the Public Forum may be ruled out of order and directed to cease his or her presentation and leave the podium.

**AGENDA**

**Section 12. Agenda.** Prior to each regular and special meeting, the City will distribute an agenda to each Governing Body member. The agenda will be available to the public via the City’s website. The agenda is usually available on Thursday afternoon for the meeting the following Tuesday but may on occasion be delayed due to unforeseen events.

**Section 13. Setting Agenda.** The City Manager is charged with setting the agenda.

**Section 14. Agenda Items.** Any Governing Body member or staff member may request that an item be placed on the agenda. Members of the public may not place an item on the agenda, but may have a Governing Body member sponsor an item.

**Section 15. Order and Content of Agenda Items.** Each agenda item shall be reviewed in the following order:  
Staff report;  
Applicant input (if applicable); and  
Public input (if applicable).

The motion to recess to executive session shall be made as follows: “I move that the Governing Body recess into executive session in order to discuss \_\_\_\_\_ (general description of an allowable topic and reference to the subject) for a period of \_\_\_ minutes and resume the meeting here at \_\_\_p.m.” The motion may also state who is to be present in the executive session, although this is not required. This motion must be made, seconded and carried. Such motion shall be recorded in the minutes of the meeting.

**Section 31. Motion to Adjourn to a Later Date and Time.** If the Governing Body is unable to complete its agenda during the time allotted for a regular or special meeting, the meeting may be adjourned to another time and date. The motion shall state the time, place and date for the meeting to reconvene. If the motion is adopted, the meeting is adjourned to the specified time, place and date.

**Section 32. Appeal from the Decision of the Chair.** When a Governing Body member believes the decision of the chair is contrary to adopted procedure or law, he/she may appeal the decision of the chair to the Governing Body at-large. The appealing member may state, “Honorable Mayor, I appeal from the decision of the chair.” The chair may then state, “The decision of the chair is appealed from.” Following debate of 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?* All in favor say aye.

tions may be made by majority vote of the Council.

**Section 27. Motion to Refer or Table.** If the Governing Body deems it appropriate, it may refer an ordinance, resolution, contract or other matter back to staff or to a committee, board or other appropriate body for further review and consideration or to table the matter. Such motion may or may not contain a certain time for the item to be returned to the Governing Body. A motion to refer or table is not debatable.

**Section 28. Motion to Reconsider; Prohibited.** Motions to reconsider are prohibited. Any Governing Body member may make a new substantive motion on a matter previously considered by the body.

**Section 29. Motion to Call the Previous Question.** This motion is not debatable and, if passed by a majority of the Governing Body, calls for an immediate vote on the substantive motion. This motion requires a vote.

**Section 30. Motion to Recess to Executive Session.** Closed (executive) sessions may be called for the following reasons:

- Personnel matters of non-elected personnel;
- Consultation with attorney on matters deemed to be of attorney-client privilege;
- Confidential data relating to financial affairs or trade secrets of second parties;
- Discussions about acquisition of real estate; and
- Discussions about security matters.

Staff reports should include:

- Background information on the topic;
- Fiscal impact and sustainability information;
- Legal considerations;
- Policy considerations;
- Applicable reference material; and
- Action Options/Recommendation(s).

Staff reports shall be drafted to be as objective and unbiased as possible.

**Section 16. Changes to Agenda.** Off-agenda items may be added to or removed from the agenda at the beginning of a regular meeting by motion approved by a majority of those Governing Body members present and voting. No items may be added to the agenda of a special meeting. The Governing Body will vote only on items contained in the agenda as printed, and may vote on items deemed to be emergencies and otherwise express the will of the Governing Body through informal and non-binding action.

**Section 17. Order of Business.** At the hour appointed for the meeting, the mayor shall call the meeting to order. The Council President shall chair the meeting in the absence of the mayor. Upon determining that a quorum is present, the Governing Body shall proceed to business, which shall be conducted in the following order:

- Call to Order
- Flag Salute
- Invocation
- Roll Call
- Consideration of Minutes
- Public Forum
- Governing Body Comments
- Presentations / Proclamations

Agenda Items  
Consent Agenda  
Executive Session  
Adjournment

**Section 18. Consent Agenda.** By request of a Governing Body member and with the approval of the Governing Body, any item may be removed from the consent agenda and considered separately. The remaining consent agenda items may be acted upon as one item.

**Section 19. Order of Business, Suspended or Amended.** By a majority vote of the City Council, the order of business may be amended to add or delete sections or to change the order of business as appropriate, or may be suspended in its entirety to consider other matters. Executive sessions may be held at any time during the meeting.

**MOTIONS**

**Section 20. Notice to Speak.** Governing Body members should notify the chair of the desire to speak either by electronic message or raised hand to be recognized by the chair.

**Section 21. Second.** All motions require a second before being considered by the Governing Body.

**Section 22. Debate.** All motions are debatable unless otherwise noted in the section governing that motion.

**Section 23. Substantive Motion.** Only one main sub-

stantive motion may be pending on the floor at any one time. A substantive motion must be withdrawn or advanced to vote before another substantive motion is introduced.

**Section 24. Substitute Motion; Prohibited.** Substitute motions are prohibited. Substantive motions must be withdrawn or advanced before another substantive motion is introduced.

**Section 25. Motion to Amend.** A motion to amend is in order when the proposal is to change, add, or delete words from the main substantive motion. If the motion is to amend a document before voting on its adoption, it is advisable to reduce the change to writing, but it is not required if all members of the Governing Body understand the amendment. A vote on an amendment is not a final vote on the underlying substantive motion. To pass the underlying substantive motion requires a vote.

**Section 26. Motion to Pass an Ordinance.** All ordinances of the City shall be considered at a public meeting of the Governing Body. No ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (See Sections 36-40 for ordinance voting requirements.) Ordinances advancing substantially new policy shall be introduced at one Council meeting and acted upon at another Council meeting. Except-