

2011 Guide for City Candidates



Prepared by the
League of Kansas Municipalities

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Dear Candidate:

I would like to congratulate you on your decision to undertake a very worthwhile challenge—seeking elective office in city government. You have set yourself on a path toward the honorable calling of public service.

This guide was developed as a tool to provide you with some background information concerning city government in Kansas, the election process, taking office, and the basics of governing. I hope that you will find it to be a useful tool.

The League of Kansas Municipalities has been providing support services to Kansas cities since 1910. Our current membership consists of over 580 cities and we are happy to provide assistance to current and potential leaders in those cities.

Public service is one of the highest and most honorable tasks that a citizen can undertake. Those who rise to the challenge of leadership, particularly at the local level where government is closest to the people, are the true gatekeepers of democracy.

Again, I congratulate you on your decision to embark on this journey. Thank you for your commitment to your city.

Yours in Public Service,



Don Moler

Executive Director

League of Kansas Municipalities

300 SW 8th Avenue, Suite 100
Topeka, KS 66603-5912
(785) 354-9565 • Fax (785) 354-4186
www.lkm.org

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Elections

- ***Check for Local Rules.*** This brochure is designed to answer basic questions about city government in Kansas. Some cities may have locally altered their form of government or the election process. Therefore, it is important to check with the city clerk to determine if there are any local rules that apply in your city.

- ***Filing Deadline—January 25, 2011.*** The filing deadline for all city elections is 12:00 noon on the Tuesday that is 10 weeks prior to the first Tuesday in April. (K.S.A. 25-2109)

- ***Filing Location and Validation.*** In cities of the first and second class, candidates must file with the city clerk. In cities of the third class, candidates may file with the county election officer or the city clerk. Within three days from the filing of a nomination petition or declaration of intention to become a candidate for city office, the county election officer shall determine the validity of such petition or declaration. If the petition or declaration is found to be invalid, the county election officer shall notify the candidate and provide the reason for the finding. The candidate may object to the finding of invalidity in accordance with K.S.A. 25-308. (K.S.A. 25-2110 & 25-2110a)

- ***Qualifications.*** An individual seeking elected city office must be a “qualified elector.” This means that the person must be a registered voter in the city (and within the particular district if the city is divided into wards) at the time of the election. (K.S.A. 14-109; 15-209; and Attorney General Opinion No. 90-66)

- ***Fees.*** Each filing must be accompanied by the appropriate filing fee or petition. (K.S.A. 25-2110 & 25-2110a)

Cities with less than 5,000 in population = \$5 or a petition signed by 25 qualified electors of the city or a number of electors not less than 10% of the ballots cast at the last general city election, whichever is less.

Cities 5,000 to 100,000 = \$10 or a petition signed by 50 qualified electors of the city or a number of electors not less than 1% of the ballots cast in the last general city election, whichever is less.

Cities over 100,000 = \$50 or a petition signed by 100 qualified electors of the city or a number of electors not less than 1% of the ballots cast in the last general city election, whichever is less.

- **Statement of Substantial Interest.** Within 10 days after the filing deadline for the office sought, each candidate for local office must file a statement of substantial interest. If the individual becomes a candidate after the filing deadline for the office, the statement of substantial interest must be filed within 5 days of becoming a candidate. The statement should be filed in the same office where the individual filed the statement declaring candidacy for the local office. (K.S.A. 75-4302a)

- **Non-Partisan.** City elections in Kansas are non-partisan.

- **Expenses.** Candidates in cities of the second or third class who do not intend to spend an aggregate amount of \$500 must file an affidavit of such intent with the county election officer by February 20, 2011. If less than \$500 is actually expended, no report need be filed. If more than \$500 is expended, an itemized campaign finance statement must be filed with the county election officer within 30 days of the primary or general election. (K.S.A. 25-904)

In cities of the first class, candidates are governed by K.S.A. 25-4143, *et seq.* and must file primary reports on February 21, 2011, and general reports on March 28, 2011, and January 10, 2012.

In addition, a report is required identifying each person who has made one or more contributions of \$300 or more in the period commencing 11 days before a primary or general election at which a local officer is to be elected and ending at 11:59 p.m. on the Wednesday preceding the date of the election. Such report shall be filed on or before the close of business on the Thursday preceding the date of the election and shall contain the name and address of the contributor along with the amount and date of the contribution. (K.S.A. 25-4148b)

- **Primary—March 1, 2011.** The primary is held on the Tuesday five weeks prior to the general election. The two top vote-getters move on to the general election. Write-in candidates are not allowed in the primary. (K.S.A. 25-2102 & 25-2108a)

A primary election shall only be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates. No primary election shall be held unless two or more persons will be eliminated as candidates for office. In

the event there are not more than three times the number of candidates as there are officers to be elected, there shall be no primary election and the names of such candidates shall be placed on the general city election ballot. (K.S.A 25-2108a).

- **General Election—April 5, 2011.** City general elections are held the first Tuesday in April in odd-numbered years, unless a different schedule has been established by a charter ordinance. In order to determine whether this election timetable applies in a specific city, it is important to check with the city clerk. (K.S.A. 25-2102 & 25-2107)

- **Canvass —April 8, 2011.** The county commissioners canvass the votes on the Friday following the election. The county election officer may move the canvass to Monday, April 11, 2011, if notice is published prior to the canvass in a newspaper with general circulation in the county. (K.S.A. 25-3104)

- **Certification.** The county election official submits a certification of the election to the governing body. (K.S.A. 25-2120 & 25-3110)

- **Swearing In.** City officials must be sworn in at the first regular meeting of the governing body following certification of the election results. (K.S.A. 25-2120)

- **Oath of Office.** An oath of office must be taken and signed by elected officials. The city clerk should maintain a copy of these oaths. (K.S.A. 25-2120 & 54-106)

- **Updating Statement of Substantial Interest.** Elected officials must update the statement of substantial interest that they filed as a candidate between April 15th and April 30th when there is any change during the preceding year.

- **Campaigning on Public Property.** No city officer or employee shall use or authorize the use of public funds, vehicles, machinery, equipment, supplies, or the compensated time of any officer or employee to expressly advocate the nomination, election, or defeat of a clearly identified candidate for state or local office.

Further, no municipality shall allow any person to distribute any document which expressly advocates for the nomination, election, or defeat of a clearly identified candidate within any city building or

structure unless each candidate for the office is permitted to do so in the same manner. (K.S.A. 25-4169a).

- ***Bonding.*** Elected city officials may be required to furnish a bond with surety payable for the use and benefit of the city in a certain amount and conditioned upon the faithful discharge of the official's duties. Where bonds are required either by state statute (see below) or by local ordinance, it is standard practice for cities to pay the cost of the bonds. Where a corporate surety bond is required, the city must pay the premium.
- ***Commission Cities of the Second Class.*** The mayor and each commissioner are required to furnish a surety bond of not less than \$5,000. Where the mayor or one of the commissioners is the custodian of money or securities in an amount greater than \$5,000, such custodian shall furnish a surety bond equal to the total amount of such funds in the person's possession. (K.S.A. 14-1304)
- ***Commission Cities of the Third Class.*** The mayor and each commissioner are required to furnish a surety bond of not less than \$2,000. (K.S.A. 15-1404)
- ***All Other Cities.*** There are no statutes requiring bonds for elected officials in other cities. These cities may adopt bond requirements by ordinance.
- ***Blanket Surety Bonds.*** Separate surety bonds are not required if the mayor and commissioners are included within a blanket surety bond covering the officers and employees of the city in an amount not less than required by statute.

City Government

What is a Municipality? The word municipality is usually understood to be synonymous with the word city. However, the word is sometimes used in a broader sense to mean a public corporation exercising governmental functions. In this sense, the word municipality may include a city, township, school board, county, or another political subdivision.

The word municipality is frequently defined within a specific legislative enactment. See for example K.S.A. 12-1218, the general library act, where municipality is defined as a county, township, or incorporated city.

What is a City? Legally there are no towns or villages in Kansas. An area is either incorporated as a city or it is unincorporated territory. Unincorporated areas are sometimes designated by a place name, but they are not legally constituted entities, and therefore have none of the legal powers to act as a properly established municipality.

-City Classifications-

State law provides for three classifications of cities in Kansas. In general, there are no special advantages or disadvantages in being one class of city rather than another. This is particularly true since the adoption of Constitutional Home Rule for all Kansas cities.

Cities are incorporated as cities of the third class and there are statutory procedures established for changing classification as the population of the city grows. Once a city has been proclaimed by the Governor as a city of a certain class, there is no provision for changing the class in the event of a population loss, except in cities of the second class with a population of 1,000 or less.

(1) Cities of the Third Class. When a city incorporates, it becomes a city of the third class. To be eligible for incorporation, there must be either: 1) 300 inhabitants or 300 or more platted lots, each of which is served by water and sewer lines owned by a non-profit corporation, and 50 electors sign a petition for incorporation; or 2) the territory has been designated a national landmark by the Congress of the United States. (K.S.A. 15-115, *et seq.*)

(2) Cities of the Second Class. To become a city of the second class, the city must have a population of more than 2,000 and less than 15,000. A city of more than 2,000 and less than 5,000 may remain a city of the third class until its population reaches 5,000. (K.S.A. 14-101)

(3) Cities of the First Class. Any city with a population of 15,000 or more may elect to become a city of the first class. When a city reaches a population of 25,000, it must certify that fact to the Governor who will then proclaim it to be a city of the first class. (K.S.A. 13-101)

Forms of -City Government-

Kansas law authorizes three basic forms of city government. Cities may alter these basic statutory forms of city government by the use of their Home Rule powers.

(1) Mayor-Council. The most prevalent form of city government in Kansas is the mayor-council form which exists in all classes of cities. It is used by nearly all cities of the third class. In cities of the first and second classes, the mayor and councilmembers are elected by wards, but in cities of the third class they are elected by the city at-large.

A variation of this form is called the modified-mayor-council form in which a mayor and three councilmembers are elected at-large and four councilmembers are elected by districts. The mayor is the chief administrative official in mayor-council cities, although some cities have made provisions for an appointed city administrator.

(2) Commission. The commission form of government has declined in popularity and is now found in only one city of the third class and 10 cities of the second class. In the commission form of government, as established by statute, the mayor and each commissioner is a department head. Under the statutory plan, commission sizes vary from three to five members and all members are elected by the city at-large.

(3) Commission/Council-Manager. The third basic form provided by state law has three variations.

(a) Under the commission-manager form of city government, a city manager administers the affairs of the city and the commissioners set the policy for the city, but are not department heads. For this reason, they are referred to as mayor or commissioner and not as commissioner of finance and revenue, commissioner of streets and public utilities, etc. (K.S.A. 12-1001)

(b) The mayor-council-manager form of government may be adopted in any class of city. (K.S.A. 12-1021, *et seq.*) In this form, the city manager administers the affairs of the city under the direction of the mayor and council who set the policy for the city.

(c) The council-manager form may be adopted by cities of the first class. (K.S.A. 12-1029, *et seq.*) This system is similar to the mayor-council-manager form, but the mayor and two councilmembers are elected at-large and four councilmembers are elected by wards or districts. The manager administers the affairs of the city.

Local variations of these statutory forms include the appointment of city administrators by certain mayor-council and commission cities under their Home Rule powers. Further, cities such as Wichita, Topeka, and Overland Park have adopted Home Rule charter ordinance variations which involve professional managers and administrators. The City of Kansas City and Wyandotte County have consolidated and are operating as a Unified Government, with a county administrator and separately elected Mayor/CEO. Local governments in Greeley County have been consolidated as well.

Legal Issues

-Home Rule-

Constitutional Home Rule is the single most important source of a city's legal authority to act. Home Rule is a direct grant of the power of local self-government from the people of Kansas through the state constitution (Art. 12, § 5) to each of the cities of this state. Home Rule is the right of the people of every city (no matter the class) to govern themselves by enacting and administering laws concerning local matters.

Under Home Rule, cities have the power to initiate legislation without the need for authority granted by the state legislature. In addition, if a statute prohibits or restricts a particular activity, but does not make that prohibition or restriction uniformly applicable to all cities, the city can use its Home Rule power to exempt itself by charter ordinance from the provisions of that statute.

-Ethics-

Municipal office is a public trust created in the interest of, and for the benefit of, the people. Public officers are fiduciaries and trustees of the public interest, and they owe an undivided loyalty to the people they serve.

Conflicts of Interest. Kansas law (K.S.A. 75-4301a, *et seq.*) contains certain requirements in order to achieve a workable, fair balance between public and private interests. It requires:

(1) Statements of Substantial Interest. Statements listing an officeholder's substantial financial interests must be filed by every candidate for local office within 10 days after the filing deadline for the office, or within 15 days of appointment when filling a vacancy in an elective office. The statement must be amended between April 15th and April 30th when the individual's interests changed during the preceding year.

(2) When Abstention Required. Local officials are required to abstain from making or participating in the making of any contract with any business in which the official is employed or has a substantial interest except when: (a) the contract was let after competitive bidding has been advertised by published notice; or (b) the contract is for property or services for which the price or rate is fixed by law.

(3) Penalties. Failure to file a general or specific statement of substantial interest is a class B misdemeanor (up to 6 months imprisonment and/or fine of up to \$1,000). Violation of the law prohibiting participation in making of contracts is a class B misdemeanor and may result in forfeiture of office. Failure to file a specific statement of interest is also a class B misdemeanor.

Incompatible Offices. Offices are considered to be incompatible when performance of the duties of one office in some way interferes with duties of the other office in the sense that there is such an inherent inconsistency in the functions and duties of the two offices as to make it difficult for one person to honestly and impartially execute the duties of both offices. Once an incompatibility is found, the law declares that acceptance of the second office creates an automatic resignation from the first office held.

The same principles should be applied to consider the propriety of a governing body member working for the city as an employee. This principle prohibits a

councilmember from being compensated by the city because the member is in a position to vote on the amount of compensation. On the other hand, there is no incompatibility if the duties of the employee are established by ordinance and no compensation is paid.

-Personnel Management-

Good personnel management is essential for the efficient and effective functioning of city government. It is difficult to overestimate the importance of productive, competent employees in achieving the city's goals and policies. Personnel administration can also be an effective tool in city management. City government, in the final analysis, is people serving people. It is people who repair streets, maintain sewers, read water meters, respond to police calls and fire alarms, operate utility plants, maintain parks and playgrounds, and do all the other things which the public demands of its municipal government.

-Public Funds-

Some understanding of basic municipal financial procedures is essential to effective governing body service. While elected officials are not expected to be financial experts, it is the governing body that is ultimately and legally responsible for the financial soundness of the city—now and in the future.

Because it is the duty of the governing body to prepare and adopt a budget in the summer for the following calendar year, budget preparation is one of the first tasks that governing body members elected in April must undertake. The preparation should be completed no later than August 1st.

Kansas Open -Meetings Act (KOMA)-

Since 1972, Kansas has maintained an open meetings act which sets forth requirements that must be followed by all political subdivisions and by all entities which expend public funds. (K.S.A. 75-4317 *et seq.*)The public expects and demands a certain

degree of openness in the management and conduct of public business, and KOMA is designed to help meet that goal. All elected officials bear an important responsibility in ensuring that both the specific requirements and the intent of KOMA are met.

Tips

Remember That You Are Part of a Team. The authority of the city can only be exercised when the governing body acts as a unit.

Make the Tough Decisions. The voters elect representatives to make difficult choices. Only abstain when there is a legal or ethical conflict of interest.

Think Home Rule. Do not look for authorization to act, look to see if there are prohibitions or statutory obstacles.

Think Long-Term. Sometimes sacrifices in the short-term can help to accomplish long-term goals.

Respect Executive Sessions. Disclosing information discussed privately is inappropriate and may put the city at risk for litigation.

Be Honest and Fair. Public servants are the keepers of the public trust. Even the appearance of impropriety can tarnish the public's perception of government.

Do the "Right" Thing. Do not be guided by those who say, "I am going to sue the city for \$1 million."

Work Towards Interlocal Cooperation. Involving other units of government in the decision-making process can produce efficient and effective results.

Abide by the "Show Me" Rule of Local Government. When someone says, "You can't do that!," ask them to prove it to you.

Beware of Drowning in Rules. Every problem does not have a governmental solution, and every problem is not always solved by a complex set of rules.

Basic Facts

Total Number of Incorporated Cities = 627

Cities of the First Class	25
Cities of the Second Class	95
Cities of the Third Class	507

Total Population of the State = 2,818,747

Total City Population = 2,311,352

82% of the state's population resides in an incorporated city.

<u>Population Group</u>	<u>Number of Cities</u>
10,000 and over	37
5,000 - 9,999	21
2,000 - 4,999	57
1,000 - 1,999	81
500 - 999	90
400 - 499	43
300 - 399	32
200 - 299	67
100 - 199	100
Under 100	99

<u>Form of Government</u>	<u>Number of Cities</u>
Mayor-Council	558
Commission	11
Commission-Manager	36
Mayor-Council-Manager	18
Modified Mayor-Council	2
Consolidated City-County	2

<u>Class of City</u>	<u>% of Total City Population</u>
Cities of the First Class	67.70%
Cities of the Second Class	20.45%
Cities of the Third Class	11.85%

About the League

History and Mission. The League of Kansas Municipalities (LKM) was established by municipal officials in 1910 as a voluntary, non-partisan organization of over 580 Kansas cities. It operates as a public agency and is defined by state law as an instrumentality of its member cities. The mission of LKM shall be to unify, strengthen, and advocate for the interests of Kansas municipalities to advance the general welfare and promote the quality of life of the people who live within our cities.

Membership. LKM membership brings with it many privileges including:

- Legal inquiry service;
- Lobbying on behalf of Kansas cities;
- *Kansas Government Journal*, a monthly magazine published since 1914;
- *Directory of Kansas Public Officials*, includes listings for city, county, school district, and state officials.

Other Services. LKM provides a variety of other services to help enhance the quality of city government. These include:

- Annual Conference
- Training Opportunities
- Ordinance Codification
- LEAPS Personnel Search
- Personnel Policies & Guidelines
- Classification and Pay Plans

Municipal Leadership Academy

The Municipal Leadership Academy (MLA) is a continuing education program offered by LKM. The purpose of MLA is to provide an interactive curriculum of specialized instruction that will develop the knowledge and enhance the leadership abilities of those who serve the cities of Kansas.

There are three levels of achievement in the Academy:

Level I—Education. This level focuses on education and the basics of city government. Courses are designed to develop and enrich expertise in fundamental areas of local governance. Topics include open meetings, open records, personnel management, finance and budgeting, and much more.

Level II—Achievement. This level focuses on continuing education and enhancing the participation of city officials in LKM and other government-related activities. A variety of elective courses are offered and credit is given for participation in conferences and leadership activities.

Level III—Leadership. This level focuses on developing effective partnerships and serving as a leader in the municipal government community. Credit is offered for holding a variety of different leadership positions in your community, in LKM, and in other organizations.

For a complete schedule of 2011 training events, visit the LKM website at www.lkm.org or call (785) 354-9565.

2011 Training Opportunities

Governing Body Institute

May 13-14, 2011

Topeka

This two day event will bring together newly elected city officials and experienced public servants for important networking and training sessions. The Institute will kick off on Friday evening, May 13, with a social event and update on the 2011 Legislative Session. The training portion of the event will be held on Saturday, May 14. All participants will receive the newly revised *Governing Body Handbook*.

LKM Annual Conference

October 8-11, 2011

Wichita

Each year approximately 1,100 attendees participate in the LKM Annual Conference. The general sessions, workshops, roundtables, and social events offered during the conference provide the perfect atmosphere for educational and networking opportunities.

LEAGUE OF KANSAS MUNICIPALITIES



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