

NOTICE

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TITLE THREE – LEGISLATIVE

Chapter 121. Council Rules and Procedures

Chapter 123. Ordinances and Resolutions

CHAPTER 121 COUNCIL RULES AND PROCEDURES

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The proceedings of Council and of every board, commission and other decision making public body of this City shall be governed by this chapter until and unless the Council, or any other such public body of the City which has the power to do so, shall adopt different rules for itself.

For public bodies other than the Council, the words "Mayor" and "Vice-Mayor" shall be deemed to mean "Chairperson" and "Vice-Chairperson". Similarly, the word "Council" shall be deemed to mean whatever other public body shall be involved except as the context indicates that it means only the City Council; and the words "City Manager" shall be deemed to mean whichever member of the administrative staff of the City has primary responsibility for the particular meeting. References in this chapter to determining the number of votes on the basis of members who are elected shall also mean those who are appointed.

SECTION 121.01 PLACE OF MEETINGS.

All meetings of the Council shall be held at the Kettering Government Center, or at such other place as designated by the Mayor or, in his absence, by the Vice-Mayor or, in their absence, by the member of Council elected pursuant to Section 121.05(d).

SECTION 121.02 TIME OF REGULAR MEETINGS.

Regular meetings of Council shall be held on the second and fourth Tuesday of every month at 7:30 p.m. or at such other time and date as designated by the Mayor or, in his absence, by the Vice-Mayor or, in their absence, by the member of Council elected pursuant to Section 121.06(d). This section applies only to the City Council and not to other public bodies of this City.

SECTION 121.03 SPECIAL MEETINGS.

The Mayor or any three members of Council (or one less than a majority of any other public body of this City, as to special meetings of that body) may call a special meeting upon at least twelve hours' notice to each member in writing of the time and place of the meeting, served personally or left at the usual place of residence of the member. The purpose of a special meeting shall be stated in the notice. No business other than that mentioned in the notice shall be transacted at the meeting; this shall not prohibit other matters being brought up and discussed, but no action may be taken upon those matters.

SECTION 121.04 PUBLIC NOTICE OF MEETINGS.

The Clerk of Council shall maintain a listing of the time and place of all regularly scheduled meetings, and of the time, place and purpose of all special meetings, of Council and all boards and commissions and other decision making public bodies of this City. This list shall be made available to any person upon inquiry and shall be made a public notice as follows: (1) by giving it to the newspapers known as the "Dayton Daily News" and the "Kettering-Oakwood Times" or to their successors, if any; (2) by posting the list upon a bulletin board open to public view in the Kettering Recreation Center and upon a similar bulletin board in the Kettering Government Center; and (3) by mentioning the availability of this list (and the date of the next regularly scheduled meeting and of any then-scheduled special meetings) on the recorded announcement used to answer the telephone at the Kettering Government Center outside of normal business hours.

When a special meeting is called, the Clerk of Council shall give at least twelve hours' advance notice to news media that have requested notification, except in the event of an emergency requiring immediate official action. If such an emergency occurs, the news media shall be notified as soon as reasonably possible by the Clerk of Council or by the member or members of Council calling the special meeting.

Any person may, upon request and payment of a reasonable fee (as set on the fee schedule maintained by the City Manager), obtain reasonable advance notice of all public meetings at which any specific type of public business is to be discussed and/or may obtain reasonable advance notice of all public meetings of the Council. The notice may be in the form of a list of date, hour and place of various meetings or may simply be the agenda of meetings subject to the request. Any such request must be in writing, must set forth the mailing address to be used by the City, must be signed by the party and shall remain in effect for the balance of the

calendar year in which it is made plus all of the next following year, but shall expire automatically at the end of that second year. Written notice of the calendar year expiration date shall be mailed to every person making such a written request.

SECTION 121.05 MEETINGS TO BE OPEN, EXCEPT FOR EXECUTIVE SESSIONS.

All meetings of Council shall be open to the public, except that meetings may be used for executive sessions (i.e. not open to the public) to the extent allowed either by Ohio statute or by City ordinance.

SECTION 121.06 MISCELLANEOUS RULES OF COUNCIL.

Except as otherwise provided by the City Charter, the proceedings of Council shall be governed by the following rules:

(a) Commencement of Meeting. The Mayor shall take the chair at the appointed time for the meeting of Council and shall immediately call the members of Council to order.

(b) Procedure at Meetings; Duties of the Mayor. The Mayor shall preside at all meetings. The procedure at meetings shall be as permitted or required by the rules of parliamentary procedure as set forth in the most recent edition of *Robert's Rules of Order*, except to the extent changed by or under some other portion of this Chapter 121 or the City Charter.

(c) Committees of Council. (This paragraph applies only to City Council and not other public bodies of this City.) The Mayor shall appoint the following committees from the membership of Council at Council's first meeting in January of each year. Such committees shall consist of two members each and the first member named shall be chairman of the committee. The committees shall be as follows:

- (1) Finance and Personnel
- (2) Public Health and Safety
- (3) Public Services
- (4) Long Range Planning
- (5) Community Relations and Promotion
- (6) Intergovernmental/Interagency Relations

The Mayor may appoint additional committees from time to time as he deems necessary.

(d) Absence of Mayor and Vice-Mayor. In the absence of the Mayor and Vice-Mayor, the Clerk shall call the meeting to order and, on motion passed by affirmative vote of a majority of the members present, Council shall elect one of its number temporary chairman.

(e) Preparation of Agenda by City Manager. To enable the Council to review a proposed order of business, the City Manager at each meeting shall furnish the Council a written agenda for that meeting. The agenda shall list business expected to come before Council at that meeting in the order in which it is to be taken up. The agenda is to be available to persons attending public meetings of Council.

(f) Order of Business. The following order of business is suggested. The initial order of business for any meeting shall be as set forth on the written agenda. That agenda and its order or business shall be deemed to have been approved until and unless a motion to change it is passed by affirmative vote of a majority of the members present.

- (1) Pledge of Allegiance (This is optional for bodies other than Council.)
- (2) Proclamations, Special Presentations and Awards, Special Resolutions, Appointments to Boards and Commissions (This applies only to City Council.)
- (3) Decisions and Public Hearings
- (4) Ordinances in Second Reading (When applied to bodies other than Council, this shall be deemed to read "Other Matters to be Considered".)
- (5) Resolutions (When applied to bodies other than Council, this and agenda items 6, 7, 8 and 9 shall be combined and deemed to read "Staff Reports Not Already Presented".)
- (6) Ordinances in First Reading
- (7) Certifications and Petitions
- (8) City Manager's Report
- (9) Approval of Minutes and Committee Reports
- (10) Other Business Not on Written Agenda

This agenda may be changed at any time during the meeting by motion passed by a majority of the members present.

(g) Communications and Petitions. Communications and petitions shall be placed on the written agenda if they are filed in the office of the Clerk of Council at the Kettering Government Center no later than Friday noon prior to commencement of the meeting at which they are to be heard.

(h) Rejection of Ordinance. On the motion of any member, sustained by a majority vote of the members on Council, an ordinance may be rejected on first or second reading. On such motion, the question shall be, "Shall this ordinance be rejected?" If the motion for rejection is not sustained by such a majority vote, the ordinance shall go to the next reading without a question.

(i) Conduct of Business a Matter of Self-Government. The manner in which discussions are held and decisions made regarding the business of this City is hereby declared to be a matter of local self-government to be determined under the Charter and ordinances of the City and not by state statute. Accordingly, this Chapter 121 of the Codified Ordinances is enacted to set forth specific local self government procedures for conducting business of this City. The City Council has considered and, by the passage of these rules shall be deemed to have adopted as local procedures applicable to the government of this City, the provisions of the State Sunshine Law, Revised Code 121.22, as that law read on May 1, 1994, except to the extent this Chapter 121 of the Codified Ordinances establishes contrary or supplemental provisions.

(j) Committee Meetings. Any committee or subcommittee of less than a majority of the members of the Council (a "Committee") is declared not to be a public body and not to be subject to the local procedures (or statutory provisions) adopted and/or referred to in the paragraph immediately above if and to the extent that:

- (1) if it makes a decision or takes action, that decision or action may not bind the Council or the City but, instead, may merely constitute a non-binding recommendation to the Council; and
- (2) if any such recommendation is made and an executive session is subsequently held on the same subject, the recommendation is disclosed to persons attending that executive session; and
- (3) if any such recommendation to Council is made and the same subject is discussed at a subsequent public meeting of Council, the recommendation is disclosed at that public meeting and persons attending that meeting shall have an opportunity to hear the recommendations before action is taken on the matter. A motion by a committee member who is called upon for a committee report shall be deemed to be one acceptable method (but not the only one) of disclosing the recommendation of that committee.

(k) Executive Sessions. Such sessions are not open to the public. An executive session shall be deemed a special meeting of Council if not held during, or immediately preceding or following, a regular meeting. The decision to hold an executive session may be made in any of the following ways: (1) by listing it on an agenda of the Council meeting which is available to persons attending the meeting; (2) by the Mayor or acting chairperson (subject to being overruled by a majority of the members present); (3) by a motion passed by affirmative vote of the members present, with the vote being taken by a show of hands or voice vote, no roll call vote being required; or (4) by any other method which the Council members are willing to use.

The subjects for which an executive session may be held shall include those described in Revised Code 121.22 and certain additional matters listed below. It shall be sufficient disclosure of the fact that an executive session has been or will be held and of the subject of the session if that fact and subject are listed on the meeting agenda, or are announced in the decision by the chairperson or a motion of the members to hold an executive session or are set forth subsequently in the minutes. Subjects may be identified by using the capital letter titles in the following subparagraphs. An executive session called for one topic may be expanded to include additional topics listed below, as long as the minutes subsequently list all the topics involved.

The following matters may be discussed at executive sessions, with the only restriction being that no ordinances or resolutions may be enacted nor any motions passed in such sessions, and instead all ordinances, resolutions and motions must be voted upon in those portions of meetings which are open to the public.

- (1) "PERSONNEL MATTERS" for all matters referred to in paragraph (1) of division (G) of Revised Code 121.22, the state Sunshine Law.
- (2) "PROPERTY MATTERS" to consider the acquisition of property for public purposes or the disposal of property, whether at competitive bidding or otherwise, on conditions generally the same as those described in paragraph (2) of division (G) of Revised Code 121.22, specifically, if premature disclosure of information would give a competitive or bargaining advantage to a person or entity whose interest is or may be adverse to what Council deems to be the general public interest.
- (3) "CONFERENCE WITH ATTORNEY" for matters referred to in paragraph (3) of division (g) of Revised Code 121.22 and also for conferences with attorneys representing the City which are confidential communications and advice under the attorney-client privilege described in division (a) of 2317.02 of the Revised Code of Ohio.

- (4) "LABOR NEGOTIATIONS" for matters referred to in paragraph (4) of division (G) of Revised Code 121.22.
- (5) "MATTERS REQUIRED TO BE KEPT CONFIDENTIAL BY FEDERAL OR STATE LAW" for any matter referred to in paragraph (5) of division (G) of Revised Code 121.22.
- (6) "SECURITY ARRANGEMENTS" for matters referred to in paragraph (6) of division (G) of Revised Code 121.22.
- (7) "QUASI-JUDICIAL DELIBERATIONS" for deliberations leading to a decision by Council on appeals from decisions of boards, commissions and other public bodies of the City. Also for similar deliberations by those same boards, commissions and other public bodies in connection with public hearings they will be holding or have held. In both instances, the final decision (i.e. the final vote) must be taken at an open public meeting.
- (8) "ECONOMIC DEVELOPMENT" for discussions of economic development aspects of public or private real estate, including but not limited to the possibility of businesses or jobs locating or remaining in or departing from the City and matters affecting or affected by that economic development, on the same type of conditions which must exist to make property matters a valid topic for executive sessions, i.e., if premature disclosure of information would give a competitive or bargaining advantage to a person or entity whose interest is or may be adverse to what the Council deems to be the general public interest.
- (9) "NEGOTIATIONS WITH ORGANIZATIONS OR INDIVIDUALS" for negotiations with public or private organizations or with individuals, and discussions regarding those negotiations, on the same type of conditions which must exist to make property matters a valid topic for executive sessions, i.e., if premature disclosure of information would give a competitive or bargaining advantage to a person or entity whose interest is or may be adverse to what the Council deems to be the general public interest.
- (10) "PROCEDURAL MATTERS" such as, but not limited to, committee assignments and decisions as to when and where meetings will be held and various topics discussed.

(1) Minutes of Meetings. Minutes of meetings shall be prepared and approved within a reasonable time and, thereafter, shall be public records. They need not be verbatim but, instead, may be summary in form, listing only agenda topics discussed, other matters of importance, and actions which involved votes of members. No minutes shall be taken of

executive sessions, but a brief statement setting forth the general subjects of discussions (as those executive session subjects are identified by capital letter titles in this section) shall be inserted into the minute book.

SECTION 121.07 ATTENDANCE OF MEMBERS; TELECONFERENCES; NO PROXY VOTING.

(a) It shall be the duty of all members of Council to be present and remain during all regular sessions of Council except when ill, in case of illness or death in their respective families, when extraordinary business interests demand immediate attention, when absent from the City, or when the absence is excused by Council.

(b) Members who are not at the designated location of a meeting shall be deemed to be present (and therefore be counted toward a quorum and may vote) if they participate in that meeting by means of telecommunication equipment which:

- (1) enables all members participating to hear each other and to hear all other persons who are present (and who are recognized by the Mayor to speak at the meeting); and
- (2) enables all other persons attending at the designated location of the meeting to hear and speak to those members of Council participating by means of telecommunication equipment.

(c) No proxy voting shall be permitted.

SECTION 121.08 DUTY TO VOTE; ABSTENTIONS.

(a) Every member present shall vote when the question is put, unless the member abstains. If there is a public hearing or any discussion among members of Council regarding a subject on which a member intends to abstain from voting, that member should declare the intent to abstain and should remove himself or herself from the discussion. Any member who abstains from voting may make a brief statement of the reason for doing so.

(b) A member who abstains shall be counted for the purpose of determining a quorum, but no vote shall be recorded for that member on the issue from which the member abstained.

(c) This rule as to the effect of abstentions shall not apply, however, with regard to organizational matters such as selection of a Clerk of Council or of a Mayor or Vice-Mayor. Abstentions on such organizational questions could prevent the Council from going forward to consider its business, and so, on such matters one who abstains shall be deemed to have voted with the majority of those who do vote.

SECTION 121.09 MANNER OF VOTING.

Many public and private organizations prefer to avoid roll call votes because they take much more time than is necessary. There is no requirement in the Charter or in Robert's Rules of Order that votes be taken by the roll call method.

Accordingly, roll call voting is permitted but is not necessary. The Mayor may call for a roll call vote, alternatively, may simply ask that those in favor say Aye or Nay (or use some similar language). In the alternative or in addition, the Mayor may ask each Council Member to raise his or her hand to indicate a vote in favor and against. A roll call vote shall be taken if requested by any member of Council.

SECTION 121.10 CONDUCT OF AUDIENCE AT PUBLIC MEETINGS.

The following procedure should be followed by members of the audience who wish to speak at any public meeting or public hearing and who are granted the opportunity to do so:

- (a) Please wait to be recognized by the Mayor before speaking.
- (b) Upon being recognized, please rise.
- (c) If there is a podium or other location at which persons addressing the Council are to speak, the person who has been recognized should leave his or her seat and proceed to that speaking location.
- (d) Before speaking, a member of the audience should identify himself or herself by name and address and should disclose if that address is within the City of Kettering.
- (e) Customarily, proponents will be recognized first, followed by persons who oppose the matter or issue, with a subsequent opportunity for rebuttal.
- (f) Except when leave is granted by the Mayor, there is a time limit of five minutes for each speaker in the audience. This does not apply to the person or organization who or which has filed the application, variance request or other matter being heard by the Council.
- (g) Please avoid repeating points made by earlier speakers. The Mayor has the right to terminate comments that are redundant.
- (h) Comments from persons in the audience should be addressed to the Mayor, not to proponents or opponents of the issue, not to City staff, and not to other members of the audience.

- (i) A public meeting or a public hearing is an opportunity for Council to receive input from citizens of the community. It is not the place for a debate between persons in the audience and the applicant, City staff or members of Council. Debating tactics such as demanding answers to questions framed in favor of the speaker are frowned upon and may be prohibited. Since the meetings are for input, not an instant dialogue or debate, questions to which Council chooses to respond may well be answered at a subsequent meeting.
- (j) Customarily, everyone will be given an opportunity to speak before any other person is allowed to speak twice. This does not apply to the applicant's or proponent's right to rebuttal.
- (k) The Council reserves the right to put an end to that portion of any meeting or hearing in which comments from the audience are allowed, so as to leave adequate time for Council to proceed with its other business.

SECTION 121.11 CHARITABLE DONATION GUIDELINES

- (a) Unless a charitable donation is specifically authorized by adoption of a separate resolution in which donation amounts, purposes and specific donee names are identified and approved, this Council sets the amount of One Thousand Dollars and No Cents (\$1,000.00) as the total maximum, cumulative amount the City shall expend in any single calendar year for donations by this municipal government to charitable organizations.
- (b) All donations by this municipal government to charitable organizations, including fees and costs for attendance by members of Council at dinners and other functions sponsored by charitable organizations, shall be considered as part of the maximum expenditure set forth in Subsection (a) above, and furthermore shall be considered a donation for the betterment and enrichment of this municipal government's public purposes.

Legislative History: Ord. 1; passed 6-5-53. Ord. 220; passed 11-23-54. Ord. 1779-68; passed 5-14-68. Ord. 2060-69; passed 12-9-69. Ord. No. 2571-74; passed 6-11-74. Ord. 2668-75; passed 12-9-75. Ord. 3658-95; passed 1-10-95. Ord. 3745-97; passed 4-22-97. Ord. 3974-04; passed 7-27-04. Ord. 4150-10; passed 4-27-10.