

CITY CANDIDATES GUIDE



2021

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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. We are happy to provide assistance to current and potential leaders across the state.

Public service is one of the highest and most rewarding tasks 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,



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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 applicable in your city.
- **Filing Deadline—June 1, 2021.** The filing deadline for all city elections is 12:00 noon on June 1, or if that date is a Saturday, Sunday or holiday, then the deadline is 12:00 noon of the next day that is not a Saturday, Sunday or holiday. (K.S.A. 25-2109 and K.S.A. 25-205)
- **Filing Location, Validation, and Fee.** All candidates for municipal office are required to file with the county election officer either a declaration of intent to become a candidate accompanied by a fee of \$20 or a nomination petition with the proper number of signatures. (Contact your city to find out the number of signatures required.) Within three days of 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 & 25-21a01)
- **Qualifications.** An individual seeking elected city office must be a “qualified elector.” This means at the time of filing for office, the person must be a registered voter in the city (and if the city is divided into wards or district, within the particular ward or district). (K.S.A. 14-109; 15-209; K.S.A. 25-21a01(f) and Attorney General Opinion No. 2001-16)
- **Statement of Substantial Interest.** No later than 10 days after the filing deadline for office, each candidate must file a statement of substantial interest. If the individual becomes a candidate after the filing deadline, 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. The statement may be found on the Government Commission website at ethics.kansas.gov/local-level-conflict-of-interest/ssi-instruction-guide-and-form. (K.S.A. 75-4302a)
- **Partisan or Non-Partisan.** City elections in Kansas may be partisan or non-partisan. The vast majority are non-partisan. Check with your city clerk.

- **Expenses.** Candidates in cities of the second or third class who do not intend to spend an aggregate amount of \$1,000 must file an affidavit of such intent with the county election officer not later than the ninth day preceding the primary election. Because this deadline falls on a Sunday, most county election officers will accept this affidavit on Monday, July 26, 2021. However, it is recommended that you confirm this deadline with your county election official. If less than \$1,000 is actually expended, no report needs be filed. If more than \$1,000 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. 25-4142, *et seq.*, and must file primary reports on July 26, 2021, and general reports on October 25, 2021, and January 10, 2022. (K.S.A. 25-4148)

Additionally, in cities of the first class, 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. The 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—August 3, 2021.** The primary is held on the first Tuesday in August. Write-in candidates are not allowed in the primary. (K.S.A. 25-2108a)

In cities with wards or districts, if there are more than three qualified candidates for any ward or district, a primary shall be held. The two candidates receiving the greatest number of votes in each district shall move on to the general election. If there are three or fewer qualified candidates for any ward or district, there is no primary election and all of the individuals move on to the general election.

In cities with at-large elections, if there are more than three times the number of candidates as there are positions up for election, there shall be a primary election. Twice the number of candidates as the number of positions up for election and receiving the greatest number of votes shall move on to the general election. If there are not more than three times the number of candidates as there are positions up for election, there is no primary and all of the individuals move on to the general election. (K.S.A. 25-2108a)

The primary statutes are non-uniform and cities may alter these rules by the passage of a charter ordinance. Please consult your city to be clear on its requirements.

- **General Election—November 2, 2021.** City general elections are held the Tuesday following the first Monday in November in odd-numbered years, and in even numbered years, if needed. To determine if 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—November 8, 2021.** The county commissioners canvass the votes on the Monday following the election held on a Tuesday, except that the county election officer may move the canvass to any business day not later than 13 days following any election. (K.S.A. 25-3104)
- **Certification.** The county election officer submits a certification of the election to the governing body. (K.S.A. 25-2120 & 25-3110)
- **Term of Office.** The date for beginning a term of office can vary by city. A city can establish a date, following certification of the elections, between December 1 and the second Monday in January. Be sure and check with the city clerk to determine when your city has officers sworn in. (K.S.A. 25-2120)
- **Swearing In.** Following certification of the election results, city officials must be sworn in prior to officially taking office. (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.** Between April 15 and April 30, elected officials must update the statement of substantial interest that they filed as a candidate when there is any change during the preceding year. (K.S.A. 75-4302a)
- **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. (K.S.A. 14-304 & 15-1404)

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. For an example see 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 name, but they are not legally constituted entities, and therefore have none of the legal powers to act as a properly established municipality.

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. (K.S.A. 14-901)

(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) 250 inhabitants or 250 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)

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.

Forms of Government

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 constitutional home rule powers.

(1) Mayor-Council. The most prevalent form of city government, the mayor-council form, exists in all three 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 ward, 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 two cities of the third class and eight 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) *Manager Plan.* The third basic form provided by state law has three variations: commission-manager, mayor-council manager or council manager. Any class of city can adopt one of these forms using the procedure established in K.S.A. 12-1039 et seq. Regardless of the form used, the city manager administers the affairs of the city under the direction of the governing body who set the policy for the city.

Local variations of these statutory forms include the appointment of city administrators by certain mayor-council and commission cities under their constitutional home rule powers.

(4) *Unified Governments.* In 1997, the citizens of Wyandotte County and Kansas City voted to establish the Unified Government of Wyandotte County/Kansas City. It was the first consolidated city/county in the state. In 2009, Greeley County and the City of Tribune became the second unified government in Kansas. Each unified government is both a city and a county with all of the authority and responsibility of each.

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 15 and April 30 when the individual's interests changed during the preceding year. (K.S.A. 75-4302a)

(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. (K.S.A. 75-4304)

(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. (K.S.A. 75-4306)

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. That is, 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. (K.S.A. 25-123)

Governing body members of a city cannot be employees of the city.

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 that 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, the governing body 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 most important tasks governing body members must undertake. The preparation is completed in June and July.

Kansas Open Meetings Act (KOMA)

Since 1972, Kansas has maintained an open meetings act which sets out requirements that must be followed by all political subdivisions and by all entities expending public funds. (K.S.A. 75-4317, *et seq.*) The Kansas Open Meetings Act requires that all meetings of entities subject to KOMA be held in open session, except for executive sessions. 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 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 be exercised only when the governing body acts as a unit.

Make the Tough Decisions. The voters elect representatives to make difficult choices. Abstain only 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 Toward 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.

About the League

The League of Kansas Municipalities is a membership association that advocates on behalf of cities, offers training and guidance to city appointed and elected officials, and has a clear purpose of strengthening Kansas communities. Since 1910, the League has been a resource for cities across Kansas and has acted as a body to share ideas, facilitate communication between members, and provide information on best practices in city operations. The League has over 550 member cities with populations from 20 to over 390,000. The League is governed by members through a governing body of elected officials and city-appointed staff.

Mission Statement. The mission of the League shall be to strengthen and advocate for the interests of the cities of Kansas to advance the general welfare and promote the quality of life of the people who live within our cities.

Membership. League membership brings with it many privileges including:

- Legal inquiry service
- Legislative Advocacy for Kansas cities
- *Kansas Government Journal*, a magazine published since 1914

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

- Annual Conference
- Training/Educational Opportunities
- Publications
- Ordinance Codification
- LEAPS Personnel Search
- Personnel Policies & Guidelines

Basic Facts

Total Number of Incorporated Cities = 625

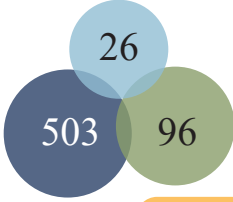
Total Population of the State = 2,913,314

Total City Population = 2,418,311

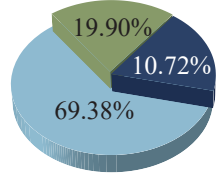
Number of Cities

Class of City

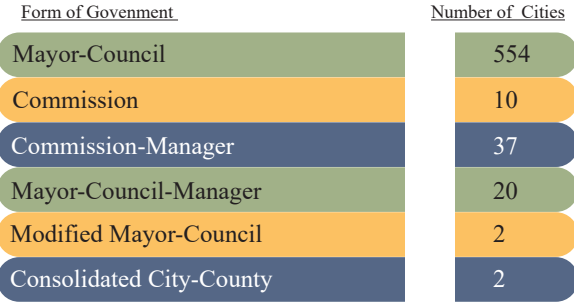
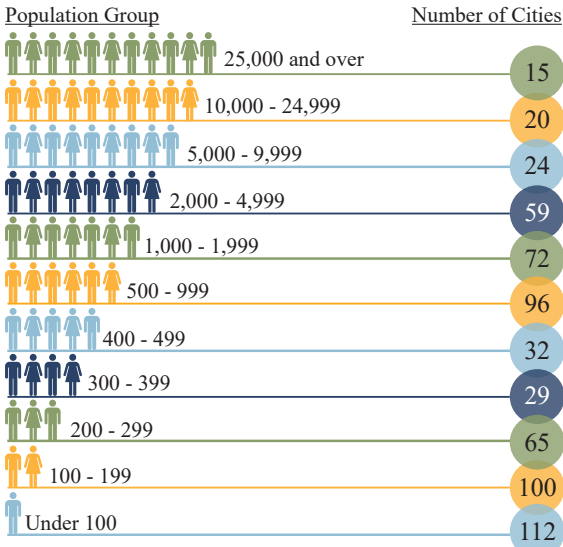
% of Total City Population



- Cities of the First Class
- Cities of the Second Class
- Cities of the Third Class



Over 82.94% of the state's population resides in an incorporated city.



Training Opportunities

Once elected to office, we encourage you to seek out training opportunities offered by the League. Attending these events will connect you to other local government officials and will provide valuable networking opportunities, as well as provide tools to help you succeed in office.

Governing Body Institute April 2022

Attending GBI is the first step new officials should take toward success in public office. This two-day event is open to both newly elected officials and experienced public servants and includes a selection of workshops and general sessions designed to provide insight into local government issues, as well as provide useful strategies to take back to your community. Re-elected officials or longer-term appointed officials will also value the up-to-date information on municipal operations and networking opportunities this conference offers. All participants will receive the newly revised Governing Body Handbook. Visit www.lkm.org/page/GBI for the latest information pertaining to this training.

League Annual Conference October 9-11, 2021 Topeka

The League Annual Conference is the premier training event for elected and appointed officials. Join hundreds of city officials for specialized workshops, roundtable discussions, general sessions, and valuable networking, plus visit with nearly 100 vendors offering the latest products and services for your city. The conference also includes the Public Service Awards Luncheon, recognizing public servants who have given faithful, continuous service to their city for 40 or more years. The Annual Conference is a three-day event and is currently held in three cities on a rotation each fall in Topeka, Overland Park, and Wichita. Visit www.lkm.org/page/AnnualConference for the most up-to-date information.



MUNICIPAL TRAINING INSTITUTE

A Program of The League

The Municipal Training Institute is a continuing education program designed for and is open to both elected and appointed city officials. The program offers courses in cities across the state. The purpose of the Institute 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. Municipal Training Institute curriculum focuses on a new topic nearly each month, and both in-person and online training is available.

There are three levels of achievement in the Institute. Full descriptions of the requirements for each of the levels can be found on www.lkm.org/page/MTILevels.

For more information about the League's conferences and other events, visit www.lkm.org/page/Conferences.



THE
LEAGUE
OF KANSAS MUNICIPALITIES

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