

OMCA

CLERK'S

MANUAL

OUR MISSION

The Ohio Municipal Clerks Association advances the municipal clerk profession through education, networking and member benefits, which establishes clerks as experts in their field and leaders in the communities they serve.

CHAPTER 1

THE OFFICE OF MUNICIPAL CLERK

As a municipal clerk, you are a professional manager of essential responsibilities within a municipal government. You are the major reference resource for the past as well as the present. Municipal clerks are masters of a necessary, but not widely understood array of services, who must remain even-tempered, unflappable and healthy, while refraining from taking themselves or others too seriously.

As a municipal clerk, you are charged with performing all duties imposed on the office by statute, ordinance, or custom, thereby delivering a public service that defies description. As a municipal clerk, you are expected to:

- Bring professionalism to your position and office through discipline, persistence, and diplomacy;
- Possess creative writing and oratory skills; and
- Have an irrefutable memory.

Your dedication to the job goes far beyond the day-to-day management of your office because you represent your local municipal organization to the public every day.

The location of the office of municipal clerk, the hours of the office and responsibilities are determined by the size of the municipality and the amount of work required to get the job done. The municipal clerk of a large municipality may have a one or more deputy clerks or assistant clerks. Whereas the municipal clerk in a very small community may not have a conventional office nor keep the office open eight hours a day, five days a week.

The Ohio Municipal Clerks Association (OMCA) and the International Institute of Municipal Clerks (IIMC) offer a wide variety of training opportunities and materials pertaining to matters of information and concern for all clerks. Networking with fellow clerks, who have had experience in dealing with and resolving situations similar to your issues, is extremely beneficial and provides a source of knowledge and experience not found in any statute or ordinance.

It is difficult to separate the municipal clerk's personal role from the professional role and both lives work to be above reproach. The IIMC has published a professional and personal Code of Ethics for Municipal Clerks that subscribes to the following principles to govern personal conduct as a municipal clerk:

- *To uphold constitutional government and the law of the community;*
- *To so conduct one's public and private life as to be an example to fellow citizens;*

- *To impart to the profession those standards of quality and integrity that the conduct of the affairs of the office shall be above reproach and shall merit public confidence;*
- *To be ever mindful of neutrality and impartiality, rendering equal service to all, and to extend the same treatment one would wish to receive;*
- *To record that which is true and preserve that which is entrusted to the clerk as if it were one's own; and*
- *To strive constantly to improve the administration of the affairs of the office consistent with applicable laws and through sound management practices to produce continued progress and so fulfill one's responsibilities to the community and others.*

As a municipal clerk, you are the only contact with local government many citizens may ever have. You are consulted by both citizens and fellow government officials. The people served by the municipal clerk deserve accountability and professionalism, and your role as a public servant and as a professional must be emphasized and practiced. Put forth that extra effort to earn the title of municipal clerk by:

- Being tolerant and attentive when dealing with frustrated citizens;
- Stay informed to better answer inquiries and act upon complaints;
- Feel good about yourself in spite of life's realities;
- Believe in what you are doing; and
- Do what you do with full energy, consciousness, and to the best of your abilities.

To be effective and assure that proper laws and procedures are followed, the municipal clerk must keep abreast of new information and developments. This involves reading books and periodicals, consulting with colleagues, experts and professionals, and by taking advantage of the opportunities for outside study through seminars, conferences, and college course work.

Communication, discussion, comprehension and the exchange of views on mutual problems often lead to a broader knowledge and aid municipal clerks, councils, and managers/administrators in conducting business using proper actions. One of the best sources of information is OMCA and the many trainings, institutes, and seminars offered. The Ohio Municipal League (OML), the Auditor of the state of Ohio, Ohio Attorney General and the Secretary of State also provide seminars and reference information that can be invaluable.

Most important thing to remember:

YOU ARE NOT ALONE!

CHAPTER 2

DUTIES OF A MUNICIPAL CLERK

According to the Ohio Revised Code (Section 733.27) –

(A) The clerk shall attend all meetings of the legislative authority of the municipality, and keep a record of its proceedings and of all rules, bylaws, resolutions, and ordinances passed or adopted, which shall be subject to the inspection of all persons interested. In case of the absence of the clerk, such legislative authority shall appoint one of its members to perform the clerk's duties.

(B) The clerk shall attend training programs for new clerks and annual training programs of continuing education for clerks that are provided by the auditor of state pursuant to Section [117.44](#) of the Ohio Revised Code.

The Ohio Revised Code (ORC) outlines a general description of a municipal clerk's role; however, there are many other duties ascribed by each community. Some municipal clerks may have a combined position of clerk and treasurer, which is a usual situation in smaller municipalities. You may wear many other hats too.

Some general duties consistent with most municipal clerks include the following:

1. Maintaining all minutes, ordinances, and resolutions approved by the governing body. These are permanent records of the municipality and the clerk is accountable for their safe keeping and retention.
2. Attendance at all meetings of the governing body.
3. Maintaining a record (generally minutes) of all proceedings, ordinances, and resolutions of the governing body.
4. Furnishing copies of municipal records, which are subject to public records requests. The municipality may charge a reasonable fee for the cost of furnishing copies of municipal records.
5. Providing notice of regular and special meetings of the governing body as well as providing notice of the results of all meetings of the governing body. Each municipality sets its own requirements as to how and where these notices are posted.
6. Prepare agendas and agenda packets for Council meetings and post as directed by your municipality.

Some smaller municipalities have a joint position known as clerk-treasurer. Additional duties ascribed to that position may include:

1. Receive all monies belonging to the municipality.
2. Supervise the depositing and safekeeping of all money belonging to the municipality.
3. With the advice and consent of the appropriate governing body, designate banks qualified to receive on deposit monies entrusted to the care of the treasurer.
4. Keep accounts and records in the manner prescribed by the governing body.
5. Keep the monies of the municipality separate from any other money in the clerk-treasurer's possession.

OTHER DUTIES AS ASSIGNED

Additional duties assigned to a municipal clerk depend on the size of the community and how many other people may be available to perform those duties. In smaller municipalities, a municipal clerk might perform the duties of a treasurer, central purchasing officer, personnel officer, utility billing clerk, traffic administrator, and planning and zoning officer. A municipal clerk may also be the day-to-day administrator of municipal operations in general, either officially or unofficially, by having the Mayor/Administrator expect you to do it on his/her behalf. In larger municipalities and depending on the form of government of that municipality, you could also administer municipal elections and serve as clerk for multiple boards and commissions.

No two municipal clerk positions or functions are the same, but many of our job functions are consistent enough to connect clerks throughout the state.

CHAPTER 3

FORMS OF GOVERNMENT AND HOME RULE

Ohio has more than 1,000 local governments including villages, townships, cities, and counties. Ohio municipal governments are either cities or village. They are either charter or non-charter (statutory) forms of government. Municipalities have full Home Rule powers that allow for the adoption of a charter, ordinances, and resolutions for self-government. Each municipality chooses its own form of government, but most have elected mayors and councils or commissions. Local governments provide much more extensive services than county governments such as police forces, paid (as opposed to volunteer) fire departments, and utilities.

VILLAGE VERSUS CITY STATUS

The Ohio Constitution classifies municipalities having a population of 5,000 or more as a city. All other municipalities are classified as villages. It is important to know your municipality's designated as provisions of the Ohio Revised Code can apply differently to cities versus villages.

CHARTER VERSUS NON-CHARTER (STATUTORY)

A municipal charter is somewhat like a state or federal constitution. For a municipality, its charter is the supreme law relating to how the municipality functions. The Ohio Constitution provides that both cities and villages can adopt a charter to establish the form and organization of their municipal government. Local voters can determine such matters as an elected or appointed chief executive, the number of council members, their terms of office, the distribution of powers among officials, and question related to civil service. If questions arise concerning governmental operations, the charter should be checked first.

If a municipality does not adopt a charter to prescribe its form of government, it must either:

1. Adopt one of the optional plans set forth in the Ohio Revised Code Chapter 705; or
2. Use the general plan of government for cities and villages prescribed in Ohio Revised Code Chapters 701 through 765. These are generally referred to as the general statutory plan cities and villages.

For cities, the general statutory plan could be characterized as a split executive form of government with a Council, which can vary in size according to population and an elected Mayor. The Mayor, President of Council, members of Council, Law

Directory/Attorney, Auditor and Treasurer are elected positions. Terms of office for Council members and the President of Council are two years. The terms of Council members and the President of Council may be changed to four years under Ohio Revised Code Section 731.03 and 733.09, respectively. All other city officers are elected to four year terms.

For villages, the general statutory plan calls for a Council, composed of six members elected for overlapping four year terms, which could share administrative responsibilities with the Mayor, Village Clerk, Treasurer, and a three-member Board of Public Affairs (if there is no Village Administrator).

FORMS OF GOVERNMENT

COUNCIL-MANAGER

In a council-manager form of government, the council is the governing body of the city, elected by the public with a manager that is hired by the council to carry out the day-to-day operations and the policies established by council. The council usually consists of five to nine members including a Mayor (or Council President), who is either selected by the council or elected by the people, as defined by the charter. The size of the council is generally smaller than that of a mayor-council municipality and council elections are usually non-partisan. Managers serve at the pleasure of council and are responsible for preparing the budget, directing day-to-day operations, and hiring and firing of personnel. The Mayor is recognized as the ceremonial head of the municipality, but is a member of the legislative body and does not have the power to veto legislative actions. This form of government is generally referred to as a weak mayoral government.

MAYOR-COUNCIL

The Mayor-Council form of government is the form that most closely parallels the American federal government with an elected legislature and a separately elected executive. The mayor or elected executive is designated as the head of the municipality. The extent of his/her authority can range from purely ceremonial functions to full scale responsibility for day-to-day operations. But the Mayor's duties and powers generally include hiring and firing department heads, preparation and administration of the budget, and veto power over acts of legislature (which may be overridden by a Council).

The legislature has the responsibilities to adopt a budget, pass legislation, audit the performance of the government and adopt general police positions.

In some communities, the Mayor may assume a larger policy-making role and responsibility for day-to-day operations is delegated to an administrator appointed by and responsible to the chief executive.

HOME RULE

The Home Rule doctrine, as established by the Ohio Constitution, gives municipal governments the right to exercise powers of local self-government without the need for legislative action by the Ohio General Assembly. The term “powers of local self-government” has been construed to encompass only the internal affairs of the municipality, namely matters purely of local concern. If the result of the exercise of the power affects only the community itself, with no extra-territorial effect, the subject is within the power of local self-government. Examples of subjects of purely local concern are administrative actions, procedures of council, or establishing salaries. Subjects not purely of local concern would be detachment of territory or other matters determined to be of statewide concern.

There is no clear answer as to the impact of state statute dealing with a specific power of local self-government that can apply to every issue. However, the general rule is:

1. **CHARTER.** The exercise of powers of local self-government by a charter municipality is valid even if it is at variance with the state statute except regarding regulation of taxation and debit, providing for the welfare of public employees, the authority to create courts or appoint judges, and preservation of civil service (although charter cities may deviate from state statutes and villages are exempt from the civil service requirement).
2. **NON-CHARTER.** The exercise of powers of local self-government by a non-charter municipality is valid where there is no state statute at variance with the local exercise of power. The exercise of power of local self-government is invalid when it is a variance with a statue that pertains to the form or structure of government and procedures.

CHAPTER 4

GOVERNING BODY MEETINGS

A governing body meeting is any meeting where at least a quorum of the governing body members are present and at which municipal policy or business is discussed or any official action is taken. All such meetings of the governing body (and of any policy-making committee, board, or commission) are subject to the Ohio Sunshine Laws. The municipal clerk should be thoroughly familiar with the Act and should warn the presiding officer and members if they are in possible violation of the Act.

There are basically three types of governing body meetings.

1. Regular meeting
2. Special meeting
3. Emergency special meeting

Some municipalities claim to have a fourth kind, a workshop where municipal matters are discussed, but no action is taken. This type of meeting is still a governing body meeting and must be held with adequate notice for the type of meeting (regular or special).

All governing body meetings must be open to the public, unless the subject matter allows them to be closed under one or more of the ten exceptions listed in the Ohio Revised Code Section 121.22 (G).

Every public body, by rule, shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings.

A public body shall not hold a special meeting unless it gives at least twenty-four hours advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

The usual place for holding governing body meetings is at the municipal hall in a room designated for that purpose, but that is not a legal requirement. The place chosen should be one where the governing body is able to conduct its business efficiently, with dignity, and where the public has reasonable access, including physical access for persons with disabilities. It may be desirable to designate an alternate place for holding regular meetings in appropriate circumstances.

REGULAR MEETING

A regular meeting of the governing body is a meeting held at a time and place designated for the usual transaction of the business of the governing body. The statutes do not prescribe any particular time or place for governing body meetings or any particular frequency. These matters should be established in an organizational meeting or by adopting and publishing a schedule of regular meetings convenient for the governing body members and which also allows interested citizens an opportunity to attend. The frequency of meetings depends upon the amount of normal business the municipality has to conduct, but even the smallest municipality should hold governing body meetings at least once a month.

Because the composition of the governing body usually changes at each regular municipal election, the newly constituted governing body may wish to review the schedule of regular meetings and amend it for the convenience of the new governing body.

If a regular meeting date falls on a legal holiday, the date is not automatically postponed unless the charter or other governing council document establishes regular meeting dates. If such document does not, adequate notice of the alternate meeting date is required.

If a regular meeting is to be held on a different date or at a different time or location, adequate notice is required, but the meeting is still a regular, not a special, meeting.

SPECIAL MEETING

A special meeting is a meeting held at a date other than the time designated for a regular meeting. It is usually held at the same time and place as the regular governing body meeting, unless there is some special reason for holding it elsewhere or at a different time. A special meeting of the governing body may be called either by the Mayor or by a majority of the members of the governing body. Besides giving required notice to the public, notice of such a meeting must either be personally served on each member of the governing body or left at the member's usual place of residence.

Unlike a regular meeting, where any matter may be considered (subject to any special notice requirements which may exist for certain types of matters), only those matters included in the notice of the meeting may be considered at a special meeting. There is no statute that specifically states this, but it is a well-recognized rule of law throughout the United States. Items not listed on the special meeting notice may violate the adequate notice provision of the Ohio Sunshine Laws.

EMERGENCY MEETING

An emergency meeting is one, which is called because of a real emergency, such as unforeseen circumstances that, if not addressed immediately by the public body, could likely result in injury or damage to persons or property or substantial financial loss to the public body. Such meetings should have the most public notice possible under the circumstances. Emergency meeting business must be confined to dealing with the emergency at hand.

EXECUTIVE SESSION (CLOSED MEETINGS)

The Ohio Revised Code Section 121.22 (G) does allow for governing bodies to move to close a meeting and meet behind closed doors, normally identified as an Executive Session. However, there are a limited number of specific circumstances listed in the statute that allow for closed door sessions. It is always a good idea to include executive sessions on an agenda to allow for public notification. The reason for the executive session must be listed on the agenda specifically outlining which ORC section permits the session. It is usually best to cite the specific section.

As minutes are not required during an executive session as no decisions are permitted to be made, governing bodies may or may not include the clerk as part of the executive session.

The governing body must make a motion with a roll call to enter and exit from an executive session citing the entering time and existing time. The governing body must also acknowledge a return to an open meeting session even to adjourn a meeting.

OHIO SUNSHINE LAWS VIOLATION

Although there is a statutory presumption that all actions of any policy-making body have been taken at a meeting held in compliance with the Ohio Sunshine Laws, if it can be established that this was not the case, all actions taken at an unlawful meeting will be invalid. Because of these serious consequences, it is strongly recommended that meetings be closed only for valid reasons and, if possible, upon the advice of the municipal attorney. Make sure that you, as municipal clerk, understand the exceptions for which a meeting may be closed and inform the presiding officer and members if you feel they are not meeting the requirements for closing the meeting.

CHAPTER 5

THE MEETING

Municipal clerks' roots extend centuries back into the history of England and other European nations. Wherever there has been an elected governing body to establish policy for municipal government, there has been a clerk. Duties have included the recording of the governing body action, the performance of ministerial tasks on behalf of the governing body, and the safekeeping of official records. Most of that work takes during a meeting. The purpose of this chapter is to provide a brief description of the parts of a meeting generally. Every municipality will be statutory, charter, and rules of conduct policies that can provide more specific direction.

At all meetings, the clerk may be expected to:

1. Call the roll for the attendance record,
2. Keep the minutes of the meeting,
3. Read minutes if called upon,
4. Read title of ordinances and resolutions or read each in its entirety,
5. Read municipal correspondence,
6. Repeat motions upon request,
7. Record the vote of ordinances, resolutions, and as otherwise directed,
8. Record names of citizens speaking at meetings,
9. Accept documents as may be presented at the meeting, and
10. Perform other duties as assigned.

A record of scheduled events for future governing body meetings and a calendar should be maintained and be available at meetings for convenience in setting additional hearings or other presentations.

NOTICE OF MEETINGS

The municipal clerk is responsible for giving notice of all regular and special meetings of the governing body. The period to notice a regular meeting is not define by statute, but a minimum of 72-hours is suggested. The process of that notification for a regular meeting is outlined in the Ohio Revised Code Chapter 1702.02. It requires that a written notice be given of the time and place of all regularly scheduled meetings. This action may be a one-time action.

1702.02 Notice Requirements.

(A) Unless another form of notice is required by the articles, the regulations, the bylaws, or by applicable law, any notice required by this chapter shall be in writing and shall be delivered personally or sent by telegram, by the use of authorized communications equipment, or by United States mail, express mail, or courier service, with postage or fees prepaid.

(B) In computing the period of time for the giving of a notice required or permitted under this chapter, or under the articles, the regulations, or the bylaws of a corporation, or a resolution of its members or directors, the day on which the notice is given shall be excluded, and the day when the act for which notice is given is to be done shall be included, unless the instrument calling for the notice otherwise provides. If notice is given by personal delivery or transmitted by telegram or by the use of authorized communications equipment, the notice shall be deemed to have been given when delivered or transmitted. If notice is sent by United States mail, express mail, or courier service, the notice shall be deemed to have been given when deposited in the mail or with the courier service.

(C) A written notice or report delivered as part of a newsletter, magazine, or other publication regularly sent to members shall constitute a written notice or report if addressed or delivered to the member's address shown in the corporation's current list of members, or, in the case of members who are residents of the same household and who have the same address in the corporation's current list of members, if addressed or delivered to one of those members at the address appearing on the corporation's current list of members.

Other requirements regarding the posting of a regular meeting may be included as part of a charter or the rules set by each governing body. It could include posting a notice in specific locations throughout the community, posting on a website, sending an electronic submission, or direct mail or personal delivery. However the method, it is the clerk's responsibility to ensure this process is completed prior to every regular meeting.

Ohio statute deals directly with special meeting notices (ORC 1702.18). The legal requirements encompass:

1. Advance notice,
2. Who receives the notice,
3. Who may call a special meeting, and
4. What may be considered.

1702.18 Notice of Meeting.

Unless the articles or the regulations provide for notice of meetings otherwise than as provided in this section, written notice stating the place, if any, and the time of a meeting and the means, if any, by which the voting members can be present and vote at the meeting through the use of authorized communications equipment, and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given in the manner described in section 1702.02 of the Revised Code, not less than ten or not more than sixty days before the date of the meeting: (A) to each member entitled to notice of the meeting; (B) by or at the direction of the president or the secretary or any other person required or permitted by the regulations to give notice or the officers or persons calling the meeting. If



mailed or sent by overnight delivery service, that notice shall be addressed to the member at the member's address as it appears on the records of the corporation. If sent by means of authorized communications equipment, that notice shall be sent to the address furnished by the voting member for transmissions by authorized communications equipment. Notice of adjournment of a meeting need not be given if the place, if any, and the time to which it is adjourned and the procedure by which the voting members can be present and vote at the adjourned meeting through the use of authorized communications equipment are fixed and announced at the meeting.

Care must be exercised to follow applicable legal requirements. Otherwise, actions taken by the governing body during such a meeting might be invalidated.

CONDUCT OF MEETINGS

Most governing bodies determine the rules of their own proceedings. Whatever rules of procedure are adopted by the governing body should, of course, be carefully followed. If, for instance, your governing body says that it will follow Robert's Rules of Order Revised, as many municipalities do, be sure that you have a copy of whatever edition (there are dozens) of Robert's they have voted to follow and that you follow it.

Regardless of the rules of procedure adopted by the governing body, there must be a quorum (at least one more than half of the existing members of the governing body) present in order to conduct business. If you lose the quorum, no business may be conducted after the meeting drops below a quorum. In addition, to pass an ordinance or resolution, you must have enough members voting in the affirmative to constitute a majority of all members of the governing body. In a mayor-council municipality, since the mayor may vote only in case of a tie, if you had to count the mayor to achieve a bare quorum you will not be able to pass an ordinance or resolution at that meeting.

ORDER OF BUSINESS

Every governing body should have an order of business or a set of rules to direct each governing body to follow. The powers of governing bodies are prescribed in general by state law and charter. However, each governing body should establish the rules outlining basic procedure and controlling meetings.

These rules should provide, at minimum, for the time place of regular meetings, a definition of what constitutes a quorum, who leads the meetings and an order of business to direct the meeting. The governing body may deviate from the order of business or other rules, but these changes should be made in an open meeting and by specific motion. A definite and well-understood order of business is important, since it helps the presiding officer to conduct the meeting with a minimum of wasted time. It

helps the clerk in assembling documents for the meeting, preparing the agenda, writing the minutes and allows for the public to have a better understanding of how the meeting is conducted.

CITIZEN COMMENTS

The Ohio Sunshine Laws require each municipality to maintain a transparent and open access for the public to access records as well as public meetings. In most communities, citizens desire to participate in proper way at meetings. Sometimes citizens will ask questions, provide information, or express opinions. These citizens care enough to participate in the process and should be treated with respect. The municipal clerk should strive to make the citizen participation as convenient as possible in both seating and speaking arrangements. Most governing bodies set aside a time of citizen comments during the meeting. The good public relations aspect of these efforts is obvious.

AGENDA

An agenda is an outline or list of specific matters to be brought up at a particular meeting; it is, in a sense, an order of business for that meeting. The agenda lists the various items to be considered under each order of business. It is the prerogative of each governing body to determine the order of business to be listed on the agenda. The rules of the governing body normal specifically outline the order of business.

The following are some techniques that can facilitate preparation and usefulness of an agenda.

1. Set a well-publicized cut-off date for the submission of agenda material.
2. Furnish not only the agenda, but also copies of all relevant material to the members of the governing body days before the meeting either electronically or delivered directly to members' homes.
3. Information packets should also be forwarded to various departments, media outlets, and other individuals as requested.
4. Develop a municipal clerk's agenda that will allow for notation to note action taken by governing bodies, voting, or follow-up actions.
5. Sufficient copies of the agenda should be made available for distribution to persons attending the meeting.

Another type of agenda used by many governing bodies is a consent agenda. A consent agenda is a portion of the full agenda containing routine, non-controversial matters that the governing body members are already familiar and do not normally need

discussion. The consent agenda can be a useful tool for expediting governing body meetings, if it has been established with the consensus of all concerned, and if it is properly used.

The consent agenda portion should be preceded by an explanatory note such as: All matters listed under item 3, Consent Agenda, are considered to be routine by the governing body and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately. Since matters on the consent agenda should be routine and non-controversial, the matters actually selected will depend upon the municipality. What is non-controversial in one municipality may be very controversial in another. Once the type of business to be considered routine and non-controversial has been decided upon, the selection of actual matters to be placed on the consent agenda of a particular meeting should be relatively easy. Selection may be made by the municipal clerk, manager, mayor, department heads, a committee of the governing body, or whoever is designated by the governing body when it decides to adopt the use of a consent agenda.

Any item may be removed from the consent agenda for discussion, if desired. Items removed from the consent agenda are discussed and voted on separately either immediately after approval of the consent agenda or in their normal sequence on the regular agenda. There is no absolute rule on who may cause an item to be removed from the consent agenda. It is usually at the request of a member of the governing body, but the governing body may adopt its own rule in this regard.

MOTIONS, RESOLUTIONS, AND ORDINANCES

A municipal governing body generally deals with three kinds of actions: motions, resolutions, and ordinances.

MOTION

A motion is merely a proposal by a member of the governing body; that the governing body take a certain action, as specified in the motion (e.g. to adopt a certain ordinance or resolution, to approve an expenditure, to table a proposal, to adjourn, etc.). The majority of all motions require a second, if the motion is not seconded it dies. The municipal clerk should record what actually transpires. There is no specific requirement as to how the motion should be recorded, but it should be summarized clearly to identify what was voted on and whether or not the motion passed. Depending on the issue, the municipal clerk may prefer to record the motion verbatim. The motion should list the mover and the seconder, if any.

RESOLUTIONS

A resolution is the formal written enactment by Council of a less permanent nature, not prescribing any permanent rules of conduct and usually required or applied to the preliminary declaration of legislative intent to be effectuated by the subsequent passage of an ordinance or for the disposition of a specific matter not required by statute or charter provisions to be done by ordinance. (Is this definition too much legalize and not definitive or informative to someone who is just beginning as a clerk? If the original language is not enough, I would suggest this alternative. A resolution is a formal expression of opinion, will, or intent voted on by an official body. Municipal resolutions are generally adopted in written form to document the opinion, will, or intent of a municipal council.) Any resolution which the governing body may use to establish rules for itself should be considered to have the force of law on the governing body. If the governing body does not wish to follow the resolution any longer, it should be rescinded. A resolution remains in effect until rescinded or replaced by a subsequent resolution on the same subject.

One of the most common uses of a resolution is to express the opinion of the governing body on a certain issue to another level of, to an organization, or to the public in general. A resolution may be introduced and adopted at the same meeting, unlike an ordinance that requires notice before final consideration.

No particular form is prescribed by statute, although some of the content may be determined by statute. However, custom and usage has established a degree of uniformity in the form of resolution.

1. Resolution Number. A Resolution number is customarily the year, a hyphen, and the sequence number in which the resolution was adopted. (i.e.: 2000-01). No two resolutions should have identical numbers.
2. Title. The title should identify the subject of the resolution.
3. Preamble. The preamble states the reason(s) for the resolution in one or more "Whereas" clauses. "Whereas" in lay terms means "because." Each "Whereas" clause except the final one ends with a semicolon, followed by "and;" and the final "Whereas" clause ends with a period.
4. Resolution Proper. The resolution proper consists of one or more resolving clauses, which state what the resolution actually does. The first resolving clause begins with "Therefore" or "Now, therefore," followed by a comma, followed by "be it resolved by the governing body of the (city or village) that ..." (whatever the governing body wishes to express or declare).

A resolution is adopted by a motion and second, followed by a vote in the affirmative by a majority of all members of the governing body. Although it is not required, the resolution should be attested by the municipal clerk.

The municipal clerk must keep in custody all resolutions adopted by the governing body. It is strongly suggested that a resolution book be established to keep all resolutions. If a resolution book is not kept, the resolutions should be set out at length in the minutes or attached to the approved minutes.

ORDINANCES

An ordinance ranks highest in authority of all actions taken by a governing body. If duly enacted pursuant to an authorized power, an ordinance has the force of law within the municipality and may be enforced in municipal court if it contains a penalty clause. In many forms of government, ordinances and resolutions are subject to referendum. Most municipal charters provide for a referendum on legislation.

An ordinance is the formal written enactment of council in the exercise of a governmental power vested by the Constitution or statutes in the municipality for the regulation of the conduct of its citizens or other subject to its control and intended to be of a permanent duration. Every action of a general and permanent nature, granting a franchise, levying a tax, appropriating money, contracting an indebtedness to be evidenced by the issuance of bonds or notes for the purchase, lease, or transfer of public property, establishing an offense and fixing the penalty therefor, shall be taken by ordinance. (Is this language again to "legal" for beginning clerks? I would suggest – An Ordinance is a law passed by municipal government that may include granting a franchise, levying a tax, appropriating money, contracting an indebtedness purchase, lease, or transfer of public property.) Ordinances must be considered at an open, public meeting, and noticed as directed by statute, charter or governing body rules. Copies of a proposed ordinance must be made available for viewing by the public during business hours and at a reasonable charge.

Although the municipal clerk does not normally draft ordinances (that is generally done by the municipal attorney), it may sometimes be expected, and some knowledge of ordinance style may be helpful. There are actually few statutory requirements related to style, but in practice, a certain amount of uniformity has developed.

1. **Ordinance Number.** An ordinance number is customarily the sequence number in which the ordinance was adopted, a hyphen, and year. (example: 01-2000). No two ordinances should have identical numbers.
2. **Title.** The title should identify the subject of the ordinance.
3. **Enacting clause.** Every ordinance must have an enacting clause, reading: "Be it ordained by the governing body of the (city or village or municipality).
4. **Sections.** Although not required, the body of the ordinance should be divided into sections. This not only makes the ordinance easier to read, but also is essential to know the intent of the ordinance.

5. Statement of passage. The minutes of the governing body must reflect whether and on what date, an ordinance passed. The usual practice is to add the phrase "Passed, adopted, and approved this 9th day of March, 2000" to the bottom of the official copy of the ordinance.
6. Mayor's signature. The Mayor must validate an ordinance by Approval with a signature. A Council President signature may also be needed.
7. Authentication. An ordinance must be authenticated by the signature of the presiding officer of the governing body and the municipal clerk. Since the Mayor is normally the presiding officer of the governing body, usually only the municipal clerk's signature needs to be added to complete the authentication. This process is generally done by use of the endorsement Attest: followed by the municipal clerk's signature. Each municipality may have slight variations for the signing process of an ordinance. Mayors may sign an ordinance that is then approved by the municipal clerk and attested to by the municipal attorney.
8. Enactment and Recording of an Ordinance. Enacting a municipal ordinance requires a motion and second to adopt and an affirmative vote of a majority of all members of the governing body. The clerk must record in the minutes the vote of each governing body member, so a roll call vote is ordinarily used. All ordinances enacted (even those repealed later) are permanent records of the municipality and an official copy containing all items listed above shall be recorded in a book and kept for that purpose. Ordinances generally are not enacted until thirty days after the passage of the ordinance, unless passed as an emergency.
9. Publication of an Ordinance. An ordinance must be published, once adopted, either in its entirety or by title and a general summary of subject matter, or by other means as set forth in the municipality's charter. Statute, charter, or rules of the governing body should specify the approved means of accomplishing the publication requirement.

CODIFICATION OF MUNICIPAL ORDINANCES

Another type of code is a codification of the municipality's own ordinances. This action is a compilation of all municipal ordinances of a permanent nature, arranged in a logical manner, with a table of contents and an index. Municipal ordinances may be codified, or codified and revised, without the necessity of publishing the entire codification, or codification and revision, after adoption. Instead, an ordinance may be published which refers to the codification, or codification and revision, by title (with a list of the code's major subject contents) and specifying a place in the municipality where it may be inspected during regular business hours

AMENDMENT OR REPEAL OF AN ORDINANCE

Since an ordinance is a law of the municipality adopting it, it may be amended or repealed only by another ordinance, adopted with the same formalities as the ordinance being amended or repealed. The parts of an ordinance amending or repealing another ordinance will be generally the same as those of any other ordinance, with certain differences in language style. The title of the amending or repealing ordinance should refer, by number and date, to the ordinance being amended or repealed, and should contain a general description of the effect of the amendment or of the provisions of the ordinance being repealed, as the case may be.

MINUTES

An accurate, sufficiently clear record of all proceedings must be kept to demonstrate that the governing body has complied with the law or rules by which it is governed. State statutes do not prescribe any particular style of format for minutes. The minutes should show what occurred during the meeting in the order that it occurred. Some municipal clerks prepare a template that follows the order of the agenda. The keeping of full and accurate minutes, including recording and authenticating ordinances and other documents that are part of the proceedings, is perhaps the single most important responsibility of the municipal clerk.

Minutes are the official record of action taken by the governing body – all actions and the existence of conditions needed to take actions, must be included. A separate, permanent book should be utilized for this purpose and the proceedings of each meeting inserted in chronological order. There is no required form for preparing minutes, but certain essential facts should be recorded:

1. The date, time, and place of the meeting.
2. The names of the governing body members present and absent.
3. The names of any persons appearing before the governing body and a statement regarding the nature of their appearance.
4. When a motion is made, it should be recorded verbatim along with the name of the person making the motion and the person making the second, if any.
5. The results of each vote should be clearly recorded. If requested by any member of the governing body, the ayes and noes (indicating which persons voted yes and which voted no) should be recorded.

6. Any ordinances, resolutions, petitions, contracts, motions, or other written documents that are part of the proceedings should be incorporated into the minutes with an adequate identifying reference.
7. A statement that the meeting was adjourned.

The minutes should be produced in a draft format prior to the next meeting of the governing body at which time corrections may be made and the minutes approved.

In addition to taking notes of the actions of the governing body, municipal clerks may also use a recording system to electronically record the meeting. The recording is not the official record of the meeting. The minutes approved by the governing body are the official record. A policy should be established to determine the time period recordings are maintained.

It is the responsibility of the municipal clerk to keep full and accurate minutes as well as maintain the record of those minutes in perpetuity. There are many source and reference guides as well as software products to help establish a minute taking format. Clerks may reach out to the OMCA for sample minute taking templates.

CHAPTER 6

PUBLIC RECORDS

A public record is any document, device, or item, regardless of physical form or characteristic including an electronic record, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office. A public record may be paper or may be other media such as slide, film, electronic, computer generated, etc.

Records Management is the professional practice of managing the records of an organization through their life cycle from the time they are created to their eventual disposal. IIMC (International Institute of Municipal Clerks) is one source for information on establishing a records management program. There is no state oversight on records management for municipalities. There are specific laws that pertain to the custody of records, inspection of public records, and mismanagement of records. Records retention schedules by the Ohio Historical Society are only guidelines. State of Ohio Records and Archives has no authority over management of municipal records. However, they serve as a resource and can provide important information to municipalities. As municipal clerk, you are the custodian of all minutes, ordinances, and resolutions.

The original copies of your permanent municipal records such as approved minutes and adopted ordinances and resolutions should never leave your control, no matter who asks to borrow them. These documents represent the history of your municipality and are the legal basis for laws and policy. As the custodian of record, you are also responsible to make sure that all permanent records are stored on materials of durable quality and in an area that is free from excessive heat, flood risk, and outside light.

Records retention schedules provide the minimum retention period for records created in a municipality. Following retention schedules allows a municipality to manage resources such as filing cabinets and storage areas. You may have records in several formats (on paper, microfilm and/or digitally). The official record copy is the format that is kept for the full retention period, as designated by the municipality.

Prior to destruction, records should be reviewed for historical significance and moved to the archives or another historical repository. Some historical records are already permanent records. A clerk should request permission to destroy those records that have served their purpose and are no longer necessary. A list should be compiled for the governing body's information. A simple motion is all that is required to approve the records destruction list. The destruction of records without the approval of the governing body may be considered tampering with public record. Many municipalities have a separate board or commission for records management. That group can function as the decision makers of records retention and destruction.

Inspection of Records

Access to public records is a fundamental right of the public. The citizen's right to know is the rule and secrecy is the exception. Records that are exempt from public inspection are listed in the Ohio Sunshine Law. Requests for documents may be oral or written, and notification by email is considered a written notice. The public may not be asked the purpose of the request. Municipal clerks may ask questions to ascertain the specific record(s) being requested. If you have any doubt whatever whether a document is a public record or not, check with your municipal attorney.

You must provide a reasonable opportunity for the inspection of all municipal public records in your custody during ordinary business hours, and you must, upon request, furnish copies of all municipal public records in your custody. You may charge a reasonable fee, usually the cost of making the copies. A notice describing the procedures and fees for inspecting records must be posted in a conspicuous location at the administrative office of the municipality.

CHAPTER 7

SUMMARY

This manual has been designed to provide only the briefest of overviews of the functions of a municipal clerk. There are far more duties and responsibilities required of a municipal clerk than this manual can discuss.

Due to the close working relationships with a variety of individuals of the office of municipal clerk are constantly under close scrutiny. It is vital that persons working in the municipal clerk's office promote the highest type of public relations, yet protect the municipalities' interests and rights. Courteous and expeditious treatment in handling in-person, telephone, and written inquiries from the public can contribute greatly to the reaction the average citizen has to municipal government. Municipal clerks should be alert, prompt, kind, neat, clean, and appropriately dressed and keep their offices as neat and orderly as possible.

The attached appendix will provide contact information for various state and local references that will be essential to help in completely your role as a municipal clerk as effectively and efficiently as possible.

The Ohio Municipal Clerks Association wishes you the best of luck on your journey and is always available to aid and assist.



TABLE OF MOTIONS
(based on Learning Parliamentary Procedure, by Alice F. Sturgis, New York, McGraw-Hill Book Co., Inc., 1953)

Type of Motion	Needs Second	Debate-able	Amend-able	Majority Needed	Reconsider-able	May Interrupt
PRIVILEGED MOTIONS (highest to lowest)						
Fix time to adjourn	Yes	No	Yes	Simple	Yes	No
Adjourn	Yes	No	No	Simple	No	No
Recess	Yes	No	Yes	Simple	No	No
Point of order	*	*	*	Simple	Yes	Yes
Question of privilege	*	*	*	Simple	Yes	Yes
SUBSIDIARY MOTIONS (highest to lowest)						
Lay on table	Yes	No	No	Simple ¹	Simple ¹	No
Close debate, Call previous question	Yes	No	No	2/3	2/3	No
Limit or extend debate	Yes	No	Yes	2/3	2/3	No
Postpone to stated time	Yes	Yes	Yes	Simple	Yes	No
Refer to committee	Yes	Yes	Yes	Simple	Yes	No
Amend	Yes	Yes	Yes	Simple	Yes	No
Postpone indefinitely	Yes	Yes	Yes	Simple ¹	Simple ¹	No
INCIDENTAL MOTIONS (no ranking order)						
Appeal decision of Chair	Yes	Yes	No	Simple	Yes	Yes
Suspend rules	Yes	No	No	2/3	No	No
Object to consideration	No	No	No	2/3	No	No
Division of assembly	*	*	*	Simple ²	Simple ²	Yes
Withdraw motion (if stated)	Yes	No	No	Simple	No	No
Parliamentary inquiry	*	*	*	Simple	Yes	Yes
Point of information	*	*	*	Simple	Yes	Yes
RESTORATORY MOTIONS						
Amend an adopted motion	Yes	Yes	Yes	Simple	Simple	No
Rescind an adopted motion	Yes	Yes	Yes	Simple	Simple	No
Reconsider	Yes	Yes	No	Simple	Simple	No
Ratify	Yes	Yes	Yes	Simple	Simple	No
Discharge committee	Yes	Yes	No	Simple	Simple	No
Take from table	Yes	No	No	Simple	Simple	No
MAIN MOTION	Yes	Yes	Yes	Simple ³	Simple ³	Yes

CODE: * Chair decides ¹ Affirmative vote only ² Negative vote only ³ Motion to adopt ordinance or resolution requires majority of all members/

APPENDIX

RESOURCE AND CONTACTS

As an appointed municipal official, you have statutory responsibilities to your governing body, the citizens of your community, and other employees. Your basic duties are outlined in the Ohio Revised Code (733.26 Election, Term and Qualifications of Clerk, 733.261 Clerk-Treasurer, and 733.27 Power and Duties of Clerk). Your actual duties consist of those policies set by your governing body. You may be assigned finance, parliamentary procedures, minute taking, purchasing, insurance, planning, zoning, personnel, grant administration, or general administration of the municipality.

MOST IMPORTANT TO REMEMBER IS YOU ARE NOT ALONE!

Questions on the proper method to achieve a goal given to you by your governing body or a citizen can be answered, if you know the correct place to look. DO NOT GUESS. The answers can be found using the right tools. The following is a list of organizations and state agency departments that can help you and cover your actions.

Ohio Municipal Clerks Association	Member Email Blast
Ohio Municipal League www.omlohio.org	614-221-4349
Attorney General's Office www.ohioattorneygeneral.gov	800-282-0515
Secretary of State www.sos.state.oh.us	877-767-6446
Auditor of State www.ohioauditor.gov	800-443-9276
Ohio Treasurer www.treasurer.ohio.gov	800-228-1102
Ohio Department of Taxation www.tax.ohio.gov	800-282-1780
State Fire Marshall www.com.ohio.gov	614-752-8200
Ohio Connection (State Archives) www.ohiohistory.org	614-297-2536

All of these organizations are willing to help try and answer your questions. There are no dumb questions. The dumb question is the one that is not asked. (Updated 2021)