

PROCEDURAL GUIDE
FOR ARKANSAS
COUNTY QUORUM COURT MEETINGS

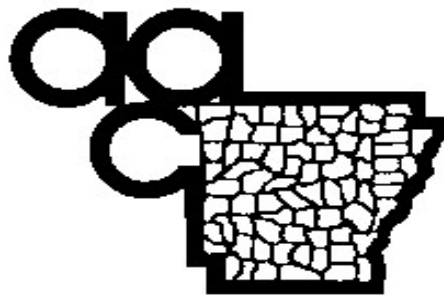
COOPERATIVE EXTENSION SERVICE
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PROCEDURAL GUIDE
FOR ARKANSAS
COUNTY QUORUM COURT MEETINGS

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In Cooperation With



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TABLE OF CONTENTS

Preface

- I. Quorum Court Administration
- II. Legislative Affairs
- III. Quorum
- IV. Presiding Officer
 - A. County Judge As
 - B. Justice of Peace As
 - C. Responsibilities of
- V. Order of Business
 - A. Call to Order
 - B. Reading and Disposition of Minutes ..
 - C. Reports of Committees
 - D. Unfinished Business
 - E. New Business
 - F. Announcements
 - G. Adjournment
 - H. Comments or Questions from Public..
 - I. Agenda
- VI. How Motions Are Handled
 - A. Addressing Presiding Officer
 - B. Recognition
 - C. Statement of Motion by Member
 - D. Seconding Motions
 - E. Statement of Motion by Presiding Officer
 - F. Discussion of Motion
 - G. Voting on Motion
 1. Roll Call Vote
 2. Voice
 3. Show of Hands
 4. Vote by Unanimous Consent
- VII. Adoption and Amendment of Ordinances
(Except Emergency or Appropriation)
 1. The Adoption and Amendment of Ordinances Generally
 - A. Introduction
 - B. Style Requirements
 - C. Passage
 - D. Approval and Publication
 - E. Effective Date
 - F. Reference to Electors
 - G. Manner and Procedure
 2. Procedures to Adopt in Less than Three Different Days
 3. Amendments Offered on Proposed Ordinances on Second or Third Reading

VIII. Penalties for Violations of Ordinances

IX. Adoption of Appropriation and Emergency Ordinances

- A. Appropriation Ordinances
- B. Emergency Ordinances

X. Veto

- A. Exercise by County Judge
- B. Veto Override by Quorum Court

XI. Adoption and Amendment of Resolutions

XII. Glossary of Motions

- A. The Main Motion
- B. Privileged Motions
 - 1. Motion to Adjourn
 - 2. Motion to Recess
 - 3. Question of Privilege
- C. Subsidiary Motions
 - 1. Postpone Temporarily
 - 2. Vote Immediately
 - 3. Limit Debate
 - 4. Postpone Definitely
 - 5. Refer to Committee
 - 6. Amend
 - 7. Postpone Indefinitely
- D. Incidental Motions
 - 1. Appeal
 - 2. Point of Order
 - 3. Parliamentary Inquiry
 - 4. Withdraw a Motion
 - 5. Suspend Rules
 - 6. Object to Consideration
 - 7. Division of Question

XIII. Precedence of Motions

XIV. Table of Rules Governing Motions

XV. Definition of Terms

PREFACE

Act 742 of 1977, as amended, implements the provisions of Amendment 55 to the Arkansas Constitution, which revised county government in Arkansas. Act 742, codified at Arkansas Code Annotated (A.C.A.) Title 14, Chapter 14, constitutes the Arkansas “County Government Code.” A.C.A. § 14-14-901 vests the legislative power of county government in the quorum court of each county, subject to the limitations imposed by the Arkansas Constitution and by state law.

A.C.A. § 14-14-904 provides that, “The justices of the peace elected in each county shall assemble and organize as a county quorum court body on a date chosen by the county judge and held within five (5) days, excepting holidays, after the beginning of the justices’ term in office. If the first meeting is not held on the quorum court’s established regular meeting day, the quorum court may declare the first meeting to be in lieu of the established January meeting. Thereafter, the justices shall assemble each calendar month in their respective counties to perform the duties of a

quorum court, except that more frequent meetings may be required by ordinance. The time and place of the initial assembly of justices shall be designated by written notice of the county judge. Thereafter, the justices shall meet as a quorum court at a regular time and place established by ordinance.”

At this initial meeting, the quorum court should determine its rules of procedure. A.C.A. § 14-14-904 states that, “Except as otherwise provided by law, the quorum court of each county shall determine its rules of procedure and may compel attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.”

Special meetings of the quorum court may also be called by the county judge or a majority of the elected justices upon at least twenty-four (24) hours’ notice in such manner as may be prescribed by local ordinance. In the absence of procedural rules, the county judge or a majority of the elected justices may call a special meeting of the quorum court upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of the meeting. The notice of special meeting shall specify the subjects, date, time, and designated location of the special meeting. (A.C.A. § 14-14-904(c)).

In the event of emergency or special meetings, the person calling the meeting shall notify the representatives of the newspapers, radio stations, and television stations, if any, located in the county in which the meeting is to be held and any news media located elsewhere that cover regular meetings of the governing body and that have requested to be so notified of emergency or special meetings of the time, place, and date of the meeting. Notification shall be made at least two (2) hours before the meeting takes place in order that the public shall have representatives at the meeting. (A.C.A. § 25-19-106(b)(2)).

At these regular and special meetings, following the rules of procedure which have been adopted will assure orderly conduct and encourage clear, efficient discussion. *Robert’s Rules of Order* is the most widely used parliamentary procedural book and may be adopted by quorum courts subject to modification or development of their own rules. This manual is adapted from *Robert’s Rules of Order* to provide a concise summary of the more important rules sufficient to conduct business without becoming involved in technicalities. It is intended for use at the regular and special meetings of the quorum court which are legislative sessions. At public hearings of the quorum court or its committees, less structured rules may be used to encourage a free exchange of ideas between justices and the public.

I. QUORUM COURT ADMINISTRATION

A.C.A. § 14-14-902 provides for the administration of the quorum court. The secretariat of the county quorum court shall be the clerk of the county court of each county unless otherwise provided by county ordinance. A quorum court, by ordinance, may provide for the establishment of minimum qualifications and an appropriation for the employment of a secretariat of the court. The employee so designated shall be a staff member of the county clerk or the county judge as may be specified by the ordinance. Where the separate position of secretariat is created by ordinance, all legislative duties prescribed for a county clerk shall thereafter become the duties of the secretariat.

Unless otherwise provided for by county ordinance, the clerk or the deputy clerk shall: 1) Attend all regular and special meetings of the court; 2) perform all administrative and recordkeeping duties prescribed; and 3) perform all other duties as may be required by the quorum court through county ordinance.

The prosecuting attorney or his deputy serving each county shall serve as legal counsel of the quorum court unless otherwise provided by county ordinance. A quorum court may, by ordinance, provide for the appropriation of county funds for the employment of alternative legal counsel to serve the court. The legal counsel of a quorum court shall: 1) Attend all regular and special meetings of the court; 2) Perform all duties prescribed; and 3) Perform all other duties as may be required by a quorum court.

A quorum court may authorize and provide through ordinance, for the employment of any additional staff or the purchase of technical services in support of legislative affairs.

A.C.A. § 14-14-903 requires the quorum court of each county to provide for the keeping of written minutes which include the final vote on each ordinance or resolution indicating the vote of each individual member on the question. It also requires the quorum court to maintain a county ordinance and resolution register for all ordinances,

resolutions, and amendments to each, adopted and approved by the court. Entries in this register shall be sequentially numbered in the order adopted and approved and shall be further designated by the year of adoption and approval. A separate sequential numbering system shall be maintained for both ordinances and resolutions. The register number shall be the official reference number designating an enactment. The register shall be maintained as a permanent record of the court and shall contain, in addition to the sequential register number, the following items of information:

- (A) An index number which shall be the originating legislative agenda number of the enactment;
- (B) The comprehensive title of the enactment;
- (C) The type of ordinance or amendment: general, emergency, appropriation, initiative, or referendum;
- (D) The date adopted by the quorum court;
- (E) The date approved by the county judge, date of veto override, or date enacted by the electors;
- (F) The effective date of the enactment;
- (G) The expiration date of the enactment; and
- (H) A recording index number designating the location of the enactments.

A.C.A. § 14-14-903 further requires the county to maintain a permanent record of all ordinances and resolutions in which each enactment is entered in full after passage and approval, except when a code or budget is adopted by reference. When a code or budget is adopted by reference, the date and source of the code shall be entered. The permanent record shall be so indexed to provide for efficient identification, location, and retrieval of all ordinances and resolutions by subject, register number, and date enacted. The permanent record indexing may be by book and page. Every five-years, all county ordinances enacted in each of the several counties must be compiled into a uniform code and published.

II. LEGISLATIVE AFFAIRS

A.C.A. § 14-14-904 provides that all legislative affairs of a quorum court shall be conducted through the passage of ordinances, resolutions, or motions. All legislative actions of a quorum court, excluding the adoption of a motion, shall require a majority vote of the whole number of justices composing a quorum court unless otherwise provided by the Arkansas Constitution or by law. A motion shall require a majority vote of the whole number of justices composing a quorum for passage.

A. County Ordinance. A county ordinance is defined as an enactment of compulsory law for a quorum court that defines and establishes the permanent or temporary organization and system of principles of a county government for the control and conduct of county affairs. Ordinances may be amended and repealed only by ordinances. All ordinances are subject to initiative and referendum as provided for through Arkansas Constitution, Amendment 7.

B. County Resolution. A county resolution is defined as the adoption of a formal statement of policy by a quorum court, the subject matter of which would not properly constitute an ordinance. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs, and a resolution shall not serve to compel any executive action. Resolutions may be amended and repealed only by resolutions.

C. Motion. A motion is defined as a proposal to take certain action or an expression of views held by the quorum court body. As such, a motion is merely a parliamentary procedure that precedes the adoption of resolutions or ordinances. Motions shall not serve to compel any executive action unless such action is provided for by a previously adopted ordinance or state law.

III. QUORUM

A.C.A. § 14-14-904 provides that a majority of the whole number of justices shall be necessary to constitute a quorum for the transaction of business. Further, a quorum court may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

A quorum is the number of members entitled to vote who must be present in order that business can legally be transacted. The “quorum” refers to the number of members actually present, not to the

number who vote on a particular question. Whenever a quorum fails to be present the quorum court will have to adjourn.

After calling the meeting to order, the presiding officer should ask the county clerk or secretariat of the quorum court to “call the roll.” The clerk will call each justice by name and the names of those present and absent will be subsequently recorded in the Journal of Proceedings. This procedure will permanently document that the business of the meeting was carried out by a “legal” quorum (or the meeting was adjourned for lack of a “legal” quorum). Such a record may also be used to substantiate payment of per diem and travel compensation to attending justices.

IV. THE PRESIDING OFFICER

A. THE COUNTY JUDGE AS PRESIDING OFFICER

A.C.A. § 14-14-904(d) provides, “The County Judge shall preside over the Quorum Court without a vote but with the power of veto.” The presiding officer shall appoint all regular and special committees of a quorum court **subject to any procedural rules** which may be adopted by ordinance.

The county judge is the chief executive official and presiding officer, but **not a member** of the quorum court. He rules on motions and guides debate according to the rules of procedure, but cannot make motions nor participate in the debate, although his views may certainly be solicited by members of the quorum court.

B. JUSTICE OF THE PEACE AS PRESIDING OFFICER

A.C.A. § 14-14-904(d) also provides that “in the absence of the county judge a quorum of the justices by majority vote shall elect one of their number to preside, but without the power to veto.”

When due to the absence of the county judge, a justice is elected to the office of presiding officer, that justice forfeits the right to propose motions and to participate in debate. However, it is important to note that while the county judge has no vote as presiding officer, when a justice presides he/she does not lose the right to vote on matters before the assembly.

C. RESPONSIBILITIES OF THE PRESIDING OFFICER

As in the national and state legislative bodies, the presiding officer of the quorum court has both wide discretion and substantial responsibility. The person presiding must serve as leader, administrator, and catalyst in any given situation.

Among the duties of the presiding officer are the following:

1. Insure that the proper order of business is carried out.
2. Guard against violations of the rules of procedure.
3. Protect the rights of all members.
4. Ensure that motions, resolutions, and ordinances are worded and phrased to carry out the intent of the assembly.
5. Maintain fairness and avoid prejudicial treatment of either motions or individuals.

A presiding officer must attempt to strike the difficult balance between patient courtesy on the one hand and firm decisiveness on the other. He/she cannot allow the time of the assembly to be wasted on worthless discussion or needless actions, but must try to preserve the rights of all members to participate in the discussion of issues and formulate decision.

V. ORDER OF BUSINESS

Orderly discussion is facilitated by following an established pattern for the business of the assembly. The pattern usually used in parliamentary bodies is as follows:

- Call to order
- Reading, correction, and disposition of minutes
- Reports of committees
- Unfinished business
- New business
- Announcements
- Adjournment

In order that members may anticipate when particular questions will be considered, the order of business should be followed whenever possible. However, the order is not prescribed by law and may be deviated from when circumstances dictate. Deviation from the order of business is accomplished either by a motion to suspend the rules or by general consent. To secure a change in the order of business by general consent, the presiding officer states that there will be a change if no member objects.

A. CALL TO ORDER AND ROLL CALL

The presiding officer calls the meeting to order at the scheduled time by rapping the gavel and announcing, “The meeting will please come to order.” He then asks the clerk to call the roll.

B. READING AND DISPOSITION OF MINUTES

The first business is the minutes of the previous meeting. The presiding officer directs, “The minutes will be read.” By unanimous consent a reading of the minutes may be dispensed with, as when they have been prepared and sent to each member. When the minutes have been read the presiding officer asks, “Are there any corrections or additions to the minutes?” If there are no corrections, the minutes are approved as read. When corrections are suggested, they may be approved by general consent. If consent to corrections is not unanimous, the presiding officer allows debate and takes a vote on the corrections proposed. The minutes are approved by his saying, “If there are no corrections (or “no further corrections”), the minutes stand approved as read.”

C. REPORTS OF COMMITTEES

Reports from standing committees are called for by the presiding officer, asking each chairman if he/she had a report. This is followed by the reports of chairmen of any special committees that have been appointed, in the order of their creation. The reports of committees are usually filed but not voted upon. If a chairman makes a recommendation in giving a report, the chairman should not move its implementation, but a member of the quorum court may make such a motion. Recommendations are considered either immediately after the report or under new business as the quorum court chooses.

D. UNFINISHED BUSINESS

The presiding officer indicates that discussion under this section is appropriate by a statement to the effect that "Unfinished business is now in order." Unfinished business consists of all business which was pending at the conclusion of the last meeting. It is the duty of the presiding officer to present any item of unfinished business which some other member does not present. This is done by stating, "We will now consider the motion proposed at our last meeting..."

E. NEW BUSINESS

Upon completion of all unfinished business the presiding officer opens the floor for the presentation of new business by the statement, "New business is now in order." New business includes any motion, proposal or other consideration that a member may wish to present to the assembly. If no new business is presented and the presiding officer knows of matters which should be considered, he informs the governing body of these matters and asks if any member wishes to propose a motion dealing with them.

F. ANNOUNCEMENTS

To prevent encumbering the meeting with periodic interruptions for various announcements, it is generally thought preferable to have a regular place in the order of business for such announcements and to require that they be made only at that time. The presiding officer usually calls for announcements from the members first and concludes with any that he/she may wish to make.

G. ADJOURNMENT

To adjourn means to close the meeting. A meeting can be adjourned only after a motion to adjourn has been made, seconded and carried; and the presiding officer has formally announced the adjournment. If no member moves to adjourn, the presiding officer may suggest that if there is no further business, some member move to adjourn. The presiding officer cannot, however, adjourn the meeting without a vote unless a quorum ceases to be present.

H. COMMENTS OR QUESTIONS FROM THE PUBLIC

Regular legislative sessions of the quorum court are to be distinguished from public hearings, which are held for the purpose of providing an opportunity for the public to express opinions on particular subjects. However, since public interest and attendance are to be encouraged, it may be desired to include in the order of business a time for brief comments or questions from members of the public. This would be appropriate near the end of the meeting, before or following announcements.

I. AGENDA

The specific nature of matters to be considered at quorum court meetings should be indicated in an agenda prepared and furnished members of the quorum court in advance of the meeting. By knowing explicitly what they will be called upon to decide, efficiency of the quorum court is increased, and members will come to each meeting better prepared for decision making. Since the agenda is primarily set by the quorum court members, procedures must be established covering agenda preparation. Procedures should include: Identification of the office or individual, e.g., county clerk or secretariat of the quorum court, to whom quorum court members will submit items they wish to be included on the agenda for the next meeting; the deadline for submitting agenda items; and, the deadline for having the completed agenda in the hands of the quorum court members and the county judge.

An important consideration is giving the public due notice of matters likely to be considered at

any meeting in order that they may communicate their views to their respective representatives and/or attend the meeting. Since such information is generally distributed through the mass media (newspapers, radio, and TV), the completed agenda should also be furnished them in a timely manner and also posted prominently in the Courthouse. While it is not always possible, the introduction and consideration of significant items of new business not on the agenda should be avoided since this tends to alienate citizens who may have an interest in the issue.

VI. HOW MOTIONS ARE HANDLED

A motion is a formal statement or proposition presented to an assembly for consideration and action. It is the primary means by which the body formulates policy and carries out ideas. Presenting and disposing of a motion follows this pattern:

- Addressing the presiding officer
- Recognition by the presiding officer
- Statement of the motion by the member
- Seconding the motion
- Statement of the motion by presiding officer
- Discussing the motion
- Voting on the motion

A. ADDRESSING THE PRESIDING OFFICER

As long as he/she complies with the rules on precedence of motions, any member of the quorum court has the right to present a motion. To present a motion a member addresses the presiding officer as “Mr. Chairman” or “Madam Chairman” (official title is also appropriate). Addressing the presiding officer indicates that the member wishes to obtain the floor for the purpose of presenting a motion or discussing a motion already presented.

B. RECOGNITION BY THE PRESIDING OFFICER

The presiding officer recognizes a member by name or by otherwise indicating that the member has the floor. Once a member has been recognized, he/she is entitled to speak or propose a motion.

C. STATEMENT OF THE MOTION BY THE MEMBER

A motion proposes that the assembly take an action or agree on an expression of sentiments. It should be stated in this form:

“I move...” followed by the proposal which is to be considered.

This form for proposing a motion is most clear and correct because it establishes as a definite motion the proposal introduced. Such introductory phrases as “I suggest” or “My proposal is to...” or “I so move” are less desirable.

Discussion or debate usually is not permitted until a motion has been made, and seconded, and stated by the presiding officer, though a brief introductory comment may be made by the person making the motion. If a general discussion is desired before a motion is formulated, a member may move to consider the subject informally.

D. SECONDING MOTIONS

When a motion has been offered by a member, it must be seconded by another member in order to be considered. This is done by another member saying, “I second the motion.”

If there is no second, the presiding officer should ask, "Is there a second to the motion that..." and state the motion again, to be sure that the motion has been understood by all the members. If, at this point, no second is made, the presiding officer states that, "the motion dies for lack of a second."

To second a motion indicates that the person seconding wants to have the motion discussed and considered by the quorum court. The seconder may not necessarily intend to vote for the motion, but usually at least favors further deliberations along the lines proposed in the motion.

E. STATEMENT OF THE MOTION BY THE PRESIDING OFFICER

When a motion has been properly moved and seconded, it is the responsibility of the presiding officer to state the motion clearly to the assembly. Until the motion is so stated, the maker of the motion controls it and can modify or withdraw it if he wishes. Once the motion is stated to the quorum court, it is in the control of that body to do with as it chooses.

If a proposed motion is vague, misleading or overly complicated in form, the presiding officer has the duty either to request that the member rephrase the motion or to rephrase it himself. If the presiding officer rephrases the motion, every effort should be made not to change its meaning and the presiding officer should ask the member whether the rephrased motion as it was stated correctly expresses the member's proposal.

If a motion proposes action which is contrary to law or to the rules of the quorum court, if its purpose is obviously dilatory (having a clear purpose of delaying business) or is unsuitable for consideration by the quorum court, the presiding officer should rule it out of order by saying, "The chair rules that your motion is out of order because..."

F. DISCUSSING THE MOTION

Fundamental to both parliamentary law and to democratic society is the belief that the best decision flows from a free discussion and exchange of ideas. Parliamentary rules of debate are not designed to inhibit discussion, but rather to ensure that each member has an equal opportunity to contribute ideas.

When the presiding officer has restated the motion of a member, discussion begins usually by the member who made the motion. After that member has had an opportunity to speak, any other member may discuss the motion after obtaining the floor. In recognizing members the presiding officer should try to alternate between proponents and opponents of a motion whenever possibly by asking if there is anyone wishing to speak against the motion. The proposer of the motion is always given the opportunity to have the last word by making a closing statement.

Discussion must relate to the merits of a motion before the quorum court. A member has the floor only for the purpose of discussing the pending motion, and if he/she departs from the subject, is out of order. The presiding officer or another member may interrupt a speaker who has strayed from the matter being considered.

Speakers should address their remarks to the chair in a courteous manner. While a speaker may attack a motion for any reason, he/she should never attack the motives, character, or personality of the member who made the motion. It is the duty of the presiding officer to stop any member whose discourse drifts to the merits of any individual rather than to the merits of the motion.

G. VOTING ON THE MOTION

When it appears to the presiding officer that all the members who wish to speak have done so, he/she asks, "Is there any further discussion?" This serves to notify all members that debate will

cease unless some member claims the floor. If no one responds to the call of the presiding officer, the question is put to a vote by saying, “ The question is on the adoption of the motion that... (repeating or clearly identifying the motion).” The vote may be taken in one of the following ways:

1. Roll Call Vote

When this form of voting is used, the clerk calls the names of each member in alphabetical order. The member votes for or against the proposition when called upon, or if he/she does not wish to vote, answers, “Present” or “Abstain.”

Given the size of the body and the requirements of law, the roll call is the form of voting which will be used most, except for incidental motions. A.C.A. § 14-14-905(c)(1)(A) requires that, “On the passage of every ordinance or an amendment to an existing ordinance the yeas and nays shall be called and recorded.” Roll call votes will be required for passage of ordinances, resolutions, use of the emergency clause, and for suspension of the rules.

2. Voice Vote

This form of voting allows the presiding officer to determine the results by the volume of the voices for and against the proposition. For example, the chair would say, “The question is on the motion to adjourn. All those in favor say aye (pausing for response)...Those opposed, say no.” When the vote is fairly evenly divided or the presiding officer is uncertain of the result, he may call for the vote again or he may call for a more certain method of voting such as a show of hands.

3. Show of Hands

Motions which do not require a roll call vote, such as a motion to refer a matter to a committee, or clarification of an inconclusive voice vote may be made by a show of hands. The presiding officer calls first for those in favor of the motion to raise their hands, then those opposed. When a member desires a more precise count or that the vote of each member be made a matter of record, he/she may demand a roll call vote.

4. Vote by Unanimous Consent

When the matter is issue is non-controversial or ministerial in nature, for example, to dispense with the reading of the minutes, the presiding officer may declare, “It has been moved and seconded that...Is there any objection?” If there is no objection, the motion passes by unanimous consent or acclamation. If any member does object, then a vote must be taken on the motion.

VII. ADOPTION AND AMENDMENT OF ORDINANCES (EXCLUDING EMERGENCY OR APPROPRIATION ORDINANCES)

1. A.C.A. § 14-14-905 governs the adoption and amendment of ordinances generally:

A. Introduction of Ordinances and Amendments to Existing Ordinances.

A county ordinance or amendment to an ordinance may be introduced only by a justice of the peace of the county or through the provisions of initiative and referendum pursuant to Arkansas Constitution, Amendment 7.

B. Style Requirements.

No ordinance or amendment to an existing ordinance passed by a county quorum court shall contain more than one (1) comprehensive topic and shall be styled "Be It Enacted by the Quorum Court of the County of, State of Arkansas; an Ordinance to be Entitled:". Each ordinance shall contain this comprehensive title, and the body of the ordinance shall be divided into articles, sequentially numbered, each expressing a single general topic related to the single comprehensive topic. No county ordinance shall be revised or amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revised, amended, extended, or conferred shall be reenacted and published at length.

C. Passage.

On the passage of every ordinance or amendment to an existing ordinance, the yeas and nays shall be called and recorded. A concurrence by a majority of the whole number of members elected to the quorum court shall be required to pass any ordinance or amendment.

All ordinances or amendments to existing ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days unless two-thirds (2/3) of the members composing the court shall dispense with the rule. However, this requirement shall not serve to: 1) Require a vote after each individual reading, but only a vote after the third and final reading; 2) Require the ordinance or amendment to be read in its entirety on the first, second, or third reading; or 3) Restrict the passage of emergency, appropriation, initiative, or referendum measures in a single meeting as provided by law.

D. Approval and Publication.

Upon passage, all ordinances or amendments shall be approved by the county judge within seven (7) days unless vetoed and shall become law without his or her signature if not signed within seven (7) days. The ordinances or amendments shall then be published by the county clerk as prescribed by law. Approval by the county judge shall be demonstrated by affixing his or her signature and his or her notation of the date signed on the face of an original copy of the proposed ordinance. This approval and authentication shall apply to all ordinances or amendments to existing ordinances unless the power of veto is invoked.

E. Effective Date.

No ordinance or amendment to an existing ordinance other than an emergency ordinance or appropriation ordinance shall be effective until thirty (30) calendar days after publication has appeared. An ordinance or amendment to an existing ordinance may provide for a delayed effective date or may provide for the ordinance or amendment to an existing ordinance to become effective upon the fulfillment of an indicated contingency.

F. Reference to Electors.

At the time of or within thirty (30) days of adoption and prior to the effective date of an ordinance, a quorum court may refer the ordinance to the electors for their acceptance or rejection. The referral shall be in the form of a resolution and shall require a three-fifths affirmative vote of the whole number of justices constituting a quorum court. This action by a court shall not be subject to veto and shall constitute a referendum measure.

G. Manner and Procedure.

Any ordinance enacted by the governing body of any county in the state may be referred to a vote of the electors of the county for approval or rejection in the manner and procedure prescribed in Arkansas Constitution, Amendment 7, and laws enacted pursuant thereto, for exercising the local initiative and referendum. The manner and procedure prescribed therein shall be the exclusive method of exercising the initiative and referendum regarding these local measures.

2. PROCEDURE TO ADOPT AN ORDINANCE IN LESS THAN THREE DIFFERENT DAYS

In order to adopt an ordinance in one meeting the procedure would be:

1. First reading.
2. Motion to suspend the rule and put the ordinance on second reading, roll call vote on suspension, approval by two-thirds of the whole number.
3. Second reading. Can be by title only.
4. Motion to suspend the rule and put the ordinance on third reading, roll call vote on suspension, approval by two-thirds of the whole number.
5. Third reading (can be by title only), roll call vote on the ordinance, approval by majority of the whole number.

To adopt an ordinance in two different meetings requires the measure to either: be placed on second reading (under suspension of the rules) at the first meeting with approval taking place at the second meeting or at the second meeting to be placed on third and final reading under suspension of the rules.

3. AMENDMENTS OFFERED ON PROPOSED ORDINANCES ON SECOND OR THIRD READING

As indicated above all ordinances must be fully and distinctly read on three (3) different days. This requirement also applies to any amendment made to a proposed ordinance. In effect this means proposed ordinances can only be amended on first reading.

Occasionally a member or members may wish to amend an ordinance which is on second or third reading. To meet the requirements of the law for full and distinct readings on three separate days requires that the proposed ordinance be placed back on first reading.

The member(s) wishing to make an amendment would move to place "The proposed ordinance back on first reading for purpose of amendment." Such a motion would require a second and approval of a majority present. Before voting on the motion, the body would most likely ask the member to state his proposed amendment. If they object to the amendment, they can defeat it simply by failing to approve the motion to place the proposed ordinance back on first reading. However, if they approve placing the ordinance back on first reading for purpose of amendment, this does not constitute adoption of the amendment. The amendment would have to be adopted as a separate motion and vote.

VIII. PENALTIES FOR VIOLATIONS OF ORDINANCES

A.C.A § 14-14-906 grants the quorum court authority to establish penalties for violation of ordinances. A county quorum court may fix penalties for the violation of any ordinance, and these penalties may be enforced by the imposition of fines, forfeitures, and penalties on any person offending against or violating the ordinance. The fine, forfeiture, or penalty shall be prescribed in each particular ordinance or in an ordinance prescribing fines, forfeitures, and penalties in general.

A quorum court also has the power to provide, by ordinance, for the prosecution, recovery, and collection of the fines, forfeitures, and penalties.

A quorum court does not, however, have power to define an offense as a felony or to impose any fine or penalty in excess of five hundred dollars (\$500) for any one (1) specified offense or violation, or double that sum for each repetition of the offense or violation. If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the ordinance, shall not exceed two hundred fifty dollars (\$250) for each day that it may be unlawfully continued.

All fines and penalties imposed for violation of any county ordinance shall be paid into the county general fund.

IX. ADOPTION OF APPROPRIATION AND EMERGENCY ORDINANCES

A. APPROPRIATION ORDINANCES

An appropriation ordinance is a measure by which the quorum court designates a particular fund, or sets a specific portion of county revenue in the treasury to be applied to some general object of expenditure or some individual purchase or expense of the county. All appropriation ordinances or an amendment to an appropriation ordinance shall be designated "appropriation ordinance."

Any quorum court may adopt, amend, or repeal an appropriation ordinance which incorporates by reference the provisions of any county budget or portion of a county budget, or any amendment thereof, properly identified as to date and source, without setting forth the provisions of the adopted budget in full. At least one (1) copy of a budget, portion, or amendment which is incorporated or adopted by reference shall be filed in the office of the county clerk and there kept available for public use, inspection, and examination.

An appropriation ordinance **may be adopted without separate readings** or publication prior to passage, provided publication shall be initiated within two (2) calendar days after approval by the county judge (A.C.A. § 14-14-907(d)).

An appropriation ordinance or amendments **enacted without separate readings** shall require a two-thirds (2/3) vote of the whole number of justices comprising a quorum court. On the passage the yeas and nays shall be called and recorded. An appropriation ordinance or amendment adopted in this manner is effective immediately upon approval by the county judge.

B. EMERGENCY ORDINANCES

An emergency ordinance may be enacted only to meet public emergencies affecting life, health, safety or property of the people (A.C.A. § 14-14-908). The ordinance must contain a declaration that an emergency exists and define the emergency.

An emergency ordinance or an emergency amendment to an existing ordinance does not require separate readings or prior publication provided, however, that publication shall be initiated within

two (7) calendar days after approval by the county judge.

The passage of an emergency measure shall require two-thirds (2/3) majority of the whole number of justices comprising the quorum court. On the passage the yeas and nays shall be called and recorded. An emergency measure is effective immediately upon approval by the county judge.

X. VETO

A. EXERCISE OF BY COUNTY JUDGE

A.C.A. § 14-14-911 provides that, "The County Judge of each of the several counties shall preside over the Quorum Court with the power of veto." Further,

1. Power of veto is limited to the total text of an ordinance or an amendment to an existing ordinance. Veto of a single part, section or line item is not permitted.
2. Veto must be exercised within seven (7) calendar days after passage.
3. It shall be authenticated by the county judge and demonstrated by filing a written statement of the reason of veto with the county clerk.
4. Written notification of a veto shall immediately be provided to each member of the quorum court by the county clerk and the county clerk shall provide each with a copy of the veto statement filed by the county judge.
5. The power of veto shall not apply to measures enacted through initiative or referendum.

The power of veto extends only to ordinances and amendments to existing ordinances. The power of veto shall not apply to resolutions or amendments to resolutions (A.C.A. § 14-14-913).

B. VETO OVERRIDE BY QUORUM COURT

A.C.A. § 14-14-912 provides that, "The Quorum Court of each of the several counties shall have the power to override the veto of the County Judge." Further,

1. An affirmative vote of three-fifths (3/5) of the total membership of a quorum court shall be required to override the veto. On consideration the yeas and nays shall be called and recorded.
2. The veto override power must be exercised at the next regular session of the quorum court following written notification of veto.
3. Failure to override a veto in a single vote of the quorum court shall constitute a confirmation of the veto.

XI. ADOPTION AND AMENDMENT OF RESOLUTIONS

A.C.A. § 14-14-913 governs the adoption and amendment of resolutions. A resolution is defined as the adoption of a formal statement of policy by a quorum court. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs. It shall not serve to compel any executive action.

Resolutions or amendments to existing resolutions may be introduced and adopted in a single meeting on a single reading. All resolutions are effective immediately unless a delayed date is specified. Resolutions or amendments to resolutions are not subject to veto (ACA 14-14-913).

XII. GLOSSARY OF MOTIONS MOST OFTEN USED

Robert's Rules of Order lists and defines some 82 separate and distinct motions. The text devotes the better part of five hundred pages to the explanation of procedural technicalities. While *Robert's* treatise is probably the foremost in the field of parliamentary law, it is not necessary to attempt to master its entire contents. More useful is a basic understanding of the principle motions which can be made and their effect on the deliberations of the quorum court.

A. THE MAIN MOTION

A main motion is the means by which meetings are conducted. It is the vehicle for the transaction of business. Understandably then, a main motion should be as clear and concise as possible. It should be as brief as its substance permits. The presiding officer may request that the motion be rephrased if it is ambiguous or too long.

Generally, main motions should be drafted to avoid the inclusion of negative statements. Thus, it is preferable to draft a motion stating, "We oppose..." rather than a motion phrased in terms of, "We do not support..." This prevents confusion and increases clarity of what the member is proposing.

The procedure for discussion and disposition of a main motion has been discussed previously.

B. PRIVILEGED MOTIONS

These motions are considered so important that they are given priority over other motions. They are questions which must be decided before the pending question. They relate to the members and to the deliberative body rather than to the main motions.

There are three privileged motions essential to conducting business:

1. **Motion to Adjourn** – As is obvious from its title, this motion is used to terminate a meeting. Under Act 742, the Quorum Court is to meet at least once a month at a regular time and place established by ordinance. Therefore, there is no need for a justice to qualify his motion to adjourn by stipulating a time for the next meeting.

When a motion to adjourn is passed before all business is completed, the matters which are left pending are brought up at the next meeting under the subject of unfinished business.

2. **Motion to Recess** – This motion is used to effect a short intermission in the proceedings of the assembly. It does not close the meeting and after the time for recess has expired, the meeting reconvenes and proceeds to consider business at the same point at which it recessed. A motion to recess is generally used to allow short conferences between members, to acquire information, or accomplish other ministerial acts.

3. **Question of Privilege** – During the course of a meeting a situation may arise which involves the comfort, convenience, rights or privileges of an individual member or of the assembly at large. In such a situation a member may, without waiting for recognition by the presiding officer, declare, “I raise a question of privilege affecting the assembly” (if the matter concerns the group as a whole) or “I raise a question of personal privilege” (if only the individual member is concerned). Questions of privilege relating to the assembly usually involve such things as heating, lighting, noise and seating of members. Questions of personal privilege usually pertain to rights, convenience, reputation or conduct of an individual member.

C. SUBSIDIARY MOTIONS

The seven subsidiary motions are alternative methods of changing or disposing of the main motion. Because their purpose is to expedite deliberation of a main motion, they can be proposed only when a main motion is before the quorum court.

When the main motion is pending, there are several alternatives to voting on it directly in order to dispose of the motion.

1. **Postpone Temporarily** – The effect of this motion is to temporarily set aside a pending main motion so that it can be considered at any time during the same meeting by a motion to resume consideration. This motion is generally used to postpone consideration of a question until some more urgent business which has arisen has been considered.

2. **Vote Immediately (Previous Question)** – For one reason or another, debate may continue even after everything of relevance has been said. The motion to vote immediately serves to expedite the business of the quorum court by shutting off further debate and bringing the issue in question to a vote. A motion to vote immediately is not a privileged motion. The practice of calling, “Question, Question!” is not correct and should be ignored by the presiding officer.

3. **Limit Debate** – When the assembly has several matters to consider or when extended discussion would serve no valid purpose, a member may wish to move to limit debate. Debate may be limited in several ways. The motion may intend to restrict the number of speakers who can participate on each side of the question, or it may attempt to limit the time allotted to each speaker, or it may specify the total time allotted for discussion.

4. **Postpone Definitely** – This motion, like the motion to postpone temporarily, delays consideration of a pending main motion. The distinction between the two is that a motion to postpone definitely fixes a further specified time for the motion to be considered, while a motion to postpone temporarily does not.

5. **Refer to a Committee** – Referral of a pending motion to a committee may serve several useful functions. If the proposal is a complicated one or one that requires further investigation, reference to a committee for study and recommendation may be desirable. Committee may also be used to provide a public hearing on a particular proposal, to conserve the time of the quorum court by allowing a smaller group to recommend decisions or act on a proposal, or to postpone consideration of the issue until a more favorable time.

6. **Amend** – The major purpose of a motion to amend is to modify or change a pending motion so that it is better suited for what is needed. Amendment may be accomplished by inserting additional terms, by striking out inappropriate terms, or by substituting entirely new language for that used in the original motion. An amendment, however accomplished, must be germane to the pending question. It must be relevant to or have a direct bearing on the proposal in issue.

A series of rules dealing with priority of amendments to a question and of amendments to amendments has been developed. Discussion of those rules is beyond the scope of this guide and usually beyond the scope of most meetings. Should the necessity for their consideration arise, *Robert's Rules* should be consulted. However, basic to parliamentary procedure is that once an amendment has been proposed it must be disposed of prior to action on the main motion.

7. **Postpone Indefinitely** – Actually the title of this motion is misleading. Its effect is not to postpone consideration of a pending motion at all. Rather it serves to indirectly defeat or kill the main motion. This motion is often used by opponents of a proposal to learn who favors and who opposes it, without running the risk of having the motion adopted by calling it to a vote.

D. INCIDENTAL MOTIONS

These motions arise out of the business pending before the quorum court. They have been developed to handle procedural problems which have come up in consideration of other questions, or concerning rights and privileges of members. To settle these problems so that the main business may proceed, incidental motions are used.

Incidental motions may be proposed at any time and must be decided at the time they arise. They are not, therefore, included in the list of precedence. The most frequently used incidental motions are:

1. **Appeal** – An appeal from a decision of the chair allows a member who believes that the presiding officer has erred in making a particular ruling to have question decided by the whole quorum court. Any decision by the presiding officer involving his/her judgment is subject to appeal. However, the mere statement of a fact, such as the absence of certain members or the result of a vote, is not appealable. When a ruling is appealed to the assembly, the presiding officer must state the motion in a fair manner.

2. **Point of Order** – The primary purpose of parliamentary procedure is to ensure order in the discussion of issues and the formulation of policy. Without a means of calling attention to a violation of procedural rules, the parliamentary scheme would be of little value. When a member raises a point of order, the member is bringing what is believed to be an error in procedure to attention so that business can be conducted correctly. As soon as a member raises a point, the presiding officer must rule that it is either “well taken” or “not well taken.”

3. **Parliamentary Inquiry** – As with the point of order, this motion is designed to give members an opportunity to ensure the correctness of proceedings. A member who is uncertain as to the appropriateness of a particular action always has the right to inquire. A parliamentary inquiry is usually directed to the presiding officer. However, it may be directed to the proposer of a motion if it concerns the parliamentary development or effect of that motion.

4. **Withdraw a Motion** – It may occur that a motion has been proposed without thorough consideration of its possible ramifications or that more urgent business than what is under consideration arises. In such a situation, a motion to withdraw may be appropriate. A member has a right to withdraw a motion before it has been seconded and restated to the assembly by the presiding officer. However, once it has been stated by the presiding officer to the assembly, the member must secure the consent of that assembly before being allowed to withdraw the motion. Withdrawal of a motion also withdraws all motions adhering to it.

5. **Suspend Rules** – In rare instances, circumstances may command a deviation from the set rules of the quorum court. This is the function of the motion to suspend. It is important to remember that a motion to suspend can only be applied to procedural rules. Where substantive rights are involved,

the motion to suspend is improper. Thus, the rules cannot be suspended regarding the presence of a quorum, the number of votes required to pass an ordinance, etc. Furthermore, rules may be suspended only for a particular purpose and for the length of time necessary to accomplish that purpose. A motion “to suspend the rules for the next five meetings” would obviously be improper.

6. Objection to Consideration – This motion should seldom be used. However, in those instances where the proposed motion is beyond the scope of the authority of the quorum court, devoid of reason, proposed for the purpose of harassment or delay or is otherwise obviously improper, an objection to the consideration of the motion may be made. By its nature the motion to object to consideration applies only to main motions.

7. Division of the Question – A motion to divide the question may be proper when the motion before the quorum court presents two or more separate and distinct ideas or when a member realizes that the motion cannot pass in its entirety, but a divisible portion of it might succeed. A motion to divide the question must state clearly how the question is to be divided.

Other motions may arise incidentally during deliberations on another motion. As an example, if the quorum court were considering an appointment as a main motion, one member might move that it be voted on by ballot. This would be incidental to the main motion and would be voted on immediately.

At another time without a main motion pending, a motion that all future appointments be voted on by ballot would not be an incidental motion but a main motion. The classification of motions may vary with the situation in which they arise. Further examples of motions which may arise incidentally are to consider an ordinance paragraph by paragraph; to excuse a member from voting; to close nominations.

XIII. PRECEDENCE OF MOTIONS

Since there may be more than one motion pending (a main motion and secondary motions), motions are given rank or precedence based on the degree of their urgency. Precedence assures that each motion is attended to in its proper turn. The more important motions are arranged in the order of their precedence in this list:

1. Adjourn
2. Recess
3. Question of privilege
4. Postpone temporarily (“lay on the table”)
5. Vote immediately (“previous question”)
6. Limit debate
7. Postpone definitely
8. Refer to committee
9. Amend
10. Postpone indefinitely
11. The main motion

There are two important rules of precedence:

1. When a motion is pending, any motion of a higher rank may be proposed, but no motion of lower rank is in order. The motion to adjourn (No. 1) has the highest rank, and a main motion (No. 11) has the lowest. If a main motion (No. 11) is pending, any motion of higher rank (No. 10 to 1) can be proposed. If No. 8 is pending, No. 7 to 1 can all be proposed, but No. 9 or No. 10 cannot.

2. Motions are considered and voted upon in reverse order to the order of their proposal, the last one proposed being considered and disposed of first. For example, if motions No. 11, 10, 7, and 2 were proposed in that order, they would be considered and voted upon in the following order: No. 2, 7, 10, and 11.

XIV. TABLE OF RULES GOVERNING MOTIONS

Order of precedence	Can interrupt speaker?	Requires a second?	Debatable?	Amendable?	Vote required?
I. Privileged Motions					
1. Adjourn	no	yes	no	no	majority
2. Recess	no	yes	no	yes	majority
3. Question of Privilege	yes	no	no	no	no vote
II. Subsidiary Motions					
4. Postpone Temporarily	no	yes	no	no	majority
5. Vote Immediately	no	yes	no	no	two-thirds
6. Limit Debate	no	yes	no	yes	two-thirds
7. Postpone Definitely	no	yes	yes	yes	majority
8. Refer to Committee	no	yes	yes	yes	majority
9. Amend	no	yes	yes	yes	majority
10. Postpone Indefinitely	no	yes	yes	no	majority
III. Main Motions					
11. General Main Motion	no	yes	yes	no	majority
IV. Incidental Motions					
12. Appeal	yes	yes	yes	no	tie or majority
13. Point of Order	yes	no	no	no	no vote
14. Parliamentary Inquiry	yes	no	no	no	no vote
15. Withdraw a Motion	no	no	no	no	no vote
16. Suspend Rules	no	yes	no	no	two-thirds
17. Object to Consideration	yes	no	no	no	two-thirds neg.
18. Division of a Question	no	no	no	no	no vote
19. Division of Assembly	yes	no	no	no	no vote

XV. DEFINITIONS OF TERMS

ACA – Arkansas Code of 1987 Annotated.

Adjourn – To end a meeting officially.

Adopt – To approve, to put into effect.

Adopt a Report – The formal acceptance of a report. Adoption commits the assembly to everything included in the report.

Affirmative Vote – A “yes” vote to a question being considered by an assembly.

Agenda – The official list of business to be considered at a meeting.

Amend – To change, by adding, deleting, or substituting words or provisions.

Amendment to an Amendment – Also called a secondary amendment. Only one primary and one secondary amendment are permitted at a time.

Annul – To void or cancel an action previously taken.

Appeal – To request that a decision of the presiding officer be referred to the assembly for its determination.

Bill of Attainder – A legislative act that declares the guilt of the accused and metes out punishment

without judicial trial. Forbidden by the constitution.

Code – A compilation of laws in force, classified according to subject matter. Formally known as the Arkansas Code Annotated (ACA).

Debatable – Capable of being discussed.

Division of Question – Separation of main motion into two or more independent parts each of which is capable of standing alone.

General Consent – An informal method of disposing of routine and generally favored proposals. Consent is assumed unless objection is raised. Also called unanimous consent.

Incidental Motions – Motions relating to questions which arise incidentally out of the business being considered by the assembly.

Journal of Proceedings – A bound book maintained by the county clerk, in which the proceedings of the meetings of the quorum court and recorded votes are kept.

Lay on the Table – To postpone a motion until a later but as yet undetermined time.

Limit Debate – To place restrictions of the time to be devoted to debate on a question or the number of speakers or the time allotted each.

Main Motion – A motion presenting a subject to an assembly for discussion and decision. Also see substitute motion.

Ministerial Duty – An act prescribed by law, done without exercise of discretionary judgment.

New Business – Any business other than unfinished or “Old Business” which may properly be brought before an assembly.

Object to Consideration – To oppose discussion and decision on a main motion.

Order of Business – The formal program of sequence of different items or classes of business arranged in the order in which they are to be considered.

Ordinance – Law made by legislative body of a county.

Pending Question – A question, or motion, before the assembly which has not yet been voted upon.

Postpone Definitely – To deter consideration of a motion or report until a specific time.

Postpone Indefinitely – To kill a motion or report by deferring consideration of it indefinitely.

Postpone Temporarily – To defer consideration of a report or motion until the assembly chooses to take it up again.

Precedence – The right of prior proposal and consideration of one motion over another, or the order or priority of consideration.

Privileged Motions – The class of motions being the highest priority.

Question of Privilege – Request or motion affecting the comfort or convenience of the assembly or one of its members.

Reconsider – Motion to cancel the effect of a vote so that the question may be reviewed and decided.

Referendum – Referral of an ordinance or resolution to a vote for approval or rejection by the electorate.

Refer to Committee – Motion to delegate work to a small group of members for study, decision, or action.

Resolution – A formal expression of a legislative body of a county.

Resume Consideration – To take up for consideration a motion which has been postponed temporarily. The old form of the motion was “taken from the table.”

Special Committee – A committee appointed to accomplish a particular task and to submit a special report. It ceases to exist when its task is completed.

Special Meeting – One called for a time other than that regularly scheduled.

Standing Committee – A committee to handle all business on a certain subject which may be referred to it, and usually having a term of service corresponding to the term of office of the officers of the organization.

Substitute Motion – An amendment which puts an entire new text of the main motion in place of the pending version.

Unfinished Business – Any business deferred by a motion to postpone to a definite time, or any business which was incomplete when the previous meeting adjourned. Unfinished business has a preferred status at the following meeting.

Vote Immediately – Motion to close debate, shut off subsidiary motion, and take a vote at once.

Withdraw – Motion by a member to remove his motion from consideration by the assembly.

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