

### 10-Day Rule

Question: “For compliance with the 10-day rule do we count just the business days? Or, do we count weekend days, too?”

Answer: K.S.A. 79-2929 provides that “[t]he governing body shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper of the county having a general circulation therein.” All days, including weekend days, are counted.

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Question: “Our newspaper publishes once a week, on a Thursday. We can’t hold our budget hearing until at least 10 days have passed after publication. In computing the 10 days do we include the day of publication?”

Answer: To compute the 10 days required by the budget law you do not include the day of publication as one of the 10 days. Day one of the 10 days is the day following publication.

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Question: Is it pertinent that there be 10 days between when the budget is adopted and August 25th when it is due to the county clerk. I know there has to be 10 days from the notice of the public hearing to when you can hold the public hearing but not sure about the other.

Any help is appreciated. Thanks!

Answer: Good question. There is nothing in the budget law that requires that you *adopt* your budget at least 10 days prior to August 25, or that you wait 10 days following adoption before submitting to the county clerk.

The budget law does require, however, that *the public hearing* be held on or before August 15. (K.S.A. 79-2933.) The law further provides that after the hearing the budget may be adopted, or changed and adopted. Some municipalities hold the public hearing on one date, and adopt the budget on another, while some do both at the same meeting.

Once the budget is adopted it may be delivered to the county clerk; the August 25th date is merely one by which the budget is required to be adopted and submitted.

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Question: I have a problem that I don't know how to handle. Our official county newspaper is a weekly paper that comes out on Wednesdays. I took the notice of budget hearing over to the paper on July 30<sup>th</sup>, with the instructions that it be published in the August 8<sup>th</sup> edition of the paper in order to meet the 10-day deadline before the hearing, which is scheduled on the 20<sup>th</sup> of August.

Well, guess what....They did not run it in the newspaper this week....ARGH!!!! They said that they can get it in the August 15<sup>th</sup> edition, but that will put me in violation of the 10-day period before the hearing, which we have scheduled on the 20<sup>th</sup>, which must be done before the 25<sup>th</sup> ....see where I am going with this?

Answer: We are sorry about the newspaper messing up like that. It must be really frustrating to have done it all timely, just to have a slip-up like this throw a wrench into everything. Unfortunately, of all the deadlines, etc. in the budget law, it's our feeling here that the 10-day rule is the one with which you should make sure you are compliant. Obviously, you did everything you could do to insure compliance.

Our only suggestion at this point in the process is to change your hearing date to a date at least 10 days following the expected August 15 publication, and don't worry about meeting the August 25 deadline. The August 25 deadline has been found by the Kansas Supreme Court to be a "directory" deadline - as opposed to a mandatory deadline - due to the fact that the statutes contain no penalty for missing the deadline. So, you are OK to hold your hearing after the 25<sup>th</sup>.

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