

**§ 5. Cities' powers of home rule.** (a) The legislature shall provide by general law, applicable to all cities, for the incorporation of cities and the methods by which city boundaries may be altered, cities may be merged or consolidated and cities may be dissolved: *Provided*, That existing laws on such subjects not applicable to all cities on the effective date of this amendment shall remain in effect until superseded by general law and such existing laws shall not be subject to charter ordinance.

(b) Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class: *Provided*, That the legislature may establish not to exceed four classes of cities for the purpose of imposing all such limitations or prohibitions. Cities shall exercise such determination by ordinance passed by the governing body with referendums only in such cases as prescribed by the legislature, subject only to enactments of the legislature of statewide concern applicable uniformly to all cities, to other enactments of the legislature applicable uniformly to all cities, to enactments of the legislature applicable uniformly to all cities of the same class limiting or prohibiting the levying of any tax, excise, fee, charge or other exaction and to enactments of the legislature prescribing limits of indebtedness. All enactments relating to cities now in effect or hereafter enacted and as later amended and until repealed shall govern cities except as cities shall exempt themselves by charter ordinances as herein provided for in subsection (c).

(c) (1) Any city may by charter ordinance elect in the manner prescribed in this section that the whole or any part of any enactment of the legislature applying to such city, other than enactments of statewide concern applicable uniformly to all cities, other enactments applicable uniformly to all cities, and enactments prescribing limits of indebtedness, shall not apply to such city.

(2) A charter ordinance is an ordinance which exempts a city from the whole or any part of any enactment of the legislature as referred to in this section and which may provide substitute and additional provisions on the same subject. Such charter ordinance shall be so titled, shall designate specifically the enactment of the legislature or part thereof made inapplicable to such city by the adoption of such ordinance and contain the substitute and additional provisions, if any, and shall require a two-thirds vote of the members-elect of the governing body of such city. Every charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper or, if there is none, in a newspaper of general circulation in the city.

(3) No charter ordinance shall take effect until sixty days after its final publication. If within sixty days of its final publication a petition signed by a number of electors of the city equal to not less than ten percent of the number of electors who voted at the last preceding regular city election shall be filed in the office of the clerk of such city demanding that such ordinance be submitted to a vote of the electors, it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. An election, if called, shall be called within thirty days and held within ninety days after the filing of the petition. The governing body shall pass an ordinance calling the election and fixing the date, which ordinance shall be published once each week for three consecutive weeks in the official city newspaper or, if there be none, in a newspaper of general circulation in the city, and the election shall be conducted as elections for officers and by the officers handling such elections. The proposition shall be: "Shall charter ordinance No. \_\_\_\_\_, entitled (title of ordinance) take effect?" The governing body may submit any charter ordinance to a referendum without petition by the same publication of the charter ordinance and the same publication of the ordinance calling the election as for ordinances upon petition and such charter ordinance shall then become effective when approved by a majority of the electors voting thereon. Each charter ordinance becoming effective shall be recorded by the clerk in a book maintained for that purpose with a statement of the manner of adoption and a certified copy shall be filed with the secretary of state, who shall keep an index of the same.

(4) Each charter ordinance enacted shall control and prevail over any prior or subsequent act of the governing body of the city and may be repealed or amended only by charter ordinance or by enactments of the legislature applicable to all cities.

(d) Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government.

(e) This amendment shall be effective on and after July 1, 1961.

**19-101. County as corporation; powers generally; home rule.** That each organized county within this state shall be a body corporate and politic, and as such shall be empowered for the following purposes: *First*, to sue and be sued; *second*, to purchase and hold real and personal estate for the use of the county, and lands sold for taxes as provided by law; *third*, to sell and convey any real or personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interest of the inhabitants; *fourth*, to make all contracts and do all other acts in relation to the property and concerns of the county, necessary to the exercise of its corporate or administrative powers; *fifth*, to exercise the powers of home rule to determine their local affairs and government authorized under the provisions of K.S.A. 19-101a; *sixth*, to exercise such other and further powers as may be especially conferred by law.

**19-101a. Home rule powers; limitations, restrictions and prohibitions; procedure.** (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

- (1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.
- (2) Counties may not affect the courts located therein.
- (3) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.
- (4) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.
- (5) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271 – 74<sup>th</sup> congress, or amendments thereof.
- (6) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.
- (7) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.
- (8) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.
- (9) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.
- (10) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.
- (11) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- (12) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.
- (13) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.
- (14) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- (15) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.
- (16) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.
- (17) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.
- (18) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- (19) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.
- (20) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.
- (21) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.
- (22) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.
- (23) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.
- (24) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.
- (25) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.
- (26) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.
- (27) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199, 65-3001 through 65-3028, and amendments thereto.

- (28) Counties may not exempt from or effect changes in K.S.A. 2012 Supp. 80-121, and amendments thereto.
- (29) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.
- (30) Counties may not exempt from or effect changes in the wireless enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.
- (31) Counties may not exempt from or effect changes in K.S.A. 2012 Supp. 26-601, and amendments thereto.
- (32) (A) Counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).
- (B) Counties may adopt resolutions which are not in conflict with the Kansas liquor control act.
- (33) (A) Counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).
- (B) Counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.
- (34) Counties may not exempt from or effect changes in the Kansas lottery act.
- (35) Counties may not exempt from or effect changes in the Kansas expanded lottery act.
- (36) Counties may neither exempt from nor effect changes to the eminent domain procedure act.
- (37) Any county granted authority pursuant to the provisions of K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be subject to the limitations and prohibitions imposed under K.S.A. 19-5001 through 19-5005, and amendments thereto.
- (38) Except as otherwise specifically authorized by K.S.A. 19-5001 through 19-5005, and amendments thereto, counties may not exercise any authority granted pursuant to K.S.A. 19-5001 through 19-5005, and amendments thereto, including the imposition or levy of any retailers' sales tax.
- (39) Counties may not exempt from or effect changes in K.S.A. 2012 Supp. 19-271, and amendments thereto.
- (b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.
- (c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.