



## Municipal Officials Handbook, Page 124

### *Quorum required.*

All of the powers indicated above and any other power exercised by the governing body may only be exercised by the affirmative vote of a majority of the council members physically present in a lawful meeting of the council comprised of no less than a quorum (majority) of the whole number of council members. A city or town council of four members requires the physical presence of at least three of its members (not including the mayor) to constitute a quorum. In turn, that quorum of three must deliver at least a majority of two affirmative votes to adopt any measure. (Some measures require a super majority for adoption.) If the entire council of four members is present, a majority of three votes would be required to adopt a measure.

**LGC Note:** Last week, there was a question on the clerk's list serve regarding a majority vote and whether a motion carried. In that situation 3 of 5 council members were present for a meeting. Thus, there was a quorum and business could be conducted. However, it gets less clear when a vote was 2-1 in favor of a motion. Does that mean that the motion carried?

The following is a statute for the **Municipal Commission-Manager Government**. Strictly speaking, it probably does not apply to the commission-executive form of government.

7-3-4323. Conduct of commission business. (1) In municipalities having three commissioners, two commissioners shall constitute a quorum and the affirmative vote of two commissioners shall be necessary to adopt or reject any motion, resolution, or ordinance or pass any measure unless a greater number is provided for in this part or part 44. **In municipalities having five commissioners, three commissioners shall constitute a quorum and the affirmative vote of three commissioners shall be necessary to adopt or reject any motion, resolution, or ordinance or pass any measure unless a greater number is provided for in this part or part 44.**

This is a great illustration of support for a Council Rules of Procedure for your municipality. In situations like these, the Rules of Procedure (adopted by your Council) will provide guidance for what constitutes a majority vote. Here is a link to the LGC web site where a sample Rules of Procedure can be found.

[http://www.msulocalgov.org/resources/...Rules\\_of\\_Procedure.pdf](http://www.msulocalgov.org/resources/...Rules_of_Procedure.pdf)

In this sample, page 2, section 4 states "The affirmative vote of a majority of the members present at a lawful meeting of the Council shall be necessary to adopt or reject any motion, resolution, or ordinance or pass any measure unless a great number is required by law." As I read this example, a 2-1 vote would carry under these Rules. Of course, any Rules of Procedure that you adopt should be carefully reviewed by your legal counsel prior to adoption.

Have a great day!

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