

## **ORDINANCES & RESOLUTIONS**

State law and local charters provide cities and towns with the authority to adopt ordinances and resolutions. These are local laws and regulations that govern how the city or town operates. They also may declare certain actions criminal or civil offenses.

Some actions require publication in a local newspaper or other types of notice. There are also website posting requirements that now apply to cities and towns.

### **Definition and Use of Ordinances**

An ordinance is a local law of a city or town, duly enacted by the proper authorities, prescribing general, uniform and permanent rules of conduct relating to the corporate affairs of the municipality.

Ordinances are *general* or *special* depending upon their subject matter.

*General* ordinances impose certain restrictions upon the community and upon the administration of the municipal government. *General* ordinances amend, repeal or add to the city/town code.

*Special* ordinances are specific to a property, person or corporation and are not usually placed in the city/town code.

Ordinances may be *legislative* or *administrative* although the difference between the two may be difficult to discern in some cases.

*Administrative* ordinances are exempt from some of the requirements usually applied to ordinances such as the 30-day delay in the effective date and being subject to a referendum. *Administrative* ordinances may carry out previously adopted legislative policy or may be one-time events rather than permanent enactments.

### **Ordinances are required in the following examples:**

- Any regulation involving persons or property which imposes a penalty, fine, forfeiture or other punishment for its violation.
- Any action of the city or town council when the charter or state law expressly requires an ordinance.
- Any action of the city or town council when amending, repealing or adding to another ordinance.

### **Preparation and Adoption of Ordinances**

Ordinances are generally prepared by the city or town attorney.

## **Structure of Ordinances**

- Ordinances are assigned a number by the clerk in numerical sequence.
- An ordinance should relate to only one subject.
- The title should include a very general statement of the contents of the ordinance.
- An ordinance to amend or repeal another ordinance or section of your code should contain the number and subject of the ordinance or section amended or repealed.
- “Whereas” clauses are sometimes used at the beginning of an ordinance to recite any required or helpful findings, or procedural steps taken prior to adoption.
- Each ordinance should have an ordaining or enacting clause.
- The body of the ordinance should be divided into sections which set forth precisely what parts of the code are being amended, repealed or where additions are to be made.
- The body of the ordinance is recommended to be drafted in legislative style. It should include the original and amended text; indicate new language by printing it in capital letters; and indicate language deleted, if any, by printing it with a line drawn through the center of the letters.
- The ordinance should contain a repealer clause stating that other ordinances, or sections of ordinances, that are in conflict with the present ordinance are repealed.
- If the ordinance contains a penalty or civil sanction clause, it must state the penalty or civil sanction to be imposed for violation of the ordinance.
- An ordinance often contains a savings or severability clause which expresses the council’s intent that an ordinance remain enforceable though some parts of it may be declared invalid.
- An ordinance may contain an emergency clause.
- An ordinance may contain a specific effective date.
- An ordinance should have a statement of passage.

## **Presentation of Ordinance at Council Meeting**

For an ordinance to be considered at a council meeting, discussion and possible action on the ordinance must be included on the council agenda. The agenda must include the subject of the ordinance not just a reference to the number of the ordinance.

Some city and town codes require multiple readings of ordinances at separate meetings, except for those with emergency clauses. Others only require a single reading and allow for passage of the ordinance at the same meeting in which it is introduced. There are no state laws requiring a specific procedure.

## **Final Steps in Ordinance Adoption**

- All ordinances must be signed and dated by the mayor, or in the absence or disability of the mayor, by the vice mayor or acting mayor.
- The clerk must attest to the signatures affixed on the ordinance.
- An ordinance which contains a penalty, fine, forfeiture or other punishment, in addition to requirements in A.R.S. § 9-812, must be published after its enactment by posting in three or more public places within the city or town, and shall be in force from and after the date of posting.
- The clerk must certify the minutes of a council meeting at which any ordinance, resolution or franchise is passed.
- Ordinances must be published by the clerk in accordance with state law requirements.
- The clerk should file each ordinance in an ordinance book and enter upon the ordinance the publication date and where published. If the ordinance must be posted, evidence of posting should be included on or attached to the ordinance.

## **Effective Date of Ordinances**

To be enacted, proposed ordinances require a majority vote of the council at a council meeting, approval by the mayor and, except for emergency ordinances, certification by the clerk of the minutes of the council meeting at which the ordinance is passed. Ordinances generally go into effect 30 days after their passage and approval by the mayor.

When an emergency ordinance is passed, it will become immediately operative only when it states, in a separate section of the ordinance, the reason for the emergency.

If an ordinance contains a penalty clause or imposes a civil sanction, the ordinance does not become effective until it has also been posted in three public places.

## **Definition and Use of Resolutions**

A resolution constitutes a proposal submitted in writing. The effect of the proposal is to “resolve that . . .” Usually a resolution ranks above a motion and below an ordinance. Resolutions are generally more temporary and are used for council action on administrative or executive matters, or for statements of general council policy.

## **Preparation and Adoption of Resolutions**

In preparing and adopting resolutions, the following points should be kept in mind:

- Resolutions are assigned a number by the clerk in numerical sequence.
- The use of a title for a resolution is optional.
- A resolution may be introduced and passed at the same meeting.
- A resolution is signed by the mayor and attested by the clerk. If the mayor is unable to sign, the vice mayor or an acting mayor may sign.
- A resolution may not have to be published.
- It is recommended that the clerk keep a “Resolutions Book” in which each resolution can be indexed as to number and title.

## **Conclusion**

Following the proper procedures for preparation and adoption of ordinances and resolutions is important.