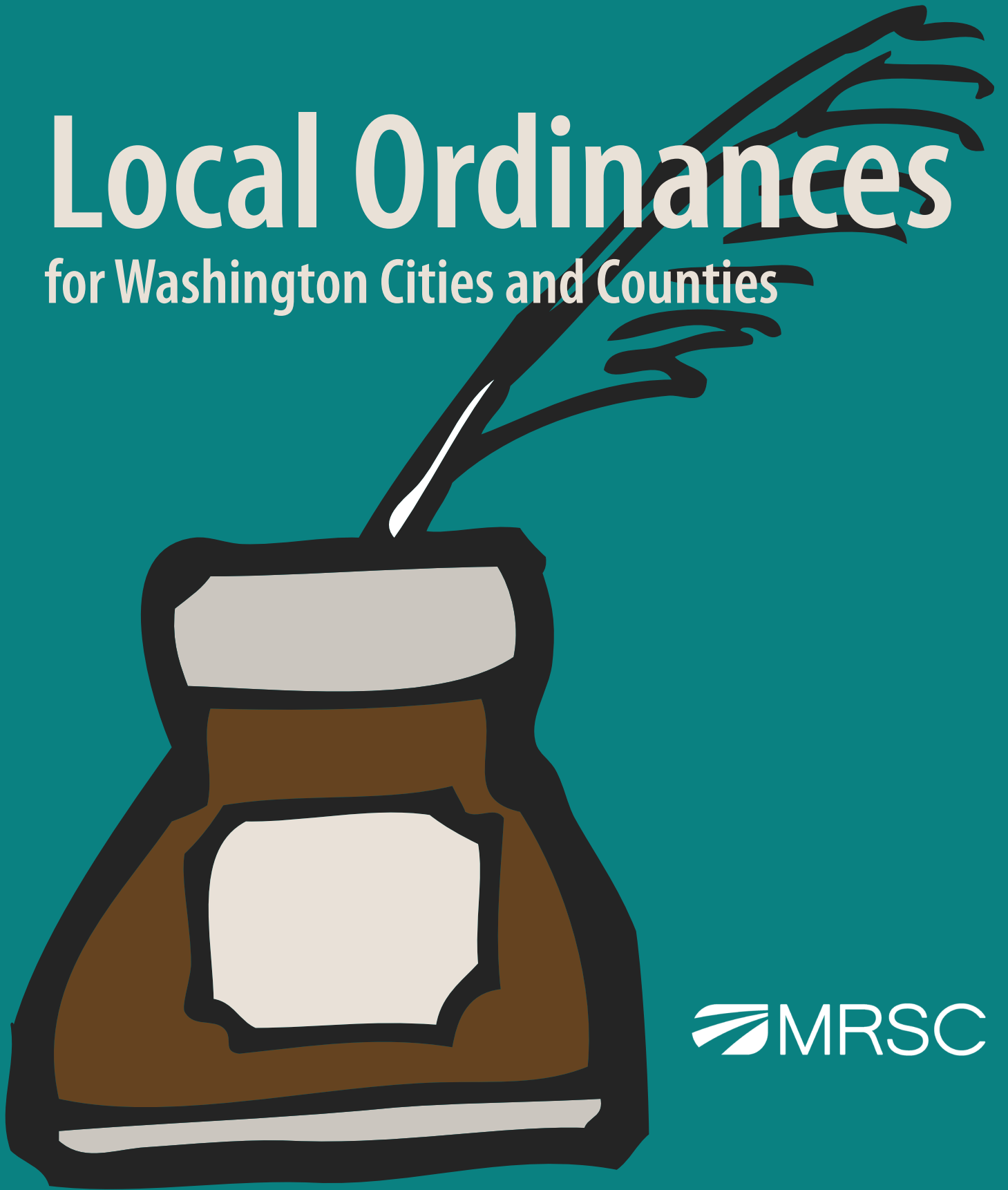


# Local Ordinances

for Washington Cities and Counties



## **Local Ordinances for Washington Cities and Counties**

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## **Preface**

This publication has been prepared to assist Washington county, city, and town officials in the drafting and adoption of ordinances, resolutions, motions, and related devices.



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# Introduction

The legislative bodies of counties, cities, and towns have various options available for taking legislative action, including the passage, adoption, or approval of ordinances, resolutions, rules, regulations, motions, and orders. It is, of course, important to be familiar with each option and when it is preferable to use one form instead of another.

An **ordinance**, as that term is typically used, refers to a local law of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform, and permanent rules of conduct, relating to the corporate affairs of the municipality.<sup>1</sup> Ordinances may be used for purely administrative purposes, such as to establish an office or set salaries. An ordinance can either regulate conduct or, for example, when establishing a crime, prohibit described conduct or actions altogether.<sup>2</sup>

A **resolution** typically is less solemn and formal than an ordinance and, “generally speaking, is simply an expression of the opinion or mind of the official body concerning some particular item of business or matter of administration coming within its official cognizance.”<sup>3</sup> In practice, resolutions are often limited to expressions of opinion. Contrasted with an ordinance, which generally prescribes permanent rules of conduct or government, a resolution usually deals with matters of a special or temporary character.<sup>4</sup> (Resolutions adopted by a county council or commission may, in some instances, be similar to an ordinance, as many state statutes allow a county to adopt laws or take an official action either by resolution<sup>5</sup> or “by ordinance or resolution.”)<sup>6</sup>

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<sup>1</sup>McQuillin, *Municipal Corporations*, § 15:01.

<sup>2</sup>1 Matthews, *Municipal Ordinances*, § 1:01.

<sup>3</sup>*Baker v. Lake City Sewer District*, 30 Wn.2d 510, 518, 191 P. 2d 844 (1948).

<sup>4</sup>McQuillin, *Municipal Corporations*, § 15:02.

<sup>5</sup>See, e.g., [RCW 36.40.080](#), relating to the adoption of the final budget, and [RCW 36.94.380](#), relating to the establishment of a “County Local Improvement Guaranty Fund.”

<sup>6</sup>See, e.g., [RCW 36.40.250](#), relating to the adoption of a process to provide for biennial budgets, and [RCW 36.83.020](#), relating to the establishment of a bridge or road improvement special benefit district.

**When should an ordinance be used instead of a resolution?** Obviously, if a state statute requires one form be used instead of the other, that requirement must be followed. If no particular form is specified, either a resolution or ordinance may be used.<sup>7</sup> Ministerial and administrative acts may be exercised by resolution.<sup>8</sup> Legislative acts, however, it has been suggested, should be made by ordinance.<sup>9</sup>

What is “legislative”? The general guiding principle is that “[a]ctions relating to subjects of a permanent and general character are usually regarded as legislative, and those providing for subjects of a temporary and special character are regarded as administrative.”<sup>10</sup>

“**Rules or regulations**” are used to regulate the manner of doing municipal business or to establish certain types of procedures. They are subsidiary to ordinances and are generally updated when an ordinance, state or federal law is amended. Rules and regulations do not carry penalties, relying instead on their underlying ordinances, upon which they are based, for enforcement authority. Rules or regulations remain in effect until suspended or revoked.

An “**order**” is used by a legislative body to direct a specific action be taken on behalf of the municipality. An order, for example, could be used to authorize the mayor or county executive to sign a contract. An order is less than a legislative enactment and requires little, if any, formality; for example, an order may be oral. Once an order has been complied with, it no longer has effect.

A “**motion**” is similar to an order; it provides authority to do a specified act. A motion is a proposal by a member, made at a meeting, that a legislative body take a particular action. The proposed action may be substantive, or it may express a certain view, or direct a particular action be taken, such as an investigation.<sup>11</sup> A motion, once approved and entered into the record, is the equivalent to a resolution. See *Spokane v. Ridpath*, 74 Wash. 4, 132 Pac. 638 (1913).

In addition to reviewing the various forms of official action, this handbook will review the manner by which municipal legislative bodies, primarily city, town, and county councils or commissions, conduct their business. Information is provided on drafting techniques and style, and on the manner by which legislation is adopted.

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<sup>7</sup>*State ex rel. Sylvester v. Superior Court*, 60 Wash. 279, 111 P. 19 (1910); *LaMon v. Westport*, 22 Wn. App. 215, 588 P.2d 1205 (1978).

<sup>8</sup>*State ex rel. Morrison v. Seattle*, 6 Wn. App. 181, 492 P.2d 1078 (1971).

<sup>9</sup>Ordinances, Resolutions and Motions: When to Use Which – How to Adopt Personnel Policies, by James K. Pharris, Senior Assistant Attorney General and Robert J. Fallis, Assistant Attorney General, State of Washington. WSAMA *Proceedings*, November 8-9, 1985, pp. 155-168.

<sup>10</sup>*Ibid*, quoting from *Durocher v. King County*, 80 Wn.2d 139, 153, 492 P.2d 547 (1972).

<sup>11</sup>Robert, *Robert's Rules of Order Newly Revised*, at p. 27 (11<sup>th</sup> Ed., 2011).



# Ordinance Drafting Techniques and Requirements

Ordinances typically are numbered and have a title for purposes of identification. Ordinances must include an enactment clause and often include a recital or “whereas” section, definitions, penalty provisions, and an effective date. This chapter explores the various sections and elements of ordinances and other forms of legislative acts.

## Numbering

Ordinances may be numbered in a variety of ways. Perhaps the easiest system involves the use of consecutive numbers (e.g., Ordinance No. 443, Ordinance No. 444, etc.). This method allows for quick identification and permits an easy calculation of the number of ordinances enacted over a given period of time.

Some municipalities include the year of passage in their numbering system, and then number ordinances consecutively within that year (e.g., Ordinance No. 99-11, Ordinance 99-12, etc.). This method permits easy identification of the year when an ordinance was enacted, although it does not allow for easy calculation of the number of ordinances enacted during a multiple-year period. In addition, use of the year of an ordinance’s passage can create confusion if ordinances of similar numbers are enacted in other years (e.g., Ordinance No. 1997-21 and Ordinance No. 1998-21).

Some municipalities incorporate letters into their numbering system. The City of Vancouver, for example, uses the letter “M” in their numbers (Ordinance No. M-1965, e.g.), signifying that the ordinance was enacted during the period in which the city was organized under the council-manager plan of government. Other municipalities may use a letter to indicate an ordinance amends an earlier ordinance (e.g., Ordinance No. 1827A amends Ordinance No. 1827).

There is no statute requiring that any particular numbering system be used; each jurisdiction is free to adopt any system that is easy to administer and makes sense to its officials and citizens. Once a

numbering system is adopted, it is recommended that system be adhered to until a new system is adopted.

## Title

Most, if not all, jurisdictions place a title on each ordinance, stating its purpose, content, and effect.<sup>12</sup> Even if statute or charter does not require that an ordinance include a title, it makes sense to include one. A title gives notice to the jurisdiction's officials, as well as to the public, of the nature and purpose of the ordinance.

## One Subject

Ordinances enacted by second class and code cities are limited to one subject, and that subject must be clearly reflected in the ordinance's title.<sup>13</sup> Unless limited to a single subject by statute or charter, a jurisdiction other than second class and code cities may cover more than one subject in its ordinances. It is a sound practice, however, to restrict an ordinance to a single subject to avoid confusion and make each ordinance easier to classify.<sup>14</sup>

## Form

Titles should be short and descriptive and be expressed in clear language to give notice of the subject of the ordinance. The title need not be an index to the entire contents of the ordinance.<sup>15</sup> The following are examples of titles:

### General Ordinances

AN ORDINANCE regulating second-hand dealers, imposing license fees, and providing penalties for the violation thereof.

AN ORDINANCE establishing parental responsibility for juveniles within the city limits and providing for exemptions, enforcement, and penalties.

### Ordinances that Amend or Repeal Other Ordinances

AN ORDINANCE amending chapter 17.32 of Ordinance No. 1709, the city zoning code, to allow certain signs in the light industrial (IL) district.

AN ORDINANCE amending chapter 17.26 of the municipal code, entitled "Signs," exempting governmental signs, redefining temporary real estate signs; amending section 17.20.040 to provide for the amortized discontinuance of certain nonconforming free-

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<sup>12</sup>Second class and code cities are required to include a title in their ordinances. [RCW 35.23.211](#) and [35A.12.130](#). Counties are required to include a title in an ordinance levying an admissions tax. [RCW 36.38.030](#).

<sup>13</sup>[RCW 35.23.211](#) and [RCW 35A.12.130](#). See e.g., *Scott v. Cascade Structures*, 100 Wn.2d 537, 673 P.2d 179 (1983) and *Vasey v. Snohomish County*, 44 Wn. App. 83, 721 P.2d 524 (1986).

<sup>14</sup>Rhyne, *The Law of Local Government Operations*, § 8.2 at pp. 116-117 (1980); McQuillin *Municipal Corporations*, § 16:17.

<sup>15</sup>A Sutherland, *Statutory Construction*, § 18:9 (7<sup>th</sup> Ed.).

standing signs; amending section 17.04 to add a fee for design board review of signs; and providing for an effective date.

AN ORDINANCE adding new sections to chapter 16.16 of the city municipal code to regulate off-premise signs.

AN ORDINANCE adopting a revised code for the regulation of signs, amending Ordinance No. 773, and repealing Ordinance Nos. 846, 919, 982, and 1261.

As the above examples suggest, if an ordinance is amended either by deleting or adding language or sections, reference should be made in the title to the amended ordinance. Similarly, if an ordinance repeals an earlier ordinance, reference should be made in the title to the repealed ordinance. Reference can be made to the earlier ordinance's number, the appropriate code section and, if applicable, the ordinance's common name, such as the Zoning Code or the Criminal Code.

## Recitals or Whereas Clauses

Ordinances sometimes will include an introductory recital section, set out after the title and before the enactment clause, to provide information regarding the background or purpose of the enactment. Typically, such information will be introduced by the term “whereas.” A recital is advisory only but may be considered by the courts when interpreting ordinances or addressing their validity. The courts will consider

the true operation and effect of the law which must be dealt with on the basis of the practical results which follow its operation, and not alone by legislative declarations contained therein.<sup>16</sup>

Matthews *Municipal Ordinances*, § 26:4 offers the following advice:

A preamble to an ordinance, reciting conditions in the city making the ordinance necessary, may assist a court in finding the ordinance valid. In cases involving constitutional questions, the court may have to balance the need of the community to regulate against the rights of an individual. The facts may be recited in a preamble or in a separate section, usually the first section of the ordinance.

A preamble also can serve as a recitation of the performance of conditions precedent which must be fulfilled before an ordinance is enacted, and perhaps, where it is based on a single statute. In many jurisdictions certain (or all) ordinances must be preceded by particular actions, such as a recommendation by some particular officer, public hearings after due notice to the public, filing of the ordinances for public inspection before enactment, or perhaps procedure under initiative and referendum statutes. Where such conditions precedent must be complied with, it is a good idea to have the preamble recite that each such condition has been complied with, and to state the date of the various acts which

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<sup>16</sup>*Aberdeen Savings and Loan v. Chase*, 157 Wash. 351, 364, 289 Pac. 536 (1930); see also *State ex rel. O'Connell v. Slavin*, 75 Wn.2d 554, 452 P.2d 943 (1969).

precede the enactment and the place in the public records where the accomplishment of such acts is evidenced. Such a preamble will save time for the municipal attorney when it becomes necessary for him to establish that the conditions precedent have been complied with.

Where certain facts are required as a prerequisite to an enactment, such as the acceptance of certain streets by way of dedication, such facts may be recited in the preamble or referred to in the body of the ordinance in what might be called factual findings. A statement in the body of the ordinance that the facts recited in the preamble are determined and found to be true by the governing body serves a distinct purpose.

A recital can recite facts that the legislative body, by a statement in the body of the ordinance itself, determines and finds to be true. Recitals can be used to explain the political motivation for enacting an ordinance (e.g., explain why water rates are raised), to provide a historical background for the ordinance, to help set the foundation for an emergency clause, to establish the authority for the action, or to explain the intent of the legislative body. Here are several examples of recitals:

- A. WHEREAS, officers, employees, administrators, and board members (“employees”) of the city have occasion to be absent from the city on authorized travel for the conduct of city affairs or training and educational programs; and
- B. WHEREAS, it is the desire of the city council to compensate employees for necessary expenses incurred and for purposes which primarily promote, develop, or publicize the city’s best interest, Now, Therefore,

WHEREAS, the Edmonds Community Development Code presently requires that the Architectural Design Board review and approve or deny all applications for signs requiring permits pursuant to Chapter 20.60; and

WHEREAS, the City Council finds that a substantial amount of time is spent by the Architectural Design Board reviewing signs which do not pose a significant impact on the community; and

WHEREAS, the City Council finds that it would be in the best interest of the City to delegate approval of sign permits to the staff where it is not likely that such signs would pose a significant negative impact on the community; such delegation thereby freeing the Architectural Design Board for the review of larger, more substantial projects; Now, Therefore,

An alternative to the use of recitals is the inclusion of a purpose section in the body of the ordinance itself.

## Enactment Clause

All cities and towns must include an enactment or ordaining clause in their ordinances; counties must include an enactment clause in admission tax ordinances. The requirement is statutory for most cities and is required by the charters of the state's ten first class cities.<sup>17</sup> For the other classes of cities or towns, the following language is required:

### **Second Class Cities (RCW 35.23.211)**

“The city council of the city of \_\_\_\_\_ do ordain as follows:”

### **Towns (RCW 35.27.290)**

“Be it ordained by the council of the town of \_\_\_\_\_”

### **Code Cities (RCW 35A.12.130 and 35A.13.190)**

“The city council of the city of \_\_\_\_\_ do ordain as follows:”

### **Commission Cities (RCW 35.17.030 and 35.23.211)**

“Be it ordained by the city commission of \_\_\_\_\_:”

There is no general requirement for county ordinances, although an ordinance adopted by a county to levy an admission tax must contain the following enactment clause:

“Be it ordained by the Board of County Commissioners of \_\_\_\_\_ County, State of Washington”<sup>18</sup>

Although not required, it is suggested that all county ordinances contain similar language.

It is recommended that the exact required language be used in each ordinance. While an inadvertent deviation may not necessarily invalidate an ordinance,<sup>19</sup> careful drafting will help avoid litigation on this non-substantive portion of an ordinance.

## Statement of Purpose

It may be desirable to state the purpose of the ordinance in the first section, especially if there are no recital or “whereas” clauses. A purpose section, by use of direct and concise language, can provide insight into why the ordinance is being enacted, which might be difficult to determine from the technical provisions of the ordinance.

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<sup>17</sup>See, e.g., Bellingham Charter § 3.04 (“The City of Bellingham does ordain.”); Spokane Charter § 14 (“The City of Spokane does ordain.”); Vancouver Charter § 2.12 (“Be it ordained by the City of Vancouver.”).

<sup>18</sup>RCW 36.38.030.

<sup>19</sup>See McQuillin *Municipal Corporations* § 16:24; see also RCW 35A.21.010.

By being the first section of the ordinance, the purpose section is part of the ordinance and helps govern the interpretation of all other sections. (This is not true of recital or “whereas” clauses, since they precede the enactment clause and thus are not actually part of the ordinance. Similarly, a purpose section will typically be included in any codification of ordinances; this would not be true of recital clauses.)

## Definition Section

A definition section is not required, although its use may simplify the ordinance’s text and reduce its length. If a definition section is used, it typically will follow the enactment clause, or the statement of purpose, if one is used.

Most words do not require definitions and, in fact, it may create confusion to define them. Undefined words, if ever reviewed by the courts, will be defined with their usual, ordinary dictionary definitions.<sup>20</sup> If, however, an ordinance does provide a definition, that definition will be used by any reviewing court, even though the definition provided may not coincide with the word’s ordinary dictionary definition.<sup>21</sup> Unique terms or terms of art, of course, should be defined in the ordinance to provide readers with necessary information or guidance.

The following provides some *suggestions* for the preparation of a definition section:

- Definitions should be used sparingly. Common words should not be defined unless the common meaning is altered, and creating artificial meanings for commonly understood words should be avoided.
- The definition section, often the first section in the body of the ordinance, should be drafted first, to help the drafter be consistent in the use of terms throughout the ordinance.
- Words should be defined in alphabetical order, without numbers or letters. If numbering or lettering is not used, the definition section can easily be later amended by insertion of the new definitions in their proper place, alphabetically.
- Determine if a definition is to “mean” or to “include.” The words “means” or “includes” need not be used for each definition unless some of the terms are defined in the inclusory sense, such as “Animal. Includes birds, exotic animals . . .”; and others are defined in a restrictive sense, such as “Minor. For the purpose of this ordinance, means a person who has not reached the age of 21 years.”

Here are some examples:

Section 1. **Definitions.** For purposes of this ordinance, the following terms mean:

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<sup>20</sup>See, e.g., *State v. Alexander*, 76 Wn. App. 830, 888 P.2d 175 (1995) and *City of Bellevue v. Lorang*, 140 Wn.2d. 19, 992 P.2d 496 (2000).

<sup>21</sup>See *Publishers Forest Products Co. v. State*, 81 Wn.2d 814, 505 P.2d 453(1973) and *Garrison v. Washington State Nursing Board*, 87 Wn.2d 195, 550 P.2d 7 (1976).

*Animal.* **A dog, exotic, wild or dangerous animal, or livestock.**

*Animal at large.* **An animal not confined to the premises of its owner unless . . .**

*Dog facility.* **A site, as identified by a mailing address, where more than three dogs . . .**

*Euthanasia.* **Putting an animal to death in a humane manner.**<sup>22</sup>

## Provisions Establishing Administrative Units

If an ordinance establishes an office, board or commission, a section (that precedes the substantive provisions) should be included to cover the following, if applicable:

1. Establishment of the office, board, or commission and its title;
2. Title of the chief officer, method of selection, and term of office;
3. Qualifications of the chief officer;
4. Official bond;
5. Compensation and expenses;
6. General powers and duties; and
7. Assistants and subordinates.

## Substantive Provisions

Unless some office, board, or commission is established, the section defining terms should be followed by a section or sections setting forth:

- Standards of conduct required by the ordinance;
- Persons affected by it;
- Times, places, and conditions of its application; and
- Method by which it is to be effectuated (administrative provisions).

## Penalty Provisions

If a violation of the ordinance is to be punished by a fine or imprisonment, the penalty must be specifically stated in the ordinance. The following provides one example of a possible penalty section:

Section \_\_\_\_\_. **Penalties.** Any person convicted of a violation of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \_\_\_\_\_ dollars, or by imprisonment in jail for a period not to exceed \_\_\_\_\_ days, or by both such fine and imprisonment.

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<sup>22</sup>(Oregon) Bureau of Governmental Research and Services, *Manual for Ordinance Drafting and Maintenance*, pp. 4-5 (1980).

The maximum fine that may be imposed for a misdemeanor is \$1,000; the maximum for a gross misdemeanor is \$5,000.<sup>23</sup> A person guilty of a misdemeanor can be jailed for up to 90 days and, for a gross misdemeanor, one year.<sup>24</sup> Alternatively, a legislative body may make an offense a civil infraction.<sup>25</sup> However, no city or county may establish a civil penalty for an act that constitutes a crime under state law, nor may it establish a different criminal punishment than that provided by state law for the same act.<sup>26</sup>

If the jurisdiction wants to provide a penalty for continuing violations, the penalty section should include the phrase “each day’s violation constitutes a separate offense.”

## Civil Recovery

If the ordinance is to provide for recovery of the costs of enforcement, as in the case of the abatement of nuisances, a specific section should be included authorizing recovery in the name of the jurisdiction in an appropriate amount.

## Effective Date

An ordinance should state when it takes effect, provided, of course, that the date stated is not before the earliest date possible under state law or charter. Absent a stated effective date, the ordinance becomes effective according to the provisions of state law or charter. An effective date must be included if the effective date is to be later than that provided by law or charter.

Failure to include an effective date may create confusion as to when the ordinance becomes effective. When was the ordinance published? What is the statutory waiting period? To avoid confusion, inclusion of an effective date is recommended. Selection of the date should be based upon experience, drawing upon the date likely for the ordinance’s final passage and publication and the need to allow interested persons adequate notice and opportunity to make appropriate preparations.

The following indicates when ordinances become effective, according to state law:

### *First Class Cities*

When ordinances enacted in first class cities become effective is dependent upon the provisions of each city’s charter and whether a valid referendum petition is filed. Here are several examples:

Vancouver – 30 days following final passage unless a referendum petition is filed.<sup>27</sup>

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<sup>23</sup>RCW 9A.20.020(2) and (3).

<sup>24</sup>*Id.*; see, also, RCW 35.22.280(35); RCW 35.23.440(29); RCW 35.27.370(14); RCW 35A.11.020; and RCW 36.32.090(7).

<sup>25</sup>*Id.*; see also chapter 7.80 RCW.

<sup>26</sup>RCW 35.21.163, 36.32.120(7); see also *State v. Mason*, 34 Wn. App. 514, 663 P.2d 137 (1983).

<sup>27</sup>Vancouver City Charter § 2.16.



Bellingham – 15 days after the date of final passage, unless a later date is fixed by the city council.<sup>28</sup> Emergency ordinances requiring immediate preservation of the public peace, health, or safety become effective immediately upon final passage.<sup>29</sup>

### **Second Class Cities**

Ordinances typically go into effect five days following publication.<sup>30</sup>

### **Towns**

Publication is required,<sup>31</sup> but no waiting period is specified after publication before an ordinance can become effective. Thus, an ordinance could be made effective upon or after the date of publication.

### **Code Cities**

No ordinance can take effect until five days after the date of its publication, except for public emergency ordinances. Public emergency ordinances, which require a vote of a majority plus one of the whole council membership, may be effective upon adoption.<sup>32</sup> A public emergency ordinance is one designed to protect public health and safety, public property, or the public peace; it may not levy taxes, grant review, extend a franchise, or authorize the borrowing of money.<sup>33</sup>

If a code city has adopted the powers of referendum, its ordinances usually will not go into effect until 30 days following their final passage, thus allowing time for the filing of a referendum petition.<sup>34</sup>

### **Commission Cities<sup>35</sup>**

Ordinances cannot go into effect before 30 days from the date of final passage. Ordinances are subject to referendum during the waiting period unless:

1. They have been initiated by petition;
2. They are necessary for the immediate preservation of public peace, health, safety, and contain a statement of urgency and are passed by unanimous vote; or

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<sup>28</sup>Bellingham City Charter § 3.04.

<sup>29</sup>Bellingham City Charter § 3.05.

<sup>30</sup>[RCW 35.23.211](#).

<sup>31</sup>[RCW 35.27.300](#).

<sup>32</sup>[RCW 35A.12.130](#) and [35A.13.190](#).

<sup>33</sup>*Id.*

<sup>34</sup>[RCW 35A.11.090](#). Certain ordinances, however, are not subject to the referendum, such as those necessary for the preservation of public peace, health and safety, or appropriating money. If an ordinance is exempt from the referendum process, it goes into effect as provided by general law.

<sup>35</sup>[RCW 35.17.230](#).

3. They provide for a local improvement district.

## Counties

Unlike for cities and towns, the county statutes do not specify when an ordinance can go into effect. Accordingly, a county ordinance will go into effect upon passage or at some later date specified by the ordinance. (A county charter may address when ordinances go into effect.)<sup>36</sup>

## Suggested Language

The following language could be used for an effective date of an ordinance:

Section \_\_\_\_\_. Effective date. This ordinance shall take effect (month, date, year); or

Section \_\_\_\_\_. Effective date. This ordinance shall take effect (five, fifteen, thirty, etc.) days after its passage, approval, and publication.

## Repeal

Not all ordinances repeal other ordinances. If one does, however, it should specifically state what ordinances, or parts of ordinances, are being repealed, identifying them by number, title, section and, possibly, date of enactment.

## Suggested Language

Section \_\_\_\_\_. **Repealer**. The following are hereby repealed:

- A. Sections 6, 15 and 20 of Ordinance No. 1725, enacted January 17, 1999.
- B. Ordinance No. 2236, enacted March 16, 1998.
- C. Ordinance No. 41147, entitled:

AN ORDINANCE relating to the licensing of domestic cats, establishing licensing fees and procedures, defining offenses, and setting penalties.

It is not necessary to include the full text of the ordinance being repealed. If the titles of the ordinances being repealed are lengthy or numerous, listing of titles may be omitted. If an ordinance has been codified, information regarding the codification should be included in the repealer (for example, Ordinance No. 21156, as codified at section \_\_\_\_\_ of the \_\_\_\_\_ City Code, is hereby repealed.)

The use of general “repealer” language (“all ordinances or part of ordinances inconsistent with the provisions of this ordinance are hereby repealed”) should be avoided. General repealer language makes it uncertain which ordinances are actually being repealed. The better practice is to carefully

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<sup>36</sup>See, e.g. King County Charter § 230.70 (ordinances go into effect 10 days following enactment or presentation to county executive; if ordinance is subject to a referendum, petition may be filed within 10 days of enactment and, if a petition is filed, ordinance does not go into effect for 45 days).

review all prior ordinances, determining – and then listing – which ordinances, or parts of ordinances, should be repealed. Once all ordinances to be repealed are ascertained and listed, then general repealer language can be used.

## Amendment

An amendment may add to, delete from, or otherwise change an existing ordinance. The manner by which an ordinance may be amended is, at least for some classes of cities, controlled by statute.

### *First Class Cities*

There is no statutory authority or requirements on how an ordinance is to be amended in a first class city. Individual city charters may, however, dictate the procedure that must be used. Most charters provide that any amended section be set out at length.<sup>37</sup>

### *Second Class Cities*

New ordinances must set out the revised ordinance or amended section “at full length.”<sup>38</sup>

### *Towns*

There are no express statutory requirements that an amendatory ordinance set out the ordinance or section to be amended in full. However, it is generally thought to be a desirable practice to do so.

### *Code Cities*

By statute, the amending ordinance must set forth the revised ordinance or amended section or subsection in full.<sup>39</sup>

### *Commission Cities*

There is no statute dictating how ordinances must be amended. As is indicated above, it is generally thought to be a desirable practice to set out the revised ordinance or section in full.

### *Counties*

There are no statutory requirements for the amendment of an ordinance. Good practice would suggest that the ordinance or section being amended be set out in full in the amendatory ordinance.

Except for the statutory requirement applicable to some cities that the ordinance being amended be set out in full, there are no requirements as to how the amendatory language should be worded. One possible approach, used to assist readers in determining what is new and what is being deleted, is to italicize or underline new material and strike over any language to be deleted. The following format could be used:

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<sup>37</sup>See, e.g., Bellingham Charter § 3.04; Bremerton Charter Sec. 18; Seattle Charter Art. IV, § 9; and Vancouver Charter § 2.12.

<sup>38</sup>RCW 35.23.211.

<sup>39</sup>RCW 35A.12.130 and 35A.13.190.

Section 1. Section 5 of Ordinance 61173 is amended to read as follows:

Section 5. The term “officer” means any sworn officer of the police department, *fire department*, (~~(a jail guard)~~) or an animal control officer.

The same general format and definitions used in the original ordinance should be retained and used in the amendment for consistency and to help avoid confusion.

## Saving Clause

If an ordinance is adopted to repeal and replace a previously-adopted ordinance, the new ordinance should include a “savings clause.” A savings clause preserves the rights, remedies, and effects of the previous ordinance until the effective date of the new one. Here is an example of a savings clause:

Section 12. **Savings Clause.** Ordinance No. 221, which is repealed by this ordinance, shall remain in force and effect until the effective date of this ordinance.

## Severability Clause

A severability (or separability) clause is designed to state the legislative body’s intent that, if a portion of an ordinance is held invalid, the remainder of the ordinance should continue in effect. It is commonly used in criminal ordinances, which are, perhaps, more prone to judicial attack, and in lengthy, controversial, or complex ordinances. Here is an example of a severability clause:

Section 7. **Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

It has been suggested that, as an alternative to the more standard severability clause set out above, a legislative body could specify that particular sections of the ordinance may be severed, if unconstitutional, without destroying the legislative intent that the remainder be enforced.<sup>40</sup>

## Short Title

A short, descriptive title may be adopted to assist the identification of the ordinance; for example:

Section 15. **Short Title.** This ordinance shall be known as the Criminal Code and may be cited as such.

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<sup>40</sup>1 A. Sutherland *Statutory Construction* (7th edition) at § 20.27.

Other examples might include “Zoning Code,” “Sign Code,” or “Animal Control Ordinance.”

## Signatures

Typically an ordinance will include the following language, to be completed as the various indicated procedural steps are completed:

Passed by the \_\_\_\_\_ [City Council, Town Council, City Commission, Board of County Commissioners, County Council, as appropriate] of \_\_\_\_\_, at a regular meeting thereof this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Mayor (or Chair)

\_\_\_\_\_  
Approved as to form:

\_\_\_\_\_  
City (or Town or Prosecuting) Attorney

Attest:

\_\_\_\_\_  
Clerk

In addition, the ordinance might include information about when it was first read, filed, and published.

The above discussion merely provides examples of common ordinance provisions. Not all of the provisions listed should be included in all ordinances. Similarly, other sections might need to be included, if required by rule, ordinance, or custom. In each instance, the drafter of the ordinance should discuss the ordinance’s format and provisions with the city or town attorney or the county prosecutor. MRSC is also available to answer questions, provide sample ordinances, or offer other assistance.

## Style

As Chapter 1 demonstrated, there are relatively few rules or requirements for the form of an ordinance. Similarly, there are even fewer rules governing an ordinance's style. Nevertheless, adherence to certain "rules" of style may prove valuable in helping make an ordinance say what is intended and in aiding readers in understanding its meaning.

Clarity of language is an essential principle in the drafting of any ordinance. Clarity enhances readability, which, in turn, provides direction for the public, assists administrators in the performance of their duties, and aids the courts in finding constitutionality against due process challenges.

The following "rules" have been synthesized from a variety of sources and may provide some guidance on ordinance style.

## Gender Neutral and the Use of He and She

Historically, most ordinances were framed in the masculine. Councilmembers were referred to as "councilmen." If an item was needed to be filed with the clerk, reference would often be made to "him" or "he." The modern trend is to make legislation gender neutral, that is, the legislation will refer to both "him" and "her." Titles are altered to reflect that an office holder may be either a man or a woman (councilmember instead of councilman; firefighter instead of fireman; police officer instead of policeman).<sup>41</sup>

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<sup>41</sup>Some government bodies, instead of changing every ordinance that is "sexist," will adopt general language, affecting all legislation. The state, for example, has adopted RCW 1.12.050:

Words importing the singular number may also be applied to the plural of persons or things; words importing the plural may be applied to the singular; and *words importing the masculine gender may be extended to females also.* (Emphasis supplied)

To the same general effect see, for example, Bellingham Municipal Code section 1.04.020.

While the definite trend has been toward making ordinance language gender neutral, there is no statutory mandate requiring such action. Whether to use “him” or “her,” “he” or “she,” or a gender neutral title is a question of style.

## Use of Shall and May

The word “shall” indicates mandatory action; “may” is permissive.<sup>42</sup> If a certain act is required, use “shall;” if there is discretion, use “may.”

## Duplication of Words or Ideas<sup>43</sup>

Pairs of words, each having the same meaning, such as “null and void” and “full and complete,” should not be used. The drafter should determine what is meant and then say it in one word.

## Be Specific in Sentence Subjects

The use of the words “it” and “there,” as subjects, should be avoided. Instead of writing “It is unlawful to . . .,” the better practice is to write “No person shall . . . .” Instead of “There is required of every . . .,” it is better to write “Each person is required to . . . .”

## Use of Such and Said

The words “such” and “said” are commonly used in ordinance drafting to refer to something just mentioned (“said building” or “such street”). These terms are often overworked and are unnecessary. If an ordinance section is referring to a dangerous building, write “the building.” If the reference could be to any one of several kinds of buildings, say “the dangerous building” or “the safe building.”

## Use of Any, Each, Every, and All

If the intent of an ordinance is to encompass everyone who might possibly come within its prohibitions or regulations, all that is necessary is to write “No person shall . . .” or “A person may. . . .” These phrases make it evident that no one is excluded, thus eliminating the need to use “any,” “each,” “every,” or “all.”

## Use of Opinion and Subjective Words; Need for Precision

It is best to avoid words involving opinion or which are subjective rather than objective in character. For example, words such as “adequate” or “clear” may assume a different meaning based upon who the reader is and what the particular circumstances are. Use of opinion and subjective words

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<sup>42</sup>*Scannell v. Seattle*, 97 Wn.2d 701, 648 P.2d 435 (1982).

<sup>43</sup>This section, as well as the next three sections, are excerpted from *The Manual for Ordinance Drafting and Maintenance*, prepared by the Bureau of Governmental Research and Services of the University of Oregon, acting in cooperation with the League of Oregon Cities (November 1980), pp. 6-7.

can result in a constitutional challenge. Legislation, especially if it carries criminal penalties, must not be vague.<sup>44</sup>

Similarly, legislation should be precise. Imprecise language may cause confusion. For example, if admission is prohibited to persons aged “eighteen years or younger,” would a person aged eighteen years, three months be restricted? It would be better to say “under the age of eighteen years.” Precise drafting aids those who must obey or enforce an ordinance and may help reduce the likelihood of a successful constitutional challenge.

## Use Short Sentences

Use short sentences. The shorter the sentence, the easier it is to understand and remember the ordinance. In one comment it is suggested that sentences be kept to a maximum length of 25 words and that the colon, semi-colon, and comma be sparingly used.<sup>45</sup> Sentences requiring the excessive use of commas, colons, and semi-colons should be avoided.

## Verb Tense and Voice

Use verbs, in most instances, in the present tense and in an active voice.<sup>46</sup> Since ordinances are considered to be “always speaking,” use of the future tense (“shall”) is usually not needed unless to express a time relationship between two or more acts or events. An active voice, that is, one denoting the subject of a sentence as the action (“the mayor appoints”), is preferable over a passive voice (“the chair is appointed by the mayor”), since the active voice focuses on the subject. Use of the active voice may make the ordinance more understandable to the reader.

## Word Use<sup>47</sup>

The words used in an ordinance can help the readers’ understanding of its meaning. Simple language used to make clear, accurate statements is usually the best approach to take; long, bureaucratic words and phrases should be avoided. Here are some examples of how a simpler term can be substituted for a more bureaucratic term:

**begin** *instead of* **commence**  
**before** *instead of* **prior to**  
**get** *instead of* **procure**  
**if** *instead of* **provided that**  
**keep** *instead of* **retain**  
**the** *instead of* **said**  
**end** *instead of* **terminate**

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<sup>44</sup>See, e.g., *Myrick v. Pierce County Commissioners*, 102 Wn.2d 698, 687 P.2d 1152 (1984) (expression “fully clothed” is vague; persons of common intelligence must guess as to its meaning and thus may differ as to its application); *Spokane v. Fischer*, 110 Wn.2d 541, 754 P.2d 1241 (1988) (words “disturb or annoy” deemed vague); see, also, *Seattle v. Eze*, 111 Wn.2d 22, 759 P.2d 366 (1988) (language prohibiting “unreasonably” disturbing others with “loud or raucous behavior” is not vague).

<sup>45</sup>“Drafting Plain English Ordinance,” published in the *Kansas Government Journal*, August 1984, pp. 9-10.

<sup>46</sup>E. A. Dreidger, “Legislative Drafting,” 27 *Canadian Bar Review* 291 (1949), as reported in 1A Sutherland, *Statutory Construction*, at pp. 609-636.

<sup>47</sup>This section is based upon a suggestion included in “Drafting Plain English Ordinances,” *supra* at pp. 9-10.



Some words should be avoided altogether; for example:

Aforesaid, henceforth, hereby, herein, hereinafter, hereinafter referred to, hereinbefore, insofar as.<sup>48</sup>

Superfluous words or material should likewise be avoided; once a point is made, it is not necessary to repeat the thought. For example, once it is said that it is unlawful to violate an ordinance, it is not necessary to further prohibit the contravention or failure to observe the provision.

## State an Idea in the Positive

If an idea can be expressed in either a negative or a positive manner, it is better to use the positive. For example, instead of saying “this section does not apply to . . .,” the same idea could be stated “this section applies only to . . .”

As initially indicated, the rules or suggestions listed above are not mandatory. The best style to use is the one the drafter feels comfortable with, the one that makes sense and clearly expresses the thought desired, and the one which reflects the wishes of the legislative body.

## Sections

Organize the ordinance into sections that contain a single idea. Provide each section with a descriptive short heading.

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<sup>48</sup>For additional language substitutions, see Appendix A.

# 3

## CHAPTER THREE

## Adoption Procedures

Once an idea has been drafted into ordinance form, it is ready to be enacted by the county, city or town legislative body. This chapter reviews the procedures that should – or must – be followed for a valid enactment.

### Initiation and Presentation<sup>49</sup>

State statutes are silent as to how ordinances are to be initiated. Thus, absent a charter provision detailing the process, each legislative body may determine the manner that must or should be used.

Typically, when an ordinance has originated within the legislative body, the ordinance is presented to the clerk, who reads its title. The clerk's reading is usually considered to be the "first reading." The ordinance's "second reading," which also is often by title only, usually occurs when the ordinance is up for general discussion by the entire legislative body.

There is no statutory requirement that an ordinance be "read." Similarly, if an ordinance is read, there is no requirement (or limitation) that it be read by title only. Both considerations are frequently covered by local rules. If a local rule has been adopted, that rule should be followed.

While there is no requirement that an ordinance be "read," it nevertheless may be a good idea to do so. A reading provides both the legislative body and members of the public with notice of the topic under consideration. In addition, requiring that an ordinance be "read" helps avoid haste in the body's deliberations.<sup>50</sup>

### Public Hearing

Unless a public hearing before adopting an ordinance is required by statute,<sup>51</sup> none is required, and there are relatively few instances when one is required, considering the large number of issues a

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<sup>49</sup>Ordinances may, at least in some jurisdictions, be initiated through an initiative process. The subject of initiative and referendum is discussed later in this chapter and, more specifically, in MRSC publication, *Initiative and Referendum Guide for Washington Cities and Charter Counties*, (June 2014).

<sup>50</sup>See McQuillin, *Municipal Corporations*, § 16:27.

<sup>51</sup>See Appendix C.

council or board of commissioners routinely considers.<sup>52</sup> A council or commission, however, may want to conduct hearings even when not required to do so, either because a subject is controversial (such as a rate increase) or because citizen comment is useful in the development of public policy.

## Final Action

### When May Final Action Occur?

Except for franchise and emergency ordinances, most ordinances may be passed during the same meeting at which they are introduced.<sup>53</sup> (Local rules and charter provisions may, however, require a lapse of time between an ordinance's introduction and its final passage.)<sup>54</sup>

Passage of a *franchise* ordinance typically requires special procedures be followed, including a lapse of time between introduction and final passage.<sup>55</sup> The procedures applicable to second class cities are fairly typical, although not universal:

1. Neither an ordinance nor a resolution granting a franchise may be passed on the day of its introduction nor for five days thereafter.
2. Passage may only occur at a regular meeting.
3. The franchise ordinance or resolution must be submitted first to the city attorney.
4. Passage requires an affirmative vote of at least five members of the city council.<sup>56</sup>

A legislative body may also need to follow special procedures to enact an emergency ordinance. For example, passage of a “public emergency ordinance”<sup>57</sup> in a code city requires a vote of a majority plus one of the whole city council.<sup>58</sup> (If the code city has adopted the powers of initiative

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<sup>52</sup>One important distinction between board of commissioners and city councils is that boards must conduct a hearing before adopt police and sanitary regulations. [RCW 36.32.120\(7\)](#).

<sup>53</sup>To this general effect, see *Raborn v. Mish*, 12 Wash. 167, 40 Pac. 731 (1895); *State v. Lovelace*, 118 Wash. 50, 203 Pac. 18 (1921) and AGO 1947-48 No. 127b.

<sup>54</sup>See, for example, Bellingham City Charter § 3.04 (at least one week must elapse between introduction and passage); Vancouver City Charter § 2.13 (ordinance must be published at least three days before hearing); King County Charter § 230.10 requires a lapse of seven days and a public hearing between an ordinance's introduction and adoption, except for emergencies.

<sup>55</sup>See [RCW 35.23.251](#) for second class cities, [RCW 35.27.330](#) for towns, [RCW 35.17.220](#) for cities operating under the commission form of government, and [RCW 35A.47.040](#) for code cities. [RCW 36.55.040](#) and [RCW 80.32.010](#) deal with franchises in counties.

<sup>56</sup>[RCW 35.23.251](#). Reference should be made to the statutes applicable to each class of city, town, or county since procedures, while similar, do differ. For first class cities and counties, reference should be made to the charter and, for each jurisdiction, local rules and ordinances should be reviewed to make sure what local requirements have been placed on the passage of a franchise ordinance, if any.

For the passage of a franchise ordinance, five votes are required in a second class city ([RCW 35.23.251](#)), three in a town ([RCW 35.27.330](#)) and a majority of the whole membership in a code city ([RCW 35A.12.120](#) and [RCW 35A.13.170](#)).

<sup>57</sup>A “public emergency ordinance” is an ordinance necessary for the protection of the public health, public safety, public property, or the public peace.” [RCW 35A.12.130](#). It may not be used to levy taxes; grant, renew or extend a franchise; or authorize the borrowing of money. *Id.*

<sup>58</sup>[RCW 35A.12.130](#).

and referendum, the vote must be unanimous and include a statement of urgency.)<sup>59</sup> A public emergency ordinance goes into effect upon adoption. Special procedures apply to budgetary emergencies as well. In a county, for example, payment of funds required by a “nondebatable emergency,” such as might be required because of a fire, flood, explosion, riot, or earthquake, are allowed without a hearing or public notice, so long as the county commissioners have had reasonable notice.<sup>60</sup> An emergency not amounting to a “nondebatable emergency,” which requires an expenditure not contemplated in the budget, may be considered and approved at a meeting for which notice of at least one week has been given, following a public hearing, subject to taxpayer review.<sup>61</sup>

## How Many Votes are Required for Passage?

The number of votes required to pass an ordinance is dependent upon the classification of the municipality, the size of its legislative body, and, in some instances, the nature of the legislation involved

### Second Class Cities

Most ordinances, as well as resolutions and orders, require an affirmative vote of at least four councilmembers for passage.<sup>62</sup> Passage of a franchise ordinance requires the vote of at least five councilmembers.<sup>63</sup> An ordinance providing for an emergency expenditure must be approved by a majority plus one of the legislative body.<sup>64</sup>

### Towns

Most ordinances may be enacted by majority vote of the councilmembers present at a meeting, once a quorum has been established.<sup>65</sup> Thus, if three members are present, an affirmative vote by two members would be sufficient to pass an ordinance, except as noted below.<sup>66</sup>

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<sup>59</sup>RCW 35A.11.090(2).

<sup>60</sup>RCW 36.40.180. The resolution providing for the expenditure must state the facts constituting the emergency and be unanimously adopted; the facts must also be placed into the commission meeting minutes. A nondebatable emergency ordinance may also be used to approve an expenditure to restore public property, pay approved claims for property damage or personal injury, or meet expenditures required by law. See also RCW 35.33.081 and 35A.33.080 for cities and towns. (The authority for a city or town to declare a nondebatable emergency also extends to the payment of expenses associated with adopting a new form of government and for recruitment. *Id.*)

<sup>61</sup>RCW 36.40.140; taxpayer review is provided for in RCW 36.40.150 -170. Similar authority is provided for cities and towns by RCW 35.33.091 and 35A.33.090 (the ordinance may not be voted upon for five days following its introduction; a hearing is required; and the expenditure must be approved by a majority of the entire legislative body, plus one). See RCW 35.17.200 and .210 for cities operating under the commission form of government.

<sup>62</sup>RCW 35.23.211.

<sup>63</sup>RCW 35.23.251.

<sup>64</sup>RCW 35.33.081 and 35.33.091.

<sup>65</sup>RCW 35.27.270 and AGO 1976 No. 7.

<sup>66</sup>AGO 1976 No. 7.

A franchise ordinance requires at least three affirmative votes,<sup>67</sup> as does a resolution or order calling for the payment of money.<sup>68</sup> Ordinances providing for emergency expenditures must be approved by a vote of one more than a majority of all members of the legislative body.<sup>69</sup>

### ***Code Cities***

The passage of any ordinance, grant or revocation of a franchise or license, and any resolution for the payment of money requires an affirmative vote of at least a majority of the whole membership of the council.<sup>70</sup>

Public emergency ordinances, necessary for the protection of public health, public safety, public property, or public peace, may take effect immediately upon final passage, instead of after a delay of five days, if the ordinance is passed by a majority plus one of the whole membership of the council.<sup>71</sup>

An ordinance providing for an emergency expenditure requires a majority plus one vote of all councilmembers.<sup>72</sup>

### ***Cities Operating under the Commission Plan***

There must be a quorum of two commissioners to act, and two affirmative votes are needed to adopt any motion, resolution, ordinance, or course of action.<sup>73</sup>

### ***Non-Code Cities and Towns Operating under the Council-Manager Plan***

A second class city or a town operating under the council-manager plan of government is governed by RCW 35.18.180 for most voting situations. That statute provides in part:

No ordinance, resolution or order, including those granting a franchise or valuable privilege, shall have any validity or effect unless passed by an affirmative vote of at least a majority of the members of the city or town council.

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<sup>67</sup>RCW 35.27.330.

<sup>68</sup>RCW 35.27.270.

<sup>69</sup>RCW 35.33.081 and 35.33.091.

<sup>70</sup>RCW 35A.12.120 and 35A.13.170.

<sup>71</sup>RCW 35A.12.130.

<sup>72</sup>RCW 35A.33.080 and 35A.33.090.

<sup>73</sup>RCW 35.17.180.

Special situations are governed by the provisions applicable to the class of municipality involved.<sup>74</sup> Emergency expenditure ordinances require a vote of at least one more than a majority of all members of the legislative body.<sup>75</sup>

### **First Class Cities**

For the most part, reference should be made to the city charter of a first class city to determine the number of votes necessary to pass an ordinance.<sup>76</sup> Emergency expenditure ordinances for first class cities with a population less than 300,000 are governed by RCW 35.33.081 and 35.33.091; cities with a population greater than 300,000 (Seattle) are governed by RCW 35.32A.060.

### **Counties**

The county statutes do not specify, at least for the most part, how many votes are needed to pass an ordinance. Under common law, a majority vote is sufficient for action, assuming a quorum is present.<sup>77</sup> Thus, if there are three commissioners, two must vote affirmatively to pass an ordinance. If only two commissioners are present and there is a division between the two, the matter under consideration “shall be postponed to the next subsequent meeting.”<sup>78</sup>

Expenditures for emergencies, such as floods, fires, and earthquakes, requiring an emergency expenditure, for which no hearing is held, require a unanimous vote of the commissioners present.<sup>79</sup> Other emergency expenditure ordinances may be approved by a majority vote of those present.<sup>80</sup>

In charter counties, reference should be made to the charter to determine what voting requirements apply.<sup>81</sup>

### **Veto**

The mayor or county executive has veto power only when and to the extent the power has been vested in the position by law.<sup>82</sup> Excluding first class cities and home rule counties, which are gov-

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<sup>74</sup>RCW 35.18.030.

<sup>75</sup>RCW 35.33.081 and 35.33.091.

<sup>76</sup>See, e.g., Aberdeen City Charter § 36; Tacoma City Charter § 2.12; Vancouver City Charter § 2.15; Yakima City Charter Art. V, § 2.

<sup>77</sup>See McQuillin, *Municipal Corporations*, § 13:40 and Rhyne, *The Law of Local Government Operations*, § 5.6; see generally AGO 1976 No. 7.

<sup>78</sup>RCW 36.32.130.

<sup>79</sup>RCW 36.40.180.

<sup>80</sup>RCW 36.40.140.

<sup>81</sup>In King County, for example, a minimum of seven affirmative votes is required to adopt an ordinance. King County Charter § 230.10. In Snohomish County, a minimum of three affirmative votes is required. Snohomish County Charter § 2.110. A vote by a majority of the whole council is needed in Whatcom County. Whatcom County Charter § 2.22.

<sup>82</sup>See McQuillin, *Municipal Corporations*, § 16:39; see also *State ex rel. Prosser Falls Land and Irrigation Co. v. Taylor*, 36 Wash. 607, 79 Pac. 286 (1905).

erned by their individual charters,<sup>83</sup> the veto power is granted only to mayors in second class cities<sup>84</sup> and code cities organized under the mayor-council plan of government.<sup>85</sup>

By way of illustration, each ordinance passed by the city council in a second class city is presented to the mayor for signature. If the mayor disapproves, he or she returns the ordinance to the city council along with written objections. The council enters the objections in its minutes and then proceeds to reconsider the ordinance. If, upon reconsideration, five councilmembers vote in favor of passage, the ordinance becomes valid despite the mayor's veto. If the mayor fails for ten days to either approve or veto the ordinance, it becomes valid without approval.<sup>86</sup> The procedure applicable to code cities under the mayor-council plan is similar, with a vote of a majority plus one of the whole council necessary to override a veto.<sup>87</sup>

## Signature and Attestation

Once passed, ordinances typically must be signed and attested.<sup>88</sup> Reference should be made to the city or county charter for particular rules; the rules applicable to other jurisdictions follow:

- In a *second class city*<sup>89</sup> or a town,<sup>90</sup> each ordinance is signed by the mayor and attested to by the clerk.
- In a *code city*, ordinances are signed by the mayor<sup>91</sup> and “authenticated by the clerk.”<sup>92</sup>
- In a *second class city or a town operating under the council-manager plan* of government, ordinances are signed by the mayor or by two councilmembers and then filed and recorded by the clerk.<sup>93</sup>
- Ordinances passed in a *city with the commission form* of government are either signed by the mayor or two commissioners.<sup>94</sup> Then, typically, the signed ordinance will be attested to by the clerk.

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<sup>83</sup>See e.g., Bellingham City Charter Art. IV, § 4.03; Everett City Charter § 4.1; Spokane City Charter § 15; Snohomish County Charter § 2.110; King County Charter § 230.70; and Whatcom County Charter § 2.30.

<sup>84</sup>[RCW 35.23.211](#).

<sup>85</sup>[RCW 35A.12.100](#) and [35A.12.130](#).

<sup>86</sup>[RCW 35.23.211](#).

<sup>87</sup>[RCW 35A.12.130](#).

<sup>88</sup>An “attestation” is an official authentication by signature indicating personal knowledge that the document was signed by the mayor or mayor pro tempore and that the signature is valid. See, generally, *In re Estate of Price*, 73 Wn. App. 745, 871 P.2d 1079 (1994).

<sup>89</sup>[RCW 35.23.211](#).

<sup>90</sup>[RCW 35.27.290](#).

<sup>91</sup>[RCW 35A.12.130](#) and [35A.13.200](#).

<sup>92</sup>[RCW 35A.12.150](#) and [35A.13.200](#).

<sup>93</sup>[RCW 35.18.180](#).

<sup>94</sup>[RCW 35.17.190](#).

- The *county* statutes do not specifically discuss passage of an ordinance; the chair of the board, however, signs all documents requiring signature of the board.<sup>95</sup> For home rule counties, reference should be made to the county charters.

## Publication

All cities and towns are required to publish every ordinance in their official newspaper. In lieu of publishing an entire ordinance, a city or town may publish a summary.<sup>96</sup> If a city chooses to publish a summary, the summary should provide “a brief description which describes the main points of the ordinance” and include a statement that the full text of the ordinance will be mailed upon request.<sup>97</sup>

The county statutes are not as specific. RCW 36.32.120(7) requires counties provide advance notice of proposed police or sanitary regulations prior to adoption by the legislative body. The notice may either set out a copy of the regulation or summarize its content.<sup>98</sup> Publication is also required for the comprehensive plan, development regulations, and shoreline master plan.<sup>99</sup>

The official newspaper of a city or town should be a “legal newspaper,”<sup>100</sup> designated by resolution,<sup>101</sup> and, for second class cities, towns, and code cities under 20,000 population, selected as result of a competitive bid process.<sup>102</sup> Annually counties must select a “legal newspaper” to serve as the official county newspaper.<sup>103</sup>

An inadvertent error in the publication of the text or summary of an ordinance will not invalidate the ordinance.<sup>104</sup>

## Initiative and Referendum

The power of the public to initiate ordinances by petition or to have enacted ordinances referred to the voters is not universally available. In fact, the powers of initiative and referendum are only

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<sup>95</sup>RCW 36.32.100.

<sup>96</sup>See RCW 35.22.288 (first class cities); RCW 35.23.221 (second class cities); RCW 35.27.300 (towns); and RCW 35A.12.160 and 35A.13.200 (code cities).

<sup>97</sup>*Id.*

<sup>98</sup>RCW 36.32.120(7). RCW 65.16.160(1) also provides for the publication by a county of an ordinance summary, but its provisions only apply if the statute requiring the publication does not otherwise provide for the publication of a summary. See *Leavitt v. Jefferson County*, 74 Wn. App. 668, 682, 875 P.2d 681 (1994).

<sup>99</sup>RCW 36.70A.290(2).

<sup>100</sup>See RCW 65.16.020.

<sup>101</sup>RCW 35.21.875 and 35A.21.230.

<sup>102</sup>RCW 35.23.352(7) and 35A.40.210(2).

<sup>103</sup>RCW 36.72.075.

<sup>104</sup>See, e.g., RCW 35.22.288 (first class cities) and RCW 35.23.221 (second class cities); see also *Bale v. City of Auburn*, 87 Wn. App. 205, 941 P.2d 671 (1997) (an otherwise valid municipal ordinance that is defective because it was enacted in violation of a mandatory procedural rule, such as required publication, may be ratified by a later-enacted ordinance that satisfies all procedural requirements.)



available in first class<sup>105</sup> and code cities,<sup>106</sup> and in cities or towns organized under the commission plan of government.<sup>107</sup> The powers of initiative and referendum are also available in the home rule counties.<sup>108</sup>

Initiative and referendum procedures in first class cities and home rule counties are controlled by each city's or county's charter. Cities operating under the commission plan of government automatically have the powers of initiative and referendum,<sup>109</sup> and the powers are exercised according to RCW 35.17.240 - .360. Code cities do not automatically have the powers of initiative and referendum,<sup>110</sup> but once such powers have been acquired, they are exercised according to the procedures governing commission cities.<sup>111</sup>

For information on how the powers of initiative and referendum can be acquired and how, once acquired, such powers can be exercised, see MRSC publication, *Initiative and Referendum Guide for Washington Cities and Charter Counties* (June 2014).

## Adoption by Reference

All counties, cities, and towns have been authorized to adopt statutes, codes, compilations, and certain other materials by reference.<sup>112</sup> The materials adopted by reference need not be published, although the ordinance adopting the material by reference must be published. In addition, not less than one copy of the item adopted by reference must be filed with the county auditor or, in the case of cities and towns, with the clerk for public inspection and use; additional copies may be filed in the library, city offices, or at other locations, as the legislative body may determine.

The general rule is that a statute (or regulation, etc.) adopted by reference remains unchanged after it is adopted, even though the statute itself may be later amended.<sup>113</sup> This general rule does not

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<sup>105</sup>See RCW 35.22.200 and Aberdeen City Charter § 56; Bellingham City Charter Article X; Bremerton City Charter Article XIII; Everett City Charter Article XI; Richland City Charter §§ 3.08-3.10; Seattle City Charter Article IX; Tacoma City Charter §§ 2.18-2.25; Yakima City Charter Article IV; and Vancouver City Charter Article X.

<sup>106</sup>RCW 35A.11.080 - .100.

<sup>107</sup>RCW 35.17.240 - .360.

<sup>108</sup>See, e.g., King County Charter §§ 230.40 and 230.50; Snohomish County Charter §§ 5.20 and 5.60; and Whatcom County Charter §§ 5.20 and 5.60.

<sup>109</sup>RCW 35.17.240 provides for public referenda of ordinances, and RCW 35.17.260 provides the public with the ability to initiate legislation.

<sup>110</sup>RCW 35A.11.080.

<sup>111</sup>RCW 35A.11.100.

<sup>112</sup>RCW 36.32.120(7), 35.21.180, 35A.12.140, and 35A.13.180.

<sup>113</sup>See *Pacific First Federal Savings & Loan Association v. Pierce County*, 27 Wn.2d 347, 355, 178 P.2d 351 (1947). See, also, *State v. Dougall*, 89 Wn.2d 118, 570 Pd 135 (1977) and *Yelle v. Bishop*, 55 Wn.2d 286, 303, 347 P.2d 1081 (1959).

apply, however, if the statute authorizing adoption by reference also allows for future amendments of the referenced material to be automatically adopted.<sup>114</sup>

## Deficiencies of Form

Deficiencies in the form of an ordinance or resolution adopted by the legislative body of a code city will not affect the validity of the ordinance or resolution, if the following requirements are met:

1. The purpose and intent of the ordinance or resolution are clear;
2. Any regulatory or procedural provisions are expressed in clear and unambiguous terms, or the legislative intent can be determined by the usual methods of judicial construction.
3. The legislative action was taken at an authorized public meeting held within the code city limits at a time and place made known to residents of the city, as provided by law, and
4. The legislative body followed the prescribed procedures, if any, for the passage of such an ordinance or resolution; or, if prescribed procedures were not strictly complied with, no substantial detriment was incurred by any affected person by reason of the irregularity.<sup>115</sup>

If the above requirements are met, brevity and awkwardness of language, or defects of form not going to the substance, or inadvertent use of an incorrect or inaccurate proper name or term shall not invalidate the ordinance or resolution, if it is otherwise in compliance with the law.<sup>116</sup>

There is no similar provision for other classes of municipalities or the counties.

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<sup>114</sup>See, for example, the authorization to adopt the Model Traffic Ordinance (MTO) by reference. [RCW 46.90.010](#) provides for automatic local action for any addition to, amendment to, or repeal of the MTO or any of its sections. (Without such statutory authority, the addition of an item to the MTO would not affect the local ordinance, absent a separate action. See *Jenkins v. Bellingham Municipal Court*, 95 Wn.2d 574, 627 P.2d 1316 (1981).)

<sup>115</sup>In *Bale v. City of Auburn*, 87 Wn. App. 205, 941 P.2d 671 (1997), the court upheld an ordinance which had not been published, as was required, since the city had reenacted the ordinance, ratifying and confirming the original enactment.

<sup>116</sup>[RCW 35A.21.010](#).

# Appendix A

## Subjects Requiring Use of an Ordinance by County Legislative Authority

The following statutes either require an ordinance be adopted to accomplish the purpose indicated or suggest that one is required.

Statute	Subject
<u>RCW 36.32.480</u>	Create emergency medical services district
<u>RCW 36.32.520</u> and .560	Implementation of family – and mini-day care facilities review findings; residential care facilities
<u>RCW 36.36.035</u>	Reduced rates for low-income persons (water/sewer in aquifer protection area)
<u>RCW 36.38.010</u> - .020	Levy an admissions tax
<u>RCW 36.58.040</u>	Create system for solid waste handling, award of contract for collection of recyclables
<u>RCW 36.38.030</u>	Levy of admissions tax
<u>RCW 36.58.120</u>	Establish solid waste disposal district
<u>RCW 36.61.060</u> , .100, .110, .130 and 200	Creation of lake management districts, assessments
<u>RCW 36.70.030</u> , .040 and .070	Create planning commission and planning department
<u>RCW 36.70.200</u> , .210, .810 - .860	Create board of adjustment
<u>RCW 36.70.675</u>	Implement findings of child care facilities review
<u>RCW 36.70.730</u> and .750	Establishing zoning classifications, regulations
<u>RCW 36.70.795</u> and <u>36.70A.390</u> *	Interim zoning
<u>RCW 36.70.970</u> and 36.70.780	Zoning
<u>RCW 36.70.550</u> - .560, .570 and .640	Zoning controls, maps, and regulations
<u>RCW 36.70.755</u>	Implement study of the need and demand for residential care facilities
<u>RCW 36.70.940</u>	Change planning statutes, chapter 35.63 RCW to chapter 36.70 RCW
<u>RCW 36.87.120</u>	Road vacations, establish compensation
<u>RCW 36.88.062</u> , .076, .078, and .095	Formation of county road improvement district; assessments, reimbursement accounts; creating assessment committee
<u>RCW 36.88.235</u>	Transfer of assets from LID guarantee fund to general fund
<u>RCW 36.94.220</u>	Establish LID and ULID for water, sewer
<u>RCW 36.94.260</u>	Establishing officer to hear LID, ULID appeals
<u>RCW 36.94.370</u>	Delay of tap-in charges, connection fees for low-income

Statute	Subject
<u>RCW 36.94.420</u>	Transfer of water/sewer system to water-sewer district
<u>RCW 36.96.040</u> - .050, and .800	Dissolution of inactive special purpose districts
<u>RCW 36.96.800</u>	Dissolution of inactive drainage and drainage improvement districts

\*But see RCW 36.70.020(12) which defines ordinances and resolutions as being synonymous with legislative enactments of the board of county commissioners.

# Appendix B

## Substitutes for Commonly-Used Words and Phrases

the applicant <b>shall be accorded; the opportunity</b> to be hear	the applicant shall be heard
the council shall <b>afford the opportunity</b>	the council shall allow
the <b>aforsaid</b> vehicle; the <b>above-mentioned</b> vehicle; the <b>said</b> vehicle	the vehicle
fine <b>and/or</b> imprisonment	fine or imprisonment or both
<b>at such time as</b>	when
<b>at the place where</b>	where
<b>attains the age of</b> sixteen	becomes sixteen years of age
the clerk <b>be, and she hereby is, directed to</b>	the clerk shall
when the council <b>shall be of the opinion that</b>	when the council determines
the council may <b>constitute and appoint a board</b>	the council may appoint a board
<b>due to the fact that notice</b> was not received	because noticed was not received
<b>during such time as</b> the position remains vacant	while the position is vacant
<b>each and every</b> councilmember may	a councilmember may
if the applicant <b>shall fail, refuse or neglect to</b> file	if the applicant does not file
shall <b>make a full and complete</b> report to	shall report to
the clerk shall <b>give consideration to the report</b>	the clerk shall consider the report
<b>if any person shall violate the</b> provisions of	a violation of the provisions
<b>in the event that</b> the meeting falls on a holiday	if the meeting falls on a holiday
the city manager <b>is authorized and directed to</b>	the city manager may (or shall, depending on the intent)
<b>it shall be</b> fire marshal's <b>duty to</b>	the fire marshal shall
<b>it shall be unlawful to</b>	no person shall
<b>it shall be lawful to</b>	a person may
when the municipal judge <b>shall order, adjudge, and decree</b>	when the municipal judge orders
as <b>allowed by the provisions of</b> state law	as provided by state law
<b>unless and until</b> the council determines	until (or unless, depending on the intent) the council determines
the chair <b>is able to</b>	the chair can
<b>at this point in time</b>	now

<b>at the present time</b>	now
<b>by and between</b>	between
<b>deem</b>	consider
<b>each and every</b>	each
<b>effectuate</b>	carry out
<b>full and complete</b>	total
<b>maintain</b>	continue
<b>on or before</b>	By
<b>per anum</b>	a year
<b>provided, however</b>	provided
<b>prior to</b>	before
<b>terminate</b>	end
<b>utilize</b>	use

The following words, for which there are no substitutes, should not be used:

- forthwith
- henceforth
- hereby
- herein
- hereinabove
- hereinbelow
- heretofore
- thenceforth
- thereupon
- therewith
- to wit
- whatsoever
- whensoever
- wheresoever
- whichsoever

**Note:** The above list has been compiled from the *Manual for Ordinance Drafting and Maintenance*, prepared by the Bureau of Governmental Research and Service of the University of Oregon, in cooperation with the League of Oregon Cities (1980), and a presentation titled “Being Clear is Being Good – Drafting Good Ordinances and Resolutions and Knowing the Difference,” by Fay D. Dupuis, given at the 1988 IMLA Annual Conference.

# Appendix C

## Actions for Which a Public Hearing Is Required

The following lists set out some of the subjects or actions for which the legislative body must conduct a public hearing; the list is not necessarily all-inclusive. There may be other subjects for which a hearing may be politically or practically appropriate, but not legally required, such as before an increase in a rate or fee.

Counties	
<a href="#"><u>RCW 16.10.030</u></a>	Establishment of a dog control zone
<a href="#"><u>RCW 35.13.040</u></a>	Election method annexations
<a href="#"><u>RCW 35.13.470</u></a>	Annexation of territory within urban growth areas by interlocal agreement*
<a href="#"><u>RCW 35.13.480</u></a>	Annexation of territory within urban growth areas – county initiated process*
<a href="#"><u>RCW 35.13.490</u></a>	Annexation of territory used for an agricultural fair
<a href="#"><u>RCW 35.58.080</u></a>	Formation of metropolitan municipal corporation
<a href="#"><u>RCW 35.58.2795</u></a>	Six-year transit plans*
<a href="#"><u>RCW 35.81.060</u></a>	Community renewal plan*
<a href="#"><u>RCW 35.81.090</u></a>	Community renewal plan – extension of period*
<a href="#"><u>RCW 35.87A.040</u></a>	Establishment of parking and business improvement areas*
<a href="#"><u>RCW 35.87A.140</u></a>	Change in assessment rate for parking and business improvement areas*
<a href="#"><u>RCW 35.87A.180</u></a>	Disestablishment of parking and business improvement areas*
<a href="#"><u>RCW 35.101.030</u></a>	Tourism promotion areas – resolution of intent to establish*
<a href="#"><u>RCW 35.101.140</u></a>	Tourism promotion areas – disestablishment*
<a href="#"><u>RCW 35A.14.460</u></a>	Annexation of territory within urban growth areas – interlocal agreement*
<a href="#"><u>RCW 35A.14.470</u></a>	Annexation of territory within urban growth areas – county initiated process*
<a href="#"><u>RCW 35A.14.490</u></a>	Annexation of territory used for an agricultural fair
<a href="#"><u>RCW 36.32.120</u></a>	Adopt police and sanitary regulations
<a href="#"><u>RCW 36.32.480</u></a>	Creation of emergency medical service districts
<a href="#"><u>RCW 36.33.040</u></a>	Transfer of funds from abandoned/nonexistent cumulative reserve funds
<a href="#"><u>RCW 36.34.005</u></a>	Establishment of comprehensive procedures for management of county property
<a href="#"><u>RCW 36.34.040</u></a>	Disposal of county property
<a href="#"><u>RCW 36.34.160</u></a>	Lease of county property
<a href="#"><u>RCW 36.34.330</u></a>	Exchange of county real property for privately owned real property
<a href="#"><u>RCW 36.36.020</u></a>	Creation of aquifer protection area
<a href="#"><u>RCW 36.40.070</u></a>	Budget hearing

<b>Counties</b>	
<a href="#"><u>RCW 36.40.140</u></a>	Emergencies subject to hearing
<a href="#"><u>RCW 36.40.250</u></a>	Biennial budgets – proposed property tax levies
<a href="#"><u>RCW 36.54.110</u></a>	Creation of county ferry districts
<a href="#"><u>RCW 36.55.040</u></a>	Bridge or road franchise application
<a href="#"><u>RCW 36.56.030</u></a>	Assumption of rights, powers, functions, and obligations of metropolitan municipal corporation
<a href="#"><u>RCW 36.58.090</u></a>	Contracts with vendors for solid waste handling systems
<a href="#"><u>RCW 36.58.110</u></a>	Solid waste disposal district – establishment, modification, or dissolution
<a href="#"><u>RCW 36.58A.020</u></a>	Establishment, modification or dissolution of solid waste collection district
<a href="#"><u>RCW 36.60.020</u></a>	Establishment, modification, or dissolution of county rail district
<a href="#"><u>RCW 36.60.120</u></a>	Establishment, modification, or dissolution of county rail district – alternate method (by petition)
<a href="#"><u>RCW 36.61.030</u></a>	Creation of lake and beach management district – resolution or petition
<a href="#"><u>RCW 36.61.120</u></a>	Lake and beach management district – adoption of special assessment roll
<a href="#"><u>RCW 36.61.270</u></a>	Lake and beach management district – imposition of rates and charges
<a href="#"><u>RCW 36.61.300</u></a>	Acquisition of real property or property rights – amendment and modification of plan for the lake and beach management district
<a href="#"><u>RCW 36.68.010</u></a>	Parks and recreational facilities – disposition of surplus park property
<a href="#"><u>RCW 36.68.440</u></a>	Parks and recreational facilities – feasibility and cost studies of proposed service area
<a href="#"><u>RCW 36.69.040</u></a>	Formation of a park and recreation district
<a href="#"><u>RCW 36.69.440</u></a>	Joint park and recreation district – petition for formation
<a href="#"><u>RCW 36.70.110</u></a>	Planning commission – removal of member
<a href="#"><u>RCW 36.70.440</u></a>	Lapse or failure by planning agency to submit report on changes to comprehensive plan
<a href="#"><u>RCW 36.70.630</u></a>	Changes to recommendation of official controls for comprehensive plan by board of commissioners
<a href="#"><u>RCW 36.70.795</u></a>	Hearing within at least sixty days of adoption of moratorium, interim zoning map, interim zoning ordinance, or interim official control
<a href="#"><u>RCW 36.70A.110</u></a>	Adoption of interim urban growth areas
<a href="#"><u>RCW 36.70A.130</u></a>	Review of comprehensive land use plan
<a href="#"><u>RCW 36.70A.140</u></a>	Public participation program for GMA planning*
<a href="#"><u>RCW 36.70A.210</u></a>	Adoption of countywide planning policy
<a href="#"><u>RCW 36.70A.390</u></a>	Hearing following adoption of moratoria, interim zoning without prior hearing*
<a href="#"><u>RCW 36.70A.540</u></a>	Affordable housing incentive programs – establishing income levels for occupants*



<b>Counties</b>	
<u>RCW 36.70B.200</u>	Approval of development agreement*
<u>RCW 36.73.050</u>	Establish, change boundaries, or dissolve transportation benefit district*
<u>RCW 36.73.160</u>	Transportation improvement cost exceeds cost designated in original finance plan by >20% (only applies to cities or counties that have assumed the rights, powers, functions, and obligations of a transportation benefit district)*
<u>RCW 36.73.180</u>	Receipt of petition for supplemental transportation improvements (only applies to cities or counties that have assumed the rights, powers, functions, and obligations of a transportation benefit district)*
<u>RCW 36.75.190</u>	Publication of engineer's report on construction or acquisition of bridge or trestle that crosses any topographical feature that constitutes a boundary
<u>RCW 36.81.070</u>	County road engineer report – new road
<u>RCW 36.81.121</u>	Six-year comprehensive transportation program
<u>RCW 36.82.200</u>	County road budget — hearing, adoption, supplemental budget
<u>RCW 36.83.020</u>	Road and bridge service district – establishment, modification of boundaries, dissolution
<u>RCW 36.83.120</u>	Road and bridge service district – establishment, modification of boundaries, dissolution
<u>RCW 36.87.060</u>	Vacation or abandonment of county road
<u>RCW 36.88.030</u>	Formation of district – by resolution of intention – procedure
<u>RCW 36.88.050</u>	Formation of district – by petition – procedure
<u>RCW 36.88.060</u>	County road improvement district – formation by resolution of intention or by petition
<u>RCW 36.88.090</u>	County road improvement district – assessment roll
<u>RCW 36.88.450</u>	Underground electric and communication facilities – installation or conversion
<u>RCW 36.94.020</u>	Adopt on-site inspection/maintenance utility
<u>RCW 36.94.080</u>	Adoption, amendment, or rejection of proposed water/sewer general plan
<u>RCW 36.94.240</u>	Utility local improvement districts – formation by petition or initiative
<u>RCW 36.94.260</u>	Utility local improvement districts – protests to an assessment
<u>RCW 36.94.420</u>	Transfer of water-sewer system from county to water-sewer district
<u>RCW 36.95.200</u>	Television reception improvement districts – dissolution by resolution
<u>RCW 36.96.030</u>	Determination of inactive special purpose districts
<u>RCW 36.105.040</u>	Creation of community council
<u>RCW 36.115.040</u>	Adoption of service agreement
<u>RCW 36.145.030</u>	Community facilities districts – formation by petition*
<u>RCW 36.150.030</u>	County ferry districts – assumption of rights, powers, functions, obligations

Counties	
<a href="#"><u>RCW 39.10.385</u></a>	General contractor/construction manager procedure – alternative subcontractor selection process*
<a href="#"><u>RCW 39.10.400</u></a>	General contractor/construction manager procedure – prebid determination of subcontractor eligibility*
<a href="#"><u>RCW 39.33.020</u></a>	Disposition of surplus property with an estimated value > \$50,000 (however, <u>AGO 1997 No. 5</u> concludes that this requirement only applies to intergovernmental transfers of property)*
<a href="#"><u>RCW 39.64.080</u></a>	Taxing district powers under plan of readjustment*
<a href="#"><u>RCW 39.88.040</u></a>	Procedure for adoption of public improvement*
<a href="#"><u>RCW 39.89.050</u></a>	Procedure for creating increment area*
<a href="#"><u>RCW 39.92.030</u></a>	Transportation improvement programs*
<a href="#"><u>RCW 39.100.020</u></a>	Conditions for financing public improvements using hospital benefit zone financing*
<a href="#"><u>RCW 39.100.030</u></a>	Creation of a benefit zone*
<a href="#"><u>RCW 39.102.090</u></a>	Adoption of a revenue development area*
<a href="#"><u>RCW 39.104.040</u></a>	Creation of revitalization area*
<a href="#"><u>RCW 52.02.040</u></a>	Fire protection district formation
<a href="#"><u>RCW 58.17.090</u></a>	Preliminary plat approval*
<a href="#"><u>RCW 58.17.215</u></a>	Alteration of a subdivision*
<a href="#"><u>RCW 58.17.225</u></a>	Grant of easement over public open space*
<a href="#"><u>RCW 67.38.030</u></a>	Creation of cultural arts, stadium, and convention districts
<a href="#"><u>RCW 68.52.110</u></a>	Cemetery district formation
<a href="#"><u>RCW 84.34.037</u></a>	Applications for the classification or reclassification of land
<a href="#"><u>RCW 84.55.120</u></a>	Adoption of tax increase by ordinance or resolution*
<a href="#"><u>RCW 85.15.040</u></a>	Creation of diking, draining, and sewerage improvement districts
<a href="#"><u>RCW 85.16.060</u></a>	Determination of special benefits accruing from the maintenance of improvement districts
<a href="#"><u>RCW 85.38.040</u></a>	Proposed special districts – diking, drainage, and flood control facilities and services
<a href="#"><u>RCW 85.38.160</u></a>	Systems of assessment – diking, drainage, and flood control facilities and services
<a href="#"><u>RCW 87.03.020</u></a>	Formation of irrigation district
<a href="#"><u>RCW 87.80.040</u></a>	Joint control of irrigation districts
<a href="#"><u>RCW 87.84.030</u></a>	Formation of irrigation and rehabilitation districts
<a href="#"><u>RCW 90.58.590</u></a>	Adoption of moratoria by local governments*

\*Public hearing requirement applies to both city (or town) and county legislative bodies.

<b>Cities and Towns</b>	
<a href="#"><u>RCW 35.02.132</u></a>	Budget for newly-incorporated city or town
<a href="#"><u>RCW 35.10.217</u></a>	Consolidation or annexation to another city/town
<a href="#"><u>RCW 35.13.140</u></a>	Direct petition annexations
<a href="#"><u>RCW 35.13.178</u></a>	Comprehensive land use plan for area to be annexed
<a href="#"><u>RCW 35.13.182</u></a>	Annexation of an unincorporated island
<a href="#"><u>RCW 35.13.238</u></a>	Annexation of territory served by fire protection districts
<a href="#"><u>RCW 35.13.256</u></a>	Annexation of territory served by fire protection districts benefit charge
<a href="#"><u>RCW 35.13.430</u></a>	Alternative direct petition method annexation
<a href="#"><u>RCW 35.13.470</u></a>	Annexation of territory within urban growth areas by interlocal agreement*
<a href="#"><u>RCW 35.13.480</u></a>	Annexation of territory within urban growth areas – county initiated process*
<a href="#"><u>RCW 35.13A.080</u></a>	Dissolution of a water district
<a href="#"><u>RCW 35.18.130</u></a>	Removal of city manager
<a href="#"><u>RCW 35.21.156</u></a>	Contract for solid waste handling
<a href="#"><u>RCW 35.21.530</u></a>	Codify or compile ordinances
<a href="#"><u>RCW 35.21.762</u></a>	Create urban emergency medical services district
<a href="#"><u>RCW 35.21.766</u></a>	Allocation of general fund revenues for ambulance service utility
<a href="#"><u>RCW 35.21.925</u></a>	Supplemental transportation improvements by a city
<a href="#"><u>RCW 35.27.590</u></a>	Establishment of off-street parking space or facility by town
<a href="#"><u>RCW 35.32A.040</u></a>	Consideration of proposed budget in cities over three hundred thousand
<a href="#"><u>RCW 35.33.057</u></a>	Hearings on the annual budget
<a href="#"><u>RCW 35.33.071</u></a>	Adopt annual budget
<a href="#"><u>RCW 35.34.090</u></a>	Hearings on the biennial budget
<a href="#"><u>RCW 35.34.110</u></a>	Adopt biennial budget
<a href="#"><u>RCW 35.34.130</u></a>	Mid-biennial budget review and modification
<a href="#"><u>RCW 35.43.125</u></a>	Creation of local improvement district
<a href="#"><u>RCW 35.43.140</u></a>	Local improvement paid for by levy or assessment within improvement district
<a href="#"><u>RCW 35.43.150</u></a>	Approve local improvement district
<a href="#"><u>RCW 35.44.070</u></a>	Approve LID assessment role
<a href="#"><u>RCW 35.55.070</u></a>	Approve LID to fill low land
<a href="#"><u>RCW 35.55.160</u></a>	Excess or deficiency of funding for contract for improvement
<a href="#"><u>RCW 35.56.080</u></a>	Approve LID to fill or drain lowland
<a href="#"><u>RCW 35.56.170</u></a>	Excess or deficiency of funding for contract for improvement
<a href="#"><u>RCW 35.58.2795</u></a>	Six-year transit plans*
<a href="#"><u>RCW 35.63.030</u></a>	Removal of member of planning commission

<b>Cities and Towns</b>	
<a href="#"><u>RCW 35.63.120</u></a>	Affirmance, disaffirmance, or modification of planning commission's decision
<a href="#"><u>RCW 35.63.200</u></a>	Adopt moratoria or interim zoning controls
<a href="#"><u>RCW 35.64.010</u></a>	Approval of contracts for management and operation of zoo or aquarium
<a href="#"><u>RCW 35.68.020</u></a>	Authorize construction, reconstruction, or repair of sidewalk, gutter, or curbs
<a href="#"><u>RCW 35.68.030</u></a>	Assessment of costs of sidewalk repair on abutting property
<a href="#"><u>RCW 35.68.050</u></a>	Assessment roll for sidewalk repair or construction
<a href="#"><u>RCW 35.70.080</u></a>	Assessment roll for sidewalk repair or construction in second-class cities and towns
<a href="#"><u>RCW 35.71.040</u></a>	Pedestrian mall plan
<a href="#"><u>RCW 35.72.040</u></a>	If requested, assessment reimbursement contracts (streets, roads)
<a href="#"><u>RCW 35.73.030</u></a>	Establish grade or provide for fill of property
<a href="#"><u>RCW 35.77.010</u></a>	Adoption and annual revision of comprehensive transportation program
<a href="#"><u>RCW 35.79.010</u></a>	Street vacation approval
<a href="#"><u>RCW 35.79.030</u></a>	Street vacation petition
<a href="#"><u>RCW 35.81.060</u></a>	Community renewal plan*
<a href="#"><u>RCW 35.81.090</u></a>	Community renewal plan – extension of period*
<a href="#"><u>RCW 35.85.020</u></a>	Assessment district for viaducts, elevated roadways, tunnels and subways
<a href="#"><u>RCW 35.85.030</u></a>	Limit of assessment – lien – priority
<a href="#"><u>RCW 35.85.060</u></a>	Assessment roll – viaducts, elevated roadways, tunnels and subways
<a href="#"><u>RCW 35.86.050</u></a>	Off-street parking facility plan
<a href="#"><u>RCW 35.86A.080</u></a>	Off-street parking – parking commission – proposed facilities with special requirements
<a href="#"><u>RCW 35.87A.040</u></a>	Establishment of parking and business improvement areas*
<a href="#"><u>RCW 35.87A.140</u></a>	Change in assessment rate for parking and business improvement areas*
<a href="#"><u>RCW 35.87A.180</u></a>	Disestablishment of parking and business improvement areas*
<a href="#"><u>RCW 35.92.020</u></a>	Adopt on-site inspection/maintenance of sewer utility services
<a href="#"><u>RCW 35.92.260</u></a>	Acquisition of water rights – assessment rolls
<a href="#"><u>RCW 35.94.040</u></a>	Lease or sale of surplus utility property
<a href="#"><u>RCW 35.96.050</u></a>	Objections to converting electrical and communications facilities underground
<a href="#"><u>RCW 35.101.030</u></a>	Tourism promotion areas – resolution of intent to establish*
<a href="#"><u>RCW 35.101.140</u></a>	Tourism promotion areas – disestablishment*
<a href="#"><u>RCW 35A.13.130</u></a>	Removal of city manager
<a href="#"><u>RCW 35A.13.140</u></a>	Removal of city manager
<a href="#"><u>RCW 35A.14.020</u></a>	Annexation by election method
<a href="#"><u>RCW 35A.14.130</u></a>	Alternative direct petition method for annexation (owners of 10% assessed value of area to be annexed)

<b>Cities and Towns</b>	
<a href="#"><u>RCW 35A.14.295</u></a>	Annexation of unincorporated island of territory within code city
<a href="#"><u>RCW 35A.14.340</u></a>	Proposed zoning regulations for annexed areas
<a href="#"><u>RCW 35A.14.430</u></a>	Alternative direct petition method for annexation (owners of 10% acreage of area to be annexed)
<a href="#"><u>RCW 35A.14.460</u></a>	Annexation of territory within urban growth areas – interlocal agreement*
<a href="#"><u>RCW 35A.14.470</u></a>	Annexation of territory within urban growth areas – county initiated process*
<a href="#"><u>RCW 35A.14.480</u></a>	Annexation of territory served by fire districts – interlocal agreement process
<a href="#"><u>RCW 35A.16.080</u></a>	Exclusion of agricultural land from the incorporated area of a code city
<a href="#"><u>RCW 35A.33.055</u></a>	Preliminary budget message
<a href="#"><u>RCW 35A.33.070</u></a>	Final budget
<a href="#"><u>RCW 35A.33.090</u></a>	Emergency expenditure ordinance
<a href="#"><u>RCW 35A.34.090</u></a>	Biennial budget message
<a href="#"><u>RCW 35A.34.110</u></a>	Final biennial budget
<a href="#"><u>RCW 35A.34.130</u></a>	Mid-biennial review and modification
<a href="#"><u>RCW 35A.34.150</u></a>	Emergency expenditure ordinance (for code cities budgeting biennially)
<a href="#"><u>RCW 35A.63.070</u></a>	Adopt comprehensive plan
<a href="#"><u>RCW 35A.63.073</u></a>	Amend the comprehensive plan
<a href="#"><u>RCW 35A.63.100</u></a>	Amendments to comprehensive plan, zoning ordinances
<a href="#"><u>RCW 35A.63.150</u></a>	Authorization to provide for additional public hearings related to planning and zoning
<a href="#"><u>RCW 35A.63.220</u></a>	Adoption and renewal of moratoriums or interim zoning ordinances
<a href="#"><u>RCW 36.70A.140</u></a>	Public participation program for GMA planning (would include hearings)*
<a href="#"><u>RCW 36.70A.390</u></a>	Hearing following adoption of moratoria, interim zoning without prior hearing*
<a href="#"><u>RCW 36.70A.540</u></a>	Affordable housing incentive programs – establishing income levels for occupants*
<a href="#"><u>RCW 36.70B.200</u></a>	Approval of development agreement*
<a href="#"><u>RCW 36.73.050</u></a>	Establish, change boundaries, or dissolve transportation benefit district*
<a href="#"><u>RCW 36.73.160</u></a>	Transportation improvement cost exceeds cost designated in original finance Plan by >20% (only applies to cities or counties that have assumed the rights, powers, functions, and obligations of a transportation benefit district)*
<a href="#"><u>RCW 36.73.180</u></a>	Receipt of petition for supplemental transportation improvements* (only applies to cities or counties that have assumed the rights, powers, functions, and obligations of a transportation benefit district)*

<b>Cities and Towns</b>	
<u>RCW 36.120.210</u>	Findings and recommendations for Alaskan Way Viaduct and Seattle Seawall improvements
<u>RCW 36.145.030</u>	Community facilities districts – formation by petition*
<u>RCW 39.10.385</u>	General contractor/construction manager procedure – alternative subcontractor selection process*
<u>RCW 39.10.400</u>	General contractor/construction manager procedure – prebid determination of subcontractor eligibility*
<u>RCW 39.33.020</u>	Disposition of surplus property with an estimated value > \$50,000 (however, <u>AGO 1997 No. 5</u> concludes that this requirement only applies to intergovernmental transfers of property)*
<u>RCW 39.64.080</u>	Taxing district powers under plan of readjustment*
<u>RCW 39.88.040</u>	Procedure for adoption of public improvement*
<u>RCW 39.89.050</u>	Procedure for creating increment area*
<u>RCW 39.92.030</u>	Transportation improvement programs*
<u>RCW 39.100.020</u>	Conditions for financing public improvements using hospital benefit zone financing*
<u>RCW 39.100.030</u>	Creation of a benefit zone*
<u>RCW 39.102.090</u>	Adoption of a revenue development area*
<u>RCW 39.104.040</u>	Creation of revitalization area*
<u>RCW 39.108.010</u>	Creation of a local infrastructure project area
<u>RCW 58.17.090</u>	Preliminary plat approval*
<u>RCW 58.17.215</u>	Alteration of a subdivision*
<u>RCW 58.17.225</u>	Grant of easement over public open space*
<u>RCW 84.55.120</u>	Adoption of property tax increase by ordinance or resolution*
<u>RCW 90.58.590</u>	Adoption of moratoria by local governments*

\* Public hearing requirement applies to both city (or town) and county legislative bodies.