



2.302 Ordinances

Municipal Officials Handbook p. 42-42

An *Ordinance* is an act adopted by a municipal governing body having effect only within the jurisdiction of the municipal government. An ordinance is a municipal law that often imposes a sanction for violation. *A model ordinance is attached at the end of this Chapter.*

Two separate bodies of state law define the process of adopting, amending or vetoing an ordinance or resolution. *Montana Code Annotated, Title 7, Chapter 5, Parts 1 and 42* both provide specific guidance on the process and, as detailed below, require careful review and attention to detail, most especially with respect to the construction and adoption of a municipal ordinance.

Some critical details in the construction and adoption of a municipal ordinance include:

- While it may not be essential that the city attorney draft every ordinance for consideration by the council, it is a very good idea to require that the *city attorney review every draft ordinance for legal sufficiency prior to final adoption by the council.*
- An ordinance may not contain more than *one comprehensive subject*, which must be clearly expressed in its title (7-5-103, MCA).
- An ordinance must be read and *adopted by a majority vote of members present at two meetings of the governing body not less than 12 days apart.* After the first adoption and reading, it must be posted and copies must be made available to the public (7-5-103, MCA). Ordinarily, an ordinance does not require a public hearing prior to final adoption but some subjects of particular concern to the community may justify calling for a public hearing.
- After passage and approval and unless vetoed, *all ordinances must be signed by the presiding officer of the governing body* and filed with the clerk (7-5-103, MCA).
- Except for emergency ordinances, an ordinance *may not go into effect earlier than 30 days after the second reading and final adoption* (7-5-105, MCA).
- In the event of an *emergency*, the council may waive the second reading. An ordinance passed in response to an emergency shall recite the facts giving rise to the emergency and *requires a two-thirds vote of the whole governing body*

for passage. An emergency ordinance shall be effective on passage and approval and shall *remain effective for no more than 90 days (7-5-104, MCA)*. An emergency ordinance shall include only such measures as are immediately necessary for the preservation of peace, health, and safety and shall not include: (7-5-4204, MCA).

1. *A franchise or license to a corporation or individual;*
2. *Any provisions for the sale of real estate;*
3. *Any lease or letting of any property for a period exceeding 1 year; or*
4. *The purchase or sale of personal property exceeding \$5,000 in value.*

· All ordinances must be recorded in a book kept by the clerk, called "The Ordinance Book," and numbered by numerical decimal system in the order in which they are passed or codified (7-5-4201, MCA). At five year intervals the ordinances must be compiled or re-codified into a municipal code typically arranged by topic (7-5-107, MCA).

· Except as provided in subsection (2), a local government may fix penalties for the violation of an ordinance that do *not exceed a fine of \$500 or 6 months imprisonment or both the fine and imprisonment*. (2) A local government may fix penalties for the violation of an ordinance relating to local or federal wastewater pretreatment standards implementing the Federal Water Pollution Control Act, 33 U.S.C. 1251 through 1387, if the penalties do not exceed \$1,000 per day for each violation or 6 months imprisonment, or both.

Sponsored by [MSU Extension](#)