

CONSIDERATIONS FOR ORDINANCE DEVELOPMENT

Introduction – At the heart of every ordinance is the vision a community has for their citizens. The community Charter contains the language which empowers local officials to establish and enforce rules and regulations created by the community. Generally ordinance development seeks to provide a sustainable quality of life and to provide basic services for the health, safety and welfare of the community. This document is focused on providing a basic understanding of local ordinances and the process and procedures associated with their creation.

What is an ordinance? – Unlike a state statute which is passed by the legislature and signed by the governor, an ordinance is a law established and enforced by a local town or municipality. State constitutions provide towns and municipalities with the lawful authority to establish local laws called ordinances and also referred to as local code. Enabling state statutes that address local power and authority dictate how municipal legislation shall be created. By example:

“Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting clause of each ordinance shall be "The City of _____ ordains," and the effective date of each ordinance shall be specified in it. All ordinances shall be recorded at length uniformly and permanently by the city clerk, and each ordinance so recorded shall be authenticated by the signature of the mayor and the city clerk. Ordinances shall be published, compiled and revised in such manner and at such times as the elected body shall determine.”¹

A municipal ordinance is no different than any other law and can be enforced and provide penalties. Ordinances are subject to challenge in court and must comply with other laws of the land, such as the country's constitution. Municipal bylaws are often enforceable through the justice system and offenders can be charged with civil and/or criminal offenses for breach of an ordinance. Common ordinance regulation includes land use, building and development, alcohol and business licensing, entertainment, parking and conservation.

Preparing to Address Your Issue – One should consider the process and procedures that follow in preparation to address the area or issue of concern to you or your concerned citizens.

1. Research the Law

Before you begin this long and often complicated journey, you should thoroughly research your issue. It is important to understand the process and procedures that make up the ordinance process. Many communities maintain their ordinances online so the public can avail itself of the community's laws. In addition to the community maintained websites, commercial web-based ordinance produced are also available from a variety of commercial sources such as Westlaw, LexisNexis and Municode.

2. Meet Regularly from the Start

If you are part of a group of concerned citizens, locate a convenient and comfortable place to meet to work on your ordinance. It is important to meet regularly, at the same time and the same place. Meetings probably should take place weekly at first in order to maintain momentum. If

¹ NHRSA Title III, Chapter 49C, 49C:14

you are working alone be sure to have access to the tools you need to research and organize your efforts. You should consider developing a timeline that will provide you with a realistic sense of how long the process will take and how many steps are involved from concept to passage.

3. Develop a Strategy

Every community is different. The mix of elected officials, mayors, city councilpersons, and county commissioners may be progressive, conservative, liberal, or somewhere in between. They may be open to new ideas or closed to changing the status quo. Your locale may be rural, suburban, or inner-city. Your group will need to decide how receptive your local government will be to your ordinance. The degree of receptivity will determine your strategy. In some communities, it may be enough to speak personally with the mayor and a few commissioners to ensure the passage of your ordinance. Other communities may require extensive organizing, petition signing, and a massive publicity effort to pass an ordinance. Consider who might be open to the goals of your ordinance or resolution. Sometimes it may be a good idea to let some of your city or county commissioners know what you are doing before presenting your ordinance. They may have helpful observations that can make your efforts easier. Others may find it best to involve councilpersons as little as possible until your ordinance is brought before the full Commission. These considerations should be part of your early strategic planning.

4. Identify Supporters and Opponents

While many might agree with your intention to regulate or deregulate your issue, undoubtedly there will be people or organizations that do not support your position. Make a list of individuals, groups, and organizations that are willing to work with you on your effort. If someone in your group knows someone in another group or organization, ask that person to contact the potential ally. Friendly groups can expand your efforts in gathering signatures, include your articles in their newsletters, or they can supply warm bodies to support your efforts. In some cases they can do all three. Similarly, make a list of individuals and organizations that are likely to oppose your efforts. It's important to know who your critics are and what their arguments are likely to be. Strategies can be developed to minimize or marginalize your opposition or to respond to their arguments.

5. Your List of Things to Do

There can be lots of “to do” items to accomplish your goal. Some of the tasks might include:

Meeting agendas	Find and reserve meeting rooms
Public relations	Press releases
Public Service Announcements	Set up meeting room
Create newsletter or educational materials	Break down and clean up meeting room
Fundraising	Draft petition or resolution
Maintain database	Make postcards
Make flyers	Make labels
Fact sheet	Create brochure
Alert actions	Create petition
Make posters	Tabling ²

² “Tabling” is setting up a small table (card table for example) with literature, postcards, petitions, and signup sheets for people to read or take with them. This allows you to more effectively get the word out to people in your community.

Set up and manage email list	Buttons
Bumper stickers	Phone calling

It's important to have small, short-term, well-defined tasks for volunteers to do.

It is difficult to maintain volunteer interest in open-ended or poorly defined tasks. Be specific! You may or may not want to form committees to address these and other tasks. Larger groups may need committees whereas individuals in smaller groups simply may volunteer for several tasks. Examples of committees might include:

- Coordinating Committee
- Program Committee
- PR Committee
- Statement/Petition Committee
- Fundraising/Sponsorship/Organizing Committee

6. Inform Your Community

The benefits of community outreach are:

- More interested people to join in the effort to pass an ordinance;
- Larger audience for distribution of posters and petitions;
- Larger pool of people who can speak in favor of the resolution at important community meetings or communicate with the press;

Effective outreach sparks community dialogue and raises the visibility of your resolution. Prepare a presentation that can be given as a program to organizations and groups that are potential allies. Many groups have regularly scheduled meetings, such as monthly brown bag lunches, breakfasts, or membership meetings, and are looking for programs. Presentations should make good use of audio/visual tools to keep interest level high. Be prepared with sign-up sheets, fact sheets, postcards, petitions, action sheets, or other materials. Sources for support and outreach include individuals, businesses, and nonprofits. High school and college students can be especially helpful in collecting signatures or tabling at various locales.

Important: Take a volunteer sign-up sheet to every meeting. Include spaces on the sign-up sheet for name, address, phone, email, and a box to check for interest in volunteering. Enter this information into a computer file or database immediately after a meeting, a forum, or a day of gathering signatures has taken place. Use any software program that allows you to organize and track the information you are gathering, such as Excel, Numbers, Word or Pages. These programs allow you to create mailing labels easily and have powerful merge features.

7. Distributing Educational Materials

An important component of influencing public policy is to gain the support of the public. To bring ordinance development on needs to educate the public on your issue or concern. To accomplish these objectives you need to educate a wide variety of people representing a broad range of disciplines and interests. Materials can often be placed in coffee shops, book stores, local co-op grocery stores, or wherever a sympathetic audience may shop. Forums, meetings, and presentations are all good opportunities to make educational material available to the public. Fact sheets, literature and articles, petitions, donation jar, and sign-up sheets, all should be available. Bumper stickers and buttons can be made available for a donation.

8. Drafting your Proposed Ordinance

Drafting legislation can be a very challenging process. The language needs to be drafted in such a way as to comply with the Constitutional protections afforded the citizenry. Language that is too vague will be deemed unconstitutional if challenged. The void for vagueness doctrine was made in *Connally v. General Construction Co.*, 269 U.S. 385 (1926) by Justice George Sutherland:

[T]he terms of a penal statute [...] must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties... and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.

The void for vagueness doctrine is seen as protecting an individual's right to due process.

There are a number of online resources available to people where they may view sample ordinances or explore existing ordinances to better acquaint themselves with language that has been deemed sufficient and appropriate to pass evaluation. Some of these websites include:

- [The Underage Drinking Enforcement Training Center at PIRE](#)
- [The Municipal Service and Research Center of Washington State](#)
- [Cornell University Law School, Legal Information Institute](#)
- [University of Minnesota, Alcohol Epidemiology Program](#)
- [The Robert Wood Johnson Foundation](#)
- [CADCA](#)

Once your ordinance is drafted it will need to be introduced to the elective body who will vote to adopt or reject. After drafting your resolution, meet with the City or Town Council sponsor of your draft resolution (or city manager or city attorney) to determine if your document is one that will have a support. This effort will be much like drafting a bill for your state legislature. You'll need a sponsor and you'll need to have it reviewed to make sure it passes legal muster.

The ordinance adoption process has very rigid requirements. The draft language needs to be reviewed for compliance with formatting rules and the draft will certainly be reviewed by the community's legal advisor for its Constitutionality.

9. Media Involvement

Brainstorm with others to identify all known media outlets. These include radio and TV stations, newspapers, community newspapers, and weekly publications. Don't forget university newspapers and radio stations. Identify the publications of various organizations as well. Call each outlet to ask for a fax number and an e-mail to which press releases, articles, op-ed pieces, or letters to the editor are sent. After sending out a press release, make a follow-up phone call to verify receipt of the fax or email. The cheapest form of communication with the public is letters to the editor. The more letters people send in, the more support demonstrated for your ordinance.

10. Petition Drive

In some locales, organizing a petition drive and obtaining signatures may be the only way to get the commission, mayor, or council's attention to pass an ordinance. If your group determines there is need for a petition, there are several good sources of collecting signatures for petitions. Attend meetings where the audience is likely to be receptive to your efforts. Come to the meeting with educational materials, including fact sheets, "what you can do" sheet, signup sheet, and petitions. Set up a display table with your educational materials. Ask ahead of time if you can have a minute to describe your effort and pass around a petition at the meeting, otherwise stand next to your display and talk to people, asking them to sign your petition.

11. Contacting Your Elected Officials:

Make sure to contact your city councilor, county commissioner, and mayor at the appropriate time. Ask those community supporters of your resolution to call or write their City or County Commission members or legislator to ask for their support. If email is used for communication, verify that your commissioners have, use, and read their email! Often a letter or phone call carries more weight than an e-mail message. Urge your supporters to attend the City or County Commission meeting and to speak in favor of the resolution during the "public comment" period. (Don't overlook high school and college students as speakers!)

12. Following Through to the End . . .

The work involved in the development of an ordinance can be a long, difficult and emotionally challenging effort. Remember that regardless of the outcome of the ordinance, you reached many people with your message. Public education is key to the success of any campaign and, over time, an educated public will effect positive changes in the lives people. It is common that city councilors, county commissioners, or mayors need convincing. Several meetings may take place before a vote is taken. A resolution might be tabled indefinitely or a resolution might fail when the voting does finally take place. Assess the current situation, review the reasons your resolution didn't pass and then try again when the time is right.

Reference:

___ ___ (n.d.), "Toolkit to Pass a Local Ordinance" on Underage Drinking Enforcement Training Center website, www.udetc.org; retrieved July 2012.