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ORDINANCE CODIFICATION

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*What is it? Why should we do this?
What does state law require?
How often does a city need to supplement?*

I. ORIENTATION.

• **The *Source, Purpose and Effect* of a law.**

Legal issues are often difficult to decipher because of their complexity. Lawyers often like to break these complex questions into separate pieces that can then be examined logically. I suggest one such way of breaking down a complicated legal issue is to examine a) the *Source*, b) the *Purpose* and c) the *Effect* of the law in question.

A) What is the *Source* of the law in question?

Asking this question identifies where the law is coming from, or its jurisdiction. Sources of law include federal, state and municipal entities; its sources may be also be distinguished by its legislative, judicial, or executive branch source. Sources of law may also be distinguished by whether they have a public source, such as a statute (state or federal) or ordinance (municipal) vs. private sources, such as a contract between individual private or public parties. Also, it is helpful to know the process used in creating the law in question, such as the difference between an article of a constitution or charter, an ordinance, a resolution or an administrative rule (more on this later).

B) What is the *Purpose* of the law in question?

Asking this question identifies the reason behind the rule in question, which may guide its interpretation in a court of law or between parties to a dispute. Often, ordinances or contracts contain “recitals” that are expressions of intent but are not the operative substance of the law in question. When they do not have such an expression of intent, for example, a court may need to look into its legislative history or its surrounding circumstances for any guidance they may provide. Consider whether the purpose of a law in question is a criminal penalty in which a fine or incarceration may be imposed, as opposed to a civil infraction, in which a civil penalty may be collected with consent of the person charged.

C) What is the *Effect* of the law in question?

Asking this question focuses on the practical effect of a law in question. Some laws become obsolete for a variety of reasons such as being found unconstitutional in a court, being legislatively repealed or amended, no longer being enforced in its jurisdiction, or merely no longer being relevant to today’s circumstances (such as laws passed during “horse and buggy days”).

When you find yourself stumped by a legal issue, try asking, what is the *source, purpose* and *effect* of the law in question. (Also, ask your legal representative.)

II. CODIFICATION, GENERALLY.

- **Definition:**

COD·I·FY

verb

A. To arrange (laws or rules) into a systematic code.

"the statutes have *codified* certain branches of common law"

arrange according to a plan or system.

"Verdi helped *codify* an international operatic culture"

Oxford Languages Dictionary box on Google.

https://www.google.com/search?q=definition+codify&rlz=1C1GCEA_enUS950US950&oq=DEFINITION+CODIFY&gs_lcrp=EgZjaHJvbWUqBwgAEAAyGAQyBwgAEAAyGAQyCAgBEAAyFhgeMggIAhAAGBYHjIICAMQABgWGB4yCAgEEAAyFhgeMggIBRAAGBYHjIICAYQABgWGB4yCAgHEAAyFhgeMggICBAAGBYHjIICAkQA BgWGB7SAQk2NDQ0ajBqMTWoAgwAgE&sourceid=chrome&ie=UTF-8

B. 1: to reduce to a code

The convention *codified* the rules of war.

2. a: SYSTEMATIZE

Standardization refers to the process by which a language has been *codified* in some way.

—Ronald Wardhaugh

b: CLASSIFY

Customer complaints are *codified* as dissatisfaction feedback.

Merriam–Webster.com *Dictionary*.

<https://www.merriam-webster.com/dictionary/codify>

- **What is an “ordinance” ?**

An explicit definition of “ordinance” was not found in the S.C. Code of Laws. But see, S.C. § 5-7-260, *Acts of municipal council which are required to be done by ordinance*:

“In addition to other acts required by law to be done by ordinance, those acts of the municipal council shall be by ordinances which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any municipal department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violations;
- (3) Adopt budgets, levy taxes, except as otherwise provided with respect to the property tax levied by adoption of a budget, pursuant to public notice;
- (4) Grant, renew or extend franchises;
- (5) Authorize the borrowing of money;
- (6) Sell or lease or contract to sell or lease any lands of the municipality; and
- (7) Amend or repeal any ordinance described in items (1) through (6) above.

In matters other than those referred to in this section council may act either by ordinance or resolution.”

An "ordinance" can be defined as "local legislation passed by the governing body of the [municipality], **duly enacted** pursuant to proper authority, describing general, uniform and permanent **rules of conduct** relating to the corporate affairs of the [municipality]." 5 McQuillin Mun. Corp. § 15.01 (1996).

". . . an official action of a city legislative body, which is a regulation of a general and permanent nature and **enforceable** as a local law or is an appropriation of money." Kentucky Revised Statutes (KRS) § 83A.010(2).

It is the law of the city. While it cannot conflict with state or federal laws, it is enforceable just like state and federal laws, in the courts of the municipality.

- **Types of ordinances.**

City legislative bodies enact ordinances for many reasons. There are two basic types of ordinances: (1) Ordinances of a **general and permanent** nature; and (2) **Special** or temporary ordinances:

- (1) The most common general, permanent ordinances are local laws designed to protect the health, safety and welfare of their citizens. Examples include litter regulations, building and structure codes, nuisance regulations, and animal control regulations. These "police power" ordinances are intended to compel or prohibit certain conduct within the city, in order to maintain a high quality of life for its citizens.
- (2) Ordinances of a special or temporary nature include legislation such as annual budgets, granting specific franchises, inter-local agreements, bond issues, granting or vacating easements, and contracts for specific purchases.

- **What is *not* an "ordinance" ?**

S.C. Code § 5-7-260, *Acts of municipal council which are required to be done by ordinance.*

"In addition to other acts required by law to be done by ordinance, those acts of the municipal council shall be by ordinances which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any municipal department, office or agency;
... [see above]

In matters other than those referred to in this section council may act either by ordinance **or resolution.**"

Resolutions:

A resolution is a written motion of council which generally **expresses a policy or position** on an issue. The policy or position is generally considered to have a limited duration because it **can be changed at any time by one vote of council.** Unlike ordinances, **resolutions require only one reading and vote by council.**

A written resolution is no different from a verbal motion approved by council. Resolutions are often used instead of verbal motions when council wants to put greater emphasis or visibility on an action item.

“Repealing or amending an existing county ordinance is considered a "legislative action" and thus must be done in accordance with the procedures outlined in § 4-9-120. If the procedures are not followed, the existing ordinance will remain in effect. Op. Atty. Gen., dated September 30, 2002. A time extension is not an amendment or revision of an ordinance. Instead, it is a non-legislative act affecting the execution of a law rather than the substance of the law. Therefore, a county council may, by resolution, extend the time set in ordinances for the county administrator to execute agreements. Unpublished Op. S.C. Atty. Gen., dated March 21, 2000. 88§ 4-9-120"

[Resolutions] seldom if ever contain penalties and are the most common form of legislation employed by governing bodies to deal with special matters not affecting the general public such as granting special privileges, expressing opinions or communicating with other governmental units or departments or agencies of the municipality. LeagueOfWisconsinMunicipalities, FAQs: 3. *What is the difference between an ordinance and a resolution and what determines whether an ordinance or resolution should be used?*

<https://www.lwm-info.org/FAQ.aspx?QID=384>

Both ordinances and resolutions are public records under the SC Public Records Act, so a paper or electronic copy of the originals must be retained perpetually by the municipality.

Municipal Orders. See e.g., S.C. Code § 47-4-160, *Livestock and poultry regulation; local laws and ordinances preempted; exceptions.*

S.C. Code § 47-4-160, *Livestock and poultry regulation; local laws and ordinances preempted; exceptions.*

...

(B) Units of local government in this State may not enact ordinances, orders, or other regulations concerning the care and handling of livestock and poultry...

(Judicial Orders).

A judicial order is a written command or direction issued by a court or judge. It can be a final decree or an interlocutory direction or command that relates to some intermediate matter *in the case*. An order can be issued on a subsidiary or collateral matter arising in an action, not disposing of the merits, but adjudicating a preliminary point or directing some step in the proceedings. ... A judicial order can be issued in various contexts, such as family law, civil procedure, and securities trading. They also show how a judicial order can be used to direct *a party* to take a specific action or to limit the scope of a party's claims or defenses. [Emphasis supplied].

<https://www.lsd.law/define/judicial-order>

- **What does state law require?**

Codification is the process of placing ordinances into a code of ordinances: an easy-to-use, systematic arrangement of all current ordinances, with a logical numbering system.

A code of ordinances typically contains all current ordinances of a general and permanent nature. Special or temporary ordinances are *usually not* included, or are listed in tables at the end of the code.

Under South Carolina statutes:

S.C. Code of Laws § 5-7-290. *Municipal ordinances to be codified; public inspection* [Title 5. Municipal Corporations]:

Each municipal council *shall* provide by ordinance for the codification and indexing of all ordinances, either typewritten or printed, and the maintenance of ordinances in a current form reflecting all amendments and repeals. All ordinances as codified shall be available for public inspection at reasonable times.

HISTORY: 1962 Code Section 47-58; 1976 Act No. 623, Section 1.

§ 4-9-120. *Procedures for adoption of ordinances; proceedings and all ordinances shall be recorded.* [Title 4. Counties]

The council *shall* take legislative action by ordinance ... All proceedings of council shall be recorded and all ordinances adopted by council shall be compiled, indexed, codified, published by title and made available to public inspection at the office of the clerk of council. The clerk of council shall maintain a permanent record of all ordinances adopted and shall furnish a copy of such record to the clerk of court for filing in that office.

Elsewhere, a "code of ordinances," is defined as, ". . . a re-enactment of the body of positive municipal law, read and interpreted as a whole, with the text arranged by subject matter and properly indexed." E.g., KRS 83A.010(2).

III. WHAT CODIFICATION *ISN'T* (or perhaps *shouldn't* be).

A question often arises in the codification process as to what revisions to the text of a municipal code may be made within the scope of the codification process. May substantive changes be made in the course of codification? Are changes to update ordinances that follow amended or repealed state statutes permissible? May updates to simply outdated provisions be made? The attorney for the municipality should be consulted in such instances. The answer varies based on a number of factors including the state's law including publication requirements, and the extent and circumstances surrounding the revision. See, for example:

South Dakota Basic Code - Administration

§ 30.108 COMPILATION OF ORDINANCES.

(A) Municipalities can compile the ordinances of the municipality in book form provided that while compiling the ordinances they are not revised or amended. The finance officer shall furnish a free copy of the newly compiled book to the circuit clerk of court and the county law library of each county in which the municipality is situated.

(SDCL § 9-19-15)

Compare to **Kansas Statutes:**

§ 12-3014. Authorization; publication; supplements; recodifications. The governing body of the city may from time to time provide for the compilation or revision and codification (such revision and codification hereinafter referred to as codification and when published called code) of the general ordinances of the city and the publication in book form of such compilation or codification, and may provide for keeping compilations and codifications up to date by supplements to permanently bound books or by insertion of amending or new ordinances in loose-leaf binders, and may provide for annual or occasional recodification of codifications housed in loose-leaf binders.

History: L. 1959, ch. 64, § 14; June 30.

12-3015. "Compilation" and "codification" defined; ordinance books; loose-leaf supplements. The following terms shall have the meanings herein prescribed:

(a) "Compilation" includes the collecting, assembling and organizing of existing ordinances of the city and publication thereof in permanently bound or loose-leaf book form;

(b) "codification" includes the compilation and revision of the general ordinances of the city; the changing of sections deemed advisable; the omission of sections deemed unnecessary; the addition of new provisions; and the adoption of the whole by an adopting ordinance and publication in permanently bound or loose-leaf book form...

...The ordinance adopting the codification shall recite that the codification was authorized by ordinance, and that it was made in conformity with K.S.A. 12-3014 and 12-3015, and amendments thereto...

IV. WHY SHOULD WE CODIFY?

o **Efficient government.**

Municipal employees can function more efficiently with the current law organized, published in book form, indexed, and at their finger-tips.

o **Public access to current law.**

The public must have access to the law in order to determine the standard of conduct required.

o **Ease of enforcement.**

All current ordinances on a given subject are contained in one portion of the code, such as a chapter or section. The administration of the regulations and the penalties are set out clearly within that portion of the code.

o **Good government.**

With the erosion of sovereign immunity, municipalities are now facing multitudes of civil rights lawsuits. It is more important than ever that the municipality have up-to-date, clearly written, accessible laws.

o **Acts as road map for legislative body.**

Codification helps to deter the municipal legislative body from enacting redundant or inconsistent new ordinances. It also lets the Council or Commission view the body of law as a whole, and note any gaps in coverage which may need legislation.

o **State law requires it.**

State law requires codification. See S.C. Code of Laws § 5-7-290, discussed above.

o **Effective collection of fines.**

See, e.g., S.C. Code § 14-1-208, *Additional assessment, municipal court; remittance; disposition; annual audits*. [Crime Victim Services Funds]:

(A) A person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. This assessment must be paid to the municipal clerk of court and deposited with the city treasurer for remittance to the State Treasurer. The assessment is based upon that portion of the fine that is not suspended, and assessments must not be waived, reduced, or suspended. The assessment may not be imposed on convictions for violations of Sections 56-3-1970, 56-5-2510, and 56-5-2530, or another state law, municipal ordinance, or county ordinance restricting parking in a prohibited zone or in a parking place clearly designated for handicapped persons.

Form:

<https://treasurer.sc.gov/media/c5kjxgfg/municipal-remittance-court-fines-form-7-17-2024.pdf>

Note: During codification, be mindful that renumbering your criminal code sections may impact your municipal citations and classification of fines, fees, assessments, surcharges and the like. Consider whether you want to instruct your codifier to maintain the numbering scheme, or to amend your corresponding forms.

o **Proof in a court of law.**

When a city enforces its ordinances, codification provides a clear and judicially-accepted means of establishing and enforcing its penalties. Generally, if a city has published a code of ordinances, the printed copy shall be received in evidence by any state court without further proof of the ordinances or need for a city official to testify in court.

o **Tracking state and local legislative changes.**

Municipal ordinances often follow or mirror state statutes. As the statutes are regularly amended by the state legislature, a municipal code that identifies the state sources of its legislation will be much easier to identify and update to conform to current state law. For example:

§ 19.102 STATUTORY AUTHORIZATION.

The State Legislature has, in S.C. Code Title 5 and Title 6, and amendments thereto, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the town does ordain as follows (Ord. 2017-05, passed 12-4-2017)

Citations to state law are typically contained in the legislative history following a particular code section, or appended to the code section's text as a "Statutory reference." A S.C. Code cite included in the history indicates that the text of the section reads either verbatim or substantially the same as the statute. Example:

"(S.C. Code, § 5-7-30) (Ord. 10, passed 1-17-1980; Ord. 20, passed 1-1-1985)."

A S.C. Code cite set forth as a "statutory reference" following the text of the section indicates that the reader should refer to that statute for further information. Example:

"§ 39.01 PUBLIC RECORDS AVAILABLE.

This county shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see S.C. Code, §§ 30-1-10 et seq."

These citations can be compiled into a Table of Parallel References, which also aids in the location of topics or statutes being affected by state legislation. Such a table can include the following, making legislative research and finding much easier:

- References to South Carolina Code
- References to Prior Code
- References to Resolutions
- References to Ordinances

In Comparison: What Do Other State's Laws Require?

E.g., Kentucky:

Requires that ordinances be "maintained in a code of ordinances," or, at the very least, "indexed in a composite index." KRS 83A.060(8)(b). In other words, the ordinances must be organized and accessible. The state has also provided funding to assist its municipalities in meeting the above requirement. Every year, the state legislature allocates funds for the Department for Libraries and Archives (D.L.A.) to give away in grants for codification. Even if a city previously used a grant to codify your ordinances, D.L.A. grants may now be used for re-codifying or updating their existing code. (See "Additional Resources" at the end of this document.)

Once a code of ordinances has been assembled, KRS 83A.060(5) permits a city to adopt the code by enacting a single ordinance that "identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full." This means that a city may adopt its newly-assembled code of ordinances in one simple adopting ordinance. (Sample attached at the end of this document.)

- o Five-year review.

A code of ordinances is not a document set in stone. It must be kept up-to-date with both newly enacted local ordinances, and state law. In fact, Kentucky state law requires that, "[a]t least once every five (5) years, each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions." (KRS 83A.060(11)).

While this is the minimum statutory requirement, the Kentucky League of Cities advises cities to undertake this review each year, following a Kentucky General Assembly session.

The Department for Libraries and Archives issues grants to municipalities for purposes of meeting the statutory five-year review and updating requirement.

IV. HOW OFTEN DO WE NEED TO SUPPLEMENT?

A supplement is an update to a code of ordinances, adding newly-enacted legislation or state law changes. How often a city should supplement depends primarily upon how much legislation the city passes in any given time period.

Every city should supplement at least annually. And for most cities, an annual or six-month supplement is sufficient to keep their code up-to-date with local legislation. Other cities, however, may need to update their code monthly or quarterly. A city may also decide to do a special or unscheduled supplement to add important or time-sensitive new legislation, such as fireworks regulations prior to July 4th sales.

V. THE CODIFICATION PROCESS.

A. *FROM YOUR DESK TO A PUBLISHED CODE.*

How long? How much work?

Self-publication: By City staff or City Attorney

Contract with codification company: American Legal Publishing
Municipal Code Corporation

Publication by codification company:

- City sends all legislation to codifier
- Electronic or paper copies
- Codifier prepares draft manuscript
- Sends draft to city for approval or changes
- Codifier prepares draft manuscript
- Sends draft to city for approval or changes
- May include **codification (legal) review** (below)
- City submits approval or changes to codifier
- Codifier publishes code
- Sends copies to city
- Codifier publishes code
- Sends copies to city
- Adopting ordinance
- May publish code electronically

B. *CODIFICATION REVIEW*

A municipal code should be reviewed periodically for currency/obsolescence, duplication, conflicts and completeness. Think of it in the same way you maintain your checkbook and ledgers. A professional code that contains fewer errors inspires greater confidence.

A Codification (or “legal”) Review may be performed by your codifier to assist your municipal attorney and governing body with the time-consuming process of maintaining your code. It may include:

- a. “Cite check”: Identifies inconsistencies between your ordinances and state statutes and federal law, where citations are made to statutes that have been repealed, renumbered, amended or found unconstitutional. If revisions can be clearly identified by legislative history, suggestions can be provided for textual revisions. Otherwise, the problems are identified for the municipal attorney and the governing body to resolve;
- b. Common compliance issues: A review can identify issues such as state requirements regarding open meetings, open records/freedom of records act (“FOIA”), or state “preemption” issues;
- c. Constitutionality issues: A review may identify clear and long-standing federal requirements such as due process, equality, speech, disability, or void-for-vagueness issues such as obsolete curfew, loitering, begging, fair housing ordinances, or municipal utility fee collections processes;
- d. Updates: A review can identify outdated penalty or fee provisions, adoption of building codes (including building, energy, electrical, plumbing, mechanical, gas and fire codes);
- e. Formatting/Organization. An efficient and user-friendly code is well-organized. Consistent division markers (i.e., the “outline” format) omitting “reserved” chapters and permitting ease of expansion, a uniform and professional appearance including typeface, legible tables and images, legislative histories, corrected spelling, an index, table of citations and consistent internal and external references will inspire confidence in the accuracy of your code among its various users.

Model ordinances, if available, may be provided for examples used in drafting where indicated or requested. Alternatively, similar provisions for review by the municipal attorney can be identified by searching in the codifier’s state-specific database of other municipal codes.

-What a codification review is not:

- a. Legal advice. Your codifier cannot take the place of your municipal legal adviser for many reasons, including the lack of attorney-client relationship that already exists between the municipality and its legal adviser.
- b. All-inclusive or exhaustive. The scope of a codification review cannot include every issue encountered by a municipality. It is a “first step” in the ongoing process of codification.
- c. Static. Municipal codes are by their nature always works-in-progress, and a municipal code is unavoidably a “snapshot” in time that can and should be supplemented as needed. A common problem is “letting perfection be the enemy of the good”.

VI. AFTER CODIFICATION.

CODE SUPPLEMENTS

New ordinances: Annually or more often

State law changes: At least every two years

Five year review

VII. CAN I POST MY ENTIRE CODE ON THE CITY'S WEBSITE?

Website hosting may be available from your codifier.

VIII. ADDITIONAL RESOURCES.

Municipal Association of South Carolina: www.masc.sc

See also, *Uptown*, Dec. 2019, *Ordinances and Resolutions*.

<https://www.masc.sc/uptown/12-2019/ordinances-and-resolutions/>;

Uptown, Sep. 2024, *2024 end-of-year American Rescue Plan Act obligation deadline approaching for cities and towns*.

P. Rochford, et al., *What to Know About the 2024 End-of-Year ARPA Obligation Deadline*, July 18, 2024 - re: American Rescue Plan Act, National League of Cities (NLC)

<https://www.nlc.org/article/2024/07/18/what-to-know-about-the-2024-end-of-year-arpa-obligation-deadline/>

The Municipal Finance Officers, Clerks and Treasurers Association, and Business Licensing Officials Association are affiliates of the Municipal Association of SC:

<https://www.masc.sc/affiliate-associations/sc-municipal-finance-officers-clerks-and-treasurers-association>

American Legal Publishing: www.amlegal.com

Municipal Code Corporation: www.municode.com

SELECTED SOUTH CAROLINA STATUTES

SECTION 5-7-250. *Council meetings; rules and procedures for meetings; freedom of information; emergency ordinances.*

- (a) The council, after public notice shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of a majority of the members.
- (b) The council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings which shall be a public record.
- (c) Procedures for meetings of a municipal governing body shall not conflict with the provisions of the general laws of the state with regard to freedom of information.
- (d) To meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances; but such ordinances shall not levy taxes, grant, renew or extend a franchise or impose or change a service rate. Every emergency ordinance shall be enacted by the affirmative vote of at least two-thirds of the members of council present. An emergency ordinance is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements, or public notice requirements. Emergency ordinances shall expire automatically as of the sixty-first day following the date of enactment.

HISTORY: 1962 Code Section 47-54; 1975 (59) 692.

SECTION 5-7-260. *Acts of municipal council which are required to be done by ordinance.*

In addition to other acts required by law to be done by ordinance, those acts of the municipal council shall be by ordinances which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any municipal department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation in which a fine or other penalty is imposed for violations;
- (3) Adopt budgets, levy taxes, except as otherwise provided with respect to the property tax levied by adoption of a budget, pursuant to public notice;
- (4) Grant, renew or extend franchises;
- (5) Authorize the borrowing of money;
- (6) Sell or lease or contract to sell or lease any lands of the municipality; and
- (7) Amend or repeal any ordinance described in items (1) through (6) above.

In matters other than those referred to in this section council may act either by ordinance or resolution.

HISTORY: 1962 Code Section 47-55; 1975 (59) 692.

SECTION 5-7-270. *Form and procedures for introducing and passing ordinances.*

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. Each municipality shall by ordinance establish its own rules and procedures as to adoption of ordinances. No ordinance shall have the force of law until it shall have been read two times on two separate days with at least six days between each reading.

HISTORY: 1962 Code Section 47-56; 1975 (59) 692.

SECTION 5-7-280. *Adoption of standard codes or technical regulations in ordinances.*

The council may adopt any standard code or technical regulations authorized under Section 6-9-60 by reference thereto in the adopting ordinance; provided, that the council shall hold at least one public hearing before the adoption of any such standard code or technical regulations. The procedure and requirements governing such ordinance shall be as prescribed for ordinances listed in Section 5-7-260 and subject to the provisions of Section 5-7-270.

Copies of any adopted code or technical regulations shall be made available by the municipal clerk for distribution or for purchase at a reasonable price.

HISTORY: 1962 Code Section 47-57; 1975 (59) 692; 1982 Act No. 351, Section 2.

SECTION 5-7-290. *Municipal ordinances to be codified; public inspection.*

Each municipal council shall provide by ordinance for the codification and indexing of all ordinances, either typewritten or printed, and the maintenance of ordinances in a current form reflecting all amendments and repeals. All ordinances as codified shall be available for public inspection at reasonable times.

HISTORY: 1962 Code Section 47-58; 1976 Act No. 623, Section 1.

Counties:

SECTION 4-9-120. *Procedures for adoption of ordinances; proceedings and all ordinances shall be recorded.*

The council shall take legislative action by ordinance which may be introduced by any member. With the exception of emergency ordinances, all ordinances shall be read at three public meetings of council on three separate days with an interval of not less than seven days between the second and third readings. All proceedings of council shall be recorded and all ordinances adopted by council shall be compiled, indexed, codified, published by title and made available to public inspection at the office of the clerk of council. The clerk of council shall maintain a permanent record of all ordinances adopted and shall furnish a copy of such record to the clerk of court for filing in that office.

HISTORY: 1962 Code Section 14-3709; 1975 (59) 692.

SAMPLE ADOPTING ORDINANCE

This sample adopting ordinance has been provided as a general guide in drafting an adopting ordinance for your Code of Ordinances. This adopting ordinance is for sample purposes only and has not been drafted to conform to any specific requirements of your local government or your state law. The attorney for your political subdivision should tailor this sample adopting ordinance to conform to any specific local regulations and state laws concerning the adoption of a Code of Ordinances.

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE (Political Subdivision / State), REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the political subdivision are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the Commonwealth of Kentucky empower and authorize the political subdivision to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Legislative Authority of the Political Subdivision has authorized a general compilation, revision and codification of the ordinances of the Political Subdivision of a general and permanent nature and publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF :

Section 1. The general ordinances of the Political Subdivision as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the "Code of Ordinances of the (Political Subdivision / State)."

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following Titles:

[Insert Table of Contents here]

Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale

of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the Clerk.

Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.

Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this
day of , 20 .

ATTEST:

YOUR PRESENTER:

Kevin P. Roberts joined American Legal Publishing as a staff attorney after practicing law for over thirty years. He is a graduate of University of Cincinnati College of Law, where he received a variety of scholarships and awards including co-winner of the Best Law Review Case Note. His employment has included the Taft law firm in Cincinnati, as a staff attorney (judicial clerk) at the First District of Ohio Court of Appeals, and in his own law practice in a variety of settings. He has appeared before the U.S. District Court, the Social Security Administration's Office of Hearings and Appeals, the Ohio Supreme Court, and other Ohio state and municipal courts. As a member of the Cincinnati Bar Association's Grievance Committee, he prosecuted ethics complaints before the Ohio Supreme Court and its Board of Commissioners on Grievance. He has enjoyed teaching undergraduate law courses at the University of Cincinnati, and now enjoys sharing with you his insights regarding codification and the law in general.

ABOUT THE COMPANY:

American Legal Publishing provides a wide range of services to municipalities and counties of all sizes, including ordinance codification and supplementation, Codes on the Web, Instant Updating of the Code, and document imaging and much more! Since 1934, more than 3,400 municipalities have depended on American Legal Publishing to publish, supplement, and distribute their codes of ordinances. Our reputation for quality, professional staff of attorneys, experienced editors, and our friendly customer service have made American Legal the leader in local government publishing. Some of our clients include New York City, Los Angeles, Chicago, Louisville- Jefferson County, Philadelphia, Boston, Dallas, San Francisco, Salt Lake City, Cleveland, Honolulu, and many more.

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