
By-laws, Motions, Resolutions and Ordinances

The differences between by-laws, motions, resolutions, and ordinances are a common source of confusion for elected officials and appointed staff alike. All of these terms reflect a particular type of action taken by a governing body. Unfortunately, while each has a specific purpose and legal impact, Minnesota Statutes fail to provide any definitions to distinguish each term. The following information is intended to assist town officials understanding of the purpose and legal significance of each.

By-laws. According to Black's Law Dictionary, by-laws are the "regulations, ordinances, rules or laws adopted by an association or corporation or the like for its government." The definition goes on to state that the term is sometimes used to refer to the ". . . municipal statutes of a city or town . . .," but acknowledges that the term "ordinance" is more common for such actions. Consistent with this definition, the term "by-laws" when used by local units of government usually refers to the rules of operation adopted to govern the conduct of the entity. For example, a town board may adopt a series of rules by which it conducts its meetings and to maintain decorum in the town hall. Such rules would commonly be referred to as the township's by-laws.

Unless a specific statute provides differently, by-laws do not need to be published before taking effect and can be adopted by a simple majority vote. *Note:* Minn. Stat. § 365.11 provides that all by-laws of a town must be posted prior to taking effect but upon posting the by-law is binding on everyone within the township. Given the context of the section within which this statute is located, and the date of original passage, the term "by-laws" as used in this statute appears to refer to the older definition now replaced by the term "ordinance". It should not be necessary for the township to post its own internal operating procedures, but doing so would remove any doubt.

Motion. Black's Law Dictionary defines a "motion" as "...the formal mode in which a member submits a proposed measure or resolve for consideration and action" In other words, technically speaking, a motion is simply the process by which approval of a particular action is sought. A motion is usually made by a person stating "I move that" A motion may be used to simply acknowledge a directive, such as approving the minutes of the meeting, or to seek adoption of the more formal resolution or ordinance.

Resolution. Black's Law Dictionary defines a "resolution" as "...formal expression of the opinion or will of an official body" This definition was adopted verbatim in the case *Lindahl v. Independent School Dist. No. 306 of Hubbard Co.*, 133 N.W.2d 23 (Minn. 1965). Resolutions are generally used by town boards to express a particular position, to make an appointment or designation, or to adopt a policy that, while potentially binding on the township, is administrative or ministerial, and not legislative in nature. Common examples of resolutions include the following:

1. Recognizing the special efforts of a group of volunteers
2. Appointing someone to a board, commission, or other such post
3. Adopting a policy on how the town board will handle a particular duty

Township officials should note that there are certain actions that must statutorily be taken by adopting a resolution. See Minn. Stat. § 160.095 (designating minimum maintenance roads); § 160.83 (designating rustic roads); § 164.06 (abandoning a road); § 205.175 (designating polling place hours); and § 471.89 (authorizing contracts in a conflict-of-interest situation).

Resolutions generally are not subject to any formal method of adoption. This means that unless a specific statute provides otherwise, a resolution only requires a simple majority vote of those voting on the issue. There is no requirement that they be signed or published, although it is recommended that they be signed so that it is clear that they have been officially adopted by the town board. Further, the courts have held that a resolution adopted in the same formal manner as an ordinance (i.e., majority vote of the entire body, publication, etc.), will be afforded the same recognition as an ordinance (see *Davies v. Village of Madellia*, 287 N.W. 1 (Minn. 1939)). It is, however, recommended that townships try to be careful in distinguishing between those items handled by resolutions and those which should be dealt with by a formal ordinance.

For more information, please see “Taking Action by Resolution” in the *Township Handbook*.

Ordinance. Black’s Law Dictionary defines an ordinance as a “. . . rule established by authority; a permanent rule of action; a law or statute An ordinance is the equivalent of a municipal statute. . . .” In other words, ordinances are the formal regulations imposed by a town board to govern the community. Ordinances are generally enforceable by criminal prosecution, usually as a misdemeanor, or by civil actions such as seeking a court order or injunction. Zoning, animal control, and nuisance controls are common issues governed through the adoption of ordinances. Unlike by-laws, motions, and resolutions, the procedure for adopting ordinances is mandated by statute. For townships, Minn. Stat. § 365.125 sets forth the procedure that must be followed. This procedure essentially requires approval by a majority vote of the town board as a whole, the signature of the town board chairperson and being attested to by the town clerk, publication in the official newspaper, posting in the public library or other designated public place, and recording in a book of ordinances maintained with the township records. Further, a little known law, Minn. Stat. § 415.021, requires that a copy of any ordinance adopted by the township be submitted to the county law library or its designated depository.

Minn. Stat. § 365.125 also requires that an ordinance have a title and begin with language comparable to “The board of supervisors of the Town of _____ ordains:”. In addition to the title and introduction language, and the signature and attestation, ordinances traditionally consist of the following components:

1. A number indicating the sequential order in which adopted
2. Body of text setting out the actual regulation
3. Penalty Provision
4. Effective Date
5. Closing such as “Adopted by Township Board of _____” on _____.

As always, please contact MAT if you have any questions about this or any other legal matter.