

Enact Ordinances Properly and Effectively

Tax districts are government entities which, like towns, have the power to enact ordinances with the force of law. Unlike condominiums and other non-government communities, districts cannot simply announce “rules.” Their regulations are truly laws, and with that power comes the responsibility to enact them correctly. Following the procedures is crucial because an improperly enacted ordinance may be unenforceable.

The first step in drafting an ordinance is to be sure that its content would be legally valid. This means it would not violate any federal or state constitutional or statutory provision as to what government bodies are empowered to do. Similarly, the ordinance must not conflict with any portion of the district’s own charter or the special act creating it, and it should also reasonably relate to the district’s official purposes (like preventing fires or maintaining roadways).

Take particular care in selecting the ordinance’s wording and penalty. The language should be as simple and straightforward as possible without vague terms or “legalese.” The consequences for violations should be clear and proportionate.

Next, the ordinance needs the approval of a majority of the district’s board of directors at a properly-called annual or special meeting which mentions the proposal in its agenda. A “super” majority of the board or the approval of the residents might be required if a statute or the district’s charter says so. Connecticut law requires, for example, that the residents of every district “shall, by ordinance, fix the date of the annual meeting of the voters for the election of district officers.”

Finally, the ordinance must be published in a local newspaper. The ordinance’s full text need not be published if it does not make or require an appropriation,

a free copy is available from the district’s clerk to anyone who requests it, and a summary is published with a disclaimer that it is informational only and does not represent legislative intent. The ordinance does not take effect until 30 days after the publication if it was passed at a board meeting, or 15 days if it was passed at a resident meeting.

District Boundaries Not Set in Stone

Districts are allowed to change their outer boundaries to either expand to include properties which would like to join the district or to reduce their size to exclude properties which no longer wish to be part of it. Boundary changes can be a useful strategy for improving a district’s services and revenues while ensuring that it governs only those properties benefiting from inclusion.

The procedure is fixed by statute. The district’s board of directors must first approve a resolution proposing new boundaries which are still contiguous with some portion of the district. The board must advertise and hold a meeting of the residents of the area to be included or excluded. The proposal passes if two-thirds of them vote in favor. The town must be notified of any boundary change, and must also give its approval if an expansion would cause the district to overlap into another existing district. A filing in the land records is the last step to reflect the district’s new territorial limits.

Make Electronic Records Available to the Public

Connecticut’s Freedom of Information Act gives every member of the public the right to request copies of almost all information maintained by government entities, including tax districts. Information located in a computer,

on a diskette, or in any other electronic storage medium or device is just as much of a public record as if it was a paper document. This includes not just the easily-printed software screens we use every day, but also the "hidden" data which may be difficult to extract from the device's memory or translate into English. With only a few exceptions, a copy of this information must be provided to any person who asks for it in writing, in whatever paper or electronic format the person requests. Only fifty cents per page can be charged for photocopying an existing printout, and the fee for electronic data will usually be limited to the actual cost of the diskette or other storage medium requested. Never charge any fee for the time it takes to search for or retrieve the data. Such a fee can only be charged if the computer system must actually be reformatted or reconfigured to extract the information.

For more information about ordinances, boundary changes, electronic records, or any other tax district issue, please contact Adam J. Cohen in our Bridgeport office at 203-330-2230 or by email at ajcohen@pullcom.com.

Adam J. Cohen is a member of the firm's Litigation Department and focuses his practice on the issues which face communities and businesses. He regularly lectures to, writes about, and represents special districts and other municipalities in matters ranging from revenue collection to commercial disputes.

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