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**Ordinance  
Codification**

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**American Legal Publishing**



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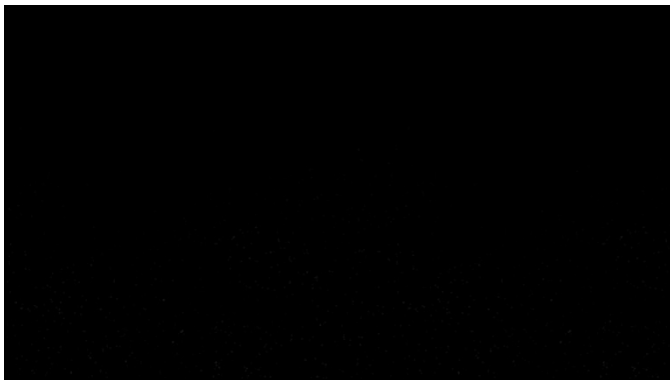
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**Kevin's Guide  
to Untangling  
the Law**



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What is the SOURCE of the law?

What is the PURPOSE of the law?

What is the EFFECT of the law?

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**Definition: CODIFY** 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.  
 "Nardi helped *codify* an international operatic culture"  
 Oxford Language: Dictionary box on Google  
<https://www.google.com/search?q=definition+codify&rlz=1C1GCEA-enUS50US50&oeq=DEFINITION+CODIFY&ip=EqzPHJvWwJqBwq45AAWAgv8y8qgEAAnpA2yCAgREAAyFhqe1MqelAMAGGvYj1CaMOABqWGB4yCAgEEAAyFhqe1MqelBBAAGBYHj1CAVOABqWGB4yCAgHEAAyFhqe1MqelCBAAGBYHj1CAkOABqWGB7SAQk2NDQ0ajBqMTWo8jwAgE&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>

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## What is codification?

- **Reenactment of body of law**
- **Arranged by subject matter**
- **Properly indexed**

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## What is an ordinance?

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).

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## 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."

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## What is (not) an ordinance?

### Resolutions/Municipal Orders:

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.

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[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>

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## Types of Ordinances

**General and Permanent Nature**

Health, safety and welfare

**Special or Temporary**

Specific limited time or place

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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.

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## What codification is (not)

- **Re**enactment of body of law
- Arranged by subject matter
- Properly indexed

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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 regarding publication requirements, and the extent and circumstances surrounding the revision. See, for example:

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**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)

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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.

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**Nevada Revised Statutes**  
**Chapter 202 - Crimes Against Public Health and Safety**  
**NRS 202.245 - Shoe-fitting device or machine using X-ray or radiation.**  
**Citation: [NV Rev Stat § 202.245 \(2013\)](#)**

1. A person shall not operate or maintain any shoe-fitting device or shoe-fitting machine which uses fluoroscopic, X-ray or radiation principles.
2. Any person violating the provisions of this section is guilty of a misdemeanor. (Added to NRS by 1960, 119; A 1985, 335)

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**Ordinances vs. State Laws**

**Home Rule Act, Act 283 of 1975, codified in Title 5 of the South Carolina Code of Laws.**

Not in conflict with state law.  
 S.C. Constitution Article VIII, Section 17; S.C. Code 5-7-10.

**Conflict:** Expressly prohibited or Comprehensive scheme

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## Ordinances vs. Federal Laws

Cannot violate rights guaranteed  
by federal laws or U.S. Constitution

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# Why Codify?

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Why codify?

Efficient government



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Why codify?

Public access to current laws



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Why codify?

Ease of enforcement



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Why codify?

Good government



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Why codify?

Roadmap for legislative body



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Why codify?

State law requires it

Effective collection and retention of fines

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Why codify?

State law requires it

Effective collection and retention of fines

Proof in a court of law

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**Why codify?**

- State law requires it
- Effective collection and retention of fines
- Proof in a court of law
- Tracking state and local legislative changes



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**What to Codify?**

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**What to Codify?**

- Ordinances
- Resolutions
- Incorporation by Reference

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**What to Codify?**

Ordinances

**Resolutions**

Incorporation by Reference

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**What to Codify?**

Ordinances

Resolutions

**Incorporation by Reference**

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**What to Codify?**

Incorporation by Reference

- Any local, statewide, or nationally recognized standard code
- Codifications of entire bodies of local legislation
- By an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions ..., if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

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# What (not) to Codify?

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**What (not) to Codify?**

Material of a temporary or too-specific nature, such as moratoriums, municipal appointments, budgets, bonds, salaries, and the like – including material repealed or superseded.

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**What to Codify?**

Material of a temporary or too-specific nature, such as moratoriums, municipal appointments, budgets, bonds, salaries, and the like – including material repealed or superseded.

May be referenced in a Table of Special Ordinances (TSO) instead.

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# What does state law require?

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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.  
S.C. Code of Laws § 5-7-290.

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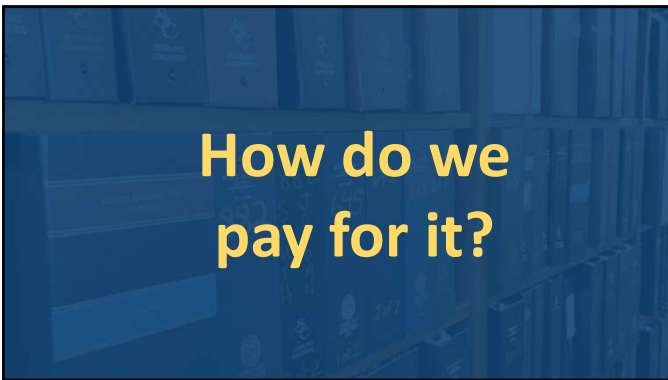
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 **How do we pay for it if a grant is not an option?**

Codification companies allow for two-year budgeting

Codification companies allow municipalities to setup payment plan

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# Codification Process

From your desk to a published code –  
How long? How much work?



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## Codification Process: Methods

**Self-publication**

- City staff or City Attorney



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## Codification Process: Methods

**Contract with a codification company**

- American Legal Publishing
- Municode Codification by CivicPlus



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### Codification Process: Timeline

Publication by codification company 12-14 months, total

1. City sends all legislation to codifier
2. Codifier prepares draft manuscript (6 months)
3. Codifier sends draft to city for approval or changes



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### Codification Review

Consistent with state law  
("Cite check")

Consistent with each other

Eliminate redundant, obsolete,  
inconsistent and invalid

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### Codification Review

Common compliance issues

Updates: penalties/ fees/ adopted codes

Formatting/Organization

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**Codification Review**

- Model Ordinances
- Comparison with other municipalities' ordinances

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**Codification Review -  
What it is not:**

- Legal advice
- All-inclusive or exhaustive
- Static

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**Codification Process: Timeline**

Publication by codification company 12-14 months, total

4. City submits approval or changes and answers to Codification Review to codifier (60-90 days after review is received).




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### Codification Process: Timeline

Publication by codification company 9-14 months, total

5. Codifier publishes code
6. Sends copies to city (45-60 days)
7. Adopting ordinance



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### After Codification

Publication by codification company 12-14 months, total

- **SUPPLEMENTS:**
- **New ordinances:** Annually or more often
- **State Law Changes:** At least every two years
- **Five-year review**



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**Thank  
you**

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## Ordinance Codification

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