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July 7, 2021

Re: Number of votes needed to adopt an ordinance

Dear Mayor Gardner:

I am writing in response to your inquiry as to the number of Councilmembers needed to vote in favor of the adoption of a new City Ordinance, for that ordinance to be adopted. Last night, at the July Council meeting, a vote was held to adopt a new ordinance concerning "Mobile Food Venders." The vote resulted in a three to two majority in favor of the adoption of the ordinance. After the vote, you announced "the vote passes." Upon this announcement, the question was raised by Councilman Bradford as to if a "two-thirds majority" was legally required to adopt a new ordinance.

After researching the question of the number of councilmembers that must vote in the affirmative to adopt an ordinance, the law is clear that a two-thirds majority is not required. The City Charter is silent as to the voting requirements for the adoption of an ordinance. As such, we must turn to the Revised Statutes. Pursuant to La. R.S. 33:406, a simple majority vote of the council is required to effectively adopt the ordinance.

Consequently, the "Mobile Food Vender" Ordinance did in fact pass and is lawfully adopted. As always, should you or any of the Council have any further questions, please let me know.

Kind Regards,

/s/ Jimbo Yocom

Jimbo Yocom

City Attorney

RS 33:406**§406. Enactment, recording, and publication of ordinances and resolutions**

A.(1) Any law enacted by a board of aldermen shall be by ordinance. The style of all ordinances shall be: "Be it ordained by the board of aldermen of the City (or Town or Village, as the case may be) of". No ordinance shall be adopted except by the affirmative vote of a majority of the members of the board.

(2) Any act of the board which is not law shall be by resolution. A resolution shall be approved by an affirmative vote of a majority of the members of the board present at a meeting. No resolution shall require the signature or other action of the mayor to become effective.

(3) Any act of the board which would provide for the appropriation of funds, the incurrence of debt, or the issuance of bonds or other evidences of indebtedness shall be by ordinance. Notwithstanding the provisions of Paragraph (2) of this Subsection, the board may by resolution adopted by the affirmative vote of a majority of the members of the board require the expenditure of funds previously appropriated. Such resolution shall be presented to the mayor within three days after its adoption for his approval or disapproval in accordance with and subject to Subsection C of this Section.

B.(1) A proposed ordinance may be introduced by any alderman at any board meeting. Each proposed ordinance shall be in writing. An ordinance shall contain only one subject which shall be indicated in its title except for ordinances involving the annual operating budget, a capital improvements budget, or a codification of municipal ordinances.

(2) After a proposed ordinance has been introduced, copies of it shall be provided to all members of the board and the mayor. The title of a proposed ordinance, except those specifically authorized by R.S. 33:405(D), shall be published once in the municipality's official journal. The notice shall indicate the time and place where the board will consider its adoption. No ordinance, except one authorized by R.S. 33:405(D), shall be adopted until a public hearing on it has been held. No ordinance, except one authorized by R.S. 33:405(D), can be adopted at the meeting at which it is introduced.

(3) Each proposed amendment to an ordinance shall be presented in writing or reduced to writing before its final consideration. An amendment to a proposed ordinance shall not nullify the purpose of the proposed ordinance nor, except for ordinances involving the annual operating budget, a capital improvements budget, or a codification of municipal ordinances, add a new subject matter to it.

(4) A proposed ordinance shall be read by the title when called for final passage. The vote on an ordinance at final passage shall be taken by "yeas" and "nays", and the municipal clerk shall enter the names of the aldermen voting for and against each proposed ordinance or amendment on the municipal minutes.

C.(1) Every ordinance adopted by the board of aldermen shall be signed by the municipal clerk and presented by the municipal clerk to the mayor within three days after its adoption.

(2) The mayor, within ten days of receipt of an ordinance, shall return it to the municipal clerk with or without his approval, or with his disapproval. If the ordinance is approved by the mayor or is returned by the mayor with neither his approval nor disapproval, the ordinance shall become law upon its return to the municipal clerk. If the mayor fails or refuses to return an ordinance to the municipal clerk within ten days of receipt of an ordinance, it shall become law at midnight of the tenth day after the receipt of the ordinance by the mayor. If the mayor disapproves the ordinance, he shall, within ten days after receipt of the ordinance, return the ordinance along with his written statement of the reasons for his veto to the municipal clerk for transmittal to each member of the board of aldermen. The municipal clerk shall record upon each ordinance the date of its delivery to the mayor and the date of receipt from the mayor, if any.

(3) An ordinance vetoed by the mayor shall be considered again by the board of aldermen at its next regular meeting after the veto. The board may vote on the ordinance at that meeting or at a continuance of that meeting. If a board consists of three members, an affirmative vote by all board members shall be required to override a mayor's veto. If a board consists of more than three members, an affirmative vote of

two-thirds of the board's members shall be required to override a mayor's veto. If a board overrides an ordinance vetoed by a mayor, the ordinance becomes law upon its enactment by the board.

D.(1) The municipal clerk shall keep a book entitled "Ordinances, City (or Town, or Village) of" in which he shall file the original of every ordinance which has been adopted by the board immediately after its passage and attach a note to the ordinance stating the date of its enactment and a reference to the book and page of the board's minutes containing the record of its adoption.

(2) The municipal clerk shall publish each ordinance adopted by the board of aldermen once in the official journal of the municipality, designated pursuant to R.S. 43:141 through R.S. 43:149, within twenty days of its adoption and prior to its effective date, except as otherwise provided in R.S. 33:405(D).

E. Unless an ordinance specifies an earlier or later effective date, the ordinance shall take effect on the thirtieth day after the meeting in which the ordinance was adopted.

F. Only the board may suspend an ordinance, and then only by the same vote and, except for mayoral veto, according to the same procedures and formalities required for enactment of that ordinance.

After January 1, 1986, every resolution suspending an ordinance shall fix the period of suspension, which shall not exceed beyond one year and thirty days after the date of the meeting in which the ordinance was suspended.

Amended by Acts 1950, No. 417, §1; Acts 1985, No. 890, §1, eff. Jan. 1, 1986; Acts 1997, No. 836, §1, eff. July 10, 1997.

{{NOTE: SEE ACTS 1985, NO. 890, §3.}}