



# Municipal Research News

Fall 2007

Municipal Research and Services Center of Washington

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## Regulation of Political Campaign Signs in the Public Right-of-Way

By Bob Meinig, Legal Consultant, Municipal Research and Services Center

The proliferation of political campaign signs along city streets and county roads heralds the arrival of the fall campaign season. Perhaps not surprisingly, even some signs supporting presidential candidates for the 2008 election have begun appearing. So, questions are often asked at this time of the year as to a city's or county's authority to regulate such signs, particularly in the public right-of-way.

Although this kind of political expression is at the core of the free speech protections of the federal and state constitutions, people may not put up campaign signs wherever they please. They must respect the rights of property owners as well as the rules that local governments apply to the display of such signs. The purpose of this article is to address what restrictions local governments – cities and counties – may constitutionally place upon the display of political campaign signs in the public right-of-way, whether those signs support a candidate for public office or support or oppose an initiative or referendum.

**What is a public right-of-way?** A lot of misunderstanding exists as to what a right-of-way is. As a general rule, a right-of-way is an easement for public travel and does not include fee title to property underlying the right-of-way.<sup>1</sup> Thus, to say that a city owns its streets or a county owns its roads really means, in most cases, that the city or county owns easements for the purpose of public travel, whether vehicular or pedes-

trian.<sup>2</sup> Some local governments, however, actually purchase the fee title to the property underlying the right-of-way, but that is the exception rather than the rule. Usually, the underlying title to the parking strip adjacent to the paved roadway (the area between the sidewalk and the street or, where there are no sidewalks, the unimproved part of the right-of-way) belongs to the abutting property owner. This is the area where most political campaign signs are placed.

**The Collier case – pre-election durational restrictions held unconstitutional.** In 1993, the state supreme court addressed the issue of a local government's ability to regulate temporary political signs within the public right-of-way, and, specifically, the area of the parking strip.<sup>3</sup> In *Collier v. City of Tacoma*, city workers had removed the campaign signs of a candidate for Congress from residential yards and parking strips in accordance with two Tacoma ordinances that restricted the preelection posting of political signs in such areas to a 60-day period prior to an election. The state supreme court held this restriction to be unconstitutional under both the federal and state free speech protections. The court first determined that the Tacoma ordinances restricted political speech, which is entitled to the "fullest and most urgent" constitutional protection, and that parking strips – the area between the streets and sidewalks – constitute a "traditional public forum" that occupies "a special position in terms of First Amendment protection, [where] the government's

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ability to restrict expressive activity is very limited.”<sup>4</sup> A traditional public forum is a place that by long tradition or government fiat has been devoted to assembly and debate and where the government has only a very limited right to restrict political speech. However, even in a public forum, the government may impose reasonable restrictions on the time, place, and manner of protected speech, “provided the restrictions are content neutral, are narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels of communication.”<sup>5</sup>

The *Collier* court held that the Tacoma ordinances were impermissibly content-based, because their restrictions did not also apply to similar, temporary “for sale” or “for rent” signs, and because they inevitably favored incumbents over other candidates, such as the “underfunded challenger.” The court also held that the aesthetic and traffic justifications proffered by the city for the durational restriction were not sufficiently compelling to outweigh the restrictions imposed on *Collier*’s political speech. The court, however, had no problem with the requirement that campaign signs be removed within a certain period after an election (e.g., seven days), as long as such a requirement is reasonable and applies to all other temporary events, including home sales and residential renting.

**May political signs be prohibited entirely within the right-of-way?** Although the *Collier* case made it clear that restrictions on how far in advance of an election campaign signs may be posted are unconstitutional, it did not address some other important issues regarding a government’s ability to regulate political campaign signs in the right-of-way. Significant among those issues is whether a city or county may prohibit *all* campaign signs within a public right-of-way.

There is no case law in Washington that addresses this issue. It is MRSC’s position that the courts would be more likely to uphold a prohibition of political campaign signs in the right-

of-way if (1) the prohibition does not include the parking strip abutting private property, which the *Collier* case described as a traditional public forum; and (2) the prohibition applies to all other temporary signs, such as real estate and garage sale signs. While *Collier* and other cases have also deemed the “streets” to be a traditional public forum, this does not mean that they are such for the placement of signs. Clearly, traffic safety becomes an important issue when signs are in areas of the right-of-way other than the parking strip.<sup>6</sup>

**May the size of political signs in the right-of-way be restricted?** Yes, as long as the size restrictions are reasonable and also apply to other temporary signs in the right-of-way, including within parking strips. Traffic safety and aesthetic considerations provide a sufficiently compelling justification to limit sign size in the right-of-way.

**May political campaign signs be placed in a parking strip abutting private property without the abutting property owner’s permission?** Although we are not aware of any case law on this issue, it is MRSC’s opinion that the permission of the abutting property owner or resident is necessary before a political campaign sign may be placed in the parking strip. Private property rights should trump free speech rights in this circumstance. Nevertheless, it is advisable for a local government to indicate the need for permission in its sign ordinance, so that citizens have notice of the rules.

If the city or county owns the fee title to the right-of-way, including the parking strip, then it is best to require city or county permission for placement of political campaign signs in the parking strip. We recommend that sign policies indicate that permission will not be given if the abutting property owner or resident objects.

**May a city or county restrict the number of political signs that may be placed in the parking strip?** There is no case law authority in Washington State on this issue either,<sup>7</sup> but we are

skeptical as to the constitutionality of such a restriction. While a limit of, for example, 10 or 12 signs may sound reasonable, what if there are an unusually large number of offices and ballot propositions on the ballot? A limit of one sign per candidate or ballot proposition may also seem reasonable, but what if the parking strip is for a multi-family building? These kinds of issues need to be considered if a city or county is contemplating limits on the number of signs. Traffic safety and aesthetic considerations would be greater with large numbers of signs, but it is difficult to predict whether the courts would consider them sufficiently compelling.

**Summary of permissible and impermissible restrictions.** In summary, a city or county may not limit how far in advance of an election political signs may be displayed in the right-of-way or elsewhere. Post-election removal requirements may be imposed if they are reasonable (they leave enough time for removal and exempt winning primary candidates until after the general election) and apply to all other types of temporary signs allowed in the right-of-way. Cities and counties should be able to impose reasonable size limitations, as long as those limitations are also imposed on other temporary signs allowed in the right-of-way. The constitutionality of other restrictions on campaign signs in the public right-of-way is less certain. Your legal counsel should be consulted before such restrictions are enacted. MRSC legal consultants are also available for consultation on these issues.▶

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<sup>1</sup>See, e.g., *Finch v. Mathews*, 74 Wn.2d 161, 167-68 (1968) (“Since *Burmeister v. Howard*, 1 Wash. Terr. 207 (1867), this court has not departed from the rule established in that case, that the fee in a public street or highway remains in the owner of the abutting land, and the public acquires only the right of passage, with powers and privileges necessarily implied in the grant of the easement.”); *Puget Sound Alumni of Kappa Sigma, Inc., v. Seattle*, 70 Wn.2d 222, 226 (1967); *Christian v. Purdy*, 60 Wn. App. 798, 801 (1991).

<sup>2</sup>State rights-of-way for state highways are different, however. The state purchases fee title for rights-of-way for its highways.

<sup>3</sup>*Collier v. City of Tacoma*, 121 Wn.2d 737 (1993).

<sup>4</sup>121 Wn.2d at 747.

<sup>5</sup>*Id.*

<sup>6</sup>In *City Council of L.A. v. Taxpayers for Vincent*, 466 U.S. 789 (1984), the U.S. Supreme Court upheld the constitutionality of the City of Los Angeles' prohibition on the posting of any signs on public property, which was defined to include:

any sidewalk, crosswalk, curb, curbstone, street lamp post, hydrant, tree, shrub, tree stake or guard, railroad trestle, electric light or power or telephone or telegraph or trolley wire pole, or wire appurtenance thereof or upon any fixture of the fire alarm or police telegraph system or upon any lighting system, public bridge, drinking fountain, life buoy, life preserver, life boat or other life saving equipment, street sign or traffic sign.

466 U.S. at 491, n.1. The Court noted that "The Los Angeles ordinance does not affect any individual's freedom to exercise the right to speak and to distribute literature in the same place where the posting of signs on public property is prohibited." 466 U.S. at 812. It does not appear, however, that the ordinance in Vincent would prohibit placement of political signs in the ground in a right-of-way and not attached to any such object identified in the above language.

<sup>7</sup>Courts in a few other jurisdictions have looked at this issue. For example, the Fourth Circuit Court of Appeals invalidated a two-sign restriction on temporary signs (*Arlington County Republican Comm. v. Arlington County*, 983 F.2d 587 (4th Cir. 1993)), and the West Virginia State Supreme Court in 1992 indicated that "the number of [temporary political or candidate signs] signs permitted could be limited, within reason" (*Fisher v. City of Charleston* - <http://www.state.wv.us/wvsca/docs/fall92/21356.htm>).

## Welcome Special Purpose Districts

The Municipal Research and Services Center (MRSC) began providing services to Washington's special purpose districts on July 1, 2007. In 2006, the legislature expanded the authority of the Municipal Research Council to extend services to special purpose districts (RCW 43.110.080); however, the funding provisions of the bill were not enacted. In the 2007 legislative session, the legislature appropriated a small amount from the state general fund for the 2007-09 biennium to fund a limited special district program.

MRSC remains committed to providing top quality, timely responses to all local governments. As required by statute, MRSC manages its budgetary resources to insure that cities, counties, and now special districts will receive their fair share of services according to the resources they provide. We will continue this practice.

There are over 1,700 special purpose districts. Given the potential demand for service and a relatively small appropriation, MRSC will focus on training, publications, and the posting of materials on the MRSC website, which receives over 600,000 visitors per month.

### Inquiry Responses from Special Purpose Districts

MRSC staff will respond to a limited number of direct inquiries or requests for advice as resources permit.

Written inquiries from special purpose districts should be directed to [receptionist@mrsc.org](mailto:receptionist@mrsc.org). Include the name of the district you represent, your name and position with the district, and an e-mail address or phone number where you may be contacted.

Staff will review and prioritize requests and choose those for response according to the following:

- Staff will only respond to legal inquiries on governance matters, since that is the area that special districts have told us is of greatest need. MRSC is not prepared to respond to issues related to the technical content of the programs carried out by special districts.
- MRSC will favor inquiries where a response has value if shared with a large number of special districts. Responses will be written up and posted on our website to build a data base that maximizes the value derived from the special district inquiry program. We also plan to develop a free, special district e-newsletter summarizing selected inquiries of general interest for distribution to special districts. Anyone requesting special district service will be added to the distribution list.
- Preference will be given to smaller districts that do not have the staff resources possessed by larger districts.

A web page, "Introduction to MRSC Web Info for Special Purpose Districts," <http://www.mrsc.org/Subjects/Governance/spd/SPDWebIntro.aspx> has been created to describe MRSC's services and aid access to MRSC's web pages of interest to Washington's special purpose governments.

**Please join us in welcoming special districts to MRSC! ▶**

# Welcome!

# MRSC to Provide Shared Small Public Works and Consultant Rosters Statewide

MRSC intends to provide shared small public works and consultant rosters to all local government agencies in Washington State beginning in December 2007. We will use and adapt electronic formats and procedures developed by the city of Lynnwood, which has provided shared rosters with a number of Puget Sound agencies for several years. It is MRSC's intent to act like agency staff to provide shared rosters in a way that is efficient, cost-effective, and tailored to the geographic area of each local government agency. Because of the extent of this service, it will be necessary for us to charge fees for use of these shared rosters to agencies, contractors, and consultants.

## What are the Advantages of Shared Small Public Works Rosters?

Small public works and consultant rosters readily become electronic databases with a wide range of categorical and word search functions that make it easy for an agency to find and notify qualified contractors and consultants when a construction, maintenance, or design project is available for competition. In addition, once they become electronic databases, they may be shared readily among agencies. Almost all local agencies (city, county, school districts, and special districts) can use these rosters.

Advantages of shared rosters for a public agency:

- Efficiency in government
- Reduced individual agency staffing needs
- Shared costs with other agencies
- Access to a much larger pool of contractors and consultants
- Ease of electronic search and notification
- More and lower bids from qualified contractors

Advantages of shared rosters for contractors and consultants:

- noticeable efficiency in government
- access to a much larger pool of agencies
- one roster application to many agencies means less burden and lower costs for consultants and contractors

## What is the MRSC Roster Program?

The MRSC roster program will

- accept and process electronic applications from contractors for the small public works roster and check them for compliance with the new mandatory bidder responsibility criteria,
- accept and process electronic applications from consultants for the consultant roster,
- be structured geographically by county or county subarea,
- provide to subscribing agencies lists and contact information for those contractors and consultants who want to do specific kinds of work for local governmental agencies in each county or county subarea,
- allow requests to be sent electronically for quotes or RFQ/RFPs to all or some of these contractors or consultants, and
- advertise, on behalf of all subscribing agencies, in the *Seattle Daily Journal of Commerce* and in newspapers of general circulation across the state as required by statutes.

Look for this service at the end of the year! ▶



## What is a Small Public Works Roster?

Small public works rosters allow public agencies of all types to use a streamlined bid process for public work construction and maintenance projects anticipated to cost up to \$200,000 (RCW 39.04.155). Otherwise, these projects require a formal competitive bid process, unless the estimated cost is below the agency's bid limits. A full competitive bid process requires newspaper advertisements, a minimum 13-day advertisement period, a formal bid opening, and formal award by the commission or council, all of which is time-consuming and expensive.

A small works roster is simply a categorized list (with supporting data) of all responsible contractors who

- request to be on the roster,
- are properly licensed or registered in Washington and meet other responsibility criteria, and
- agree to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the agency.

In order to utilize the small works roster process, a local government must

- be expressly authorized by statutes to use the small works roster process,
- establish a small works roster process, policies, and/or rules by ordinance or resolution,
- advertise the existence of the small works roster and solicit contractors for it at least once a year, and
- add responsible contractors to the appropriate roster(s) at any time they submit a written request and necessary records.

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Advantages of a small works roster for a public agency:

- Pre-qualified contractors
- More manageable number of bidders
- Greater certainty of interested bidders
- Simpler solicitation through informal notice and even via electronic means
- Possibility for streamlined award and contract administration
- Opportunity to automate

Advantages of a small works roster for contractors and consultants:

- Perceived smaller pool of competitors
- Simpler solicitation
- Possibility for streamlined award, contract administration, and payment

#### **What is a Consultant Roster?**

Consultant rosters are a means of soliciting requests for qualifications (RFQs) from consulting engineers, architects, and other professionals that are then kept on file with an agency in accordance with RCW 39.80.040. These RFQs are then reviewed when a consultant is needed to design public works projects of any magnitude, or to perform engineering and architectural studies. The most highly qualified firm is to be selected based on the RFQs on file or through a further request for proposals (RFPs) process.

Again, a consultant roster is simply a categorized list (with supporting data) of all consultants who wish to be considered for work with an agency and who

- request to be on the roster,
- are properly licensed or registered in Washington, and
- agree to keep current qualification statements and records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the agency.

## Some Meeting Tips and Myths

By Paul McClintock, Professional Regional Parliamentarian

### **Meeting Tip: Unanimous Consent**

When the chair expects no opposition to a motion, time can often be saved by the procedure of unanimous consent. Also called general consent, the procedure is as follows. The chair states, "If there is no objection..." or "Without objection..." and the action that is proposed. After pausing, if no member says, "I object," the chair continues with, "Since there is no objection..." and states the action that will be taken. If any member objects, the motion must be formally processed (see note below). See *Robert's Rules of Order Newly Revised*, 10th edition, pages 51-52.

(Note: The standard steps in processing a motion are: a member makes a motion, another member seconds it, the chair states the motion, the members debate the motion, the chair puts the motion to a vote, the chair announces the vote result. See *Robert's Rules of Order Newly Revised*, 10th edition, pages 40-48.)

### **Meeting Myth: A motion adopted by the required vote but which lacked a second is null and void.**

**Fact:** "After debate has begun or, if there is no debate, after any member has voted, the lack of a second has become immaterial and it is too late to make a point of order that the motion has not been seconded." *Robert's Rules of Order Newly Revised*, 10th edition, page 35.

### **Meeting Tip: Minutes Matter**

Minutes are the official record of decisions made by an organization, and may be needed in court, or to change signatories on a bank account. Minutes should record what was done, rather than what was said. The heading and/or first paragraph should contain the name of the organization, the date, time, type (regular, special, annual), and place of the meeting. It should also include who presided and who served as secretary, and what minutes were approved.

A separate paragraph is needed for each main motion, including the maker's name, the exact wording of the motion as adopted or voted on, and its disposition (e.g., adopted, lost, referred to a committee, tabled). If more than a majority vote was required, the minutes should reflect this (e.g., "adopted by two-thirds" or "motion lost, not obtaining two-thirds"). Counts for counted and ballot votes are recorded, as are the names for and against when there is a roll call vote. The name of the member seconding a motion is not normally recorded.

Notices for business to come up at the next meeting, and the president's announced committee appointees are included in the minutes. Officer and committee reports are mentioned as given but not summarized; but a motion made on a report's recommendation is recorded. The time of adjournment is recorded, and the secretary signs the minutes. See *Robert's Rules of Order Newly Revised*, p.451f.

### **Meeting Myth: Secondary motions (e.g., amend) are recorded in minutes.**

**Fact:** Secondary motions are not generally recorded in minutes; only the main motion as finally adopted or lost (after possible amendment) is recorded. However, a motion with a pending amendment might be postponed to the next meeting or referred to a committee, and in such cases the minutes need to record the adhering secondary motion(s) for clarity. See *Robert's Rules of Order Newly Revised*, p.453.

### **Meeting Tip: Perfecting Proposals**

Once a motion (proposed action) has been made and seconded, it is stated by the chair, and then it is open to debate and amendment (perfecting). You can amend by striking, inserting, or both (*Robert's Rules of Order Newly Revised* (RONR), p.129). E.g., a motion "to buy two oak desks" could be amended (a) by striking "oak"; (b) by inserting "used" before "oak"; or (c) by striking "two" and inserting "three." (If

strike-and-insert involves a paragraph or more (e.g., the entire motion), you move to “substitute” the new text for the original.) RONR uses “strike out” but accepts the use of “strike”; “delete” is not preferred (p.129 footnote).

You may even want to amend a motion you dislike and will vote against, so that if it is adopted it won't be as bad as originally proposed.

Amendments are adopted by a majority vote, even if the main motion requires two-thirds.

See RONR p.125-160, or *Robert's Rules of Order Newly Revised in Brief*, p.38-51.

**Meeting Myth: If an amendment is “friendly,” you need only to have the maker of the original motion agree to it.**

**Fact:** “Once a motion has been stated by the chair, it is no longer the property

of the mover, but of the assembly. Any amendment, ‘friendly’ or otherwise, must be adopted by the full body, either by a vote or by unanimous consent.” – *Robert's Rules of Order Newly Revised in Brief*, p.116.

**Meeting Tip: When Robert's Rules Don't Matter**

Ever been miffed when Robert's Rules of Order weren't followed? Well, sometimes Robert's Rules don't matter! Robert's Rules aren't binding when they aren't adopted as the parliamentary authority. (Check your bylaws to see what book, if any, is the parliamentary authority.) See *Robert's Rules of Order Newly Revised*, 10th edition (RONR), p. 16.

Robert's Rules don't matter even when adopted, if a higher rule supersedes the particular rule. The higher rule could be, for example, corporate law, national parent organization bylaws, your own bylaws, or your own special rules of order.

Robert's Rules don't matter if the violated rule is suspended by the required vote (usually a two-thirds vote). See RONR, p. 252.

Robert's Rules also don't matter if a minor rule is violated and no one objects by immediately raising a point of order. A point of order must be made at the time of the offense except for when a continuing breach occurs. See RONR, p. 244.

**Meeting Myth: If no parliamentary authority (reference book of meeting procedure rules) is adopted, then the organization doesn't have to follow any rules at all.**

**Fact:** General parliamentary law (common law) must be followed by groups with no adopted parliamentary authority or other rules of order. See RONR, p. 10, and *The Standard Code of Parliamentary Procedure*, 4th edition, p. 2-3.▶

**Paul McClintock** is a Professional Registered Parliamentarian and Certified Parliamentarian, professionally serving organizations as parliamentarian at meetings, teaching workshops, and writing parliamentary opinions. He also is an active leader in the National Association of Parliamentarians and the American Institute of Parliamentarians at several levels.

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# Ask MRSC

Summaries of recent inquiries answered by MRSC consultants

## May a city or county charge more than 15 cents per page for color copies?

A city or county may charge no more than 15 cents a page unless it has determined the actual per page cost. If the city or county determines that the actual per page cost of a color copy is, say, 20 cents, it may charge that amount for color copies. RCW 42.56.120 provides in part as follows:

Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page.

For information on establishing per page charges, see WAC 44-14-07001 (“General rules for charging for copies”), one of the Attorney General’s “Model Rules” for public records disclosure. Note that, at subsection (3) (“Charges for copies other than standard photocopies”), this regulation provides:

Nonstandard copies include color copies, engineering drawings, and photographs. An agency can charge its actual costs for nonstandard photocopies. RCW 42.17.300/42.56.120.

So, as long as a city or county establishes the actual cost for color copies, it may charge that cost.

## Is homework that accompanies a required training course for city employees compensable time?

Yes. The *FLSA Handbook for States, Local Governments and Schools*, by Thompson Publishing Group, discusses this issue in Section 461 on “Time Spent Studying or Doing Homework.” Citing case law interpreting the FLSA and federal Department of Labor opinions, it states that, as a general proposition, time spent doing homework for required training courses is compensable time.

One exception to this rule is that if the study activity is of a general nature and of benefit to the worker as well as the employer, it may not be compensable working time.

## Must a father be given the same leave benefits as the mother is given after the birth of a child?

Yes. RCW 49.12.350 provides in part:

[T]he legislature declares that it is the public policy of this state to require that employers who grant leave to their employees to care for a newborn child make the same leave available upon the same terms for adoptive parents and step-parents, men and women.

And, RCW 49.12.360(2) implements that policy by providing that “An employer must grant the same [parental] leave upon the same terms for men as it does for women.”

## Must a city or county obtain signed permission from a job applicant before contacting job references?

The law does not require a signed release/permission before contacting references/former employers, but it is generally thought that a signed release/permission may increase the likelihood

of receiving more helpful, substantive information from a former employer. A law enacted in 2005 may also help; RCW 4.24.730 makes employers immune from civil liability if they give honest and accurate job references on current or former employees.

So, it’s probably a good idea to have a signed authorization and an indication on the application form that references may or will be contacted. But, it’s not required.

## May a fire department civil service commission exempt a number of fire fighter positions from civil service coverage?

The only position that may be exempted from civil service coverage in a city fire department is the chief. There is no provision for exempting other full-time members of the fire department. See RCW 41.08.050, which provides that all full-time members of the fire department are to be included in the civil service system, except for the chief.

This is different from the statutory provisions on police civil service. There is specific authorization in RCW 41.12.050 to designate some positions in the police civil service system as unclassified and exempt from civil service coverage.

## When does Title 35 RCW apply to a code city operating under Title 35A RCW?

In general, the statutes in Title 35 RCW apply to codes cities when either: (1) a statute in Title 35A RCW says a statute in Title 35 RCW is applicable to code cities (example: RCW 35A.40.210 applies the bidding requirements in RCW 35.23.352 to code cities under 20,000 population); (2) a statute in Title 35 RCW is specifically worded to include a code city (example: RCW 35.21.333, dealing with eligibility requirements

cities based on the “omnibus grant of authority” given to code cities in RCW 35.21.160. That statute states:

General application of laws to code cities. A code city organized or reorganized under this title shall have all of the powers which any city of any class may have and shall be governed in matters of state concern by statutes applicable to such cities in connection with such powers to the extent to which such laws are appropriate and are not in conflict with the provisions specifically applicable to code cities.

Under this third category, it may not be clear in a particular case whether a statute in Title 35 RCW applies to a code city. One example where a Title 35 statute would not apply to a code city is where there is a statute in Title 35A RCW that deals with the same subject matter. In situations where it is not clear, we recommend that you

contact the city attorney or one of the attorneys at MRSC.

### **Must all ordinances be codified to be effective as law?**

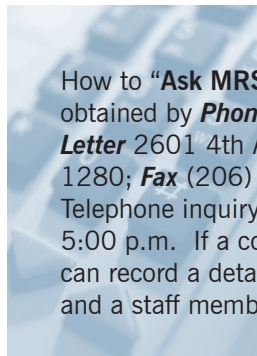
No. There is no statute that requires codification of all ordinances. Indeed, there are many types of ordinances required by law that are not appropriate or suitable for codification, such as ordinances approving annexations and street vacations, and ordinances initiating condemnation of property, to name a few.

### **A new hire has been called up into military service. He has not completed training or civil service probation requirements. Is he covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA)?**

Yes, he would be covered. USERRA, at 38 USC 4312(d)(1)(c), provides for an exclusion when “[T]he employ-

ment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.”

Only very temporary positions, such as seasonal workers, are excluded under this provision (and, according to one commentator, this exclusion is very narrowly construed). A newly-hired employee is covered.



How to “**Ask MRSC.**” Assistance from MRSC may be obtained by **Phone** (206) 625-1300 or 1-800-933-6772; **Letter** 2601 4th Avenue, Suite 800, Seattle, WA, 98121-1280; **Fax** (206) 625-1220; or **E-mail** [mrsc@mrsc.org](mailto:mrsc@mrsc.org). Telephone inquiry service is available from 8:00 a.m. to 5:00 p.m. If a consultant is not immediately available, you can record a detailed request on voice mail 24-hours a day, and a staff member will call back as soon as possible.

# Heads Up

## Emerging information for local government

### Community-Wide Reading Programs

In 1998, the Washington Center for the Book initiated the "One Book" project, a community-wide reading program. A book is chosen, the community is encouraged to read it, and opportunities for dialog are created to discuss the book. Book discussions include blogs, book store or library readings, and informal book discussion groups. The program has been introduced across the United States and around the world.

Several Washington State communities have reading programs sponsored by local libraries, arts commissions, schools, bookstores, and other organizations. Some of these programs are "Lake Forest Park Reads," "Seattle Reads," "Spokane Is Reading," and "Tacoma Reads Together." The Kitsap Regional Library and the Timberland Regional Library have programs for community members in their districts. Most of these programs are advertised through the libraries. However, some of the communities have information about the programs on the city's main website; for example "Sumner Reads Together," sponsored by the Arts Commission, is listed under "Arts and Entertainment" and "Lake Forest Park Reads" is listed under "What's Happening." The American Library Association publication, *One Book One Community: Planning Your Community-Wide Read*, provides information on how to set up a community reading program. See <http://www.ala.org/ala/ppo/onebookguide.pdf>.

### The Price of Justice

According to a survey by the National Center for State Courts, only about 46 percent of people summoned for jury duty show up. To boost the participation rate, Franklin County, Clark County, and Des Moines Municipal Court are participating in a state-funded pilot program that raises jury pay from \$10 a day to over \$60 a day - the equivalent of eight hours at the state's minimum wage. The Jury Pay Pilot Program started last November and will run through October. It will see if raising jurors' compensation will get

a greater number and a more diverse pool of people to serve. The results will be available in early 2008. If the results are positive, the legislature will consider boosting the daily compensation rate statewide. The project was launched after a state jury commission report found that economic hardship was one of the top reasons people dodge jury duty. The National Center for State Courts found that in addition to raising pay, other jurisdictions have tried running ad campaigns, eliminating occupational exemptions, and summoning and fining no-shows. To learn more about the pilot project, contact the state Administrative Office of the Courts at 360-753-3365. *Government Posted*, August 16, 2007.

### Commute British Style

Snohomish Community Transit is testing a double-decker bus on its commuter routes between Snohomish County and Seattle. The 14-foot tall bus has two covered decks and seats 67 passengers, with standing room for another 20. It will hold twice as many riders as a standard 40-foot long bus while taking up the same amount of space on the road. It is the second public transportation agency in the nation - after Las Vegas - to use a double-decker bus in regular transit service. The bus is being leased for one year, during which time Community Transit will decide whether to order more double-deckers for its fleet of nearly 300 buses. Among the considerations going into that decision are maintenance costs, fuel performance, and customer satisfaction. *Community Transit News* <http://www.commtrans.org/mc=Newsandevents&subcat=1&record=1205>

### Ride to a Skate Park

Recognizing that youth are an important part of its ridership, Snohomish Community Transit is making an effort to help get its skateboarding riders to their favorite locations by distributing a map of skate parks in Snohomish County through sports outlets and other locations. For many youth, skateboards are a prime source of transportation and entertainment. But

sometimes the nearest place to safely ride is too far to reach on a board. The map features the addresses of all ten skate parks in the county, the bus routes that serve them, as well as a description of each park. The map shares information such as whether the park is free or has a fee; if bikes are allowed; if there are restrooms, water fountains, or lights; if there are food or beverage locations nearby; and if helmets are required. *Community Transit News* <http://www.commtrans.org/?mc=Newsandevents&subcat=1&record=1207>

### Quieter Pavement

The Washington State Department of Transportation (WSDOT) has been installing several miles of quieter pavement on some of Washington State's busiest highways to assess the products potential affects on safety, pavement lifespan, noise reduction, and costs. Test strips have been installed around Medina, Federal Way, Lynnwood, and Spokane. Quieter pavement has the potential to reduce traffic noise on some of our most heavily-traveled highways. The test results will help policymakers, WSDOT, and others make more informed decisions about incorporating quieter pavement into highway projects. <http://www.wsdot.wa.gov/Projects/QuieterPavement/>

### Personal Mobility Police Vehicles

A three-wheeled, Segway-type device, developed by T3 Motion, Inc., Orange County, California, is being tested by several law enforcement agencies across the country. The T3 is an electric, three-wheel, stand-up vehicle designed to tackle a host of daily professional functions, from community policing to patrolling of airports, military bases, campuses, malls, public event venues, and other high-density areas. It is said to operate for less than ten cents per day, have a zero-degree turning radius, and a top speed of 25 mph. To view the device, go to the T3 website at <http://www.t3motion.com/index1.html>. ■

# New Acquisitions

New resource materials now available

This list contains new publications, ordinances, and other materials recently received by the MRSC library. We also prepare a more comprehensive list of new acquisitions each month which is posted on our Web site at [www.mrsc.org/library/newacq.btm](http://www.mrsc.org/library/newacq.btm). If you would like to borrow one or more of these publications, please contact Peter Breen in our library at (206) 625-1300 or [library@mrsc.org](mailto:library@mrsc.org).

## Construction

*ADA/ABA Handbook: Accessibility Guidelines for Buildings and Facilities*, BNi, Building News, Los Angeles, 2004 [C 4.9000 A33 2004]

*Building Codes Illustrated: A Guide to Understanding the 2006 International Building Code*, Francis D.K. Ching and Steven R. Winkel, 2nd ed., Hoboken, NJ, Wiley, 2007 [C 4.3100 B84 2007]

## Finance

*GAAP for Governments 2007: Interpretation and Application of Generally Accepted Accounting Principles for State and Local Governments*, Warren Ruppel, Hoboken, NJ, John Wiley & Sons, 2007 [F 2.0000 G33 2007]

## Health and Human Services

*Immigrants and Boomers: Forging a New Social Contract for the Future of America*, Dowell Myers, New York, Russell Sage Foundation, 2007 [H 4.6000 I55 2007]

*Domestic Partner Benefits: An Employer's Guide*, Todd A. Solomon, 4th ed., Washington, DC, Thompson Pub. Group, 2007 [H 5.5000 D65 2007]

## Planning

*Feasibility Assessment Manual for Reusing Historic Buildings*, Donovan D. Rypkema, Washington, DC, National Trust for Historic Preservation, 2007 [PL 10.3000 F43 2007]

*The Great Neighborhood Book: A Do-It-Yourself Guide to Placemaking*, Jay Walljasper, Gabriola Island, BC, New Society, 2007 [PL 14.0000 G74 2007]

*Forest Practices Illustrated: A Simplified Guide to Forest Practice Rules in Washington State*, prepared by the Washington State Department of Natural Resources, Olympia, WA, 2007 [PL 5.7050 W3 F66 2007]

*Small Town Planning Handbook*, Thomas L. Daniels, et al, 3rd. ed. Chicago, American Planning Association, 2007 [PL 3.6000 S625 2007]

*SmartCode & Manual*, includes the complete SmartCode version 8.0, Andres Duany, et al, Ithaca, NY, New Urban Publications, 2005 [PL 8.6270 S534 2005]

*True Urbanism: Living in and Near the Center*, Mark L. Hinshaw, Chicago, American Planning Association, 2007 [PL 3.4000 T78 2007]

## Transportation

*Building Projects That Build Communities: Recommended Best Practices*, developed by the Community Partnership Forum, 1st ed., Olympia, WA, Washington State Department of Transportation, 2003 [T 4.4000 W3 B84 2007]▶

## New Ordinances

### **Palouse Ordinance No. 831**

An ordinance of the city of Palouse, Washington, adopting Palouse Municipal Code Chapter 8.32, "OUTDOOR BURNING," thereby providing for the regulation of outdoor burning within the city of Palouse, adopted 6/26/07.

### **Spokane Ordinance No. C34033**

An ordinance relating to cyber stalking; adopting a new section 10.11.065 to Chapter 10.11 of the Spokane Municipal Code, adopted 5/21/07.

### **Battle Ground Ordinance No. 07-014**

An ordinance of the city of Battle Ground, Washington regulating smoking and tobacco use in public parks, adopted 6/18/07.



*Don't forget . . .*

Fall time change has  
moved!

Remember to set your  
clocks back one hour on  
November 4, 2007.



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