

Substitute, Alternate and Amended Ordinances

SHORT DEFINITION

Changes to an ordinance approved prior to presentation to the Common Council for approval require the preparation of a Substitute Ordinance. Changes made on the Council floor create an Amended Ordinance.

SUBSTITUTE ORDINANCES

When it is determined that the language of the caption/title or body of an ordinance that has been introduced at Council requires a change, a substitute must be prepared. These have generally fallen into two categories, committee-initiated and sponsor/agency initiated.

Committee-Initiated

These also fall into two types, those which are approved after one set of changes to create a Substitute, versus those which go through multiple reviews to create a Second or Third or Fourth Substitute.

1. One-Time Review. One of the referral bodies recommends a language change. If the change is straightforward and simple enough, the body may recommend adoption of a substitute to incorporate that language at the same time. If the change is more complex, the body may ask the drafting attorney to prepare a substitute for further review at a subsequent meeting, at which point the substitute is recommended for adoption.
2. Multiple Reviews. If the substitute was recommended by a referral body other than the lead, another referral body might request different or additional changes. Likewise, if the referral body reviews language prepared by the drafting attorney at a subsequent meeting, it may request different or additional changes. The second time any changes are made, the ordinance becomes a Second Substitute. As this process is repeated, the substitute designation continues to increase in number (Third, Fourth, Fifth, etc.).

The Office of the City Attorney will attempt to minimize the number of substitutes that are produced, by incorporating the proposed language into a Draft Substitute that is then sent for review to a referral body. Only when the body had approved the language and the ordinance is ready to report back to Council (or to the Lead) to recommend adoption will it be considered a Substitute. While this will not always be the case, the OCA hopes that a Substitute is formally created only when the referral body votes to recommend it, whether sending it back to Council or on to another referral agency.

Prior to Legistar, paper copies of substitutes considered Drafts could be included in a referral body's agenda. With Legistar, of course, in order for a referral body to pick up the substitute, it obviously needs to be entered into the system as a Version 2 (version 3 for second substitute, etc.). It is possible, however, to label the Version 2 as a Draft (not as a Status, but just as part of the title designation) until the language is finalized. Doing so would minimize the number of history lines that are entered for CA and Comptroller approval of each version entered as an official substitute.

Sponsor/Agency-Initiated

One of the sponsors of the original ordinance, or an agency which has had considerable input in its drafting, may recommend a change. This is usually done prior to the review by the referral bodies, and often to correct an error or some other oversight. It may, however, occur after the referral bodies have reviewed the item, in which case, if prepared in advance of the Council meeting, it could also be offered from the floor. It could also be one step in the multiple review process as described above.

When substitutes are created, it is presumed that all the existing sponsors will remain as sponsors unless one of the sponsors notifies the OCA or announces at a meeting that they are no longer a sponsor.

ALTERNATE ORDINANCES

This label has usually been applied to an ordinance that offers a competing interest to the original proposal. It is often sponsored by different alders, but may also be offered by the same alders as one that they prefer less, but would prefer over failure of the original ordinance. The City Attorney's office will need to create a new legislative file for alternate ordinances. They will cross-reference the alternate ID# in the reference field **AND** the title of the legislative file of the original file ID# & cross-reference the original ID# in the reference field **AND** the title in legislative files of the alternate file ID#.

AMENDED ORDINANCES

This designation only applies to changes that are made from the Council floor for which a Substitute has not been prepared with those changes included. Changes made from the floor to an existing Substitute ordinance create an Amended Substitute Ordinance.

SUBSTITUTE, ALTERNATE AND AMENDED RESOLUTIONS

All of the above procedures & definitions apply to substitute, alternate and amended resolutions as well. The only difference is that the City Attorney's office is responsible for drafting ALL ordinances (initial, substitute, alternate & amended.). Substitute and alternate resolutions should be given to the person who drafted the original version to make the appropriate changes. The word "SUBSTITUTE" needs to be typed at the beginning of the title (or "SECOND SUBSTITUTE," etc.) of resolutions when the changes are made. All language being added to a resolution should be underlined and all language being deleted should be ~~stricken~~ (not deleted). The City Clerk's office is responsible for drafting all amended resolutions that occur as a result of changes made at a Common Council meeting.

Please note that creation of a substitute resolution or ordinance does not require that the legislation be reconsidered by committees/commissions who considered a previous version. Substitute resolutions need to be approved by the Comptroller's office & substitute ordinances need to be approved by the Comptroller's office and Attorney's office via history lines. The substitute should move forward & should be considered by committees/commissions who have not considered the legislation at all.