

Advancing Public Health Practice and Policy Solutions

Building the Base for a Research Agenda On Local Public Health Legal Authority

Phase III: Components of Local Ordinances to Protect and Promote the Public's Health

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Components of Public Health Ordinances

Introduction

Local governments are extremely important to the protection and promotion of the public's health, enacting and enforcing a wide range of provisions that may limit exposure to hazardous situations, identifying conditions of public health importance or prescribing behavior for businesses and individuals. The structure and content of local public health ordinance area critical and should adhere to best practices whenever possible. The following materials outline the major contents of a strong local ordinance (see Box 1) and provide examples drawn from a range of actual ordinances from various local jurisdictions in the United States. The development of each local ordinance or regulation will follow the administrative and legal requirements of that locale, and will be influenced by political, economic, and others forces and personalities within and outside of government. Engaging in a process of drafting public health law ordinances that include the components described in this resource can increase the likelihood that any newly adopted ordinance will accomplish the purposes for which it was conceived.

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I. PRELIMINARY THOUGHTS BEFORE DRAFTING

LOCAL GOVERNMENT AUTHORITY AND JURISDICTION

States have a duty to preserve public health consistent with their police powers, which authorize them to enact and enforce health laws and regulations.¹ This power can be delegated to municipalities, as well as governmental agencies and other authorities.²

The powers and limitations of county, city, and other authorized municipal governments (“local government”) are derived from constitutional provisions, statutes, and, where applicable, municipal charters.³ Ordinances enacted by local governments operate as any other law and have the force and effect of law within the geographical area and jurisdiction of the local government.⁴

Most ordinances either grant or restrict certain rights, privileges, or powers; or require or prohibit certain actions or behaviors,⁵ thus “prescribing the conditions under which they forbid, authorize, or require behavior and/or the consequences that result if one follows, or fails to follow the law.”⁶

VALIDITY

Ordinances, like statutes, are judicially presumed to be valid.⁷ It is also presumed that two distinct ordinances can operate harmoniously.⁸ However, if an ordinance conflicts with the United States Constitution, the state constitution, state statutes, or charters or other acts under which the local government operates, its provisions may be negated.⁹ An ordinance may also be deemed invalid if it violates drafting requirements. Statutes and charters may have specific requirements regarding form and style, parts to be included, and how to provide public notice as part of the drafting and passage processes.¹⁰ Before drafting any local ordinance, it is important to consider its relationship to this full range of authorities and requirements and make every effort to meet them.

DRAFTING

The first step in drafting a public health ordinance is to set forth a clear statement of the problem which the law is designed to address. This will allow drafters to determine whether there is an alternative solution to drafting a new ordinance, such as revising existing local laws or changing policies.¹¹ The following questions may be considered:

- Who or what is affected by the problem?
- When, how, and why are they affected?
- Who or what is affected by the current remedy, if any?
- What additional issues arise by the current remedy?

- What issues are not covered by existing laws?
- Is there sufficient law to address the problem through administrative regulations?
- Could the problem be solved through an appropriation of funds or an executive order?¹²

The modern trend of effective legislative drafting for ordinances, or other laws, is to use “Plain English.”¹³ Because people must understand what an ordinance requires of them for it to survive constitutional due process analysis, there is little room for vagueness when drafting.¹⁴ The effect of general versus specific language must also be considered. General language is often used when the law expresses fundamental values and is meant to be applied with flexibility.¹⁵ Specific language is used when the government wants maximum control over the issues presented in the law.¹⁶ Most importantly, the intent of the ordinance must be expressed accurately.¹⁷ In some cases the law under which the ordinance is drafted was deliberately vague to leave specificity as a rule-making or local decision.

PARTS

Local ordinances traditionally have four main parts: 1) title, 2) preamble, 3) ordaining clause, and 4) purview.¹⁸ Unless required by a charter or statute, not all parts are necessary to ensure validity.¹⁹ In fact, some or all of the first three parts are often missing.²⁰ However, because there may be specific requirements regarding inclusion of certain parts, consult applicable statutes and charters when drafting to ensure that the ordinance is validated. Statutes and charters may also have specific requirements regarding form and style, parts to be included, and public notice. When these requirements are not met, the ordinance is usually deemed invalid.²¹

II. COMPONENTS OF THE ORDINANCE

TITLE

The title serves to indicate the subject matter of the ordinance. Statutes and charters should be consulted when drafting ordinances as these may specify title requirements, including the inclusion of a title.²² Statutes and charters may also mandate that ordinances be limited to a single subject.²³ Where this requirement does not exist, the ordinance may cover subjects not specified within the title.

Ordinance titles can be either general or specific in nature. The following are examples of each.

- Prohibited Acts: Penalty. BALTIMORE COUNTY, MD., CODE §13.7.401
- Quarantine of animals. DALLAS, TEX., CODE §7.2.4

- Smoking and nonsmoking area designation. MOBILE, ALA., CODE §27.65

PREAMBLE

The preamble states the occasion for and purpose of the ordinance.²⁴ “The preamble has been defined as a prefatory statement, explanation, or finding of facts, stating the reason or occasion for the particular legislation – expounding on powers conferred but not itself actually creating them.”²⁵ Historically, the preamble is not considered a part of an enactment²⁶ and is thus not mandatory.

An explanation of the factual basis for the ordinance may be placed in the preamble. However, because the preamble is not considered part of the ordinance, the better practice is to present the basis for the ordinance in the “policy section” of the purview.²⁷

For the most part, ordinances self-explanator, making preambles unnecessary. However, a preamble can be useful when an ordinance is regulating a new field of activity or when the scope and purpose may be unknown to many.²⁸

The following are examples of ordinance preambles.

- It is the mission and policy of the Board *to protect and promote* the health of the people of the County and *to prevent* disease and injury through the activities of the Department as described in this article. COOK COUNTY, ILL., CODE §38.28.
- The city council hereby declares that the purposes of this article are: (1) *to protect the public health and welfare by prohibiting smoking* in public gathering places and places of employment; and (2) to guarantee the right of employees, residents, and visitors to breathe smoke free air, and to recognize that the need to breathe smoke free air shall have priority over the desire to smoke. OMAHA, NEB., CODE §12.160

ORDAINING CLAUSE

The ordaining clause indicates the intention for the ordinance to have the effect of law.²⁹ It establishes the ordinance’s jurisdiction and authenticity.³⁰ It will usually begin, “Be it enacted that . . .” or will use other similar words.³¹

Ordinances may also be passed as “emergency measures,” which allows the ordinance to take effect more quickly.³² To be considered an emergency measure, the ordinance must usually contain a statement specifying the special necessity.³³

An example can be found in the following ordinance:

- An emergency rule for the enforcement of this ordinance may be adopted by the

Department upon notifying the Board of Health or by the Board of Health if the Department or Board of Health finds that there exists a potential or immediate danger to the public health, safety, or welfare. The scope of such rule shall be limited to the circumstances creating an emergency and at the time of adoption, the Department or Board of Health shall file the rule with the Board of Supervisors. An emergency rule shall state the period during which it is in effect. An emergency rule is not renewable, although the Department or Board of health may at any time adopt an identical rule under the normal emergency rules procedures. The emergency rule shall take effect immediately upon filing with the Board of Supervisors and shall be posted on the Department's official posting site. CERRO GARDO COUNTY, IA., CODE §47.13.(1)(2)(3)

PURVIEW

The purview is the substantive portion of the ordinance. It specifies the scope of the ordinance, the methods by which the ordinance will be enforced, penalties, and funding sources. It often consists of a definition section, a short title, a policy section, administrative provisions, a severability clause, temporary provisions, a duration clause, and other sections.³⁴ The order of these sections should flow together and progress in an orderly manner.³⁵

Scope

- No person without the certificate hereinafter provided shall be engaged in the preparation or serving of food or drink in any licensed victualling house or tavern, or in any lunch stand, ice cream parlor, lunch wagon, soda water fountain or other public eating place where food or drink is provided in the city. PROVIDENCE, R.I., CODE §10.7
- It shall be unlawful for any person to operate within the county an office of massage practice without first obtaining from the county manager a license to do so. BERNALILLO COUNTY, N.M., CODE §14.161
- No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone. ANCHORAGE, ALASKA, CODE §15.70.060(b)7

Enforcement

- At least once every three (3) months the superintendent of health shall cause to be inspected by such deputies or inspectors as he shall appoint for that purpose, every restaurant located within the city. PROVIDENCE, R.I., CODE §10.31(a)
- In the event said superintendent of health or any of his deputies shall determine that a violation of the provisions of this article exists in any restaurant, he may allow the holder of said license to remedy the violations within such time as he

shall order, and if said violation is not remedied at the end of such time, said license may immediately be suspended. All licensees shall notify the superintendent of health of any proposed changes in location, route or physical setup of the premises. The person operating the restaurant shall upon request of the health officer, permit access to all parts of the establishment. PROVIDENCE, R.I., CODE §10.31 (b)(c)

Penalties and Rewards

- A violation of any provision of this Chapter shall be a misdemeanor as prescribed in section 1-4-1 of this Code. In addition to any punishment specified in this Chapter, the Court shall order any violator to *make restitution* to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the Court. In the case of a minor, the parents or legal guardian may be ordered to make the restitution. IDAHO FALLS, IDAHO, CODE §5.33.7
- Each act of violation of §94.42 and every day upon which any such violation shall occur in one calendar year shall constitute a separate offense and follow the penalty schedule below: (1) First offense: A citation shall be issued to the offender in the amount of \$100. (2) Second offense: A citation shall be issued to the offender in the amount of \$250. (3) Third offense: A citation shall be issued to the offender in the amount of \$500. (4) Fourth and subsequent offenses: A citation shall be issued to the offender in the amount of \$1,000. (B) If the court finds for the city, the city shall recover its costs of suit including reasonable expert fees, attorney fees and necessary investigate costs. MANCHESTER N.H. CODE §94.43 (A)(B)

Funding

- The fire department shall provide all emergency ambulance service within the city. The *city shall charge the following fees for emergency ambulance services* in the city provided in response to a call received by the fire department requesting the services: (1) \$600 for each transport of a resident of the city of Dallas to a hospital and \$700 for each transport of a nonresident of the city of Dallas to a hospital. (2) \$125 for treatment of a person who is not transported by ambulance. (3) The reasonable cost of any expendable items that are medically required to be used on a person transported by ambulance or treated without being transported by ambulance, including but not limited to drugs, dressings and bandages, airways, oxygen masks, intravenous fluids and equipment, syringes, and needles. DALLAS TEX., CODE §15D.5 (A)(B)

DEFINITIONS

It is often necessary to define terms within an ordinance, especially for terms of art and terms that have multiple meanings.³⁶

SHORT TITLE

The short title is used for brevity and simplicity.³⁷ It provides a convenient designation for enactments with cumbersome official titles.³⁸

- Quarantine of animals. DALLAS, TEX., CODE §7.2.4
- Smoking and nonsmoking area designation. MOBILE, ALA., CODE §27.65
- Prohibited Acts: Penalty. BALTIMORE COUNTY, MD., CODE §13.7.401

POLICY

The policy section of a public health ordinance specifies its objectives and provides an explanation of its purpose.³⁹ This provides a significant help when interpretation is needed. Despite the best efforts of drafter, many ordinances do include ambiguous sections.⁴⁰

The policy section should include facts on which the ordinance is based and the purpose of the enactment.⁴¹ Though not a necessary part of an ordinance, the inclusion of a policy section is important when the ordinance's effectiveness depends upon understanding the intent with which it was enacted.⁴²

The following are examples of the components of the policy section.

Findings

- The *City council of the City of Philadelphia* finds that *noise and excessive vibration* degrade the enforcement of the City to a degree which is *harmful* and detrimental to the health, welfare and safety of its inhabitants; *interferes* with the comfortable enjoyment of life, property and recreation and with the conduct and operation of business and industry; and causes *nuisances*; That no one has any right to create noise or excessive vibration... PHILADELPHIA, PA. CODE §10.401.1(a)(b)(c)
- It is found and declared that there exist, within *The City of Seattle*, buildings together with appurtenant *structures and premises that are substandard, deteriorating*, in danger of causing or contributing to the *creation of slums* or otherwise blighted areas, and *hazardous to the health safety and general welfare* of the public. It is further found and declared that these conditions are the result of, among other causes: inadequate original construction; dilapidation; failure to repair; lack of proper sanitary facilities and maintenance; structural defects; vacant or abandoned buildings or properties; overcrowding; electrical, mechanical and other defects increasing the hazards of fire, accidents or other calamities; uncleanliness; inadequate heating, lighting and ventilation. SEATTLE, WASH., CODE §22.200.020(A)(B)

- The Board of County Commissioners hereby finds that a severe housing problem exists within the county with respect to the supply of housing relative to the need for housing for residents with moderate incomes. (B) Specifically, the Board of County Commissioners finds that: (1) The county is experiencing a rapid increase in residents of or approaching retirement age, with consequent fixed or reduced incomes; young adults of modest means forming new households; government employees in moderate income ranges; and mercantile and service personnel needed to serve the expanding economic base and population growth of the county. FREDERICK COUNTY, MD., CODE §1.6A.1
- Scientific evidence has shown that use of smokeless tobacco is causally related to oral cancer with the risk of developing such cancers being four times as great among snuff users than nonusers. Smokeless tobacco has been shown to contain nicotine which is a dependence-producing drug that frequently results in addictive behavior. Scientific evidence has shown that smokeless tobacco has been associated with a number of oral problems including gingivitis, gingival recession, tooth abrasion and caries. The use of smokeless tobacco has increased substantially in recent years particularly among adolescent males, and is highly prevalent among certain population groups. Users generally are unaware of the possible harmful effects associated with using smokeless tobacco. Therefore, the Board of Supervisors declares that it is in the public interest to require every person who sells smokeless tobacco to post a conspicuous warning at the point of retail sale as to the addictive and possible cancer-causing nature of smokeless tobacco, the illegality of, and the punishment for selling, giving or in any way furnishing smokeless tobacco, or any other tobacco product or paraphernalia, to another person who is under 18 years. SAN FRANCISCO, CAL., CITY & COUNTY HEALTH CODE. §5.264.1

Intent/Goal

- To prevent noise and excessive vibration and to limit, control and eliminate noise and excessive vibration in general from whatever source. PHILADELPHIA, PA CODE. §10.400.2(a)
- Solving the serious problem created by the uncontrolled reproduction of pet animals. BILLINGS, MONT. CODE §2.513
- The intent of this subsection is to regulate noise levels produced in the testing, maintenance, and repairs of aircraft engines and aircraft hours. Any aircraft operating during a landing, takeoff, or while moving upon ground surface of an airport shall be exempted from the provisions of this section. NEW ORLEANS, LA CODE §66.203.8

ADMINISTRATIVE PROVISIONS

For ordinances that are not self-executing, administrative provisions specify how the ordinance is to be administered and enforced.⁴³ Administrative provisions either

identify or create the agency or committee that is charged with administering or enforcing the ordinance.⁴⁴ When creating an agency or committee, these provisions may explain agency's or committee's organization, personnel, powers, and procedures.⁴⁵

The following are examples of administrative provisions

- The *district board* shall have the same authority, responsibility, powers, and duties in relation to the right of quarantine within the public health district as does *the state*. IDAHO FALLS, IDAHO CODE §39.415
- The board of health shall appoint its employees. The *board of health* may adopt in the manner provided by state law orders, and regulations intended for the public health, the prevention or restriction of disease, the prevention, abatement and suppression of nuisances and the sanitary condition of all public markets and provide penalties for the violation thereof, but no such order or resolution shall take effect until copies thereof are filed with the city solicitor and with the clerk of council. The board of health shall have all other powers conferred upon boards of health by general laws, but the council may modify such laws by ordinance. Such ordinance, unless it is approved by the board of health, shall require a vote of three-fourths of the members elected to the council. CINCINNATI, OHIO, CODE § 11
- The *metropolitan environmental health advisory board shall*: Keep itself informed of community environmental health needs and to serve as a *forum for public discussion*; *Recommend* to the mayor and county managers, policies for program improvement; Advise the environmental health department regarding environmental health needs and programs; *Hold hearings* and *make recommendations* on appeals from orders of the environmental health authority as provided by other ordinances; Perform the functions of the Albuquerque/Bernalillo County Air Quality Control Board as provided in city and county air quality control board ordinances. BERNALILLO COUNTY, N.M., CODE §42.39
- The *animal control board* shall serve in an advisory capacity to the city council and shall be for the purpose of providing citizen input to the policy decisions of the city council. *The primary responsibilities of the board are to review existing and proposed city policies* and to review city department activities to ensure that city policies are being implemented and carried out and further, to report any shortcomings and to make recommendations to the city council in the formulation of programs and policies to improve among others the following areas of concern: *The formulation of policies, regulations, implementation and control of animals within the city; Solving the serious problem created by the uncontrolled reproduction of pet animals; Cooperation with other municipal, county and state government*. BILLINGS, MONT., CODE §2-513

SEVERABILITY CLAUSE

The severability clause states that if a portion of the ordinance is found invalid, it does not affect the remaining portions.⁴⁶ Insertion of this clause is common, although courts typically construe ordinances consistent with this principle no matter whether it is stated in the ordinance.⁴⁷

TEMPORARY PROVISIONS

During the transition from existing laws to the establishment of new laws, it may be necessary to provide for special situations.⁴⁸ Because these provisions are not permanent, they should be included in a separate section of the ordinance.⁴⁹ Since, the laws are short-term, many temporary moratorium do not appear in the municipalities published code, but are issued in a separate published public notice.⁵⁰

DURATION CLAUSE

Ordinances may be limited by a specific period of time or by certain conditions.⁵¹ The ordinance may terminate on a specific date or after certain circumstances are met. These limitations are set forth in the duration clause.

- No person shall *load, unload, open, close* or otherwise handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise-sensitive zone. ANCHORAGE, ALASKA, CODE §15.70.060(b)7

INTERPRETATION

Like statutes, ordinances are interpreted by the courts when their validity is questioned. The rules of construction that apply to statutory interpretation are equally applicable to local government ordinances.⁵² Consequently, when drafting ordinances, it is critical to consider rules of construction to ensure that the final interpretation accords with the intent and purpose of the ordinance.⁵³

When interpreting the meaning of an ordinance, courts first look to the plain language.⁵⁴ Thus, when drafting an ordinance, the primary goal is “to use language so accurately and clearly that the intended interpretation is the only one possible.”⁵⁵ When the language is ambiguous, courts will attempt to determine the local government’s intent and purpose.⁵⁶ To do this, courts may consider the ordinance’s title, preamble, and section headings.⁵⁷ Additionally, when necessary, courts will consider the canons of construction. Although conforming to these canons can support the intended interpretation, because the canons are non-binding and can be contradictory, doing so

cannot guarantee that courts will reach the desired interpretation.⁵⁸ The following are some of the canons that are most relevant.

- Statutes *in pari materia* (on the same subject) must be construed together.
- A remedial statute will be construed liberally.
- A statute in derogation of the common law will be construed strictly.
- *Expressio unius est exclusio alterius*: the mention of one thing excludes another.
- *Noscitur a sociis*: a word takes some of its meaning from the words with which it is used.
- *Ejusdem generis*: a general word is limited by the more specific words with which it is used.
- Words are used in their ordinary meaning unless a technical meaning is suggested by the other words in a[n] [ordinance].
- Every word in a[n] [ordinance] must be given effect.
- Words are to be interpreted according to the rules of grammar and punctuation.⁵⁹

CONSTITUTIONAL STANDARDS OF REVIEW

Challenges to the constitutionality of ordinances “often arise in the context of public health, welfare or safety.”⁶⁰ However, there is a prima facie presumption that enacted ordinances are constitutional.⁶¹ To overcome the presumption of validity and prove that an ordinance is unconstitutional, a party must prove that “the ordinance as applied to them was arbitrary, unreasonable and without substantial relationship to the subject it professes to deal with.”⁶²

Under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, if a plaintiff can prove that the government is intentionally discriminating against a class of people, the court will engage in one three standards of review.

If the government is intentionally discriminating against a non-suspect class, the court will employ the rational basis standard of review. Under a rational basis review, ordinances are presumed to be valid and the burden of proof is on the plaintiff, who must show that there is no legitimate reason for the law, or that the means are not rationally related to the ordinance’s goal. Due to the deference given to the government, it is difficult to meet the burden of the rational basis standard of review.

If the government is intentionally discriminating against a quasi-suspect class, the court will employ the intermediate scrutiny standard of review. Under intermediate scrutiny review, the plaintiff must first demonstrate that a quasi-suspect class has been

disadvantaged before shifting the burden of proof to the government. Once the burden has shifted, the government must show that the ordinance is substantially related to an important government purpose.

Finally, if the government is intentionally discriminating against a suspect class, the court will employ a strict scrutiny standard of review. Under strict scrutiny review, the government has the burden of proof and must prove that the ordinance is necessary to serve a compelling state interest. Most laws will fail this standard of review.

REFERENCES:

¹ NORMAN J. SINGER, STATUTES AND STATUTORY CONSTRUCTION § 74:5 (6th ed. 2003).

² *Id.*

³ OSBORNE M. REYNOLDS, JR., LOCAL GOVERNMENT LAW § 49 (3d ed. 2009).

⁴ 1A NORMAN J. SINGER & J.D. SHAMBIE SINGER, STATUTES AND STATUTORY CONSTRUCTION § 30:1 (7th ed. 2009).

⁵ *See* ELIZABETH FAJANS ET AL., WRITING FOR LAW PRACTICE 415 (Foundation Press 2004).

⁶ *Id.* at 415-16 (quoting JACK STARK, THE ART OF THE STATUTE 9 (Fred B. Rothman & Co. 1996)) (internal quotation marks omitted).

⁷ SINGER & SINGER, *supra* note 4, at § 30:5.

⁸ *Id.*

⁹ *Id.* at § 30:5.

¹⁰ *Id.* at § 30:4.

¹¹ FAJANS ET AL., *supra* note 5, at 431.

¹² *Id.*

¹³ FAJANS ET AL., *supra* note 5, at 419; ROBERT J. MARTINEAU, DRAFTING LEGISLATION AND RULES IN PLAIN ENGLISH 6-9 (West Publishing Co. 1991).

¹⁴ *See* FAJANS ET AL., *supra* note 5, at 436.

¹⁵ *See id.*

¹⁶ *See id.*

¹⁷ *See id.*

¹⁸ REYNOLDS, *supra* note 3, at § 60.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ SINGER & SINGER, *supra* note 4, at § 20:3.

²⁷ *Id.*; *see also* REYNOLDS, *supra* note 3, at § 49.

²⁸ SINGER & SINGER, *supra* note 4, at § 20:3.

²⁹ REYNOLDS, *supra* note 3, at § 60.

³⁰ *See* SINGER & SINGER, *supra* note 4, at § 20:6.

³¹ REYNOLDS, *supra* note 3, at § 60.

³² *Id.*
³³ *Id.*
³⁴ *Id.*
³⁵ See SINGER & SINGER, *supra* note 4, at § 20:7.
³⁶ *Id.* at § 20:9.
³⁷ *Id.* at § 20:11.
³⁸ REYNOLDS, *supra* note 3, at § 60.
³⁹ See SINGER & SINGER, *supra* note 4, at § 20:12.
⁴⁰ See *id.*
⁴¹ See *id.* at § 20:15.
⁴² See *id.*
⁴³ See *id.* at § 20:15; see also FAJANS ET AL., *supra* note 5, at 431.
⁴⁴ See FAJANS ET AL., *supra* note 5, at 424.
⁴⁵ *Id.*
⁴⁶ REYNOLDS, *supra* note 3, at § 60.
⁴⁷ FAJANS ET AL., *supra* note 5, at 425; MARTINEAU, *supra* note 13, at 117.
⁴⁸ See SINGER & SINGER, *supra* note 4, at § 20:21.
⁴⁹ See MARTINEAU, *supra* note 13, at 118.
⁵⁰ An emergency ordinance of the town council of the Town of Mountain Village, Colorado, declaring a temporary moratorium on the issuance of business licenses for medical marijuana dispensaries within the Town of Mountain Village. Ordinance No. 2009-2. Available at: www.mountain-village.co.us/Archive.aspx?ADID=798. See also, An ordinance of the city commission of the City of Great Falls, Montana, imposing a temporary moratorium on the opening, operation, and licensing of any establishments that grow, sell, or distribute medical marijuana, and directing the study of new proposed ordinances to regulate such establishments. Ordinance 3049. Available at: www.greatfallsmt.net/records/ordinances/ord3049.pdf.
⁵¹ See SINGER & SINGER, *supra* note 4, § 20:23.
⁵² *Id.* at § 30:6.
⁵³ See FAJANS ET AL., *supra* note 5, at 449; MARTINEAU, *supra* note 13, at 24.
⁵⁴ See FAJANS ET AL., *supra* note 5, at 449.
⁵⁵ *Id.*
⁵⁶ See *id.*
⁵⁷ See *id.*
⁵⁸ *Id.*
⁵⁹ *Id.* at 450-51; see also SINGER & SINGER, *supra* note 4, § 30:6.
⁶⁰ SINGER & SINGER, *supra* note 4, § 30:5.
⁶¹ *Id.* at § 30:6.
⁶² *Id.* at § 30:5.