



13. What is “direct legislation” and what are its limits?

Direct legislation is a process that allows citizens in cities and villages to submit a proposed ordinance or resolution to the community's governing body for adoption or referral to a vote of the electors. Wis. Stat. § 9.20.

A petition for direct legislation must be signed by “[a] number of electors equal to at least 15 percent of the votes cast for governor at the last general election in their city or village.” Wis. Stat. § 9.20(1). Within 15 days of the petition being filed, the clerk must determine whether the petition and proposed legislation are sufficient. If not, petitioners may correct deficiencies within 10 days. When the petition or amended petition is sufficient and the proposed legislation is in sufficient form, the clerk shall forward it to the governing body immediately. Wis. Stat. § 9.20(3). The governing body “shall, without alteration, either pass the ordinance or resolution within 30 days following the date of the clerk’s final certificate, or submit it to the electors at the next spring or general election” if the election is more than 70 days after the common council or village board’s action on the petition or the expiration of the 30-day period, whichever occurs first. Wis. Stat. § 9.20(4). If there are 70 days or less before the election, the ordinance or resolution shall be voted on at the next election thereafter. *Id.* The mayor may not veto city ordinances or resolutions adopted under this procedure. Similarly, city and village ordinances or resolutions adopted under this procedure may not be repealed or amended for a period of two years, except by a vote of the electors although the governing body may submit a proposition to repeal or amend the ordinance or resolution at any election. Wis. Stat. § 9.20(8).

There are judicial limitations on the use of direct legislation. For information on limitations, see Elections FAQ 14.

14. 14. Can direct legislation be used for any type of ordinance?

No. Direct legislation authority is subject to four judicially implied limitations. A direct legislation ordinance:

1. must be legislative as opposed to administrative or executive in nature;
2. cannot repeal existing legislation (unless it is a charter resolution);
3. may not exceed the legislative powers conferred upon the governing municipal body; and
4. may not modify statutorily prescribed procedures or standards.

These judicial limitations are intended to "preserve municipal control over executive and administrative functions and protect the integrity of the statutory framework governing municipalities, while at the same time permit the proper invocation by electors of the direct legislation procedure provided by the statute." *Mount Horeb Community Alert v. Village Board of Mt. Horeb*, 2003 WI 100, para. 18. If none of these limitations apply and the statutory requirements have been met, the city council or village board must comply with the directives of Wis. Stat. sec. 9.20 to adopt the proposed legislation or submit it to the electors for a vote.