



## TOWN OF IRVINGTON – COUNCIL HANDOUT

### Understanding § 31.22: “Action to be by Ordinance or Resolution”

## I. What the Town Code Says

*“In regulating its proceedings, the town council shall act only by ordinance or resolution, and each such ordinance or resolution shall be confined to one subject.”*

## II. What Does “Take Action” Mean?

In this context, “take action” refers to formal, official decisions of the Town Council, but not routine meeting procedures.

It generally includes situations where the Council is:

- Making a **commitment**, including - but not limited to - signing a contract, hiring staff, etc.
- Establishing or changing **policy or law**
- Approving something with **legal or financial impact**

The purpose of this requirement is to ensure that these actions are:

- **Clearly documented**
- **Formally recorded**
- **Legally sound and defensible**

## III. Three Types of Council Vote

### 1. Ordinance (Most Formal – Law)

An **ordinance** is used for legislative actions that create or change law.

Examples:

- Adopting or amending the **Town Code**
- **Zoning changes**
- **Taxes or penalties**
- Regulations affecting the public

### **Key features of an Ordinance:**

- Requires **public notice and hearing**
- Typically involves **multiple readings**
- Has the **force of law**

## **2. Resolution (Formal – Not a Law)**

A **resolution** is used for official actions that do not create law but still require formal approval.

Examples include:

### **Financial Actions**

- Adopting or amending the **budget** (note on this: Irvington's tradition is extra formal and adopts the budget through an uncodified ordinance – but it is OK to be more formal).
- Approving **capital expenditures**
- Accepting **grants or funding**
- Approving charitable contributions or donations of Town funds

### **Contracts and Agreements**

- Approving **contracts**
- Entering into **agreements**

### **Appointments**

- Appointing members to **boards or committees**
- Confirming certain positions (if required)

### **Policies**

- Adopting **personnel or procurement policies**
- Setting **strategic priorities**

### **Other Formal Actions**

- Supporting legislation or projects
- Expressing the Council's official position on a matter

### 3. Motion (Routine / Procedural)

A **motion** is typically used for administrative or procedural matters.

Examples:

- Approving **meeting minutes**
- **Adjourning** or continuing a meeting
- Referring items to a committee
- Giving **informal direction** to staff

### Simple Rule of Thumb

- **Motion** → Routine and procedural
  - **Resolution** → Formal decision (but not a law)
  - **Ordinance** → Law or code change
- 

## IV. Do Resolutions Have to Be Written?

Ideally yes—resolutions should be in writing.

Because a resolution represents an official action, it should:

- Be **reduced to writing**
  - Be **recorded clearly** in the minutes or records
  - Stand on its own for future reference (audits, legal review, public record)
- 

## V. Do Resolutions Have to Be Prepared in Advance?

Not always - but most often they should be.

**Advance drafting is recommended when:**

- Money is being spent or committed
- A contract or agreement is involved
- Policy is being established or changed
- The wording needs to be precise

## During the meeting:

- A resolution **can be developed on the floor**
- The Clerk may **write or refine the language in real time**
- The final version should be **read or clearly stated before the vote**

## What Is NOT Sufficient?

The following may not meet the Code requirement:

- A vague motion such as:  
*“I move to approve the contract”*
- No written resolution recorded beyond a brief minute entry

Because our town Code requires action “by resolution,” any action would ideally be **clearly documented as a written resolution**.

---

## VI. Do Resolutions Need “WHEREAS” Clauses?

No.

- “WHEREAS” clauses are optional and used for background
- They’re useful when you need the resolution to **tell the story behind the action**, not just state the outcome.
- They provide **context and justification** for the decision. That helps show the action is legally justified (important under Virginia’s Dillon Rule).
- BUT, a valid resolution can be as simple as:

*“Be it resolved that the Town Council approves the contract with [Name] in the amount of [\$X].”*

---

## VII. When Should Council Members Contact the Clerk?

Council members should coordinate with the Clerk **before the meeting** when:

- You plan to **approve a contract or spend funds**
- You are introducing a **policy or formal action**
- You are unsure whether an item requires a **resolution or ordinance**
- You want to ensure the action is **properly documented and compliant**

Early coordination helps:

- Avoid confusion during meetings
- Ensure legal compliance and provide clear records of Council action

## **Bottom Line**

If an item:

- **Commits the Town**
- **Creates or changes policy**
- **Has legal or financial impact**

→ It should be handled by **resolution or ordinance**, not just a motion.

When in doubt, **consult the Clerk in advance**.

*Prepared by C. Dyson, Irvington Town Clerk, with additional guidance from K. Kemp of Sands Anderson, Town Attorney.*

*For guidance on meeting procedures and compliance with Town Code § 31.22*