

Official Bonds — Duty of City and Town Officers to Furnish When Not Specifically Required by Ordinance.

The law requires that the City Treasurer, City Clerk and City Marshal shall furnish bonds in an amount to be fixed by ordinance. Other city officers are not required to furnish bonds unless the ordinance so provides. The statute requiring a City Treasurer, City Clerk and City Marshal to furnish bonds is mandatory, and, if an ordinance has not been adopted fixing the amount of their bonds, it is the duty of the City Council to fix the amount thereof and of the officers to furnish such bonds.

L. Q. Skelton, Esq.,
State Examiner,
Helena, Montana.

My dear Mr. Skelton:

You have inquired whether all city and town officers are required to furnish official bonds in cases where the City Council has not passed an ordinance to that effect.

Sections 3237 and 3238 of the Revised Codes of 1907 read as follows:

“3237. It is the duty of the council to provide for the accountability of all officers provided for in this title, by requiring from them sufficient security for the faithful performance of their duties or trust, which security must be given by them before entering upon their respective duties. If such security becomes insufficient, additional security may

be required, and if not given within ten days, the council, by a vote of two-thirds of the members, may declare the office vacant, and may thereafter fill the same.

"3238. The city treasurer, city clerk and city marshal, and such other city officers as the council by ordinance may require, must give official bonds, in such sums and securities as the ordinance may prescribe, which bonds must be approved by the council and filed with the city clerk, except the bond of the city clerk, which must be filed with the city treasurer, and no officer must become surety upon the official bond of another."

It is to be noted that the City Treasurer, City Clerk and City Marshal are required by this section to furnish bonds, but the amount of the same is left to be fixed by ordinance. Other city officers are not required to furnish bonds, unless the ordinance so provides.

The statute is mandatory as to the three officers named, and if an ordinance has not been adopted fixing the amount of their bonds, it is the duty of the City Council to fix the amount of the bonds required of these officers by ordinance, and of the officers to furnish such bonds.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.