

VOLUME NO. 33

Opinion No. 9

**CITIES AND TOWNS - Departments - Fire - Rules and Regulations
Statutes - Construction - Relative Clause and Relation to Antecedent.**

HELD: Any disciplinary rules and regulations adopted by the fire chief under the authority of section 11-1906, Revised Codes of Montana, 1947, are subject to the approval of the city or town council.

November 10, 1969

Mr. William A. Penttila
State Fire Marshal
State Capitol Building
Helena, Montana 59601

Dear Mr. Penttila:

In your letter of October 7, 1969, you requested my opinion on the following question:

In section 11-1906, R.C.M. 1947, does the phrase "subject to the approval of the city or town council" relate only to the clause "disciplinary rules and regulations" or does it also relate to the clause that provides: "The chief of the fire department shall have sole command and control over all persons connected with the fire department of the city or town, and shall possess full power and authority over its organization, government and discipline"

Section 11-1906, R.C.M. 1947, provides:

“The chief of the fire department shall have sole command and control over all persons connected with the fire department of the city or town, and shall possess full power and authority over its organization, government, and discipline, and to that end may from time to time establish such disciplinary rules and regulations as he may deem advisable, **subject to the approval of the city or town council . . .**” (Emphasis supplied).

It is a well established rule of statutory construction that a relative clause in a statute must be construed to relate to the nearest antecedent that will make sense. *State ex rel Stewart v. Dist. Ct. of First Jud. Dist.*, 103 Mont. 487, 63 P.2d 141 (1936); *State ex rel Peck v. Anderson*, 92 Mont. 298, 13 P.2d 231 (1932).

Applying the above rule to section 11-1906, R.C.M. 1947, the relative clause “subject to the approval of the city or town council” relates to “disciplinary rules and regulations”. Therefore, it is my opinion that if the fire chief proposes to adopt “disciplinary rules and regulations”, they are subject to the approval of the city or town council.

Very truly yours,

ROBERT L. WOODAHL
Attorney General