

OUR CITY OF MADISON



Office of City Attorney Alder and Resident Frequently Asked Questions (FAQ) & Answers

Michael Haas, City Attorney

FAQ Overview

Inclusive – Innovative – Thriving



Frequently Asked Questions

Alders and Residents commonly ask our agency the following questions:

Questions

What is the hierarchy of laws related to City government?

What is the role of city attorneys in working with alders?

How do I initiate a request to draft an ordinance or get an answer to a legal question?

What information should I provide to a city attorney in order to draft an ordinance?

What other steps are recommended before I request that an ordinance be drafted?

Are there any restrictions on how I can vote on matters?

Can I advise constituents to contact the City Attorney's Office with their questions?

My constituent is being prosecuted by the City. Can I call the prosecutor to discuss the case?

What are the main provisions to remember in the Ethics Code?

FAQ Answers



What is the hierarchy of laws related to City government?

Federal law preempts local regulation in some areas (interstate commerce, immigration policy) and state law preempts municipal regulation in other areas such as firearms, landlord/tenant law and building code enforcement.

The law governing City actions usually starts with the State Constitution and proceeds with Wisconsin Statutes, City ordinances, resolutions, and finally City policies, including Administrative Procedure Memoranda (APMs).

What is the role of city attorneys in working with alders?

Municipal attorneys provide legal advice and are not policymakers. Attorneys can help identify legal options and their consequences but must remain independent of policy debates. See “Ten Tips for Using Your Municipal Attorney More Effectively.”

Attorneys do not staff every BCC meeting. With some exceptions, our attorneys attend meetings only when requested for specific items or if we determine it is beneficial in order to provide legal advice.

How do I initiate a request to draft an ordinance or get an answer to a legal question?

The attorney assignment chart lists the areas of law that are handled by each attorney. Contact the appropriate attorney directly to request an ordinance draft or discuss a legal question. If the chart is not clear regarding the appropriate attorney, feel free to contact Mike Haas

What information should I provide to a city attorney in order to draft an ordinance?

Ordinances must be drafted by the City Attorney's Office but we generally do not draft resolutions unless they pertain to a legal topic. Google applicable state laws and be familiar with current ordinances related to your proposal.

Plan ahead with requests as our internal deadline is the Tuesday prior to Council meetings. Also, it is far easier to discuss and draft an ordinance amendment prior to the Council meeting than on the Council floor.

What other steps are recommended before I request that an ordinance be drafted?

Consider consulting the City agencies which would be impacted or responsible for implementing your proposed ordinance. Seek input regarding whether there is a need for the ordinance, its fiscal impact, and any practical obstacles or other factors regarding implementation.

Are there any restrictions on how I can vote on matters?

On most issues alders are free to vote however they would like, assuming there is not a need for recusal. But in certain cases there are legal standards that must be considered and applied. For example, a license to sell alcohol may be denied only if a specific reason is stated that is related to public health and safety. Conditional use permits may be denied only if an application does not meet standards expressed in the ordinances.

While alders are still free to vote to deny such licenses and permits, they must be aware of the potential legal consequences of denying a license or permit without an adequate record and valid reason.

Can I advise constituents to contact the City Attorney's Office with their questions?

The City Attorney's Office represents the City and cannot give legal advice to residents. Constituents should contact their alder and if the alder believes the issue warrants legal review, the question may be forwarded to our office to assist with a response. However, depending on the nature of the question or the issue, we may not be able to provide a response if there is a potential conflict with our duty to represent the City.

My constituent is being prosecuted by the City. Can I call the prosecutor to discuss the case?

It is inappropriate for an elected official to attempt to intervene in an individual case being prosecuted by the City, whether in municipal court, state court, or an administrative venue. It is appropriate for an alder to address larger-scale policy issues and include the relevant enforcement agency in that discussion.

What are the main provisions to remember in the Ethics Code?

Do not use your office or position to financially benefit yourself or an immediate family member or an organization for which you serve as an officer or board member.

Do not solicit contributions for the City or another organization without the approval of a Council resolution.

Seek advice if you sense an action or decision may not pass the smell test if reported in the local media.

How Our Agency Provides Customer Service



We Provide Customer Service By...

- OCA Website: <https://www.cityofmadison.com/attorney/>
- Telephone: 608-266-4511
- While our direct interaction with the public is limited, our prosecution team prioritizes communicating with individuals involved in the court system in a respectful, service-oriented and equitable manner.
- A large percentage of our services are internal-facing and support the goals and initiatives of other City agencies.

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Stay Connected!

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