

WESTLAW MUNICIPAL PRACTITIONER RESEARCH GUIDE

DECEMBER 2009



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WESTLAW MUNICIPAL PRACTITIONER RESEARCH GUIDE

DECEMBER 2009

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About This Guide

In this guide, the graphics and step-by-step instructions are based on accessing Westlaw via the Internet. Because of the evolving nature of Internet technology, there may be recent changes to the Westlaw interface and functionality that are not reflected in this documentation.

Information in this guide is current through December 1, 2009.

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1 Introduction

Welcome to Westlaw Municipal Practitioner

Efficient online access to comprehensive, current, and accurate information is an indispensable competitive advantage in the practice of municipal law. Westlaw Municipal Practitioner is a legal research resource designed specifically for municipal law practitioners, providing access to a comprehensive online library of relevant materials.

Although the practice of municipal law is diverse, encompassing a range of practice areas such as real property, employment, election, and civil rights law, a common task across all practice areas is the drafting of ordinances. This quick reference guide will assist you in using these materials as you perform research tasks such as the following:

- responding to requests for ordinances
- determining legality
- drafting the ordinance
- adopting the ordinance
- implementing the ordinance
- responding to challenges

Selecting the Tabbed Municipal Practitioner Page

When you access Westlaw, you can select a tabbed page that is customized for municipal law research. The tabbed Municipal Practitioner page places resources and search options within easy reach to help you quickly access the materials you need. To add the Municipal Practitioner page, follow these steps:

1. Click **Add a Tab** at the top of any page. At the next page, click **Add Westlaw Tabs** to display a list of available tabbed pages.
2. Select the check box next to *Municipal Practitioner* under *Topical* and then click **Add to My Tab Set**.
3. A list of the pages you've selected is displayed under *In Tab Display*. One page is designated as your default page (the page that is displayed when you sign on to Westlaw). Click **Set as Default** next to *Municipal Practitioner* to set this page as your default.
4. To display the Municipal Practitioner page, click its tab (Figure 1).

The Municipal Practitioner page allows you to add materials for up to three jurisdictions. To add materials for a specific jurisdiction, click **Edit** in the left or right frame.

Municipal Practitioner Page Overview

The left frame provides quick access to common research tasks. The right frame allows you to easily access resources in the following areas:

- Statutes, Regulations, and Cases
- Model Codes
- Public Records
- Business and Legal Filings
- News and Current Awareness
- Municipal Practice Guides
- Practice Guides by Topic
- Stimulus Plan
- Forms, Checklists, and Clauses

The screenshot shows the Westlaw Municipal Practitioner page. The top navigation bar includes links for FIND & PRINT, KEYCITE, DIRECTORY, KEY NUMBERS, COURT DOCS, FORMFINDER, SITE MAP, HELP, and SIGN OFF. Below the navigation bar, the page is organized into several sections:

- Shortcuts:** Includes a "Have You Checked..." section with a "BRIEF-ALL" link and a "Search for a database:" section with a search box and "Go" button.
- Resources:** A central column of links categorized by topic:
 - Statutes, Regulations, and Cases:** State and Federal Statutes & Regulations, State and Federal Cases, Attorney General Opinions.
 - Model Codes:** ICC Model Construction Codes with Commentary, Matthews Municipal Ordinances, Ordinance Law Annotations.
 - Public Records:** PeopleMap, Ohio Tax Assessor Records and Real Property Reports, Ohio Real Property Transaction Records, Ohio Combined Tax Assessor and Transaction Records, Multi-state Tax Assessor Records and Real Property Reports, Multi-state Real Property Transaction Records, Multi-state Combined Tax Assessor and Transaction Records, Multi-state Pre-Foreclosure Records.
 - Business & Legal Filings:** Business Tracker Records, Ohio D&B Business Directory, Combined D&B Business Directory, Ohio Fictitious Business Records, Multi-state Fictitious Business Name Records, Ohio Legal Filings, Multi-state Legal Filings (Lawsuits, Bankruptcy, etc).
 - News and Current Awareness:** Zoning Bulletin, Construction Briefings, Current Trends & Practical Strategies in Land Use Law & Zoning.
- Right-hand Column:** Contains several categories of guides and forms:
 - Municipal Practice Guides:** McQuillin: Law of Municipal Corporations, Local Government Law, Reynolds's Hornbook on Local Government Law, Additional Municipal Practice Guides.
 - Practice Guides by Topic:** American Law Reports (ALR) by Topic, Civil Rights, Constitutional Law, Construction and Development, Environmental Law, Labor and Employment, Land Use and Zoning, Additional Practice Guides.
 - Stimulus Plan:** Stimulus Plan Federal Regulations, Stimulus Plan State Regulations, Stimulus Plan Federal Register, Stimulus Plan Pending Legislation - State & Federal, Stimulus Plan News, Stimulus Plan Journals and Law Reviews.
 - Forms, Checklists & Clauses:** Access a wide range of municipal law forms, clauses and checklists from West's practice guides and statutes. Includes sections for OHIO and NATIONAL with links for Bonds, Construction and Condemnation, Easements, and Search All Municipal Law Topics.

Figure 1. Municipal Practitioner page

2 Responding to Requests for Ordinances

A request for a new ordinance may arise from a variety of sources—a citizen proposal, a city council or committee recommendation, or an actual event that demonstrates a need for additional regulation.

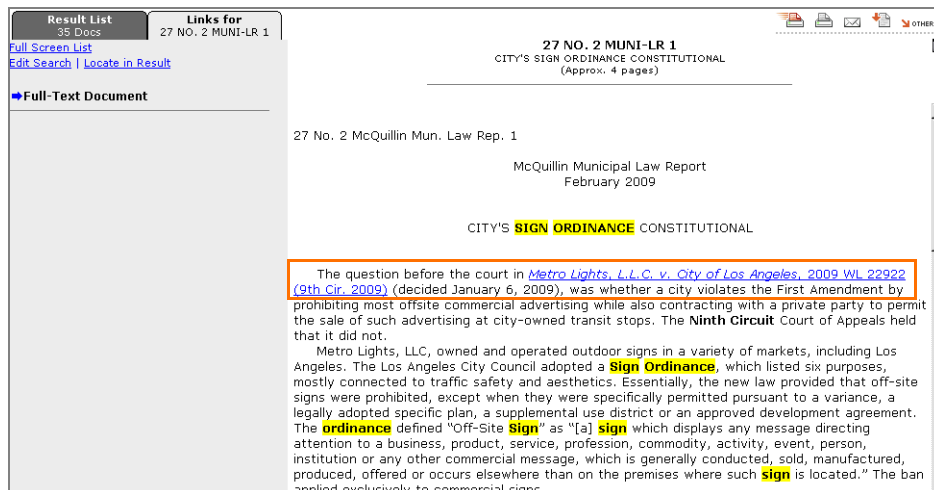
When handling requests for ordinances, you first need to assess the current state of the law and then determine recent trends. Use the resources in the *News and Current Awareness* section to find sources that help you find and analyze recent developments.

Retrieving Case Law Analysis

MCQUILLIN MUNICIPAL LAW REPORT

Suppose you've received a request for an ordinance governing a particular type of sign and you want to retrieve relevant case law.

1. Click **McQuillin Municipal Law Reports**. A Search page is displayed.
2. Type a Terms and Connectors query such as **sign /s ordinance** in the *Search* text box.
3. Click **Search Westlaw**. To view a document in the result list, click its title (Figure 2). To go to a cited case, click its link in the article.



Result List
35 Docs

Links for
27 NO. 2 MUNI-LR 1

Full Screen List
Edit Search | Locate in Result

Full-Text Document

27 NO. 2 MUNI-LR 1
CITY'S SIGN ORDINANCE CONSTITUTIONAL
(Approx. 4 pages)

27 No. 2 McQuillin Mun. Law Rep. 1

McQuillin Municipal Law Report
February 2009

CITY'S **SIGN ORDINANCE** CONSTITUTIONAL

The question before the court in [Metro Lights, L.L.C. v. City of Los Angeles, 2009 WL 22922 \(9th Cir. 2009\)](#) (decided January 6, 2009), was whether a city violates the First Amendment by prohibiting most offsite commercial advertising while also contracting with a private party to permit the sale of such advertising at city-owned transit stops. The **Ninth Circuit** Court of Appeals held that it did not.

Metro Lights, LLC, owned and operated outdoor signs in a variety of markets, including Los Angeles. The Los Angeles City Council adopted a **Sign Ordinance**, which listed six purposes, mostly connected to traffic safety and aesthetics. Essentially, the new law provided that off-site signs were prohibited, except when they were specifically permitted pursuant to a variance, a legally adopted specific plan, a supplemental use district or an approved development agreement. The **ordinance** defined "Off-Site **Sign**" as "[a] **sign** which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally conducted, sold, manufactured, produced, offered or occurs elsewhere than on the premises where such **sign** is located." The ban applied exclusively to commercial signs.

Figure 2. McQuillin Municipal Law Report search result

Tracking Recent Trends

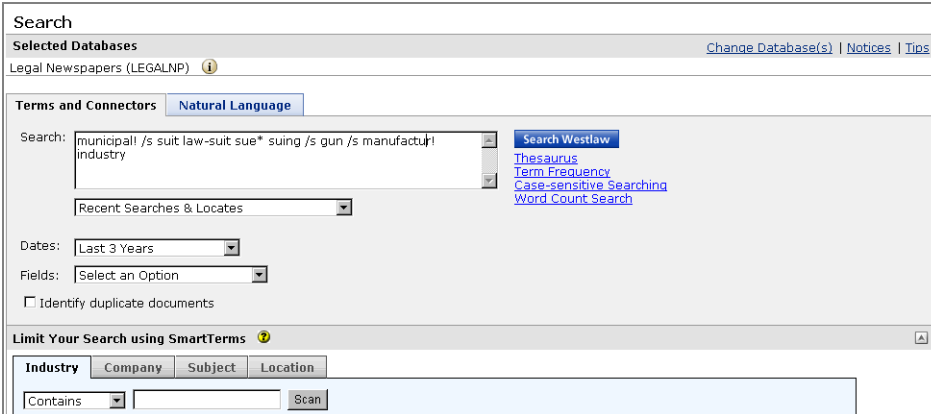
LEGAL NEWSPAPERS

Lawsuits between municipalities and gun manufacturers have become more frequent. To get the latest legal analysis of this trend, use the *News and Current Awareness* section to access more than 30 legal newspapers from across the country, including the following:

- *American Lawyer*
- *Chicago Lawyer*
- *Inside Counsel*
- *National Law Journal*
- *New York Law Journal*
- *Pennsylvania Law Weekly*
- *Texas Lawyer*

To search these publications simultaneously, complete these steps:

1. Click **Legal Newspapers**. A Search page is displayed (Figure 3).



The screenshot shows a search interface for 'Legal Newspapers (LEGALNP)'. The search box contains the query: 'municipal! /s suit law-suit sue* suing /s gun /s manufactur! industry'. Below the search box, there are options for 'Dates' (Last 3 Years) and 'Fields' (Select an Option). There is a checkbox for 'Identify duplicate documents'. At the bottom, there is a section for 'Limit Your Search using SmartTerms' with tabs for 'Industry', 'Company', 'Subject', and 'Location'. The 'Industry' tab is selected, and a dropdown menu shows 'Contains'.

Figure 3. Legal Newspapers Search page

2. Type a Terms and Connectors query such as **municipal! /s suit law-suit sue* suing /s gun /s manufactur! industry** in the *Search* text box.
3. Click **Search Westlaw**.

3 Determining Legality

When determining the legality of a request for an ordinance, you need to identify all pertinent legal issues. The Municipal Practitioner page gives you the tools you need for this task.

Identifying Legal Issues

MUNICIPAL PRACTICE GUIDES

The resources in the *Municipal Practice Guides* section give you a clear and accurate picture of the governing law. For example, McQuillin's *The Law of Municipal Corporations* is an authoritative source covering all aspects of municipal law, from municipal powers, police power, zoning, and eminent domain to taxation, special assessments, public education, and municipal tort liability.

To access McQuillin, complete the following steps:

1. Click **McQuillin: Law of Municipal Corporations**. The table of contents for the treatise is automatically displayed (Figure 4).

Table of Contents		Search Find by Citation
Selected Databases		Change Database(s) Tips
McQuillin The Law of Municipal Corporations (MUNICORP) ⓘ		
All TOCs		
<input type="checkbox"/>	McQuillin Municipal Corporations	
<input type="checkbox"/>	+ Chapter 1. RISE AND PROGRESS OF MUNICIPAL INSTITUTIONS	
<input type="checkbox"/>	- Chapter 2. NATURE AND KINDS OF MUNICIPAL CORPORATIONS	
<input type="checkbox"/>	+ I. GENERAL CONSIDERATIONS	
<input type="checkbox"/>	- II. MUNICIPAL CORPORATIONS DISTINGUISHED FROM QUASI-MUNICIPAL CORPORATIONS	
<input type="checkbox"/>	- III. CITIES AND VILLAGES	
<input type="checkbox"/>	- § 2.31. Cities	
<input type="checkbox"/>	- § 2.32. --Corporate status	
<input type="checkbox"/>	- § 2.33. --Classification	
<input type="checkbox"/>	- § 2.34. --Town, village or borough distinguished from city	
<input type="checkbox"/>	- § 2.35. --City as including village or town	
<input type="checkbox"/>	- § 2.36. [Reserved]	
<input type="checkbox"/>	- § 2.37. Cities--Consolidation of city and county	

Figure 4. McQuillin's *The Law of Municipal Corporations* table of contents

2. Browse the table of contents by clicking the plus (+) and minus (-) symbols.
3. When you find a relevant section, click its link to display it.

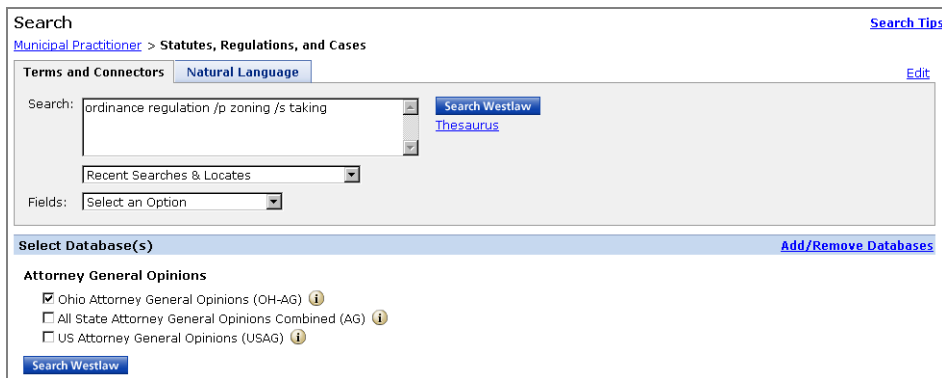
Researching Primary Law

STATUTES, REGULATIONS, AND CASES

You can also access a range of primary law using the Municipal Practitioner page, including state and federal cases, statutes, regulations, and attorney general opinions.

Attorney general opinions can be an important resource in interpreting and applying statutes. For example, to search state attorney general opinions discussing when zoning ordinances constitute a taking, complete the following steps:

1. Click **Attorney General Opinions** in the *Statutes, Regulations, and Cases* section. A Search page is displayed (Figure 5).



The screenshot displays a search interface for Attorney General Opinions. At the top, it says "Search" and "Municipal Practitioner > Statutes, Regulations, and Cases". There are tabs for "Terms and Connectors" and "Natural Language". A search box contains the query "ordinance regulation /p zoning /s taking". To the right of the search box are buttons for "Search Westlaw" and "Thesaurus". Below the search box is a dropdown menu for "Recent Searches & Locates" and a "Fields:" dropdown menu. The "Select Database(s)" section is expanded, showing three options: "Ohio Attorney General Opinions (OH-AG)" (checked), "All State Attorney General Opinions Combined (AG)", and "US Attorney General Opinions (USAG)". A "Search Westlaw" button is visible at the bottom left of the database selection area.

Figure 5. Attorney General Opinions Search page

2. Type a Terms and Connectors query such as **ordinance regulation /p zoning /s taking** in the *Search* text box.
3. Choose a state-specific database such as *Ohio Attorney General Opinions (OH-AG)* by selecting its check box.
4. Click **Search Westlaw**.

4 Drafting the Ordinance

The Municipal Practitioner page provides you with the model codes and case annotations you need to draft solid ordinances that will withstand legal challenge.

Using Model Codes

MATTHEWS MUNICIPAL ORDINANCES

Matthews Municipal Ordinances provides a practical guide for drafting a wide variety of ordinances that are both legally correct and understandable to the courts, municipal officials, and the general public. Matthews is divided into two parts—text that provides guidance on drafting accurate and valid ordinances and forms for model ordinances, organized by topic.

To access *Matthews Municipal Ordinances*, complete the following steps:

1. Click **Matthews Municipal Ordinances** in the *Model Codes* section. The table of contents for the treatise is automatically displayed (Figure 6).
2. Browse the table of contents by clicking the plus and minus symbols.
3. When you find a relevant section, click its link to display it.

<input type="checkbox"/>	Part I. Text
<input type="checkbox"/>	Chapter 1. Importance of Local Government
<input type="checkbox"/>	Chapter 1A. Power to Enact Ordinances
<input type="checkbox"/>	Chapter 2. Rules to Apply
<input type="checkbox"/>	Chapter 2A. Public's Right to Know
<input type="checkbox"/>	Chapter 3. Phraseology
<input type="checkbox"/>	Chapter 4. Context of Ordinances
<input type="checkbox"/>	Chapter 5. Types of Ordinances
<input type="checkbox"/>	Chapter 6. Administrative Ordinances
<input type="checkbox"/>	Chapter 7. The Legislative Body
<input type="checkbox"/>	Chapter 8. Officers and Departments-Manager
<input type="checkbox"/>	Chapter 8A. Boards and Commissions
<input type="checkbox"/>	Part II. Forms
<input type="checkbox"/>	Chapter 30. Administrative Ordinances
<input type="checkbox"/>	Chapter 30A. Procurement Regulations
<input type="checkbox"/>	Chapter 31. Elections
<input type="checkbox"/>	Chapter 32. Appropriations and Levy of Taxes
<input type="checkbox"/>	Chapter 32A. Protection of Individual Rights
<input type="checkbox"/>	Chapter 33. City Planning
<input type="checkbox"/>	Chapter 34. Public Places and Property
<input type="checkbox"/>	Chapter 35. Bond Ordinances
<input type="checkbox"/>	Chapter 36. Special Assessments (Local Improvements)
<input type="checkbox"/>	Chapter 36A. Environmental Protection
<input type="checkbox"/>	Chapter 37. Buildings
<input type="checkbox"/>	Chapter 38. Traffic and Vehicles
<input type="checkbox"/>	Chapter 39. Businesses
<input type="checkbox"/>	Chapter 40. Alcoholic Beverages and Tobacco
<input type="checkbox"/>	Chapter 41. Animals
<input type="checkbox"/>	Chapter 42. Crimes and Offenses

Figure 6. *Matthews Municipal Ordinances* table of contents: text and forms

Retrieving Case Annotations

Ordinance Law Annotations is a comprehensive digest of cases interpreting or applying city and county ordinances. You'll find it invaluable when drafting ordinances based on precedent from other jurisdictions. To simplify your research, it's arranged topically so that you can locate all issues bearing on a single case under a particular topic heading.

To access *Ordinance Law Annotations*, complete the following steps:

1. Click **Ordinance Law Annotations** in the *Model Codes* section. The table of contents for the treatise is automatically displayed.
2. Browse the table of contents by clicking the plus and minus symbols.
3. When you find a relevant section, click its link to display it (Figure 7).

Ordinance Law Annotations also provides valuable links to *American Law Reports* (ALR), case law, and other resources.

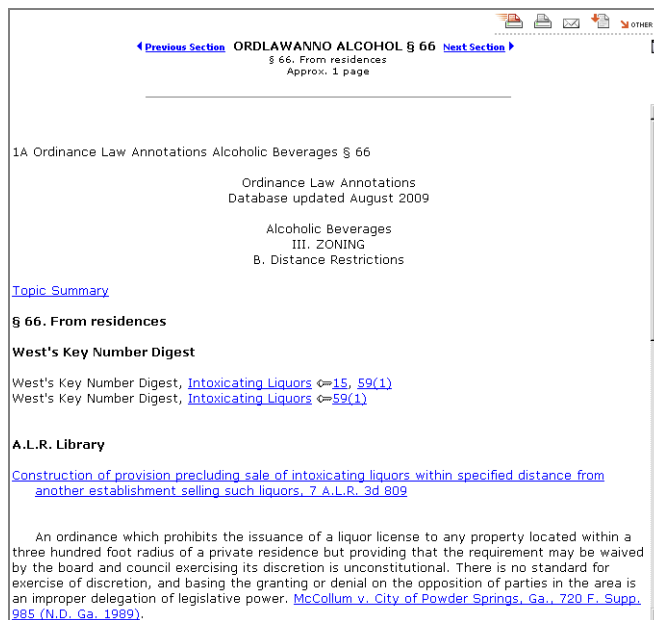


Figure 7. Section from *Ordinance Law Annotations*

5 Adopting the Ordinance

As you prepare to propose your ordinance for adoption, you'll need to anticipate potential challenges. Use the municipal practice guides to evaluate legal issues that may arise.

Researching Legal Issues

MUNICIPAL PRACTICE GUIDES

Suppose you want to research legal issues related to municipal regulation of smoking in public places. In addition to McQuillin's *The Law of Municipal Corporations*, discussed on page 5, the Municipal Practitioner page provides a variety of other general and state-specific practice guides. To search this collection of resources, complete the following steps:

1. Click **Additional Municipal Practice Guides** in the *Municipal Practice Guides* section. A Search page is displayed (Figure 8).

The screenshot shows a search interface with the following elements:

- Search** header with a [Search Tips](#) link.
- Breadcrumb: [Municipal Practitioner](#) > **Municipal Practice Guides**
- Two tabs: **Terms and Connectors** and **Natural Language** (selected).
- A search box containing the text "challenge to smoking ordinance".
- Buttons for [Search Westlaw](#) and [Thesaurus](#).
- A dropdown menu for "Recent Searches & Locates".
- A link for [Require/Exclude Terms](#).
- Fields** section with input boxes for "Court", "Attorney", and "Judge".
- Select Database(s)** section with a link for [Add/Remove Databases](#).
- Practice Guides -- Additional Municipal Practice Guides** list with checkboxes and "Table Of Contents" links for each item.

Figure 8. Additional Municipal Practice Guides Search page

2. Click the **Natural Language** tab and type a description such as **challenge to smoking ordinance** in the *Search* text box.
3. Choose one or more databases by selecting their check boxes.
4. Click **Search Westlaw**.

6 Implementing the Ordinance

Using Forms and Checklists

Once the ordinance is adopted, use the forms and checklists collection in Municipal Practitioner to assist you in drafting implementation documents.

ALL FORMS AND CHECKLISTS

To search all forms and checklists simultaneously, complete these steps:

1. Click **Search All Municipal Law Topics** under *National* in the *Forms, Checklists, and Clauses* section. A search template is displayed (Figure 9).

The screenshot shows a search interface with the following elements:

- Search** header with **Selected Databases**: All State and General Municipal Law Forms, Clauses & Checklists (MUNFORM-ALL). Links for [Change Database\(s\)](#), [Notices](#), and [Tips](#).
- Navigation tabs: **Terms and Connectors**, **Natural Language**, and **Template**.
- Search Westlaw** button.
- Enter Search Terms:** A text box containing "smoking".
- Connectors/Expanders:** A link for more options.
- Limit by Topic:** A dropdown menu with "Environmental / Solid Waste" selected. Other options include Construction and Condemnation, Contracts, Deeds, Easements and Leases, Elections, and Land Use and Zoning.
- Document Type:** Checkboxes for Forms, Checklist, and Clause.
- Jurisdiction Selection:** All Available Jurisdictions.
- Two informational text boxes on the right: "You may enter terms and connectors to help refine your search..." and "To narrow your search, select an entity type..."

Figure 9. All State and General Municipal Law Forms, Clauses, and Checklists search template

2. Type a Terms and Connectors query such as **smoking** in the *Enter Search Terms* text box.
3. Choose the document topic you want to retrieve from the *Limit by Topic* list box, e.g., **Environmental/Solid Waste**.
4. Choose a document type and jurisdiction by selecting the appropriate check boxes.
5. Click **Search Westlaw**.

7 Responding to Challenges

Using Topical Practice Guides

In the event that your ordinance is challenged, you can turn to topical practice guides for expert analysis in areas of the law that are frequently tested.

PRACTICE GUIDES BY TOPIC

Suppose you have drafted an ordinance extending benefits to domestic partners of municipal employees. Access the resources in the *Practice Guides by Topic* section to see how similar ordinances have fared in other municipalities.

For example, to search labor and employment practice guides, complete the following steps:

1. Click **Labor and Employment**. A Search page is displayed (Figure 10).

The screenshot shows a search interface with the following elements:

- Search** header with a [Search Tips](#) link.
- Breadcrumb: [Municipal Practitioner](#) > [Practice Guides by Topic](#)
- Buttons: **Terms and Connectors** and **Natural Language** (selected), with an [Edit](#) link.
- Search box: Contains the query "domestic /5 partner! /p municipal! city public".
- Buttons: **Search Westlaw** and [Thesaurus](#).
- Dropdown: "Recent Searches & Locates".
- Fields: "Select an Option" dropdown.
- Select Database(s)** section with an [Add/Remove Databases](#) link.
- Practice Guides -- Labor and Employment** section with a list of databases and their check boxes:
 - Employment Alert (EMPALERT) ⓘ
 - Employment Coordinator (EMPC) | [Table Of Contents](#) ⓘ
 - Freedom of Speech in the Public Workplace (ABA-FSPW) ⓘ
 - Public Employee Privacy (ABA-PEP) | [Table Of Contents](#) ⓘ
 - State and Local Government Employment Liability (STLOCEMP) | [Table Of Contents](#) ⓘ
 - West's Legal Forms: Employment (WESTLF-EMPL) ⓘ
- Search Westlaw** button at the bottom.

Figure 10. Labor and Employment Practice Guides Search page

2. Type a Terms and Connectors query such as **domestic /5 partner! /p municipal! city public** in the *Search* text box.
3. Choose one or more databases by selecting their check boxes.
4. Click **Search Westlaw**.

8 Using WestClip

Use the WestClip clipping service to monitor sources of municipal law information on Westlaw and stay up-to-date on news and developments that could affect your clients. WestClip will run your Terms and Connectors queries on a regular basis and deliver the results to you automatically.

Access WestClip in one of two ways:

- Click **Alert Center** at the top of any page to display the Alert Center Directory and then click **Create** in the *WestClip* section.
- Click **Add Search to WestClip** at the top of a result list, or while viewing a displayed document, choose **Add Search to WestClip** from the *Result Options* drop-down list on the Result List tab.

After you access WestClip in one of the ways described above, the WestClip: Create Entry page is displayed (Figure 11).

WestClip: Create Entry [Create Entry](#) | [Directory](#) | [Tips](#)

Entry Details

Complete each item below:

Name of clip:

Client ID:

Database(s): [Find a Database](#)

Separate multiple databases with a comma (,)

Query: [Full Search Editor](#)

[Limit Your News Search using SmartTerms](#) ⓘ

Delivery Settings [Edit](#)

Frequency: Daily

Destination: Notify at sign on

Limits: Maximum documents per result: 25

Result format: List of All Citations

Results: Inform me of no results

Date created: 12/03/2009

Last run date:

End date: No end date

Figure 11. WestClip: Create Entry page

To create a WestClip entry, follow these steps:

1. Type a name for the entry (maximum of 40 characters) in the *Name of clip* text box, if desired.
2. The client identifier for the current research session is displayed in the *Client ID* text box. Type a new client identifier to assign this entry to another client.
3. Specify a database in which you want your search to be run by typing the database identifier in the *Database(s)* text box. If you accessed WestClip from a search result, the database identifier is entered for you.
4. Type a Terms and Connectors query in the *Query* text box. If you accessed WestClip from a search result, the query is entered for you.
5. Click **Edit** next to *Delivery Settings* to display the WestClip: Edit Delivery Settings page. Change your delivery settings, such as the frequency, destination, and result format. When you are finished making changes, click **Save** to save the delivery settings and return to the WestClip: Create Entry page.
6. When you are finished setting up your entry, click **Save**.

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