

THE LAWS OF LAWS

Lyndee Fritz & Kevin M. O'Keefe

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1. **THE HIGHEST PRIORITY IN DRAFTING LEGISLATION IS CERTAINTY OF APPLICATION.** The goal is to write so that the desired objective of the legislation is achieved in the face of unknown facts and circumstances.
2. **THE HIGHEST PRIORITY IN DRAFTING LEGISLATION IS CLARITY.**¹ Use defined terms and words that express the intent of the legislation without ambiguity or a need for a reader to interpret the meaning.
3. **BREVITY IS NOT A VIRTUE IN DRAFTING LEGISLATION.** The goal is to be thorough and accurate, and to give a reader context to enhance understanding. There's nothing inherently wrong with a short ordinance, but saving paper is not a consideration.
4. **DO NOT TRY TO REINVENT THE WHEEL.** If you are implementing a state or federal law use the same language and structure as the statute you are relying upon. Take advantage of the established case law for construction of statutory terms and procedures.
5. **LAWS ARE NOT COPYRIGHTABLE and PLAGIARISM IS NOT A CRIME.** If someone has drafted an ordinance on a subject that covers the subject well and meets your standards, STEAL IT! If you want to send the original author a thank you note or compliment, that would be nice.
6. **FOLLOW THE LEADER.** The Missouri General Assembly has been passing legislation for almost 200 years. There is a large body of case law by Missouri courts about those procedures (e.g. "repeal and replace") and there is a broad audience oriented to reading legislation that looks like that. Reproduce the entire Section being revised, show inserted and deleted text by clear markings, etc. just like Bills in the General Assembly. (Though I would add chapter, article, division, etc. headings to give readers greater context.)
7. **INCLUDE STANDARDS WHEN DELEGATING DISCRETION TO ADMINISTRATORS.** "The general rule is that a statute or ordinance which vests discretion in administrative officials must include standards for their guidance in order to be constitutional." *City of St. Louis v. Kiely*, 652 S.W.2d 694, 701 (Mo.App. E.D. 1983).
8. **REVIEW, REFRESH AND EXPAND CRITERIA FOR DELEGATED DISCRETION.** Learn from hard facts and go back and reconsider the criteria for CUPs or permits issuance, etc. Update them to be more comprehensive and take more circumstances into account. Revise them to make them more favorable to the city.
9. **BUILD IN ADMINISTRATIVE REMEDIES.** Affording opponents a way to seek appeal or reconsideration at the city is both a sword and a shield. Giving opponents the opportunity to challenge what you've done is a lot quicker and cheaper in the city than going to court. Make them show their hand. And if they blow it and fail to exhaust those remedies, you can put them out of court.
10. **MINIMIZE THE USE OF PRONOUNS.** Not to be politically correct, but to be precise and unambiguous. Try using the noun instead of too many pronouns. If the ordinance is says the city manager is responsible for something use language that makes that clear: "If the city manager finds the applicant is stupid the city manager (not "he/she") shall"

¹ Yes, I realize I listed two separate items as superlatives in contravention of good grammar and clear writing. When you write your own list you can be a stickler about such things.