

## **Enact Locally\***

Mary Whisner\*\*

*Legal researchers often forget about municipal ordinances when looking for governing authority. Ms. Whisner discusses the wide range of topics that can be covered by local law, and encourages law librarians to think about it both when researching and when teaching the process of legal research.*

¶1 Several months ago, we had a reference question about whether there was a state law (the patron asked for “an RCW”—a section of the *Revised Code of Washington*) “concerning dog poop clean up on school property or anything about dog poop clean up being mandatory.” The intern who fielded the question wrote back that the RCW is available on the legislature’s web site and can be searched; she also suggested browsing title 16, Animals and Livestock. But then she went on:

However, state legislatures do not necessarily concern themselves with regulating this type of activity. Instead, local municipalities often do. For example, if you [go to] the Seattle Municipal Code (<http://clerk.ci.seattle.wa.us/~public/code1.htm>) and enter the relevant search terms, you [will] find SMC 18.12.080(C) . . . :

Any person with a dog or other pet in his or her possession or under his or her control in any park shall be responsible and liable for the conduct of the animal, shall carry equipment for removing feces, and shall place feces deposited by such animal in an appropriate receptacle.

If Seattle is not the city you are specifically interested in, I would recommend looking up the appropriate city’s municipal code online and using the Table of Contents, Index, or other search fields to find similar [provisions].<sup>1</sup>

¶2 Yes, precisely so! And yet local legislation is often neglected. This patron is not alone in thinking that a legal rule must be in “an RCW.” Even experienced researchers can easily overlook a local provision. And the leading legal research texts devote scant attention to local law.<sup>2</sup> While I have no easy way of checking what

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1. Exchange between anonymous patron and Kristina Alayan, Oct. 22, 2009 (on file with author).

2. Two pages is typical. *See, e.g.*, STEVEN M. BARKAN ET AL., *FUNDAMENTALS OF LEGAL RESEARCH* 209–10 (9th ed. 2009); ROBERT C. BERRING & ELIZABETH A. EDINGER, *FINDING THE LAW* 160–63 (12th ed. 2005); MORRIS L. COHEN & KENT C. OLSON, *LEGAL RESEARCH IN A NUTSHELL* 277–78 (9th ed. 2007). I was surprised at the variety in what authors did with their two pages—discussing the importance

portion of research instructors around the country give assignments that require students to look at city or county ordinances, I think it's safe to say that it's small. I know that the students I see—from paralegal programs as well as from the law school and the information school—seldom go there. Law students do encounter local legislation in a variety of constitutional law cases<sup>3</sup>—but reading a Supreme Court case *about* ordinances is not the same as looking for and reading ordinances themselves.

### Why Local Law Is Neglected

¶3 There are some good reasons to skip over local legislation in textbooks and classes. Time is short. Students will surely encounter far more federal or state questions in their summer jobs and later work, so we should prepare them for those questions. The federal government is bigger than any city or county, of course, and so federal enactments have much broader reach than a city or county code. The *United States Code* applies to all three hundred million of us and affects the international relations of a world superpower as well. So wherever our students end up practicing—even if it's in a foreign country—they should know how to research federal statutes. And states are bigger than the cities within them, so the state laws cover more ground, too.

¶4 But size isn't everything. Some state laws reach fewer people than the ordinances of large cities. Seven states have fewer than a million residents,<sup>4</sup> while nine U.S. cities have more than a million.<sup>5</sup> If we only cared about the number of people

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of local law, listing web sites, listing treatises on municipal law, advising that the researcher telephone the city clerk. I thought that Cohen and Olson packed a lot of useful information into their two small *Nutshell* pages.

Two of the legal research books I checked seemed not to mention local law at all. TONI M. FINE, *AMERICAN LEGAL SYSTEMS: A RESOURCE AND REFERENCE GUIDE* (1997); AMY E. SLOAN, *BASIC LEGAL RESEARCH: TOOLS AND STRATEGIES* (4th ed. 2009).

I've neglected local law myself. In over ten years of this column, this is my first crack at it.

3. See, e.g., *City of Chicago v. Morales*, 527 U.S. 41 (1999) (striking down Gang Congregation Ordinance as unconstitutionally vague); *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993) (invalidating ordinances forbidding animal sacrifice in religious rites); *Ward v. Rock Against Racism*, 491 U.S. 781 (1989) (holding that New York's regulation requiring performers in Central Park band shell to use city sound system and technician did not violate the First Amendment); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986) (upholding zoning ordinance limiting location of adult movie theaters); *Moore v. City of East Cleveland*, 431 U.S. 494 (1977) (finding housing ordinance that defined "single family" to exclude woman, son, and two grandsons to be an unconstitutional taking); *Village of Belle Terre v. Boraas*, 416 U.S. 1 (1974) (upholding ordinance whose definition of "single family" excluded household of six unrelated college students); *Peterson v. City of Greenville*, 373 U.S. 244 (1963) (reversing trespass convictions because premised on city's ordinance requiring segregation of restaurants and cafes); *Terminiello v. City of Chicago*, 337 U.S. 1 (1949) (reversing on First Amendment grounds speaker's conviction under city's disorderly conduct ordinance); *Kovacs v. Cooper*, 336 U.S. 77 (1949) (upholding Trenton's ordinance prohibiting use of sound trucks).

4. STATISTICAL ABSTRACT OF THE UNITED STATES 18 tbl.12 (2010) gives the populations (2008 estimates) in thousands: Wyoming (533), Vermont (621), North Dakota (641), Alaska (686), South Dakota (804), Delaware (873), Montana (967).

5. The biggest cities (again 2008 estimates, in thousands) are New York (8364), Los Angeles (3834), Chicago (2853), Houston (2242), Phoenix (1568), Philadelphia (1447), San Antonio (1351), Dallas (1280), San Diego (1279). *Id.* at 34–35 tbl.27.

affected, then we'd put our statutes for Wyoming and Vermont in storage and make sure everyone had ready access to the municipal codes for New York, Chicago, and Los Angeles.

¶5 We don't, though, because state governments are special. States are the basic units of our federal system. States are sovereign governments, while cities and counties are just creatures of their states.<sup>6</sup> The United States Constitution has plenty to say about states, but it never mentions counties, cities, towns, or villages—let alone school districts, public utility districts, or regional transit authorities.<sup>7</sup>

¶6 There are also practical reasons textbooks and teachers haven't done much with local laws. Until governments began putting many of their publications on the Internet,<sup>8</sup> it was hard to find city and county codes. In our library, the technical services staff worked hard to acquire and maintain codes for the largest cities and counties in our state, as well as the municipalities closest to us. We didn't even try to have codes for all the cities and counties in our state, and we certainly didn't seek out city and county codes from the rest of the country.

¶7 Even when you do have access to the codes, they don't present as much to teach in a bibliographic sense as state or federal codes. I'm not aware of any local codes that have the rich annotations typical of commercially published state and federal codes. And you seldom find two publishers with rival sets to compare.<sup>9</sup> You will seldom find a line of cases construing a provision. Since local laws are local, you won't have circuit splits or other challenging interpretations to wrestle with. So they are limited as teaching vehicles.

¶8 I'm not advocating here that we make local law the centerpiece of our textbooks and legal research classes. But we should expose students to local law, and we certainly should remember it when we're helping patrons at the reference desk. Now that it's pretty easy to find ordinances online, students could be asked to take a look.

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6. 1 EUGENE MCQUILLIN, *THE LAW OF MUNICIPAL CORPORATIONS* § 1.42 (3d ed. 1999) ("The state is regarded as the creator, and the municipal corporation as the creature. The corporation may do what the state authorizes and nothing more."); Gerald Frug, *The City as a Legal Concept*, 93 HARV. L. REV. 1057, 1062–63 (1980). Frug traces the development of the modern city and the lineage of this concept of the city as a creature of the state. *Id.* at 1080–1120.

7. I too won't have anything to say about school districts, public utility districts, or regional transit authorities—I only note that they exist as additional sources of law.

8. In the pages that follow, I cite a number of ordinances from different jurisdictions. Throughout, I relied on the versions of municipal codes I have found on the web. Even though I have access to the *Seattle Municipal Code* in print, very few readers of *Law Library Journal* do, so all citations have an accompanying URL.

9. Admittedly, when you consider various online versions, I suppose you could make comparisons. For instance, the Seattle Municipal Code is available in print from the Municipal Code Corporation, on the Seattle city clerk's web site, <http://clerk.ci.seattle.wa.us/~public/code1.htm>, and on LexisNexis (but that version is only current through June 19, 2006, when Municipal Code Corp. got the contract for the print edition). So there are things to compare, but the various versions of the publications aren't nearly as rich in features as, say, the *United States Code Annotated* and the *United States Code Service*.

## Impact of Local Law

¶9 Taking a look is merited because, after all, much of the law that affects our daily lives is enacted in city halls and not the U.S. Capitol or our state capitols. For example, the students who drive to the nearby high school don't park in front of my house because of a local law that limits people without residential permits to two-hour parking.<sup>10</sup> When the sidewalk broke in front of my neighbor's house, he was out with a wheelbarrow and cement because a local law made it his responsibility to repair it.<sup>11</sup> Several apartment buildings have been built in my neighborhood in the last decade because the city zoned for them.<sup>12</sup> My neighbors who enjoy fresh eggs from their hens keep only three hens, because that's all the city zoning code allows.<sup>13</sup> (These are neighbors in a house with a backyard, not neighbors in one of the new apartment buildings.) When the campus police arrested a library patron who had a very long knife in his belt, it was because of Seattle's weapons ordinance,<sup>14</sup> not any state law. The restaurants that display clams in tanks have to abide by specific requirements about the seawater, the lighting, and so on.<sup>15</sup> I can't let my dogs run loose on the street<sup>16</sup> (not that I'd want to) or in the closest park,<sup>17</sup> but I can in the special off-leash area of Magnuson Park.<sup>18</sup> And all of us dog owners have plastic bags in our jacket pockets because of local laws.

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10. SEATTLE, WASH., MUNICIPAL CODE §§ 11.14.515, 11.16.317 (2010), available at <http://clerk.ci.seattle.wa.us/~public/code1.htm> (last visited May 2, 2010) [hereinafter SEATTLE MUN. CODE]. The zones are determined by the Director of Transportation, *id.* § 11.16.120(F), and the map showing the restricted parking zone is on the city Department of Transportation's web site. *Restricted Parking Zone Program (RPZ): Zone 19—Roosevelt*, [http://www.seattle.gov/transportation/parking/rpz\\_z19.htm](http://www.seattle.gov/transportation/parking/rpz_z19.htm) (last visited May 2, 2010).

11. SEATTLE MUN. CODE § 15.72.010.

12. It takes a little looking to get to this. My neighborhood is shown on Seattle Municipal Code Zoning Map 43, available at <http://clerk.ci.seattle.wa.us/~public/zoningmaps/zmap43.htm> (last visited May 2, 2010). But what do all the numbers and letters mean? For that, one turns to SEATTLE MUN. CODE § 23.30.010, learning that all those blocks labeled "SF5000" are zoned for single-family houses on 5000-square-foot lots. The blocks where I've seen new construction are "L1" ("Residential, Multifamily, Lowrise 1") and NC3-65 ("Neighborhood Commercial 3"—65 feet tall). Subsection B states that designations may have "one or more letter suffixes," but it doesn't indicate what the suffixes are. After a search for "suffix," I found that the "P" in "NC3P-65" means it's supposed to be a pedestrian-friendly shopping district. *Id.* § 23.34.086. And it is.

13. *Id.* § 23.42.052.

14. *Id.* § 12A.14.080 (unlawful to carry on one's person a "dangerous knife"); *id.* § 12A.14.010 (defining "dangerous knife" as "any fixed-blade knife and any other knife having a blade more than three and one-half inches (3 1/2") in length"). Foodies take heart: there are exemptions for people, like chefs, who use knives professionally. *Id.* § 12A.14.100.

15. *Id.* § 10.10.124. As far I know, this isn't regulated by the state or federal government. I searched the annotated Washington and federal codes, the C.F.R. and the *Washington Administrative Code* on Westlaw: **restaurant food store cafe /s crustacean mollusk lobster crab clam /p live tank aquarium**, and didn't find anything, but my search could have missed a relevant regulation.

16. *Id.* § 9.25.084. This section also restricts where you can have your potbelly pig or miniature goat.

17. *Id.* § 18.12.080(A).

18. *Id.* § 8.12.080(B)(3). Senator Warren Magnuson is remembered in the name of a city park as well as in the names of a couple of federal statutes (the Magnuson-Moss Warranty Act and the Magnuson-Stevens Fishery Conservation Act). Local and national, that's Maggie. Maybe it's fitting for a federal official who began his public service as Secretary of the Seattle Municipal League (1930,

## Dog Poop Digression

¶10 Let me qualify that a bit. It's not *just* because of local laws that we pick up after our dogs. Writing about the dog poop situation in New York City, the authors of *Freakonomics* observed that social incentives must account for much of the compliance with the law:

[W]ith a fine of just \$50 for the first offense, the law doesn't provide much financial incentive to pick up after your dog. Nor does it seem to be vigorously enforced. Let's pretend that 99 percent of all dog owners do obey the law. That still leaves 10,000 dogs whose poop is left in public spaces each day. Over the last year, the city ticketed only 471 dog-waste violations, which suggests that the typical offender stands a roughly 1-in-8,000 chance of getting a ticket. So here's a puzzle: why do so many people pick up after their dogs? This would seem to be a case in which social incentives—the hard glare of a passer-by and the offender's feelings of guilt—are at least as powerful as financial and legal incentives.<sup>19</sup>

¶11 Subjectively, I think that my picking up after my dog is not at all about the risk of getting a ticket and a fine. The fear of offending or angering others is one factor—it's no fun to have someone emerge from a house to yell at me (especially when I *am* picking up!). But I also think there's a more positive spirit at work. I like dogs, but I don't like stepping in dog poop, and I understand that other people, whom I care about, also do not like it. I hope to live in a community where stepping in dog poop is unlikely, and so I pick up, and I hope that other dog walkers do, too. In fact, if I have a bag handy, I'll sometimes pick up other dogs' poop (ODP), just to keep us moving toward the goal of a poop-free public space.

¶12 Consistent with this impulse, a sign at Magnuson Park requests "Please be kind, scoop what you find." If I knew more about social philosophy, I could dress this up as Kantian or Rawlsian, but let's just say that the Golden Rule and a hope for a better community can be incentives just as much as the fear of a fine or a passerby's glare.

¶13 Of course, I am a product of my time and place. Picking up seems routine in my circle of people who live with dogs—not always pleasant, but routine. But not everyone feels as I do, and in some communities few, if any, people pick up. When I was a child in a Seattle suburb, we neither leashed nor picked up after our dog, and that was the norm in that time and place.

¶14 New York City was the scene of raging battles over the issue. With apartment dwellers getting dogs as protection against crime (as well as for all the other reasons people get dogs), the city's dog population—and hence the dog population's gross domestic product—grew dramatically, doubling between 1960 and 1970.<sup>20</sup> With about a million dogs, the city's streets and sidewalks were really, really

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1931) and King County Prosecuting Attorney (1934–36) before his forty-four years of service in the House and the Senate. *Magnuson, Warren Grant*, in BIOGRAPHICAL DIRECTORY OF THE UNITED STATES CONGRESS, 1774–2005, at 1490 (2005). The University of Washington School of Law honors him and fellow alumnus and senator Henry "Scoop" Jackson with the Magnuson-Jackson Moot Court Room.

19. Stephen J. Dubner & Steven D. Levitt, *Dog-Waste Management*, N.Y. TIMES, Oct. 2, 2005, § 6 (Magazine), at 32, *reprinted as* STEVEN D. LEVITT & STEPHEN J. DUBNER, *Curbing Your Dog*, in FREAKONOMICS 218 (rev. ed. 2006).

20. MICHAEL BRANDOW, NEW YORK'S POOP SCOOP LAW: DOGS, THE DIRT, AND DUE PROCESS 14 (2008).

yucky.<sup>21</sup> For most of the 1970s, the issue of what to do about the problem raged in the city council and the newspapers, as well as on the streets and in the parks. Proposals to require owners to pick up after their dogs were vehemently opposed by dog owners, who had always been able to leave their dogs' droppings on the sidewalk and had no intention of changing their habits. The opposition came not only from squeamish or lazy owners but from organizations devoted to dog welfare. For instance, the American Society for the Prevention of Cruelty to Animals (ASPCA) opposed the requirement because of fears that it would increase the number of abandoned dogs.<sup>22</sup> After a law was in place, the challenge was enforcement.<sup>23</sup> High compliance was eventually reached, largely through peer pressure and positive public education.<sup>24</sup> In the early years, the ASPCA's fears were borne out: there was an increase in abandonment after the law went into effect, but it leveled off, presumably because people knew when they first got a dog that picking up would be part of the deal.<sup>25</sup>

¶15 I chose *New York's Poop Scoop Law: Dogs, the Dirt, and Due Process*<sup>26</sup> because I thought it would be interesting to have a look at a quintessentially local piece of legislation. For instance, how did the New York City Council enact it? After reading about the public debate and various proposals in the city council and in city agencies, I was surprised to learn only on page 160 that "New York's Poop Scoop Law" was passed in Albany, not in City Hall.<sup>27</sup> Advocates were frustrated with the city council's failure to get something done, so a state senator and an assemblyman from New York City, with the support of then-Mayor-Elect Ed Koch, co-sponsored a state statute.<sup>28</sup> To address concerns about intruding on the city's home rule authority to handle local issues, the law was made to apply to all cities with populations over 400,000—i.e., New York City and Buffalo.<sup>29</sup> I have been unable to locate another state with a statute on the topic. It generally *is* a matter for local legislation.<sup>30</sup>

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21. You probably don't want details, but if you do, see *id.* at 20–21.

22. *Id.* at 116.

23. See *id.* at 215–25, 229–44.

24. See *id.* at 255–56.

25. *Id.* at 226, 229.

26. *Id.*

27. *Id.* at 160 n.†.

28. *Id.* at 182.

29. *Id.* at 195. The original law has been amended several times and now includes Yonkers and Albany as well as cities with populations over 400,000. N.Y. Pub. Health Law. § 1310 (McKinney Supp. 2010). The statute survived a challenge to its constitutionality in *Schnapp v. Lefkowitz*, 422 N.Y.S. 2d 798 (N.Y. Sup. Ct. 1979).

30. I did a Westlaw search on April 4, 2010 in ST-ALL for **canine dog /p waste litter feces dropping fecal**. New York City does have some local regulations on the topic. NEW YORK, N.Y., ADMIN. CODE, tit. 15 § 16-18(c), available at [http://24.97.137.100/nyc/RCNY/Title15\\_16-18.asp](http://24.97.137.100/nyc/RCNY/Title15_16-18.asp) (last modified Mar. 11, 2010) (owners required to remove dogs' feces from city property); *id.* tit. 48 § 3-117, available at [http://24.97.137.100/nyc/RCNY/Title48\\_3-117.asp](http://24.97.137.100/nyc/RCNY/Title48_3-117.asp) (last modified Mar. 23, 2010) (penalty for violation of the state law is \$100, with \$30 late fee if not paid within thirty days).

## Back to the Discussion of Local Law

¶16 I said above that cities and counties are creatures of the states. What does that mean? Generally, it means that the local governments only have the powers granted to them by their state constitutions and state statutes. Arrangements vary state to state, but it's common to have two types of delegated authority. Home rule jurisdictions may act in the broad area of their local interest, unless preempted by the state. Other jurisdictions have more limited powers.<sup>31</sup>

¶17 Even home-rule cities have only limited powers. For instance, Chicago might be “Hog Butcher for the World,”<sup>32</sup> but its fifty aldermen<sup>33</sup> can only act in the areas granted to them by the state government. Despite being the “City of the big shoulders,”<sup>34</sup> Chicago cannot define a felony.<sup>35</sup> No matter how good an idea it might seem, the Windy City cannot prevent the gas company from cutting off service in the winter.<sup>36</sup> Chicago also cannot override the state law concerning who is responsible for paying the amusement tax on tickets that are resold above face value.<sup>37</sup>

¶18 But there's a lot left. To fight graffiti, Chicago can ban the sale of spray paint and large indelible markers within city limits.<sup>38</sup> And to make a moral statement about the treatment of geese and ducks, Chicago can ban the sale of foie gras in its restaurants.<sup>39</sup> Until just days before this went to press, Chicago could require registration of firearms, and confiscate and destroy the unregistered firearms of someone convicted under the ordinance.<sup>40</sup>

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31. See 1 CHESTER JAMES ANTIEAU, *ANTIEAU ON LOCAL GOVERNMENT LAW* § 21.01 (2d ed. 2009): Today, most states have provided [home rule] either by constitutional [*sic*] or statute for some, if not all, of their local governments. However, there is great variation in their exercise of this delegated authority.

...

In a number of home rule states, some but not all types of local governments are home rule entities. The non-home rule local governments possess only those powers expressly conferred on them by the legislature and those powers that are necessarily implied as an incident to the express grants and essential to the declared object and purpose of the entity.

32. Carl Sandburg, “Chicago,” in *THE YALE BOOK OF QUOTATIONS* 662 (Fred R. Shapiro ed., 2006).

33. The city uses only “aldermen” for both men and women—at least assuming that aldermen named Toni, JoAnn, Latasha, and Virginia are women. City of Chicago, Wards, <http://www.cityofchicago.org/city/en/about/wards.html> (last visited May 4, 1010).

34. Sandburg, *supra* note 32, at 662.

35. ILL. CONST. art. 7, § 6(d).

36. *Peoples Gas Light and Coke Co. v. City of Chicago*, 465 N.E.2d 603 (Ill. Ct. App. 1984).

37. *City of Chicago v. StubHub, Inc.*, 622 F. Supp. 2d 699 (N.D. Ill. 2009).

38. *Nat'l Paint & Coatings Ass'n v. City of Chicago*, 45 F.3d 1124 (7th Cir. 1995).

39. *Ill. Restaurant Ass'n v. City of Chicago*, 492 F. Supp. 2d 891 (N.D. Ill. 2007). It can, but it doesn't have to: the city council repealed the 2006 foie gras ordinance in 2008. *Ban's Goose Is Cooked*, CHI. TRIB., May 15, 2008, at 11.

40. See *McDonald v. City of Chicago*, No. 08-152, 2010 WL 2555188 (U.S. June 28, 2010) (holding Second Amendment guarantee of right to keep and bear arms applies to local governments because incorporated into the Fourteenth Amendment's Due Process clause).

¶19 Chicago regulates and licenses general contractors,<sup>41</sup> liquor dealers,<sup>42</sup> day care centers,<sup>43</sup> auctioneers,<sup>44</sup> bicycle messenger services,<sup>45</sup> and pawnbrokers,<sup>46</sup> among others. Can it also regulate and license private detectives? The state statutes covering cities<sup>47</sup> include a provision addressing this:

The corporate authorities of each municipality may license, tax, and regulate auctioneers, *private detectives*, demolition contractors, money changers, bankers, brokers other than insurance brokers, barbers, and the keepers or owners of lumber yards, lumber storehouses, livery stables, public scales, ice cream parlors, coffee houses, florists, *detective agencies*, barber shops and sellers of tickets for theatricals, shows, amusements, athletic events and other exhibitions at a place other than the theatre or location where the theatricals, shows, amusements, athletic events and other exhibitions are given or exhibited.<sup>48</sup>

¶20 So Chicago could require V.I. Warshawsky<sup>49</sup> to get a city license, right? Not so fast. Elsewhere in the state code we find:

Pursuant to paragraph (h) of Section 6 of Article VII of the Illinois Constitution of 1970, *the power to regulate the private detective*, private security, private alarm, fingerprint vending, or locksmith business or their employees *shall be exercised exclusively by the State* and may not be exercised by any unit of local government, including home rule units.<sup>50</sup>

The state law became effective in 1972, and shortly afterward, Chicago detectives challenged Chicago's licensing regime. The state statute was found to preempt Chicago's ordinance, even though it had not repealed the provision giving municipalities the power to license private detectives (along with livery stables, barber shops, and so on).<sup>51</sup>

¶21 Municipalities can adopt legislation that responds to their distinctive needs. Malibu, California, has a provision restricting the use of surfboards within a certain distance of a beach or when the beach is designated for swimming only.<sup>52</sup> But the word "surfboard" does not appear at all in the code for beachless Fresno, California. On the other hand, Fresno does have a subdivision designed for the

41. CHICAGO, ILL., MUNICIPAL CODE ch. 4-36, available at [http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago\\_il/municipalcodeofchicago?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:chicago\\_il](http://www.amlegal.com/nxt/gateway.dll/Illinois/chicago_il/municipalcodeofchicago?f=templates$fn=default.htm$3.0$vid=amlegal:chicago_il) (last visited May 2, 2010).

42. *Id.* ch. 4-60.

43. *Id.* ch. 4-72.

44. *Id.* ch. 4-160.

45. *Id.* ch. 4-168.

46. *Id.* ch. 4-240.

47. Chapter 65, Act 5 of the Illinois Compiled Statutes is called the "Illinois Municipal Code"—a source of possible confusion since "municipal code" usually refers to the codified ordinances of a given city.

48. 65 Ill. Comp. Stat. Ann. 5/11-42-1 (West 2005) (emphasis added).

49. V.I. Warshawsky is the protagonist in a series of detective novels set in Chicago. See Sara Paretsky, Novels, <http://www.saraparetsky.com/books/novels> (last visited May 2, 2010).

50. 225 Ill. Comp. Stat. Ann. 447/50-25 (West Supp. 2009) (emphasis added).

51. United Private Detective & Sec. Ass'n, Inc. v. City of Chicago, 343 N.E.2d 453, 459 (Ill. 1976).

52. MALIBU, CAL., MUNICIPAL CODE § 12.08.030(D), available at [http://library2.municode.com/default-test/home.htm?infobase=16468&doc\\_action=whatsnew](http://library2.municode.com/default-test/home.htm?infobase=16468&doc_action=whatsnew) (codified through Ord. No. 341, adopted Sept. 29, 2009 (Supp. No. 20)).

owners of small planes, and so Fresno's municipal code regulates the use of aircraft on the subdivision's streets.<sup>53</sup>

¶22 Sometimes local governments take on social issues that state or federal actors have not dealt with and, perhaps, are not ready to address. For instance, a number of local governments recognized and provided some benefits to domestic partnerships years before any state did.<sup>54</sup> Over a hundred cities and counties have ordinances prohibiting discrimination on the basis of gender identity or expression, most outside the states with statutes on the topic.<sup>55</sup> The hazards of smoking and junk food are not restricted to any one locality, but that has not stopped cities and counties from trying to combat them.<sup>56</sup>

¶23 Following the bumper-sticker injunction to think globally and act locally, some localities have passed legislation relating to national and international issues. In the 1980s, cities passed resolutions to divest themselves of investments in apartheid South Africa.<sup>57</sup> Activists unhappy with U.S. military policy have used a variety of methods to oppose military activity.<sup>58</sup> Dissatisfied with federal immigration

53. FRESNO, CAL., MUNICIPAL CODE §§ 14-1901 to 1905, available at [http://library2.municode.com/default-now/home.htm?infobase=14478&doc\\_action=whatsnew](http://library2.municode.com/default-now/home.htm?infobase=14478&doc_action=whatsnew) (codified through Ord. No. 2010-2, eff. Feb. 25, 2010 (Supp. No. 4)).

Sierra Sky Park was created in 1946 on 130 acres . . . and is the first residential aviation community in the world. William and Doris Smilie are credited for creating this airport/neighborhood hybrid and in 1953 built the first of the 110 homes in the project. Residents can land, taxi down extra-wide avenues, and pull up and park in the driveway at home.

Wikipedia, Sierra Sky Park Airport, [http://en.wikipedia.org/wiki/Sierra\\_Sky\\_Park\\_Airport](http://en.wikipedia.org/wiki/Sierra_Sky_Park_Airport) (last edited Mar. 17, 2009) (citations omitted). For more on such communities, see Living with Your Plane, a web site that provides "a directory of airparks, a listing of airpark covenants, conditions and restrictions (CC&R), a library of floor plans for homes with integrated hangars and a directory of Aviation Professionals." Living with Your Plane, About, <http://livingwithyourplane.com/about> (last visited May 4, 2010). As I often remark to myself when following a research trail, "Who knew?"

54. See Craig A. Bowman & Blake M. Cornish, Note, *A More Perfect Union: A Legal and Social Analysis of Domestic Partnerships*, 92 COLUM. L. REV. 1164, 1188–90 (1992) (listing twelve cities with domestic partnership ordinances). The authors also mention cities and counties that extended benefits through executive order or collective bargaining. *Id.* at 1190.

55. Transgender Law & Pol'y Inst., U.S. Jurisdictions That Include Transgender People in Human Rights Laws, <http://www.transgenderlaw.org/ndlaws/index.htm#jurisdictions> (last edited Feb. 17, 2010) (109 cities and towns in addition to thirteen states and the District of Columbia). See also Katie Koch & Richard Bales, *Transgender Employment Discrimination*, 17 UCLA WOMEN'S L.J. 243, 261 (2008) (discussing Cincinnati's ordinance).

56. See *N.Y. State Restaurant Ass'n v. N.Y. City Bd. of Health*, 556 F.3d 114 (2d Cir. 2009) (upholding Board of Health regulation requiring chain restaurants to display caloric information for menu items); Peter D. Enrich & Patricia A. Davidson, *Local and State Regulation of Tobacco: The Effects of the Proposed National Settlement*, 35 HARV. J. ON LEGIS. 87, 88–89 (1998) ("Across the United States, local governments, including city councils, town meetings, county governments, and local health boards and programs, have led the way in adopting the most stringent and innovative tobacco control measures. The toughest youth access, environmental tobacco smoke ("ETS"), and point of sale restrictions have emerged from local communities mobilized to protect themselves and their vulnerable youth from the reach of the tobacco industry.").

57. See David D. Caron, *The Structure and Pathologies of Local Selective Procurement Ordinances: A Study of the Apartheid-Era South Africa Ordinances*, 21 BERKELEY J. INT'L L. 159, 159 (2003) (analyzing "selective procurement ordinances . . . as indirect sanctions of South African apartheid regime").

58. See Stephanie A. Levin, *Grassroots Voices: Local Action and National Military Policy*, 40 BUFF. L. REV. 321, 327–28, 330–31 (1992) (describing Cambridge, Mass., regulation banning storage of chemical weapons a local company was testing for the Defense Department; multiple communities' nuclear-weapons-free zone ordinances).

policy, cities have taken a variety of actions—from declaring themselves sanctuaries for Salvadorans and other Central Americans seeking refuge<sup>59</sup> to penalizing landlords who rent to “illegal aliens.”<sup>60</sup>

### Conclusion

¶24 Local legislation could cover something not covered on the state or federal level—as with the dog poop question that opened this essay. Even if state and federal statutes do address a broad area (such as employment discrimination), there might be an ordinance that adds something important (as in the cities and counties that cover transgender discrimination). Local legislation can even play a role on the national and international stage (as with the apartheid and nuclear weapons ordinances). As reference librarians we may need to remind patrons to check for relevant ordinances. And as teachers of research, we should consider ways to work local legislation into our lessons so that students are also aware of it.

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59. See Arthur Helton et al., *Ecumenical, Municipal and Legal Challenges to United States Refugee Policy*, 21 HARV. C.R.-C.L. L. REV. 493, 581–88 (1986) (describing provisions of sanctuary ordinances).

60. See, e.g., Kristina M. Campbell, *Local Illegal Immigration Relief Act Ordinances: A Legal, Policy, and Litigation Analysis*, 84 DENV. U. L. REV. 1041, 1042–44 (2007) (describing the City of Hazelton [Penn.] Illegal Immigration Relief Act Ordinance).