

***Planning 101:
A start to what you
need to know to do
your job as an elected
or appointed official
in Land Use***

LAND USE ACADEMY OF UTAH **WWW.LUAU.UTAH.GOV**

Land Use 101 Agenda

(because every effective meeting has one)

Our Goal today.....

1. What is my job?

Review of statutory duties under Utah's LUDMA

2. What are the tools?

Ordinances

3. In the clouds, On the ground, In court

(Legislative, Administrative, Quasi Judicial)

4. Do we want folks or not and how to deal with input?

Public Notice & Public Meetings

5. Conditional Uses

Why we love to hate them

6. The Rules on Meetings and Ethics

Stuff you need to know



A Quick Quiz

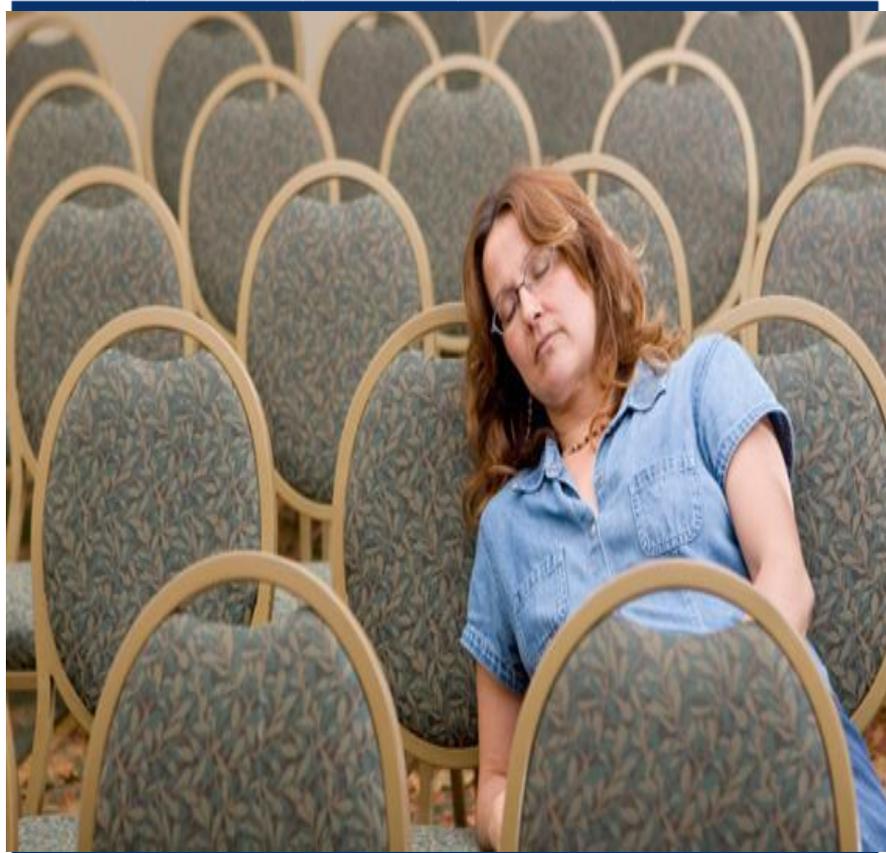
1. WHAT DOES LUDMA STAND FOR?
2. WHAT IS A LAND USE AUTHORITY?
3. WHAT IS AN APPEAL AUTHORITY?
4. PROVIDE AN EXAMPLE OF A LEGISLATIVE ACT IN LAND USE ?
5. WHAT IS YOUR NAME?
6. HOW MANY PLANNING COMMISSIONERS DO YOU NEED TO MEET STATE LAW?



AVERAGE AMERICAN ATTENTION SPAN IS ABOUT 6 MINUTES... WHY?

- Think in meetings about your role and your message
- You get as good as you give

EDUCATION – A two way street



1. KNOW YOUR LIMITATIONS AND YOUR POSSIBILITIES

- ⦿ What are you really allowed to do and not to do?

2. DON'T GET TO COMFORTABLE

- ⦿ Nothing is constant but change - adapt to it
- ⦿ Zoning is for the future but it is not static

3.ENJOY IT /WORK TOGETHER

- ⦿ This is your community - you are a collective not Individuals - your strength is working to together for collective goals

YOU ARE NOW THE GOVERNMENT

- ⦿ Remember the nature of local government is the most
- ⦿ Coercive
- ⦿ Intrusive.....
- ⦿ And abusive by nature



By choice.....For a reason.....

Planners are the professionals that have the requisite training to take or make decisions that will help or balance the society.

1. Shape your own destiny/identity through local planning laws
2. Health of residents
3. Safety of residents
4. Balance services
5. Fiscal stability
6. Balance of private property and community rights
7. Have the authority to (and some requirement)



What Does it Take???

POLITICAL
WILL



Priorities



THE GOVERNMENTAL FOOD CHAIN

Federal Constitution

**Federal Supreme and Appellate Court
Decisions**

Federal Statutes

Federal Administrative Rules

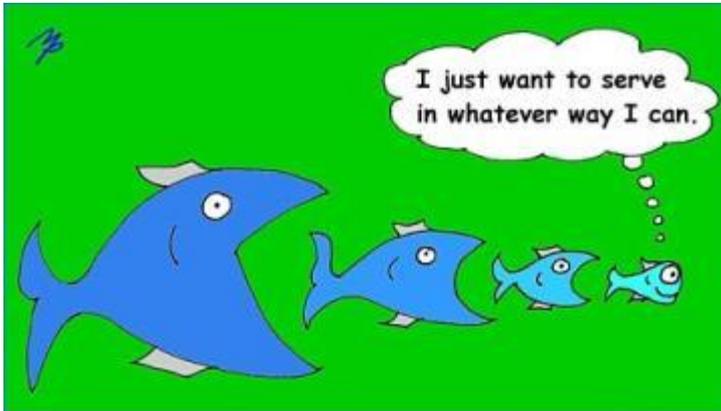
State Constitution

**State Supreme and Appellate Court
Decisions**

State Statutes (LUDMA)

State Administrative Rules

Local Land Use Code



Enabling legislation for land use in Utah

“LUDMA”

**Land Use Development &
Management Act**

**Title 10, Chapter 9a Cities
Title 17, Chapter 27a Counties**

Cities and Towns are authorized by the State
www.le.utah.gov



Respects local control

- 1. Authorizes land use regulation to City Council
("Legislative body")**
- 2. Mandates the creation of:**
 - **Planning Commission
(Advisory body)**
 - **Land Use Authorities**
 - **Appeal Authorities**
 - **Land Use General Plan**



10-9A-102. **PURPOSES -- GENERAL LAND USE AUTHORITY.**

(1) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.

(2) **To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land** within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, **unless expressly prohibited by law.**

BASIC THEMES OF LUDMA

- **Private Property Rights:**

Individuals are free to use private property as they wish, unless valid, written land use laws direct otherwise.

- **Must clearly write it down:**

Community has broad discretion to regulate private property. However, it must do so deliberately and openly.

- **Must abide by it:**

Land use authority is bound by the terms and standards of applicable land use ordinances and shall comply with the provisions of those ordinances. 10-9a-509

- **Must act with reasonable diligence:**

Land use authority must process complete applications promptly.

“Timely manner” / “reasonable period”



“Land Use Authority”

A person, board, commission, agency, or other body **designated** by the local legislative body to **act** upon a land use application.

*From permit counter
employee
to City Council
Staff
Planning Commission*

Creation:

1. Planning Commission recommends to Council
2. Council takes final action and appoints



“Appeal Authority”

A person, board, commission, agency, or other body designated by ordinance to decide an **appeal** of a decision of a land use application or a **variance** from the land use code.

*Can be one person,
or a board,
or share with
another
jurisdiction*

Creation:

1. Planning Commission recommends to Council
2. Council takes final action and appoints





APPEALS &

Municipality sets standard of review-
“De Novo” or “On the Record”

Applicant has the burden of proving that the Land Use Authority has erred.

Impartial decision makers

DUE PROCESS

No public hearing required for either.

VARIANCES



10-9a-702.

State provides mechanism to vary the rules of your land use ordinances

The state sets the five criteria.
All five must be met.

Very rare that all five are met

After decision is rendered in both cases any further action is heard in Court



PLANNING COMMISSION

From the Utah State Statute

Public hearing

- CREATION OF THE GENERAL PLAN (MANDATED)
LAND USE/TRANSPORTATION/ AND HOUSING (FOR CITIES)
- CREATION OF ZONING ORDINANCES (OPTIONAL)
- ADVISE COUNCIL ON APPEALS AND PROCESS FOR ADMINISTERING THE ZONING CODE
- HOW DO WE ACT?
All PC 's and CC 's must have written rules of procedure adopted and posted (2011)
- Open Meetings Act (OPMA)/ Government Record Management Act (GRAMA) /Ethics Act

What's in my local ordinance?

- What do we do? What did the Council authorizes us to do?
- Am I an appeal authority? If not who is?



City Council

What is my role in Land Use?

1. Give your Planning commissioner clear direction on their job and their duties
(talk to them)
2. Know if you act as a Land Use Authority and if not who is.....
3. Know if you act as an Appeal Authority
4. Delegate if reasonable
(trust your Planning Commission and Staff)



LAND USE TOOLS

General Plan

“A practical vision
for the future”

Sets roots for the zoning code



Zoning / Land Use Code

“Where the rubber
meets the road”

Detailed specifics

Creation in Utah:

1. Planning
Commission creates,
holds a public hearing
and recommends to
the Council
2. Council Approves,
modifies/denies