

Land Use Planning 101: State Law & Best Practices

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- 20 years of **Local, Regional, and State-level Planning & Administrative** experience:
 - Deputy City Manager
 - Community & Economic Development Director
 - Director of Planning & Programming

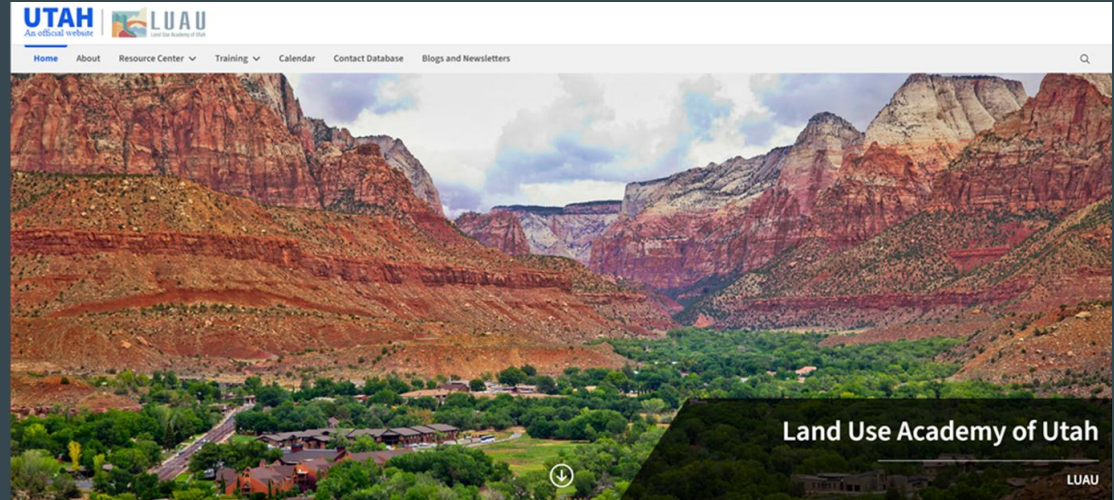
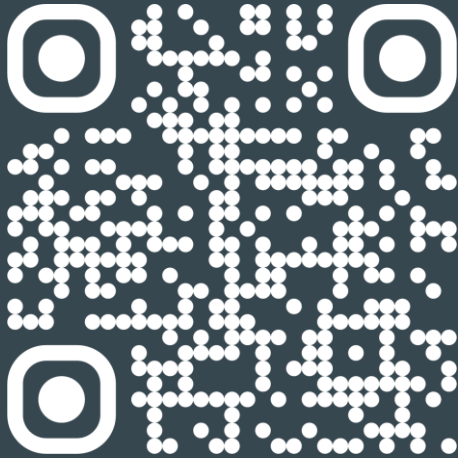


<https://propertyrights.utah.gov/>

Supports local agencies and citizens by providing:

- **Information and education** to explain land use law and legal processes.
- **Negotiation liaison** between property owners and local or state officials.
- **Mediation** of eminent domain and land use disputes.
- Research on specific issues of land use law, and prepare **Advisory Opinions** that attempt to resolve the dispute in accordance with the prevailing law

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Your home for land use training and resources in Utah!

Planning Basics

**When I'm told I need a permit
to build on my own property.**



Land Use Development & Management Act (LUDMA) Purposes

- (1) The purposes of [LUDMA] are to:
- (a) provide for the health, safety, and welfare;
 - (b) promote the prosperity;
 - (c) improve the morals, peace, good order, comfort, convenience, and aesthetics of each municipality and each municipality's present and future inhabitants and businesses;
 - (d) protect the tax base;
 - (e) secure economy in governmental expenditures;
 - (f) foster the state's agricultural and other industries;
 - (g) protect both urban and nonurban development;
 - (h) protect and ensure access to sunlight for solar energy devices;
 - (i) provide fundamental fairness in land use regulation;
 - (j) facilitate orderly growth and allow growth in a variety of housing types; and
 - (k) protect property values.



Utah Municipal Code §10-9a (for cities and towns) and §17-27a (for counties)

General Plan

- A mandated document that guides the growth and development of your community
- Sets land use visions and policies for your community
- Should consider today and the future (typically 10-20 year horizon)
- Intended to be a “living document” to adapt to desired changes in your community



Utah Municipal Code §10-9a-4 (for cities and towns) and §17-27a-4 (for counties)

Land Use Ordinances

- The written law duly adopted by the local legislative authority that regulates land development in your community
- Includes planning, zoning, development, and subdivision ordinances
- **Best Practice: Your ordinances should implement your General Plan**



Zoning

- Local regulations to manage the look and feel of a community
- Control land use, density, and physical dimensions of development
- Intended to avoid conflicts between certain land uses for the protection and betterment of the community
- **Best Practice: Your Zoning should implement your General Plan in accordance with your Land Use Ordinances**

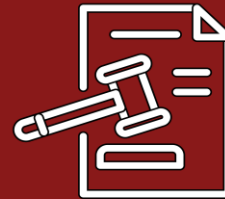


Roles & Responsibilities

Role of a City/Town/County Council

City/Town/County Councils serve as the legislative decision-making body for a local agency.

They make laws of general applicability that are based on the weighing of broad, competing policy considerations.



**COUNCIL
MEETING**

Utah Codes §10-9a-3 and 3b detail the roles and responsibilities of local municipal government; §17-27a-1 for counties

Role of a Planning Commission

Planning Commissions are pivotal for land use management. In an advisory role, the Commission reviews and makes recommendations to the legislative body.



Utah Code §10-9a-301 (for cities and towns) and §17-27a-301 (for counties) establish the requirement for Planning Commissions

Role of a Land Use Authority

A Land Use Authority is:

- (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or
- (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.



Utah Code §10-9a-103-31 (for cities and towns) and §17-27a-103-35 (for counties) provide the definition of a Land Use Authority

Legislative vs Administrative Decision Making

Legislative decisions generally involve making laws of general applicability, and are based on the weighing of broad, competing policy considerations.

Typical Legislative Decisions

- Adoption & amendment of the general plan
- Enactment & amendment of land use ordinances and development standards
- Enactment of a zone map & approval of a zone change
- Annexation decisions

Considerations When Making Legislative Decisions

- Local legislative decisions may not violate applicable state or federal law
- If it is “reasonably debatable” that the decision could advance the general welfare or public interest and is consistent with the State LUDMA, a court will likely uphold the decision as legal
- The legislative body should attempt to strike an appropriate balance between the public interest and private property rights, where the two conflict or may simply not align

Considerations When Making Legislative Decisions

Role of the Public in Legislative Decisions

- The legislative body should take into consideration input from the public, property owners, and other interested parties, including preferences and opinions. It is up to the legislative body to determine how much weight to give to any preference or opinion
- The legislative body may also receive input from the public for the purpose of gathering facts and evidence to support its conclusions and its decision

Legislative vs Administrative Decision Making

Administrative decisions generally involve **applying existing codes** to a particular development proposal, based on individual facts and circumstances.

Typical Administrative Decisions

- Subdivisions (single-family, two-family, and townhome)
- Conditional use permit
- Site plan
- Building Permit
- Variances

Considerations When Making Administrative Decisions

- Local legislative decisions may not violate applicable state or federal law
- The land use authority must apply the “plain language” of land use regulations to a land use application.
- Where a regulation “does not plainly restrict the land use application,” or could reasonably be read to support different interpretations, the land use authority must interpret and apply the regulation to “favor” the proposals in the land use application.
- The land use authority must support its decision with “substantial evidence.”
- If an application meets the requirements, it should be timely approved.

Considerations When Making Administrative Decisions

Role of the Public in Administrative Decisions

- The land use authority may not rely on public opinion or preferences when making an administrative decision
- The land use authority may receive input from the public for the purpose of gathering facts and evidence to support its conclusions and its decision, in accordance with adopted standards