

POWERS & DUTIES

COUNCIL & PLANNING COMMISSION

Planning Commission Powers and Duties:

- The primary duty of a planning commissioner is to act as an advisor to the city council regarding land use plans, laws, and policy. The planning commission only makes recommendations regarding plans, laws, and policy allowed specifically in State Code. Those listed specifically are:
 - ✓ Prepare and recommend a General Plan or changes to the General Plan
 - ✓ Prepare and recommend land use laws such as zoning ordinances, subdivision ordinance, and land use maps
 - ✓ Recommend changes to land use regulations including rezones
 - ✓ Recommend who the Land Use Authority should be on land use applications (i.e. Subdivisions, amendments to subdivisions, conditional use permits)
 - ✓ Recommend the type of Appeal Authority
 - ✓ Recommend application processes for zoning permits & subdivisions
 - ✓ Prepare and recommend an Annexation Policy Plan
 - ✓ Review and recommend proposals for agriculture and industrial protection areas
- The planning commission may also make decisions on land use applications, but only as designated by the City Council.

Council Powers and Duties:

- As the legislative body of the community the city council formally adopts the plans, laws, and policies regarding land use. The council makes policy while the planning commission helps to shape policy.
 - ✓ Adopt a General Plan and make changes
 - ✓ Adopt Land Use Laws: Zoning Ordinance, Subdivision, Ordinance, Zoning Maps
 - ✓ Approve or deny Rezone requests
 - ✓ Adopt an Annexation Policy Plan
 - ✓ Approve, modify and approve, or reject Agriculture and Industrial Protection Area proposals
 - ✓ Designate Land Use Authority on land use applications; who will make the final decision regarding: Subdivision Plats, Amendments to subdivision plats, Conditional Use Permits
 - ✓ Adopt application processes for zoning permits & subdivisions
 - ✓ Adopt community development standards: Roads, Service Provision, Utilities, etc.
 - ✓ Adopt a fee schedule for development applications
 - ✓ May appoint or ratify board appointments in cooperation with the mayor.

State Code Reference:

10-9a-302. Planning commission powers and duties

The planning commission shall make a recommendation to the legislative body for:

- (1) a general plan and amendments to the general plan;
- (2) land use ordinances, zoning maps, official maps, and amendments;
- (3) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
- (4) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
- (5) application processes that:

(a) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(b) shall protect the right of each:

- (i) applicant and third party to require formal consideration of any application by a land use authority;
- (ii) applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
- (iii) participant to be heard in each public hearing on a contested application.

10-9a-701. Appeal Authority Duties

(3) An appeal authority:

- (a) shall:
 - (i) act in a quasi-judicial manner; &
 - (ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and
- (b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

Decision Types:

▪ **Legislative:**

- A legislative decision is one that is made by a body of elected officials, such as a city council, and is done by vote. Legislative action refers to the power to make, alter, and repeal laws.
- Legislators are given broad discretion when making legislative decisions. The Utah Supreme Court stated; “If an ordinance could promote the general welfare; or even if it is reasonably debatable that it is in the interest of the general welfare, we will uphold it.”
- Examples of legislative decisions include: adopting or changing the general plan or zoning ordinance.

▪ **Administrative**

- An administrative decision is one that is made to enforce already enacted laws and policies. This type of decision can be made at any level of government.
- All administrative decisions must be supported by substantial and factual evidence that is included in the minutes of the meeting in which the decision was made.
- Examples of administrative decisions include: site plan approvals, subdivisions, and conditional use permits.

▪ **Quasi-Judicial**

- A quasi-judicial decision is made when a governing body investigates facts, holds hearings, and draws conclusions from them for a basis of the decision. The board of adjustment or hearing examiner makes quasi-judicial decisions.
- All quasi-judicial decisions must be supported by substantial and factual evidence that is included in the minutes of the meeting in which the decision was made.
- Examples of quasi-judicial decisions include: variances, and appeals of administrative decisions.

Frequently Asked Questions:

▪ **Does the planning commission make recommendations on business licensing and animal rights?**

- A planning commission can only make recommendations or decisions on items that are specifically stated in State Code or delegated to them by the City Council. If the City Council requests that the planning commission makes a recommendation regarding business licensing or animal rights regulations then the commission may do so.

▪ **Can the planning commission make the final decision on land use applications or do they always need to go to the city council for final approval?**

- The planning commission may act on any administrative application if it has been delegated to them by the city council through ordinance. Applications that are not administrative and therefore cannot be decided upon by the planning commission include rezones and annexation petitions.

▪ **Can the planning commission prevent a city council from taking action on an item, such as an ordinance amendment, by not making a recommendation?**

- While the city council must have a recommendation from the planning commission prior to taking action on an ordinance, the ordinance cannot be withheld from the council indefinitely because of a lack of action on the part of the planning commission. The council may set a timeline for a recommendation if they choose.

▪ **Who can make a recommendation for changes to land use ordinances and the general plan?**

- Recommendations for changes can come from council members, planning commissioners, staff, or the public.

Definitions:

- **Land Use Authority:** Any person, board, or agency designated by the city council to act on a land use application.
- **Appeal Authority:** Any person, board, or agency designated by ordinance to decide a variance request or an appeal of a land use decision.
- **Variance:** A waiver or modification of the requirements of the land use ordinance as applied to a parcel. Variances must meet all five criteria listed in State Code section 10-9a-702. Variances cannot be granted for uses.