

Legislative versus Adjudicative Actions

Legislative Role

Through city councils and county boards of supervisors, the laws and policies are adopted that determine further the goals and vision of the community and, in certain areas, regulate the conduct of the public.

Those laws and policies can promote public health, safety and welfare, including, for example, protecting property, regulating businesses and governing land use – all of which come together to help create and maintain the unique nature and character of the community.

Examples of Local Legislation

Topic	Example
Public Safety	Curfews, Anti-Gang Measures
Property Protection	Graffiti, Code Enforcement Laws (such as Regulation of Nuisances, Blight, and Land Uses)
Business Regulations	Rent Control, Adult Entertainment Restrictions, Parking Requirements, Business License
Land Use and Building Regulations	Planning and Zoning Laws, Historic Preservation, Sign Regulations
Operational Policies	Instructions to staff on how certain utility and other services are to be operated

This tip sheet is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties. For more information and to access the Institute's resources on Local Government 101, go to www.ca-ilg.org/localgovt101.

The Institute welcomes feedback and suggestions on enhancing this resource:

- *Email:* info@ca-ilg.org Subject: Legislative versus Adjudicative
- *Fax:* 916.444.7535
- *Mail:* 1400 K Street, Suite 205 • Sacramento, CA • 95814

Quasi-Judicial Role

From time to time, local elected officials also play a judge-like role. This occurs when they (or boards and commissions to which they have delegated this task) apply the agency's adopted policies and standards to a particular situation.

An example is when a person applies to engage in a certain use of their property or business operation. The task of the decision-making body is to determine whether the proposed use or business complies with the community's adopted policies and standards.

When the decision is made, it is good practice to adopt statements called findings that explain why the application does or does not satisfy these standards.

When the decision-making body is acting in a quasi-judicial role, it will typically conduct a publicized public hearing on the matter. Under such circumstances decision-makers are not only deciders, they are also stewards of a process that must satisfy certain standards for fairness. These standards require, for example, that the person applying for the permit be heard and given an opportunity to present his or her case before the deciding officials.

For More Information

...

See [Fair Process Requirements in Adjudicative Decision-Making](#) at www.ca-ilg.org/bias

“Ministerial” Decisions

Some decisions involve less discretion. A “ministerial” decision is a matter that must be approved if certain specific standards are met. Because the decision-maker has very little leeway or discretion when making “ministerial” decisions, these kinds of decisions are frequently referred to as mandatory and “nondiscretionary.” Sometimes those decisions can be made by the appropriate local agency staff, such as a department head.

For example, a building permit must be approved if all of the conditions and requirements imposed in various building codes have been satisfied. It is approved through a “ministerial” decision.