

# What is the difference between a guideline and a legal requirement?

## Guideline

**Definition:** A **guideline** is a statement or plan by which to determine a course of action. A guideline aims to streamline particular processes according to a set routine or sound practice. By definition, following a guideline is never mandatory. Guidelines are not binding and are not enforceable by law. Guidelines may be issued by an organization to make the actions of its employees or divisions more predictable, and presumably of higher quality. [Wiki]

**Examples:** General Plan (including *Cultural Resource Areas*)  
 Character Area Plan  
 Specific Area Plan  
 Transportation Master Plan  
 Parks Master Plan  
 Arts & Culture Plan  
 Historic District Design Guidelines  
 Placemaking / Urban Planning Principles  
 Streetscape Design Guidelines  
 Recommended Plant Palettes

**Application:** Guides vision for a community / specific area  
 Guides plan review for proposed development  
 Declares community strengths / assets  
 Used in staff plan review  
 Informs board / commission review  
 Helps inform City Council decisions  
 Helps make decisions for land use or zoning changes  
 [General Plan]

**Uses words like:** support, encourage, enhance, partner with, recommend, grow, develop, cultivate, foster

## Legal Requirement

**Law** is a system of rules that are enforced through social institutions to govern behavior. Laws can be made by a collective legislature, by municipal ordinance, or by a single legislator, resulting in statutes, by the executive through decrees and regulations, or by judges through binding precedent, normally in common law jurisdictions. A local **ordinance** is a law usually found in a code of laws for a political division smaller than a state or nation, i.e., local government / municipality. [Wiki]

U.S. Constitution / Supremacy Clause  
 [The order of the ladder of laws: The Federal Constitution, Federal Law, Federal Treaty, State Constitution, State Law, then Local Law.]  
 Native American Graves Protection & Repatriation Act of 1990  
 Federal Aviation Administration Regulations  
 Federal Communications Commission Regulations  
 Federal Waterways Act  
 Federal Railroad Act of 1862  
 Utility Regulations [SRP, APS]  
 Arizona Constitution / Revised Statutes  
 Arizona Proposition 207 "Private Property Rights Act"  
 [Requires the government to reimburse land owners when regulations result in a decrease in the property's value, and also prevents government from exercising eminent domain on behalf of a private party.]  
 Arizona Department of Water Quality Regulations  
 [approved street trees]  
 Arizona Board of Regents [NAU, ASU, UofA]  
 Maricopa County Regulations  
 [property valuation, dust control, animal control]  
 City of Tempe Charter  
 Tempe Zoning & Development Code  
 [zoning, land use, residential density, building height, setbacks]  
 Transportation Overlay District  
 Historic "H" Overlay District



Determines legal allowable land uses for a zoning category, building height, setbacks, etc. NOTE: zoning changes and Planned Area Developments which regulate density must conform to land use / density projections  
 Used in determining Zoning Administrator decisions  
 Protects Tribal and intergovernmental agreements  
 Protects hierarchy / ladder of laws  
 Protects private property + development rights / due process

**shall, must be, requires, prohibits, obligatory, maximum height, minimum setback, cannot exceed**