

UP 211 | Local Planning, Government & Law | Spring 2022

Department of Urban and Regional Planning

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Time: M, W, 3:30pm – 4:50pm

Location: Temple Buell Hall Room 225

Office Hours: Tues 1:00pm – 2:00pm by Appointment

Course Description

The purpose of this course is to provide students with a basic understanding of the governmental structure, legal aspects, and practice of local planning, with special emphasis on zoning and land development regulation. This course starts by exploring the civic and legal bases for the practice of urban planning at a basic level. More detailed exploration of legal topics pertaining to the practices of zoning, subdivision/development regulation, and comprehensive planning will follow. Throughout the course, we will explore questions about how policy goals are given the force of law, who participates in that process and who does not, and to which populations the benefits and burdens of the law flow. This course is intended for undergraduates in Urban and Regional Planning and related fields. The course provides a foundation for students interested in pursuing more advanced studies in land use policy and urban planning. It will also provide practical knowledge for students seeking careers in local government planning. Prior knowledge of urban planning principles is helpful, but not essential.

The course is organized into three units:

- Unit I – Governmental Structures & the Legal Basis for Planning
- Unit II – Themes for Practicing Planners
- Unit III – Plan Making and Land Use Policy

Course Objectives

The course objectives are to understand:

1. The Civic and Legal Basis for Planning. We will look at governmental structures at the federal, state, local, and regional levels as they pertain to the field of planning. We will review the federal and state constitutional principles that guide the practice of planning and zoning, including property rights, due process, equal protection, religious freedom, public purpose, and free speech. Students will follow local planning issues to learn about local governments in action.

2. Legal Topics Within the Practice of Planning. We will explore a range of legal topics that pertain to the practice of planning, zoning, and development as manifested in the common law. Topics include eminent domain, regulatory takings, impact fees, religious freedom, nuisance

law, inclusionary zoning, free speech and signage regulation, historic preservation, and environmental law. Students will learn from a variety of primary and secondary sources, including state and federal legislation and judicial decisions and local land use regulations.

3. Legal Processes Within the Practice of Planning. We will investigate different legal processes within the practice of planning, including by-right development, various methods of relief from zoning laws, changes to ordinance language, enforcement, conflict between competing sets of rules, administrative discretion, private legal rules, and lawsuits.

4. An Overview of Subdivision Regulations. We will study the legal tools for subdividing land and preparing sites for development, including the legal basis for the control of land division (Plat Act), linkage to comprehensive planning and zoning, subdivision layout, the platting process, and public improvements. Current trends in street, sewer, and stormwater management design will be discussed. Students will conduct a subdivision platting exercise based on a real-life example.

5. Zoning: Use, Bulk, and Design. We will explore various tools and concepts from the realm of zoning, using Emily Talen's City Rules and the City of Champaign Zoning Ordinance as a practical guide. Topics to be covered include the origins of zoning, use, bulk, and design regulations, nonconformities, and special applications of zoning. Additionally, we will discuss the relative merits of complexity vs. simplicity in a zoning code and the way zoning can produce unintended consequences. Students will conduct a zoning exercise based on a real-life example.

6. An Overview of Comprehensive Planning. We will look at the role of comprehensive planning in development regulation and growth management, primarily reviewing local examples. We will discuss the legislative basis for comprehensive planning, topic-specific plans adopted as elements of a comprehensive plan, and the relationship of comprehensive planning to zoning and subdivision regulations. We will also discuss the role of public participation in generating large-scale plans.

7. Racial and Socioeconomic Impacts of Planning Law and Practices. We will explore the contributions of municipal planning to historical and existing patterns of racial and socioeconomic segregation, using Richard Rothstein's The Color of Law and additional articles as our guides. We will seek to answer questions about whose interests the law actually serves, who is able to navigate processes vs. who is shut out by processes, and whether planners have ethical obligations to proactively remedy injustice.

8. The Role of the Planner. Throughout the course, we will explore issues that arise for planners as they practice their craft, including balancing your technical expertise against conflicting direction from the public and/or elected officials, the tradeoffs involved in creating new plans vs. implementing existing plans, and understanding how planners mesh with other participants in the planning and development process: architects, developers, engineers, and neighbors.

9. International Planning Comparisons. Although this course is focused on American planning law and practices, students will have the opportunity to compare planning laws and practices from other nations. Such comparisons offer a lens for assessing the effectiveness of traditional American planning norms in achieving goals that exist across nations, including housing affordability, environmental sustainability, growth management, and transportation access and efficiency.

Course Format

This is a 3-credit hour course. Including attending the in-person class sessions, you should dedicate approximately 6 to 7 hours per week to working on the course itself, but actual time commitments will vary depending on your input, needs, and personal study habits. You are required to log on to the course Canvas site on Mondays and Wednesdays, but as the course progresses, you will probably need to do so more frequently. The course is delivered through a mix of teaching and learning methods including lectures, peer-led discussions, assignments, and exams. A typical class session will start with student presentations on planning topics in the news and be followed by a lecture and discussion.

A detailed weekly schedule is included in the syllabus. The course will be managed through the **Canvas** learning management system (<https://canvas.illinois.edu/>). The organization of the course on Canvas mirrors the format above.

Instructor Responses

Assessment Feedback Turnaround Time: All assessments will be graded through Canvas. Please reference your grade book frequently to ensure your assessments are being submitted properly and that you are earning grades for your work. Reading Reflections will be graded within 1-2 days of submission. Please allow 1-2 weeks for all other assignments.

Responding to E-mails: The instructor will respond to e-mail messages within 24 hours of receiving them Monday through Friday 9am -5pm central time. Saturday and Sunday, I will continue to check email, but the response time may take up to 48 hours.

Course Evaluation

Course evaluation will be based on a combination of in-class participation, assignments, and exams. Class participation will be based on attendance and preparedness to engage in discussions. If you must miss a class session due to special circumstance such as illness or family emergency, you should notify me via e-mail (dallred2@illinois.edu) as soon as possible. More than two (2) unexcused absences will result in an automatic drop of ten (10) percentage points from your final grade. All assignments should be submitted to Canvas on the due date unless

otherwise noted. Late assignments will be graded down one letter grade per day (half a letter grade if turned in after class on due date). Grade percentages will be distributed as follows:

1. Attendance and Participation (see guidelines above)	10%
2. Subdivision Exercise	7.5%
3. Zoning Exercise	7.5%
4. Local Board/Commission Meeting Analysis	15%
5. Current Planning Issues in the News	10%
6. Memo to Plan Commission	20%
7. Exams	30%

Transformation of numerical grade to letter grade will be according to the schedule below:

A	93-100	C+	77-79.9
A-	90-92.9	C	73-76.9
B+	87-89.9	C-	70-72.9
B	83-86.9	D+	67-69.9
B-	80-82.9	D	60-66.9

The general grading rubric for assignments is as follows:

An “A” assignment demonstrates original thought and synthesis of ideas and sophisticated, cogent analysis. It is clearly written and presented.

A “B” assignment includes above average analysis with appropriate evidence to support ideas. It is clearly written and presented.

A “C” assignment shows a basic level of understanding, with analysis limited to obvious arguments. Writing is competent. It is adequate work.

A “D” assignment misunderstands or misrepresents the material or is so poorly written that it obscures the analysis. It is inadequate work.

Assignments

Students will complete several assignments over the duration of the course. More specific information will be provided for each assignment when assigned.

Subdivision Exercise: Students will be given an exercise requiring the analysis of subdivision platting requirements for a local development example.

Zoning Exercise: Students will be given an exercise requiring the identification and analysis of the zoning requirements for a local development example.

Local Board/Commission Meeting Analysis: Students will work in groups to learn about and attend a meeting of a local elected or appointed board or commission. Students will report on the substantive matter(s) being considered by the board as well as the decision-making procedures being employed in the adjudication of the case. This assignment will involve a group presentation and an individual paper.

Current Planning Issues in the News: Identify a recent or ongoing planning and/or land use law issue in a municipality, regional government, or state. Select a topic that is of particular interest to you and which relates to topics covered in class. Provide a written summary and brief oral presentation summarizing the topic, showing how it relates to the course and encouraging class discussion.

Memo to Plan Commission: Assume the role of a practicing planner and write a memo to the Plan Commission examining an assigned topic of local planning importance.

Exams: Three short essay/short answer exams will be administered over the duration of the course. Each exam will largely test material from the class lectures and readings assigned since the previous exam, but both the second and third exam will include some material from prior units. If you are unable to take an exam at the scheduled time, you must contact the instructor in advance to determine what alternative arrangements may be made.

Final Exam: There is no comprehensive final exam for this course.

Readings

Reading for this class is imperative for contribution to discussion. Failure to keep up with required readings seriously inhibits learning and will most likely reflect poor performance on assignments and exams, as well as the evaluation of your in class participation. This course employs a variety of readings ranging from academic to practical. Readings are listed in the syllabus and are either posted on Canvas, linked directly from the syllabus, or come from one of three required course books. I have not placed an order at the Illini Union Bookstore for these texts, but these books are easily found at online retailers. The assigned books are:

1. Nolon, John R. (2021). *Land Use in a Nutshell* (1st Edition). West Academic Publishing. [Note: I will be teaching from the 2007 printing of this book, but if you use a more recent one or a (slightly) earlier one, you will be fine]
2. Rothstein, R. (2017). *The Color of Law: A Forgotten History of How Our Government Segregated America*. New York: Liveright Publishing Corporation, a division of W.W. Norton & Company.
3. Talen, E. (2012). *City Rules: How Regulations Affect Urban Form*. Washington, D.C: Island Press.

Additional resources you may find helpful during the course include:

- The City of Champaign Zoning Ordinance (Ch. 37) and Subdivision Regulations (Ch. 31), both of which can be accessed at https://library.municode.com/il/champaign/codes/code_of_ordinances.
- The City of Champaign's Champaign Tomorrow Comprehensive Plan, which can be accessed at <http://champaignil.gov/planning/long-range-planning/comprehensive-plan/>.
- Various City of Urbana documents, available at www.urbanaininois.us.
- Various regional planning documents, available at www.ccrpc.org.

Many of our readings this semester will be electronic, with the remainder coming from our three assigned texts. I encourage you to bring your reading material to each class session, as you'll be able to follow the lecture better if you can revisit the reading in real time. I recommend bringing a laptop or tablet, but of course you can print electronic readings if you prefer.

When I ask you to "skim" a reading, it will almost always be the text of an actual law: the US Constitution, the Illinois Constitution, a zoning ordinance, etc. Just get a sense of the broad structure of the law by paying attention to headings and subheadings. You don't need to read everything in depth. If I want you to know a section of a law in depth, I will ask you to read it instead of skimming it.

Course Policies

Student conduct: From the University Student Code, Article 1, Part 3: Students enrolling in the University assume an obligation to conduct themselves in a manner compatible with the University's function as an educational institution and suitable to members of the academic community. Students are responsible for knowing their rights and responsibilities as found in the student code at <http://www.admin.uiuc.edu/policy/code/index.html>.

The effectiveness of this course is dependent upon the creation of an encouraging and safe classroom environment. Exclusionary, offensive or harmful speech (such as racism, sexism, homophobia, transphobia, etc.) will not be tolerated and in some cases subject to University harassment procedures. We are all responsible for creating a positive and safe environment that allows all students equal respect and comfort. I expect each of you to help establish and maintain an environment where you and your peers can contribute without fear of ridicule or intolerant or offensive language.

Special Circumstances: Due to the participatory nature of this course, please communicate any expected or unexpected absences with the instructor as early as possible. Every effort will be made to work with students with unusual or unexpected obligations outside the course (family

emergencies, health issues, participation in University sanctioned activities, etc.) Students with disabilities or special needs who require any accommodations to facilitate full participation and completion of the course should contact the instructor as soon as possible. Please refer to the Disability Resources and Educational Services at <http://www.disability.illinois.edu> for more information.

Safety and Security in the Classroom: Emergencies can happen anywhere and at any time. It is important that we take a minute to prepare for a situation in which our safety or even our lives could depend on our ability to react quickly. When we're faced with any kind of emergency – like fire, severe weather or if someone is trying to hurt you – we have three options: Run, hide or fight. Please refer to the General Emergency Response Recommendations at <http://police.illinois.edu/dpsapp/wp-content/uploads/2016/08/syllabus-attachment.pdf> for more information.

Tips for Success

To do well in this course, remember the following:

- Log in frequently to manage your success at least 2-4 times per week (but feel free to access the course content as much as you want and/or need!). If you let the expectations of the course pile up, you may become overwhelmed.
- Consider using a word processing application to create and save all your work so that you have an automatic backup copy of all your assignments. This will also be useful in the unlikely event that our server goes down and we are unable to access course submissions. In this situation, you are still required to keep current on all your tasks and must be prepared to submit completed materials as soon as submission capability is restored.
- It is very important that you communicate throughout the course, especially during group projects. If you are having difficulties with something or are going to be away from the computer because of illness or a family emergency (or similar difficulties), please inform your group and the instructor as soon as possible. This will keep the instructor from worrying about your whereabouts and your group members from resenting the fact that the work delegated to you is not being done.

Schedule and Required Readings

Week 1 – Course Introduction

Themes: Civic and Governmental Structures

Wednesday (1/18): Course Introduction

Reading:

- Strong Towns, [“The Growth Ponzi Scheme”](#) (All 5 sections)

Week 2 – Civic and Governmental Structures

Themes: U.S. Constitution, Federal Legislation, Federal Courts, Federal Agencies, Illinois Constitution, Illinois Legislation, Municipal Authority, Legislative Tracking and Case Access, State Controls over Municipal Authority

Monday (1/24): Civics 101 – U.S. Constitution, Federal Legislation, Federal Courts, Federal Agencies

Readings:

- Excerpts from Chemerinsky *Constitutional Law* casebook
- Skim US Constitution. Pay attention to what each Article and Amendment is about, generally.

Wednesday (1/26): Civics 102 – Illinois Constitution, Illinois Legislation, Municipal Authority, Legislative Tracking and Case Access, State Controls over Municipal Authority (e.g. HB 2001)

Readings:

- Excerpts from Briffault and Reynolds *State and Local Government Law* casebook
- Illinois State Constitution: skim Articles I, II, IV, V, VI, and Amendments; read Article VII “Local Government”
- Skim Oregon HB 2001
- City Observatory article about Oregon HB 2001

Assignment:

- Assigned: Current Planning Issues in the News

Week 3 – Legal Bases and Topics

Themes: Property, Common Law, Legal Challenges, Judicial Standards, Forms of Relief, Delegation of Power, Vagueness, Procedural and Substantive Due Process

Monday (1/31): Property, Common Law, Legal Challenges, Judicial Standards, Forms of Relief, Delegation of Power

Reading:

- Nolon, Chapters 1 and 11 (1st Ed. and 2nd Ed.)

Wednesday (2/2): Vagueness, Procedural and Substantive Due Process

Readings:

- Nolon, Chapter 5, Sections 1 & 2 (1st Ed. and 2nd Ed.)
- *Hanna v. City of Chicago*
- *Klaeren v. Village of Lisle*
- *Village of Belle Terre v. Boraas*

Week 4 – Legal Bases and Topics Cont.

Themes: Just Compensation, Takings, Public vs. Private Interests, Redevelopment, Impact Fees, Equal Protection, Freedom of Religion, RLUIPA, Free Speech, Billboards and Signage, Adult Uses,

Liquor Licensing

Monday (2/7): Just Compensation / Takings, Public vs. Private Interests, Redevelopment, Impact Fees

Readings:

- Nolon, Chapter 5, Remainder (1st Ed. & 2nd Ed.)
- Nolon, Chapter 4, “Exactions” Section (Section 4 in 1st Ed., Section 5 in 2nd Ed.)
- *Penn Central Transportation Co. V. New York City*
- Strong Towns, “Impact Fees Don’t Mean Development is Paying for Itself”

Assignment:

- Assigned: Local Board/Commission Meeting Analysis

Wednesday (2/9): Equal Protection, Freedom of Religion, RLUIPA, Free Speech, Billboards and Signage, Adult Uses, Liquor Licensing

Reading:

- Nolon, Chapter 6 (1st Ed. & 2nd Ed.)
- Nolon, Chapter 8, Sections 7 & 8 only (“Exclusionary Zoning” and “Inclusionary Zoning”) (1st Ed. & 2nd Ed.)
- Excerpt from Elliott *A Better Way to Zone*
- APA Summary of *Reed v. Gilbert* (pages 1, 10, and 11 only)
- *News-Gazette* article “Downtown: My, How You’ve Grown”
- Skim City of Champaign Liquor License Schedule

Week 5 – Review

Monday (2/14): Review Day

Wednesday (2/16): EXAM 1

Week 6 – Themes for Practicing Planners

Themes: Race and Discrimination in Land Use Law and Policy

Monday (2/21): Racial Intent vs. Impact, De Jure and De Facto Discrimination

Reading:

- Rothstein, Preface & Chapters 1-6

Wednesday (2/23): Racial Intent vs. Impact, De Jure and De Facto Discrimination

Reading:

- Rothstein, Chapters 7-12

Week 7 – Themes for Practicing Planners Cont.

Themes: Restrictive Covenants, The Role of Government, Sprawl vs. Incremental Development

Monday (2/28): Private Covenants and Other Units of Government

Readings:

- Excerpts from Fogelson’s *Bourgeois Nightmares*
- Explore the website for the Cherry Hills subdivision • Reading: Skim Cherry Hills Phase 9 Covenants
- Reading: Briffault and Reynolds, “Other Units of Government”

Wednesday (3/2): Zoning for Incremental Development

Reading:

- Watch Matthew Petty's presentation on "The Small Scale Development Movement (note runtime is approx. 55 minutes)

Assignment:

- Assigned: Memo to Plan Commission

Week 8 – Themes for Practicing Planners Cont.

Themes: Parking, Urban Design, Site Engineering

Monday (3/7): Parking Requirements, Street Design, and Working with Engineers

Reading:

- Strong Towns, "The Stroad" (watch the video on the page as well)
- Champaign Manual of Practice, Chapters 8 & 9. Pay particular attention in Chapter 8 to Section 8.00 A1, A2, A3, B2, C1, Section 8.01, and Table A, and skim through some of the street diagrams. In Chapter 9, pay particular attention to Section 9.00. You are not expected to memorize any of the information, but I want you to get a feel for how the information is organized and presented, as well as an understanding for what exactly is being regulated.
- Vox, "Why Free Parking Is Bad For Everyone" • Watch: "The High Cost of Free Parking"
- Zoning Practice, "Practice Parking Reform"

Wednesday (3/9): No Class

Week 9 – Spring Break (3/12 – 3/20)

Week 10 – Comprehensive Planning

Themes: Early Plans, the Standard Act, Illinois Statute, Planning Jurisdictions, Planning Process, Plan Elements

Monday (3/21): Early Plans, the Standard Act, Illinois Statute, Planning Jurisdictions, Planning Process, Plan Elements

Reading:

- Zoning Practice, "Practice Consistency"
- "Planning 1-2-3", pages 1-54

Wednesday (3/23): Guest Lecture from Lacey Rains Lowe – Comprehensive Planning

Reading:

- *Champaign Tomorrow Comprehensive Plan*, including Future Land Use maps

Week 11 – Comprehensive Planning Cont. & Subdivision and Development Review

Themes: Comprehensive Plan Elements, Public Participation, Direct Democracy, Subdivision Ordinances, Development Review

Monday (3/28): Comprehensive Plan Elements, Public Participation, Direct Democracy

Reading:

- Proposition 13 Info Sheet
- Los Angeles Times article about possible repeal of Proposition 13

- Boulder Daily Camera article about Question 300 and Question 301

Wednesday (3/30): Guest Lecture from Jeff Marino – Subdivision and Development Review

Reading:

- Talen, Chapter 1

Assignment:

- Assigned: Subdivision Exercise

Week 12 – Subdivision and Development Review Cont.

Themes: Subdivision Process, Plats, Infill vs. Greenfield, Conservation Subdivisions, Smart Growth

Monday (4/4): Purpose, Authority, Illinois Plat Act, Terms, Subdivision Process

Reading:

- Juergensmeyer and Roberts, “Subdivision”
- Skim Champaign Municipal Code Chapter 31, “Subdivision Regulations”

Wednesday (4/6): Infill vs. Greenfield, Conservation Subdivisions, Smart Growth

Reading:

- Talen, Chapters 2 & 3

Week 13 - Subdivision and Development Review Cont. & Zoning

Themes: Zoning, Land Use, Case Law, Separation of Uses

Monday (4/11): EXAM 2

Wednesday (4/13): Origins of Zoning, Separation of Uses, Early Case Law, Zoning in Illinois, jurisdiction, zoning in Champaign

Reading:

- *Spann v. City of Dallas*
- *Ambler Realty Co. v. Village of Euclid* (District Court)
- *Village of Euclid v. Ambler Realty Co.* (Supreme Court)
- *Nectow v. Cambridge*

Assignment:

- **Due: Subdivision Exercise**
- Assigned: Zoning Exercise

Week 14 – Zoning Cont.

Themes: Zoning Maps, Zoning Changes, Zoning Types, Use Types, Home Occupations, Development Standards

Monday (4/18): Zoning Boundaries, Districts, New Districts, Rezoning, Overlays, Permitted, Provisional, and Accessory Uses, Home Occupations, Occupancy

Reading:

- *LaSalle Nat. Bank v. County of Cook* (1957)
- City of Champaign Council Bill 2018-138
- City of Champaign Zoning Map (available here as PDF or here as web map layer)
- City of Champaign Zoning Ordinance, Article III “Use Regulations”

Wednesday (4/20): Development and Design Standards for Structures

Reading:

- Talen, Chapter 5
- City of Champaign Zoning Ordinance, Article IV “Development Standards”
- Staff report for City of Champaign Council Bill 2016-211
 - Note: This document is over 400 pages long, but you are only expected to read approximately 20 pages of it: the staff report (pages 220-228 of PDF) and Attachment D (pages 358-368 of PDF).

Week 15 – Zoning Cont.

Themes: Zoning Relief, Variances, Special Use Permits, Zoning Administration

Monday (4/25): Zoning special relief: variation, planned development, special use permit, text amendments; Changing the ordinance

Reading

- Staff report for City of Champaign Plan Commission Case PL17-0017 (pages 1-7 of PDF)
- City of Champaign Council Bill 2017-020
 - Note: Make sure to read both the staff report (pages 21-26 of PDF) as well as the Special Use Permit itself (pages 3-5 of PDF)
- City of Champaign Zoning Board of Appeals Case PL18-0001.
 - Note: You do not need to read the application itself (pages 15-25 of PDF), but read the report and other attachments, especially Attachment E.

Assignments:

- **Due: Memo to Plan Commission**

Wednesday (4/27): Zoning administration and enforcement

Reading:

- Talen, Chapters 6 and 7
- City of Champaign Council Bill 2017-222
- Champaign Municipal Code, Article XII “Nonconformities”, Divisions 1 and 2 only (i.e. Sections 37-631 through 37-635).
- Champaign Municipal Code, Article XIII “Administration and Enforcement”

Assignment:

- **Due: Zoning Exercise**

Week 16 – Course Wrap Up

Monday (5/2): Course Wrap Up and Review Day

Wednesday (5/4): EXAM 3