

UP 511 – Law and Planning
Spring 2023
MW 9:00 – 10:20 AM

Instructor: Ben LeRoy
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COURSE SYLLABUS
Jan. 13, 2023 Edition

COURSE OVERVIEW

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 explores the civic and legal bases for the field 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 graduate students in Urban and Regional Planning and related fields. The course provides a foundation for students as they pursue advanced studies in land use law and urban planning. It also provides practical knowledge for students seeking careers in or connected to local government planning.

ABOUT THE INSTRUCTOR

I graduated from the University of Illinois in 2013 with both a Master of Urban Planning and a Juris Doctor (law degree). Upon graduation, I joined the City of Champaign Planning and Development Department, serving first as an Associate Planner and then as the Zoning Administrator. My work there primarily involved land use, bicycling, and pedestrian issues. In 2022, I stepped down from my Zoning Administrator role to pursue opportunities outside of local government. I now run a zoning consulting firm in addition to teaching at DURP and the College of Law. I look forward to sharing some of my real-world experiences with you as we explore local government and urban planning through the lens of the legal system.

As an adjunct instructor, I do not have an office on campus. I encourage you to email me at bleroy@illinois.edu as a first option if you need to get in touch about the course. I generally check this account several times per day between the hours of 8 AM and 5 PM M-F, and less frequently on weekends. In an emergency, you can call or text my personal cell phone at 217-766-5045.

ORGANIZATION AND APPROACH

The course is designed as a participatory lecture. I will identify required readings and present lecture materials for each class meeting. Students will be asked to participate in the lecture in a variety of ways, from individual question-and-answer to small group breakout discussions. You are required to complete all readings, assignments, and exams, and participate in class discussions and presentations.

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.

COURSE REQUIREMENTS

Requirements for UP 511 students are as follows:

Attendance

Regular attendance and participation are essential components of your success in this class. However, as in the professional world, perfect attendance is neither realistic nor expected. Therefore, while attendance will be taken and forms a component of your final grade, you are entitled to **four absences** without a negative impact on your grade. Unlike some other courses, this course does not distinguish between "excused" and "unexcused" absences as you are entitled to four penalty-free absences for any reason that arises. Accordingly, you do not need to email me to explain your absences either before or after the fact. Absences in excess of four will result in a lower course grade, unless such absences are the result of a serious medical or family emergency (including any absences arising out of a COVID infection or isolation period undertaken pursuant to University guidelines).

Please contact me as soon as possible if you believe you will have difficulty meeting attendance requirements.

Participation

Due to the size of our class, my expectations for participation are different than in years where the class is a smaller group. Active, constructive participation as both a presenter and a listener will enhance your final grade, but I do not expect to deduct points for poor participation except in extreme circumstances where a student is either consistently disruptive or completely nonparticipatory for the entire semester.

This class employs the "on call" method for some lecture and discussion questions. For one or more class sessions this semester, you may be "on call" and expected to answer some questions

directed to you about the day’s material. Students will not be notified in advance that they are “on call” to incentivize preparation and engagement with every class session.

Readings

Students are required to complete assigned readings prior to class in order to better follow the lecture materials and to participate more successfully in class discussion. Completion of readings will contribute to mastery of the exams and the course final.

Assessments

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

Civics, Government, & Law Quiz

Students will take an in-class quiz on material covered in the first two units of the course.

Comprehensive Plan Assignment

Students will be given an assignment tasking them with understanding an adopted plan from a municipality.

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.

Plan Commission Report and Presentation

Students will work in small groups to draft a report and deliver a presentation to a mock Plan Commission on a hypothetical land use scenario.

GRADING

As discussed above, this course requires you to participate in class as both a speaker and a listener, to demonstrate your factual knowledge through assignments and a final exam, and display your analytical skills through a group assignment that places you in the role of a practicing urban planner. If you attend class regularly, participate in discussions, and complete all of the assignments and examinations in a timely manner, you will be successful in this class and have a good mastery of the subjects covered.

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| 1. Attendance and Participation (see guidelines above) | 10% |
| 2. Civics, Government, & Law Quiz | 20% |
| 3. Comprehensive Plan Assignment | 10% |
| 4. Subdivision Exercise | 15% |

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| 5. Zoning Exercise | 15% |
| 6. Plan Commission Report & Presentation | 30% |

READINGS, ONLINE RESOURCES, AND NOTE TAKING

This course has a Canvas page containing certain readings and course documents. Should you run into difficulties with Canvas, please contact me so I can address it.

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. These books are easily found at online retailers and are also available from the Illini Union Bookstore. The assigned books are:

1. Salkin, Patrica E. and Jennie R. Nolon (2021). *Land Use Law in a Nutshell* (3d Edition). West Academic Publishing.
[Note: I will be teaching from the most recent edition of this book. Previous editions back to the 2006 printing (blue cover) are likely fine to use for this class, but please note that our reading assignments will be geared towards the 3d Ed., and it will be up to you to make sure you're reading the right content if you're using an older edition.]
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. If you do not have a laptop or tablet and you are worried about the burden of printing electronic readings, let me know and we can work on strategies to minimize this burden.

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.

Some thoughts on note taking: Consider taking some outline-style notes as you do the readings. Most good nonfiction writing is structured via an outline format, and many of our readings will be explicit about this through the use of headers and sub-headers. Jotting a few notes about the main points of the readings as you read them is a good way to understand the material or realize where you may have questions.

Try to structure your in-class notetaking in an outline rather than a running narrative. This is an acquired skill, so don't worry if it takes you awhile to get the hang of it. I structure my lectures outline style: I'll introduce a broad topic, talk about some subtopics underneath that topic, move on to another broad topic, etc. Often my lecture outline will roughly follow the outlines I pull from the readings, so that's another reason that thinking about the readings in outline-style may help you. I utilize the computer in class to show videos, maps, and other visuals; my use of Powerpoint is more intermittent. I make frequent use of the whiteboard and put important concepts and topics on the board throughout each class period. Please don't hesitate to ask me to explain a concept further if you don't understand it the first time around. I am here to help you make sense of all the information in the course!

If you leave a lecture feeling confused, consider skimming or rereading the assigned reading afterwards. When I was in school, I experienced several lectures where I was confused by both my initial reading and the in-class lecture. Revisiting the reading a second time often helped things click for me.

COVID CONSIDERATIONS

The Spring 2023 semester will continue to pose challenges to us as teachers, learners, and community members, due to the spread of COVID variants and the resultant shifting of guidance and regulations. While it is certainly frustrating to deal with uncertainty and changing rules, our class will be following all University of Illinois COVID rules, no matter the inconvenience or our frustrations with particular regulations. Up-to-date information is available at covid19.illinois.edu.

It is a privilege for us to be on this campus this semester. I am prepared to return to online instruction if necessary, but our class can learn and communicate most effectively when we are physically together. As such, I will exhibit zero tolerance for behavior that willfully disregards University COVID requirements. If you believe that I am not following a University COVID requirement, please let me know so I can check the current guidance and correct my behavior if necessary. Let's all do our part to keep ourselves and community safe, healthy, and in the classroom.

SUPPORTING YOU

Students registering with Disability Resources & Educational Services (DRES) may utilize many different types of academic accommodations. I encourage you to explore DRES if you need

accommodations including (but not limited to) note-taking services and testing accommodations. I am happy to provide accommodations upon the provision of a Letter of Academic Accommodations from DRES. If you require accommodations, please provide your letter to me at your earliest convenience so we can work out a plan together. I am unable to provide accommodations without such a letter from DRES.

The University of Illinois offers a number of student support resources outside of DRES as well. I am not an expert in these offerings, but I am happy to help connect you to them if you find yourself struggling with this class or anything else. I am also happy to work one-on-one or connect you to a colleague to help you through any situations that prevent you from being an effective student and mentally well human being during our semester. Speaking from personal experience, it is almost always harder and scarier to make the initial ask for help than to do whatever comes afterwards to resolve the issue together. Accordingly, the two most important things you can do to help yourself and me succeed in this area are to (1) communicate open and honestly with me, and (2) err on the side of asking for help.

OFFICE HOURS

Office hours with the instructor or the teaching assistant are by appointment. The best way to reach the instructor is at bleroy@illinois.edu. David Wright, our Teaching Assistant, can be reached at dwrigh27@illinois.edu.

COURSE SCHEDULE

Reading note: Underlined readings are web links accessible directly from the syllabus. Non-underlined readings are accessible on Canvas or in your required course texts.

Wednesday, January 18

Class Introduction

- Assignment: Read syllabus
- Assignment: Freyfogle, “Property’s Functions and the Right to Develop”

I. Civic and Governmental Structures

Monday, January 23

Civics 101: U.S. Constitution, Federal Legislation, Federal Courts, Federal Agencies

- Reading: Excerpts from Chemerinsky *Constitutional Law* casebook
- Reading: Skim [US Constitution](#). Pay attention to what each Article and Amendment is about, generally.

Wednesday, January 25

Civics 102: Illinois Constitution, Illinois Legislation, Municipal Authority, Legislative Tracking and Case Access, State Controls over Municipal Authority (e.g. California SB 9)

- Reading: Excerpts from Briffault and Reynolds *State and Local Government Law* casebook
- Reading: [Illinois State Constitution](#): skim Articles I, II, IV, V, VI, and Amendments; read Article VII “Local Government”
- Reading: [California SB9](#)

- Read the Legislative Counsel’s Digest of the bill
- Skim the text of the bill
- Click the “Bill Analysis” tab and read the Aug. 28, 2021 Senate Floor Analysis

II. Legal Bases and Topics

Monday, January 30

Property Rights, Common Law, Legal Challenges, Judicial Review

- Reading: Salkin & Nolon, Chapters 1 (all sections) and 11 (§1 and §4)

Wednesday, February 1

Procedural and Substantive Due Process

- Reading: Salkin & Nolon, Chapter 5 (§1 and §2)
- Reading: [Hanna v. City of Chicago](#)
- Reading: [Klaeren v. Village of Lisle](#)
- Reading: [Village of Belle Terre v. Boraas](#)

Monday, February 6

Takings, Regulatory Takings, Exactions, Impact Fees

- Reading: Salkin & Nolon, Chapter 5 (all remaining sections) and Chapter 4 (§4)
- Reading: Strong Towns, [“Impact Fees Don’t Mean Development is Paying for Itself”](#)

Wednesday, February 8

Other Statutory and Constitutional Considerations for Land Use Planning

- Reading: Salkin & Nolon, Chapter 6 (all sections) and Chapter 8 (§7)
- Reading: Excerpt from Elliott *A Better Way to Zone*
- Reading: [Syllabus](#), *Reed v. Town of Gilbert*
- Reading: [Summary article](#) re: *City of Austin v. Reagan National Advertising of Texas*

Monday, February 13

State and Local Entities in Law and Planning

- Reading: Salkin & Nolon, Chapter 2 (§3 and §4)
- Reading: [Standard Zoning Enabling Act](#)
- Reading: Dukeminier & Stapleton article

Wednesday, February 15

Online Resources + Review

- You are strongly encouraged to bring a computer to this class session so you can follow along the online resource presentation.

Monday, February 20

Civics, Government, & Law Quiz

III. The Comprehensive Plan

Wednesday, February 22

Introduction to the Comprehensive Plan

- Assignment Begins: Comprehensive Plan Assignment

- Reading: Zoning Practice, “Practice Consistency”
- Reading: “Planning 1-2-3”, pages 1-54

Monday, February 27

The Comprehensive Plan, Public Participation, Direct Democracy

- Salkin & Nolon, Chapter 11 (§2)
- Reading: Proposition 13 Info Sheet
- Reading: Los Angeles Times article about possible repeal of Proposition 13
- Reading: Boulder Daily Camera article about Question 300 and Question 301

Wednesday, March 1

Local Comprehensive Planning – Guest Lecture

- Reading: TBD

IV. Zoning

Monday, March 6

Origins of Zoning

- Assignment Begins: Plan Commission Report & Presentation
- Assignment Begins: Zoning Exercise
- Reading: *Spann v. City of Dallas*
- Reading: *Ambler Realty Co. v. Village of Euclid* (District Court)
- Reading: *Village of Euclid v. Ambler Realty Co.* (Supreme Court)
- Reading: *Nectow v. Cambridge*

Wednesday, March 8

Zoning by Use – Districts, Rezoning, Primary vs. Accessory Uses, Home Occupations

- Reading: Salkin & Nolon, Chapter 3 (§1; §4-§6; §8-§9)
- Reading: *LaSalle Nat. Bank v. County of Cook* (1957)
- Reading: [City of Champaign Council Bill 2018-138](#)
- Reading: Skim City of Champaign Zoning Map
- Reading: Skim City of Champaign Zoning Ordinance, [Article III “Use Regulations”](#)

Friday, March 10 [Not a class day]

Assignment Due: Comprehensive Plan Assignment

Monday, March 13 – Spring Break

No class

Wednesday, March 15 – Spring Break

No class

Monday, March 20

Development and Design Standards for Structures

- Reading: Talen, Chapter 5
- Reading: Skim City of Champaign Zoning Ordinance, [Article IV “Development Standards”](#)

- Reading: Staff report for City of Champaign Plan Commission Case [PL18-0031](#)

Wednesday, March 22

Zoning Special Relief: Planned Developments, Special Use Permits, and Variations

- Reading: Salkin & Nolon, Chapter 3 (§3 only)
- Reading: [Staff report for City of Champaign Plan Commission Case PL17-0017](#) (pages 1-7 of PDF)
- Reading: [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)
- Reading: [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.

Monday, March 27

Zoning Administration, Enforcement, and Text Amendments

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

Wednesday, March 29

PC/ZBA Project Workday

V. Subdivision and Development Review

Monday, April 3

Subdivision I

- Assignment Due: Zoning Exercise
- Assignment Begins: Subdivision Exercise
- Reading: Talen, Chapter 1
- Reading: Salkin & Nolon, Chapter 4 (§1 and §2)
- Reading: Juergensmeyer and Roberts, “Subdivision”

Wednesday, April 5

Subdivision II

- Reading: Talen, Chapter 2 and Chapter 3
- Reading: Skim [Champaign Municipal Code Chapter 31](#), “Subdivision Regulations”

VI. Themes for Practicing Planners

Monday, April 10

Racial Intent, Racial Impact

- Reading: Rothstein, Preface & Chapters 1-4

Wednesday, April 12

Racial Intent, Racial Impact II + Private Covenants

- Reading: Rothstein, Chapter 5
- Reading: Excerpts from Fogelson's *Bourgeois Nightmares*
- Reading: Explore the website for the [Cherry Hills subdivision](#)
- Reading: Skim Cherry Hills Phase 9 Covenants

Monday, April 17

Racial Intent, Racial Impact III

- Reading: Rothstein, Chapters 6, 8, 9, 11, and 12

Friday, April 14 [Not a class day]

Assignment Due: Subdivision Exercise

Wednesday, April 19

PC/ZBA Project Workday

Monday, April 24

Fostering Emergent Urbanism

- Watch: Matthew Petty's presentation on "[The Small Scale Development Movement](#)" (note runtime is approx. 55 minutes)
- Reading: [City of Champaign Study Session SS 2021-012](#)
- Reading: "[Unpacking Emergent Tokyo with author Jorge Almazán](#)" interview from Market Urbanism

Wednesday, April 26

Assignment Due: Presentations to Plan Commission and Zoning Board of Appeals

Monday, May 1

Assignment Due: Presentations to Plan Commission and Zoning Board of Appeals

Wednesday, May 3

Assignment Due: Presentations to Plan Commission and Zoning Board of Appeals