

School of Planning, Public Policy and Management



LEGAL ISSUES IN PLANNING

Winter Term 2023

PPPM 612/CRN 24308: 4 credits

Monday/Wednesday 8:30 am – 9:50 am; STB 251

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Overview.

This course explains the U.S. legal foundations of land use planning and zoning. Course materials will cover the legal relationship between federal, state, and local government. In addition, the push and pull between property rights and the public welfare will be examined. Students will gain an understanding of the main sources of governmental authority for zoning and land use planning, the role of the courts in reviewing decisions made by policy makers, past and current issues in planning/zoning, and basic legal research skills.

Course methodology.

The course will be taught mainly through discussion of assigned readings. The assigned readings will include court decisions. After a brief initial instruction in how to analyze court decisions, students are expected to have read the materials assigned for each class session and to come prepared to discuss the assigned readings including the facts and holdings of the assigned court decisions. This is not intended to be a lecture class.

I will be posting course materials and news on Canvas. I will call on students to present cases from the assigned readings.

Learning outcomes.

This course is intended for land use planners or governmental administrators who wish to understand how the law affects the operation of governments as it relates to planning, land use, zoning, land division, environmental protection, and infrastructure installation. The three main objectives of the course are:

1. To acquaint future planners and administrators with the important legal concepts and issues affecting land use planning and development.
2. To provide the tools necessary to work in a land use planning environment that has been heavily legalized. These tools include an understanding of the sources and limitations on regulatory land use planning, an ability to research statutory and case law, and the ability to understand how case law affects long range and current planning implementation.
3. To develop an appreciation of the importance of the fundamental legal powers of governments as they affect land use and the judicial limitations on these powers.

Course Materials.

A list of cases will be posted on Canvas. Students will use Westlaw to locate and read the cases. Supplemental materials may be posted to Canvas and will be announced in class.

Class attendance, preparation, and participation.

This course relies heavily on meaningful student participation. It is imperative that everyone comes to class having read the assigned materials and prepared to discuss those materials. The first week of class will include a discussion on methods of efficiently reading and briefing court opinions/decisions. In addition, we will cover basic legal research tools.

Class attendance, preparation, and participation will count towards 30% of the final grade. This will be assessed based on the number of absences, meaningful contributions in class, and demonstrated preparedness. Everyone will be allowed to miss two classes before absences start to impact this part of your grade. If you will be absent, please email me to let me know in advance or as soon as possible after missing class.

Attending 17 classes will result in full points for Class attendance. Each class is worth 1 point. At the end of the term, I will reflect on each student's participation and contribution to class discussions. I will also reflect on whether students appeared prepared if called on to answer a question in class. I will assign students points for participation, contribution, and preparedness using a 0 to 5 scale.

Example: Student attended 15 classes, appeared to be prepared for class, contributed relevant and thoughtful comments and analysis in class over the term. 15 attendance points; 5 points for participation, contribution, and preparedness = 20/22 = 90.9% (weighted for final grade).

Covid Contingencies.

I will follow the UO COVID policies found at this website: [COVID-19 Safety Resources | University of Oregon \(uoregon.edu\)](https://uoregon.edu/covid-19/safety-resources)

In the event of a campus emergency that disrupts academic activities, course requirements, deadlines, and grading percentages are subject to change. Information about changes in this course will be communicated as soon as possible by email and on Canvas. If we are not able to meet face-to-face, students should immediately log onto Canvas and read any announcements and/or access alternative assignments. Students are also expected to continue coursework as outlined in this syllabus or other instructions on Canvas.

Professionalism.

This is a core course in the PPPM Master’s Program. As such, students are expected to strive to always be professional. Treat each other and the instructor with professional courtesy and respect as you would in a workplace. This means arriving on time so that the instructor does not have to wait to start discussions or repeat what has been discussed. All communications relating to the course and all work turned in should reflect professional standards in tone, presentation, formatting, grammar, and spelling. If concepts are not being presented clearly or the course direction is confusing don’t hesitate to let me know.

Tests.

There will be two take-home exams. One will be a mid-term which may include any material covered up to the date of exam. The other will be a cumulative final exam which may include any material covered during the course. Both exams will include hypothetical factual situations and will ask students to resolve a conflict or issue applying the legal topics covered in class and assigned readings. Each exam will be worth 35% of the overall grade (for a total of 70%).

The mid-term exam will be posted to Canvas by 12:00 p.m. (noon) on Friday, February 3. A paper copy of your responses will be due to me at the beginning of class on Wednesday, February 8.

The final exam will be posted to Canvas by 12:00 p.m. (noon) on Friday, March 17. The exam is due in my email inbox by 8:30 a.m. on Wednesday, March 22.

Please make note of these due dates and plan accordingly. Points will be deducted from exams at a rate of 5 points for every hour past the due date/time. Exceptions will be made for serious illness or emergencies. Please keep me informed if you need to hand in a late exam.

Grading policy.

A+	100		B+	85-89		C+	70-74
A	95-99		B	80-84		C	65-69
A-	90-94		B-	75-79		C-	60-64

D+	55-59		F	<45			
D	50-54		P/NP				
D-	45-49		I				

- A signifies an exceptional level of achievement and superb command of the material. Demonstrates higher level thinking and mastery of subject
- A- signifies a very good level of achievement and understanding of the material with some areas of potential improvement and mastery.
- B+ signifies an average level of achievement with adequate professional proficiency.
- B signifies a slightly below average achievement in relation to professional proficiency; the student has understood the information, but there are gaps in their knowledge and understanding.
- B- signifies that the student has not obtained professional proficiency of the subject material and there is significant room for improvement. While a B- allows the student to pass the class, a student with an overall GPA of a B- is not in good standing.
- C+ or lower signifies unacceptable work for graduate level or professionals. Significant deficiencies in assignment or knowledge.
- D or lower is not a passing grade and student does not earn credit
- P/NP: for a passing grade the student must achieve the equivalent of B- or better
- I signifies that a small, but important part of the course was unfinished. An incomplete is awarded following the policies found at the following website: [Grades - Incompletes \(policy\) | Office of the Provost \(uoregon.edu\)](https://uoregon.edu/office-of-the-provost/incompletes-policy).

Assignments and Course Grades.

The final course grade will be based on the following components:

Class Attendance/Preparedness/Participation: 30%

Midterm Exam 35%

Final Exam 35%

Course Workload.

The expected workload for a graduate level class is approximately 3-4 hours/week per credit hour. Thus, a four-credit course will require approximately 12-16 hours of effort per week. Our class meets for approximately three hours each week, so students should expect to spend an additional 9 -13 hours per week studying for this course.

Writing Lab.

If you struggle with writing, I strongly encourage you to use the services of the Writing Lab: The Writing Lab begins week two of the term and closes at 5:00 pm the Wednesday of finals week. Free tutors are available. Upper-division and graduate student tutors are available on a drop-in basis or by appoint. (You must come to the writing lab to schedule your appointment.) 9:00am – 5:00pm, Monday – Friday, 72 PLC (Prince Lucien Campbell).

Incomplete Policy.

Students are expected to behave in a professional manner and to turn in all materials at the designated time. See link above to UO's incomplete policy which I will follow for this course.

Accessible education statement of support.

The University of Oregon is working to create inclusive learning environments. Please notify me if there are aspects of the instruction or design of this course that result in disability-related barriers to your participation. You are also encouraged to contact the Accessible Education Center in 360 Oregon Hall at 541-346-1155 or uoaec@uoregon.edu.

Academic misconduct.

You are expected at all times to do your own work. Copying content from other students and submitting it as your own work is grounds for failing the class. The University Student Conduct Code (available at conduct.uoregon.edu) defines academic misconduct. Students are prohibited from committing or attempting to commit any act that constitutes academic misconduct. By way of example, students should not give or receive (or attempt to give or receive) unauthorized help on assignments or examinations without express permission from the instructor.

Plagiarism.

Students should properly acknowledge and document all sources of information and use only the sources and resources authorized by the instructor. If there is any question about whether an act constitutes academic misconduct, it is the student's obligation to clarify the question with the instructor before committing or attempting to commit the act. Additional information about a common form of academic misconduct, plagiarism, is available at: www.libweb.uoregon.edu/guides/plagiarism/students

Duty to report.

The UO is committed to providing an environment free of all forms of prohibited discrimination and sexual harassment, including sexual assault, domestic and dating violence and gender-based stalking. I support Title IX and have a duty to report relevant information.

Basic Needs.

Any student who has difficulty affording groceries or accessing sufficient food to eat every day, or who lacks a safe and stable place to live and believe this may affect their performance in the course is urged to contact the Dean of Students Office (346-3216, 164

Oregon Hall) for support. The UO Basic Needs Resource Guide includes resources for food, housing, healthcare, childcare, transportation, technology, finances, and legal support.

Sexual Violence, Harassment and Survivor Support (provided by UO Faculty Senate, used with permission)

The UO is committed to providing an environment free of all forms of discrimination and sexual harassment, including sexual assault, domestic and dating violence and gender-based stalking. If you (or someone you know) has experienced or experiences gender-based violence (intimate partner violence, attempted to completed sexual assault, harassment, coercion, stalking, etc.), know that you are not alone. UO has staff members trained to support survivors in navigating campus life, accessing health and counseling services, providing academic and housing accommodations, helping with legal protective orders, and more. If you wish to speak to someone confidentially, you can call 541-346-SAFE, UO's 24-hour hotline, to be connected to a confidential counselor to discuss your options. You can also visit the SAFE website at safe.uoregon.edu.

There are mandatory reporters on campus, meaning that if they hear about an issue related to sexual violence or harassment, they must report it to the Title IX office. Designated reporters are employees with authority to address prohibited conduct. Designated reporters should submit reports of discrimination, harassment, and retaliation using [OICRC's online reporting form](#). Most faculty are not designated reporters. A list of designated reporters by title can be found on this [webpage](#).

I am an Assisting Employee meaning I am not required to share disclosures of prohibited discrimination with OICRC unless the information conveyed suggests a threat to the health or safety of any person. However, Assisting Employees should explicitly ask the person making the disclosure whether they want assistance with submitting a report to OICRC and are required to provide the person making the disclosure with information about support resources. Office of Investigations and Civil Rights Compliance.

School of PPPM Diversity Statement (provided by the PPPM Equity Initiative).

PPPM strives to promote diversity along all dimensions, including and not limited to, those of race, ethnicity, culture, nationality, gender identity and expression, sexual orientation, socio-economic status, age, ability, religion, veteran status, family status, geographic location, and political beliefs. We are dedicated to fostering an inclusive, respectful, and supportive environment that ensures fair treatment, access, opportunity, and advancement for all students, faculty, and staff; as well as striving to identify and eliminate barriers that have prevented the full participation of historically underrepresented groups.

Trigger Warning Statement.

This course includes some readings that include language and concepts on topics related to race, class, and culture. Many readings in this course are historical and include pronouns, terms, and ideas that some may find offensive and/or traumatizing. The instructor tries to

forewarn students about potentially disturbing subjects and readings and requests that students maintain an atmosphere of mutual respect and sensitivity. This classroom provides an open space for the critical and civil exchange of ideas. If you are concerned about our engagement with a particular topic, issue, or source, please come see me and we can determine an appropriate route forward. If you ever wish to discuss your personal reactions to such material with the class or with me afterwards, I welcome such discussion as an appropriate part of our coursework.

Classroom Behavior.

Maintaining a safe classroom environment where everyone feels comfortable expressing their ideas, beliefs, and values will not only be my responsibility, but the responsibility of each class member as well. Behavior that disregards or diminishes another student will not be permitted for any reason. This means that no racist, ableist, transphobic, xenophobic, chauvinistic, or otherwise derogatory comments will be allowed, but it also means that students must pay attention and listen respectfully to each other's comments.

Outline of topics.

1. Legal Research and How to Brief a Case
2. The Constitution and Land Use Controls: Origins, Limitations, and Federal Remedies
3. Control of Land Use by Zoning
4. Equity Issues in Land Use: Exclusionary and Inclusionary Zoning and Fair Housing
5. The Zoning Process: Euclidean Zoning to Flexible Zoning
6. Subdivision Controls and Planned Unit Developments
7. Modern Land Use Regulation
8. Aesthetics: Design Review, Sign Regulation, and Historic Preservation