

Land Use Planning and Control Syllabus

Fall 2018, Law 6460, Class 17738, 3 credits

Meeting time: 2:00 PM to 2:50 PM

Meeting day: Monday, Tuesday, Wednesday

Meeting room: 359

Instructor: Thomas Hawkins

Instructor contact: hawkins@law.ufl.edu, (352) 377-3141

Office hours

As adjunct faculty, I do not maintain regular office hours at the law school. I am available to discuss the course material after each class period. I would also be happy to schedule a meeting at a time convenient to you. You may also call or text during daytime hours seven days a week at (352) 377-3141.

Required text

The course packet, titled *Land Use Law with a Florida Focus*, is available for purchase in the law school bookstore.

Additional materials will be posted on TWEN throughout the semester.

Course description

A study of the legal aspects of the allocation and development of land resources; private controls through covenants and easements; public regulation and control through zoning and subdivision regulation; social, economic and political implications of land regulations; eminent domain; selected current problems such as growth management, historic preservation, environmental regulations, and urban development.

Course goal

Students will apply land use law from Florida Statutes, Florida courts and federal courts to hypothetical problems to describe the rights of property owners, to describe the rights of other parties affected by uses of land, and to evaluate likely outcomes.

Course objectives

Students will read cases and statutes to become familiar with judicial analyses of land use conflicts.

Students will attend class and engage in class discussions to learn from instructor and peer discussion of assigned cases and statutes.

Students will attend a quasi-judicial hearings and write a description of the hearing and a comparison of their understanding of due process protections in quasi-judicial hearings to actual practice within a Florida local government.

Student learning outcomes

At the conclusion of the course, Land Use Planning and Control students will evaluate hypothetical fact patterns and describe likely resolution of disputes therein by applying legal rules related to the following topics: (1) the basis for state and local powers to regulate land use; (2) constitutional limits on state and local government powers including the restraints imposed by the Takings Clause, the Equal Protections Clause and Substantive Due Process; (3) the impact of Procedural Due Process on the standards of review for growth management decisions; (4) the regulatory framework for growth management established by Florida Statutes; and (5) tools for funding the public and private infrastructure that development requires.

Assessment

Students will earn a course grade based on the following:

1. Preparedness for, and participation in, class discussion (10% of final grade)

2. Attendance at local government quasi-judicial hearing (20% of final grade)

During the semester students will attend a local government quasi-judicial hearing and write a response paper documenting his or her attendance and impressions.

3. Final Exam (70% of final grade)

Course schedule of topics and assignments

This course will address the following topics in the order presented. This order of materials corresponds to the order these topics are addressed in the course packet. Assignment due dates will be announced during the semester. To prepare for each class session, read approximately 30 pages in the course supplement or assigned additional material beyond what has been previously covered in class discussion.

- I. Nuisance
- II. Local government land use powers
- III. Procedural Due Process
 - A. The Fairly Debatable Standard
 - B. The Strict Scrutiny Standard
 - C. Process required in land use hearings
- IV. Florida's Framework for Land Use Decisions
 - A. Statutory mandate for planning
 - B. Comprehensive planning decisions are legislative
 - C. Interpreting comprehensive plans
 - D. Each local government is unique
- V. Particular quasi-judicial decisions
 - A. Exceptions
 - B. Variances
 - C. Spot zoning
- VI. Challenging land use decisions
 - A. Petition for hearing by Division of Administrative Hearings
 - B. Writ of certiorari
 - C. Consistency challenge
 - D. Declaratory judgment
 - E. Additional tools in Florida law
- VII. Protecting property rights
 - A. Fifth Amendment Takings Clause
 - B. Equitable estoppel
 - C. Harris Act
- VIII. Infrastructure finance and Permit Conditions
 - A. Exactions
 - B. Taxes, assessments and fees
 - C. Tax increment financing
 - D. Community Development Districts
 - E. Concurrency
 - F. Development Agreements
 - G. Contract zoning
 - H. Restrictive covenants as development conditions
- IX. Coastal Development
- X. Additional constitutional issues
 - A. Equal protection
 - B. Substantive Due Process

- C. Dormant commerce clause
- D. Establishment Clause

Class preparation and workload

To prepare for each class session, spend approximately two hours studying assigned readings and preparing responses to hypothetical prompts.

Policy related to make-up exams or other work

This course follows the law school policy on delay in taking exams.

Statement related to accommodations for students with disabilities

Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

University Policy on Academic Misconduct

UF students are bound by The Honor Pledge which states, “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.” The Honor Code (<http://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, students are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If students have any questions or concerns, please consult with the instructor in this class.

Information on UF grading policies

This course follows the law school grading policy. Letter grades earn the following points.

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

Online course evaluation process

Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments will be available to students.

Attendance policy

Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>. Additionally, pursuant to ABA guidance, absences from more than 15% of classes will render a student ineligible to receive credit for the course.