COURSE DESCRIPTION AND REQUIREMENTS

This course addresses major aspects of the important, expanding, and controversial field of land use law in the United States. Focusing largely (but not exclusively) on the implementation of land use controls adopted by local governments pursuant to state law, it examines how the American legal system deals with a number of important issues arising out of efforts to control land development activities. Specific topics include, for example, the powers/roles of state and local governments in the land use law field, the processes by which governmental entities make decisions about land development, the standards that govern those decisions, the role of the courts in reviewing land use decisions, exclusionary zoning, and federal constitutional issues raised by land use control efforts -- most importantly the constitutional limits of government action re the rights of individual property owners.

The course is designed for graduate students and upper class undergraduates. Sophomores should talk with Professor Booth before enrolling in this course, and freshmen may not enroll in it. Professor Booth assumes students in this course have not previously taken a law course. The course involves lectures and class discussions, a required weekly discussion section, required readings, several legal research assignments, several written case briefs, a mid-term exam, and a final exam. In addition, students taking this course for graduate credit (i.e., CRP 5590) will also complete a short paper dealing with a significant land use judicial decision.

I. GOALS

Hopefully each student in this course will acquire or expand the following capabilities:

-- to explain important pieces and principles of American land use law;
-- to explain the roles and responsibilities of entities/agencies with land use control responsibilities, the legal powers that these entities/agencies possess, and major legal constraints that surround their decision-making;
-- to explain basic processes and substantive principles that are widely utilized throughout American law (i.e., processes and principles that extend far beyond the realm of land use planning);
-- to explain the roles played by legislators, executives (e.g., mayors), the courts, and administrative decision-makers in the American legal system;
-- to read and interpret legal materials: e.g., court decisions, statutory material, and agency regulations, (and for students taking the course for graduate credit, capacity to read and interpret law review articles);
-- to write clearly and concisely;
-- to summarize, in cogent written form, decisions handed down by the judicial branch; and
--- to find legal materials to be used in research.

NOTE: In terms of the Department of City and Regional Planning’s (CRP) requirements that all CRP courses taught for Master of Regional Planning (MRP) students contribute to the development each MRP student’s Knowledge, Skills and Values, this course makes the following contributions:

**General Planning Knowledge** – develop the student’s understanding of how legal principles fundamentally shape the purpose and meaning of land use planning in the United States; develop the student’s understanding of legal principles that govern the outcomes of many land use planning conflicts; expand the student understanding of how over time the law has contributed to the patterns of human settlements and the development of planning techniques; develop the student’s awareness of how legal institutions are likely to affect planning and the patterns of urban settlements in the future; and develop the student’s understanding of how legal principles lie at the heart of two fundamental conflicts in the land use arena – i.e., tensions between the rights of the individual and the community’s general interest and tensions between the interests of different levels of government (e.g., between a local government’s interests and its respective state government’s interests).

**Planning Skills** – develop the student’s basic legal research skills; improve the student’s ability to read critically; and improve the student’s writing skills.

**Values and Ethics** -- improve the student’s understanding of ethics in the context of public decisions that deal with land use issues; improve the student’s understanding of how government works in the United States and what limits do/should exist around the government’s exercise of power; improve the student’s understanding of the legal obstacles that can face citizens when they attempt to interact with government agencies in dealing with land use planning issues and their understanding of the ways in which citizens may use the law to attempt to overcome those obstacles; develop the student’s awareness of how law supports, and at the same time can undermine, efforts to make our communities more sustainable and to improve environmental quality within them; develop the student’s ability to recognize how the resolution of legal issues plays an immense role in influencing the growth and development of our communities; improve the student’s understanding of how social justice may mean very different things to different parties which find themselves at odds over legal issues involved in government decision-making regarding land use issues; and improve the student’s understanding of what justice may mean for various parties as legal controversies involving citizens and public agencies are resolved.

**Planning Concentrations** – with regard to the concentration in Land Use and Environmental Planning and the concentration in Economic Development, Planning, and Communities and Regions, improve the student’s understanding of legal powers that governmental entities hold/exercise in making land use
decisions and legal constraints that typically limit actions by those agencies; improve the student’s awareness of how legal principles/concerns fundamentally shape planning endeavors, environmental and land use review protocols/practices, and all zoning activity; and expand the student’s awareness of how the law can both promote and hinder efforts to promote environmental quality, sustainability, and community participation.

II. CLASSES

Students are expected to attend classes on Mondays, Wednesdays, and Fridays from 9:05 to 9:55 AM (in West Sibley 208). Classes will involve a combination of lectures and discussions. Students are encouraged to ask questions and participate in class discussions. Attendance will be taken.

NOTE: There will not be a class on each of the following three Fridays because on those days Professor Booth will be attending meetings of the NYS Adirondack Park Agency (on which he serves): February 12, March 11, and April 15. In order to cover the material that would be covered in those classes, Professor Booth will schedule two makeup classes (one at 5:00 PM and one at 8:00 PM) on each of three later Wednesdays during the semester. Students are strongly encouraged to come to one of the two makeup classes scheduled on each of those three Wednesdays.

III. DISCUSSION SECTIONS

Professor Booth will hold three discussion sections each week. Students are required to attend one of them, and attendance will be taken. The purpose of the discussion sections is to provide students with greater opportunities to raise questions and explore further issues addressed throughout the course. The discussion sections will be held as follows:

Mondays – 3:35-4:25 PM (208 West Sibley)
Tuesdays – 9:05-9:55 AM (208 West Sibley) and 2:30-3:20 PM (211 West Sibley)

NOTE: The discussion sections will start in the week of February 1.

IV. REQUIRED TEXTS

A. Callies, Freilich, and Roberts, Cases And Materials On Land Use (West, 6th edition, 2012) (hereafter CALLIES);
B. Nolon and Salkin, Land Use In A Nutshell (Thomson/West, 2006) (hereafter NOLON);
C. A Course Reader which each student will purchase; it will be available in the near future; it is not needed during the first weeks of the course; among other items the reader includes selected portions of Ithaca’s zoning ordinance; and
D. Any other materials Professor Booth hands out during the course.
V. REQUIRED READINGS
A. CALLIES – Students should complete the reading schedule set forth below in item IX.
B. NOLON – Students should read the complete text over the course of the semester. This is a background reading and will not generally be discussed in class.
C. Students should read the Course Reader as readings are assigned by Professor Booth.
D. Students should read any other materials Professor Booth hands out during the course.

NOTE: The Reserve Desk in the Fine Arts Library has the following on Reserve for this course and CRP 4440/5440, NTRES 4440: Carper, et al., Understanding the Law (West Publishing, 6th edition, 2012). Chapters 1, 2, 3, and 5 in Carper are strongly recommended.

VI. WRITING ASSIGNMENTS -- Grades on all written assignments will reflect their substance, clarity, organization, and quality of writing.
A. Each student will complete five 1-page (typed) case briefs that summarize assigned court decisions. A sheet describing these assignments will be handed out early in the semester.
B. Each student taking the course for graduate credit will write a 6-8 page paper dealing with a major judicial decision in the land use law arena. This assignment will be handed out during the second or third week of classes.

VII. LEGAL RESEARCH ASSIGNMENTS
Each student will complete three (typed) legal research assignments designed to allow him/her to develop basic skills in finding legal materials. These assignments will not be graded, but they must be completed and submitted in hard copy form. Students may work in groups on these assignments, but each student is required to locate the applicable materials and prepare (including typing) his or her answers for each assignment. In addition, students are urged to attend one of the two voluntary evening sessions Professor Booth will hold during the week of February 1 to discuss legal materials (THESE LEGAL MATERIALS SESSIONS WILL BE OFFERED ONLY DURING THE WEEK OF FEBRUARY 1).

VIII. EXAMS
There will be a mid-term exam and a final exam. The mid-term exam will be given in the evening outside of class. (Professor Booth will schedule two different evenings on which students may take the mid-term.) The final exam will be given according to the University’s exam schedule.
IX. MAJOR CLASS TOPICS AND READING SCHEDULE

Classes will adhere to the following schedule as closely as possible. All the listed readings are in CALLIES.


Week of February 1 – (A) Introduction II AND (B) Constitutional Aspects of Land Use Regulation I: (A) pp. 32-37 and 39-42. (B) pp. 43-59 and 292-304.

Week of February 8 – Constitutional Aspects of Land Use Regulation II: pp. 304-311, 656 (from B) – 663 (through note 6), and 311-329.

Week of February 15 (no class Monday February 15th and no sections this week) – Constitutional Aspects of Land Use Regulation III: pp. 329-357.


Week of February 29 – Constitutional Aspects of Land Use Regulation V: pp. 533-546, 394-407 (through headnote under E), 411 (from F through last full paragraph on the page), 422 (from G) – 430 (through note 1).

Week of March 7 – (A) Constitutional Aspects of Land Use Regulation VI AND (B) The Basics of Land Use Controls I: (A) pp. 430 (from note 2) - 452 (through first full paragraph on p. 452, including footnote 2) and 457 (from second full paragraph on p. 457) – 459 (through note 2), 461 (from note 5) - 464. (B) pp. 64-77.


Week of March 28 – Spring Break

Week of April 4 – The Basics of Land Use Controls IV: pp. 193-222, 777-785 (to bottom of page), 790-791 (note 1), and 222-225.

Week of April 11 – (A) The Basics of Land Use Controls V AND (B) Exclusionary/Inclusionary Land Use Regulation I: (A) pp. 233-240, 246-247 (notes 6-9), 764-769, 247 (from I) - 249, 255 (from note 3) - 270 (through first full paragraph on 270), 272 (introduction under 2), and 278-281 (through third full paragraph on 281). (B) pp. 572-579.
Week of April 18 – Exclusionary/Inclusionary Land Use Regulation II: pp. 579-610 (through note 5).

Week of April 25 – Exclusionary/Inclusionary Land Use Regulation III: pp. 611 (from note 6) - 620 and 624-643.

Week of May 2 – (A) Exclusionary/Inclusionary Land Use Regulation IV AND (B) Growth Control I: (A) pp. 643-654. (B) pp. 770-777 and 791-807.

Week of May 9 (classes end on Wednesday, May 11) – Growth Control II: pp. 807-818, 830-836 (through note 3), and 852-860.

NOTE: This is an ambitious reading list; it will be modified if necessary. Students should complete assigned readings by the time they are discussed in class; as a general rule, for each class students should read 15-20 text pages beyond where the discussion ended during the previous class. Reading legal materials, particularly judicial decisions, requires considerable effort, and students should develop the habit of going over assigned reading materials a number of times (in particular judicial decisions).

X. GRADES
Course grades will be based on the following approximate percentages.
1) Students taking CRP 4590: Case Briefs – 30%; Mid-term Exam – 25%; Final Exam – 45%.

2) Students taking CRP 5590: Case Briefs – 25%; Paper – 15%; Mid-term Exam – 20%; Final Exam – 40%.

XI. OFFICE HOURS
Professor Booth’s office is in 117 West Sibley (office phone: 255-4025; home phone: 272-6573). Please feel free to call him. He will post his office hours on the door of his office and weekly signup sheets for these office hours. Additional meeting times may be scheduled by calling Professor Booth to do so. All students in the class are strongly encouraged to meet with Professor Booth during his office hours or at such other convenient times as may be arranged.

Professor Booth will answer questions regarding the course schedule and assignment dates by e-mail, by telephone, or in person. Students should not expect Professor Booth will answer questions about course CONTENT, an individual student’s GRADES, or other SUBSTANTIVE ISSUES via e-mail; students need to talk to him directly re those types of questions.

XII. IMPORTANT POLICIES
1) Each student in this course is required to comply with the Cornell University Code of Academic Integrity at all times and under all circumstances. All work submitted by a student in this course for academic credit (including signing an attendance sheet) must be the student's own work.
2) Professor Booth will be available to discuss appropriate academic accommodations that may be required for students with disabilities. Requests for academic accommodations should be made during the first weeks of the semester, (except for unusual circumstances) so arrangements can be made.

3) Courtesy to everyone involved in the class is essential to the success of this course – and is both expected and required at all times. Intentional misbehavior that disrupts a class will be unacceptable at all times.

4) Written assignments will be due at the times specified by Professor Booth. If written assignments are turned in late, those late assignments must be handed in by the end of classes.

5) All written assignments must be submitted to Professor Booth in hard copy form. In special circumstances Professor Booth may make a specific exception to this requirement for a particular student regarding a particular written assignment.

6) Students may use computers to take notes during lectures and/or discussion sections, but they may NOT use them for other purposes in class.

7) Students may NOT use telephones or other forms of electronic communication during lectures or discussion sections.

8) Professor Booth will adhere strictly to University policy regarding the issuance of any “incomplete” grade for the course.

9) The grades of A-, A, and A+ will be assigned only for excellent work, both with regard to individual assignments and overall course grades.

10) Professor Booth reserves the right to reduce a student’s grade on any assignment because it is turned in late and to reduce a student’s course grade for poor class attendance, for poor attendance at the weekly discussion sections, and/or for other appropriate reasons.