Syllabus
Spring 2022

Professor: John Mangin
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Office hours will be by appointment. I’m available by email and phone and always happy to meet on Zoom or in-person by appointment.

Prerequisites: None.

Course Overview

This course is designed to give you a better understanding of the legal and administrative framework used to regulate land use and the relationship of the planner to the law.

We’ll read and discuss legal opinions, statutory and regulatory materials, and secondary sources relating to zoning and land use procedure, takings and regulatory takings, urban renewal and eminent domain, inclusionary housing, historic preservation, and environmental review, among other topics. Although principally concerned with the official legal rules governing land use, this course will also examine the interplay of formal and informal controls that shape land use patterns, as well as the uses and abuses of land use regulation, with particular attention to the ever-present tension between the “progressive” and “exclusionary/discriminatory” strains of zoning history.

By the end of this course students will:

1. Understand the structure of land use regulation and procedure;
2. Identify the basic legal constraints that land use planners operate within;
3. Consult and apply primary legal source materials, such as court cases, statutes, and regulations;
4. Understand the complex interplay between land use law and practice;
5. Be conversant in the most important contemporary challenges in land use regulation.
**Grading and Assignments**

The final grade for the class will be determined as follows:

**30% Attendance and Classroom Participation**

Students are expected to attend and participate in class. Assigned reading should be completed in advance of class.

**20% Hearing Memo**

Due Date: April 7, 2022

Attend a public hearing on a land use matter and draft a 5-page (double-spaced) summary and analysis of the issues presented at a Community Board Land Use, City Planning Commission, or City Council Land Use hearing. We’ll discuss this assignment in class.

**50% Final Exam**

At the end of the last class, you will receive a take-home final examination.

Due Date: May 12, 2022 by midnight (submit through NYU Classes)

**Meeting Time and Place**

Thursdays from 6:45 pm – 8:25 pm
Room 101, 19 West 4th Street, NYC

**Reading Assignments**

All assigned readings can be found on NYU Classes.

**NYU Classes**

All announcements, resources, and assignments will be delivered through the NYU Classes site. I may modify assignments, due dates, and other aspects of the course as we go through the term with advance notice provided as soon as possible through the course website.

**Academic Integrity**

Academic integrity is a vital component of Wagner and NYU. Each student is required to sign and abide by Wagner’s Academic Code. Plagiarism of any form will not be tolerated since you have all signed an Academic Oath and are bound by the academic code of the school. Every student is expected to maintain academic integrity and is expected to report violations to me. If you are unsure about what is expected of you should ask.

**Student Resources**

Wagner tutors are available to help students with their writing skills. Please see details on https://wagner.nyu.edu/portal/students/academics/advisement/writing-center.

The web also has some good resources to help you write better. After you finish writing your paper but before you submit it, you can obtain automated readability statistics here:
https://igm.rit.edu/~jxs/services/TestReadability.html and some additional feedback here: http://writersdiet.com/test.php. Use these services to improve your prose.

**Henry and Lucy Moses Center for Students with Disabilities at NYU**

Academic accommodations are available for students with disabilities. Please visit the Moses Center for Students with Disabilities (CSD) website at www.nyu.edu/csd and click on the Reasonable Accommodations and How to Register tab or call or e-mail CSD at (212-998-4980 or mosescsd@nyu.edu) for information. Students who are requesting academic accommodations are strongly advised to reach out to the Moses Center as early as possible in the semester for assistance.

**NYU’s Calendar Policy on Religious Holidays**

NYU’s Calendar Policy on Religious Holidays states that members of any religious group may, without penalty, miss class when required in compliance with their religious obligations. Any student absent from class because of his/her religious beliefs shall not be penalized for anything missed. Please let me know if you need any accommodations.

**Learning Assessment Table**

<table>
<thead>
<tr>
<th>Graded Assignment</th>
<th>Course Objective Covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation</td>
<td>All</td>
</tr>
<tr>
<td>Hearing Assignment</td>
<td>All</td>
</tr>
<tr>
<td>Final Assignment</td>
<td>All</td>
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</tbody>
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**Grading Scale and Rubric**

Students will receive grades according to the following scale:

- There is no A+
- A = 4.0 points
- A- = 3.7 points
- B+ = 3.3 points
- B = 3.0 points
- B- = 2.7 points
- C+ = 2.3 points
- C = 2.0 points
- C- = 1.7 points
- There are no D+/D/D-
- F (fail) = 0.0 points

*Student grades will be assigned according to the following criteria:*

(A) Excellent: Exceptional work for a graduate student. Work at this level is unusually thorough, well-reasoned, creative, methodologically sophisticated, and well written. Work is of exceptional, professional quality.

(3)
(A-) Very good: Very strong work for a graduate student. Work at this level shows signs of creativity, is thorough and well-reasoned, indicates strong understanding of appropriate methodological or analytical approaches, and meets professional standards.

(B+) Good: Sound work for a graduate student; well-reasoned and thorough, methodologically sound. This is the graduate student grade that indicates the student has fully accomplished the basic objectives of the course.

(B) Adequate: Competent work for a graduate student even though some weaknesses are evident. Demonstrates competency in the key course objectives but shows some indication that understanding of some important issues is less than complete. Methodological or analytical approaches used are adequate but student has not been thorough or has shown other weaknesses or limitations.

(B-) Borderline: Weak work for a graduate student; meets the minimal expectations for a graduate student in the course. Understanding of salient issues is somewhat incomplete. Methodological or analytical work performed in the course is minimally adequate. Overall performance, if consistent in graduate courses, would not suffice to sustain graduate status in “good standing.”

(C/-/+ Deficient: Inadequate work for a graduate student; does not meet the minimal expectations for a graduate student in the course. Work is inadequately developed or flawed by numerous errors and misunderstanding of important issues. Methodological or analytical work performed is weak and fails to demonstrate knowledge or technical competence expected of graduate students.

(F) Fail: Work fails to meet even minimal expectations for course credit for a graduate student. Performance has been consistently weak in methodology and understanding, with serious limits in many areas. Weaknesses or limits are pervasive.

Course Overview

Module One: Sources and Limits of the Power to Regulate Land Use

January 27: Introduction to Course/Standard State Zoning Enabling Act
February 3: Pre-Zoning Land Use Regulation
February 10: Zoning and Race
February 17: Traditional Euclidean Zoning
February 24: Basic Limits: Due Process, Spot Zoning, and the Comprehensive Plan
March 3: Takings and Eminent Domain
March 10: Regulatory Takings
March 24: Exactions

**Module Two: Policy and Practice of Contemporary Land Use Regulation**

March 31: Land Use Procedure and Land Use Outcomes
April 7: Zoning Tools (Hearing assignment due)
April 14: Environmental Review
April 21: Aesthetic Regulation and Historic Preservation
April 28: Exclusionary Zoning
May 5: Inclusionary Zoning and Review
May 12: Final Due by midnight
Readings

1. **INTRODUCTION TO THE COURSE (1/27/22)**

   In the first class, I’ll introduce the course and outline expectations and objectives. To inform my teaching throughout the semester, I’ll want to hear a bit about your general career directions.

   I’d also like to get to substance in the first class. For that, the *Standard State Zoning Enabling Act* (SZEA) will do double duty. The SZEA is not only an ur-text for the contemporary zoning practice that forms the core of this course, but also serves as an excellent lens into fundamental concepts of the U.S. legal system, such as:

   - Sources of law
   - Separation of powers
   - Hierarchy of courts
   - Basic structure of local government law

   Please be prepared with a question or comment that emerges from your reading of the SZEA. The point is to gather your impressions and interests before we plunge into the semester’s material. No question or comment is too basic.

2. **PRE-ZONING LAND USE REGULATION (2/3/22)**

   Readings
   
   
   B. *Pennsylvania Coal v. Mahon* 260 U.S. 393 (1922)

3. **ZONING AND RACE (2/10/22)**

   Readings
   
   A. Richard Rothstein, *The Color of Law* (Chapter 3)
   
   B. Kenneth Jackson, *The Crabgrass Frontier* (Chapter 11)

4. **TRADITIONAL EUCLIDEAN ZONING (2/17/22)**

   Readings
   
   
   B. *Vill. of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926)
   
   C. *Nectow v. City of Cambridge*, 277 U.S. 183 (1928)

5. **BASIC LIMITS: DUE PROCESS, SPOT ZONING, AND THE COMPREHENSIVE PLAN (2/24/22)**

   Readings
6. CONSTITUTIONAL LIMITS: TAKINGS AND EMINENT DOMAIN (3/3/22)

Readings

7. CONSTITUTIONAL LIMITS: REGULATORY TAKINGS (3/10/22)

Readings

8. CONSTITUTIONAL LIMITS: EXACTIONS (3/24/22)

Readings
A. Vicki Been, Community Benefits Agreements: A New Local Government Tool or Another Variation on the Exactions Theme? 77 U. Chi. L. Rev. 5 (2010)

9. LAND USE PROCEDURE AND LAND USE OUTCOMES (3/31/22)

Readings

10. ZONING TOOLS (4/7/22)

Readings
A. TBD
B. Greater East Midtown (In-class presentation)

11. ENVIRONMENTAL REVIEW (4/14/22)

Readings
B. Chinese Staff & Workers Ass’n v. City of New York, 68 N.Y.2d 359 (1986)

12. **AESTHETIC ZONING AND HISTORIC PRESERVATION (4/21/22)**

Readings


13. **EXCLUSIONARY ZONING (4/28/22)**

Readings


14. **TBD + REVIEW (5/5/22)**

Readings

A. TBD
B. TBD

**TAKE-HOME FINAL EXAMINATION**

Distributed May 5, 2022
Due Midnight May 12, 2022