

**LAND USE CONTROL L608  
PLANNING LAW PDD 609**

**SPRING 2006 COURSE SYLLABUS**

Meeting Times: Tuesday, 6-9:50 PM  
Classroom: Law/LB205  
Office: Urban Affairs/UB 238B  
Office Hours: By Appointment  
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**COURSE DESCRIPTION**

This course covers land use planning law in the United States, primarily at the state, regional, and municipal levels. It is intended to introduce students to the legislation, administrative systems, and judicial decisions that affect the uses, planning and development of land. This will be done through case law and lectures.

**REQUIRED TEXT**

Daniel Mandelker, John Payne, Peter Salsich, and Nancy Stroud, Planning and Control of Land Development: Cases and Materials (6<sup>th</sup> Edition, 2005: Lexis Nexis)

Supplementary cases: [www.law.csuohio.edu/faculty/keating/online\\_courses/index.html](http://www.law.csuohio.edu/faculty/keating/online_courses/index.html)

Supplementary handout materials will be provided by the Instructor

**RECOMMENDED SUPPLEMENTARY TEXTS**

Barlow Burke, Understanding the Law of Zoning and Land Use Controls (Lexis, Nexus, 2002)

Meck & Pearlman, Ohio Planning and Zoning Law (2005: Thomson West)

Wright & Gitelman, Land Use in a Nutshell (4<sup>th</sup> Ed.2000: West)

**ASSIGNMENTS**

There will a midterm examination (worth 25% of the final grade) on March 7, a final examination (worth 25% of the final grade) on May 9, and a research paper on a course-related topic (worth 50% of the final grade). Proposed research topics must be approved by the instructor no later than March 28. MUPDD student research papers are due by May 5. Law student research papers are due by May 19. Those law students using this paper for the UDWR need to meet the paper-length requirements with permission of the instructor.

## **ATTENDANCE & CLASS PARTICIPATION**

Attendance is expected at all classes. Consult the CSU Graduate College catalogue and the CSU Cleveland-Marshall catalogue for the relevant CSU policies and regulations. Please inform the instructor in advance if you expect to miss a class. Class participation is expected.

## **GRADES**

See the weight given to the three assignments.

## **SCHEDULE OF CLASSES AND ASSIGNMENTS**

### **JANUARY**

17 Introduction to Law and Legal Systems (MUPDD students only)

Reading: Handouts

24

Introduction to Planning and Land Use Controls

Reading: MPS&S: Ch. 1, 1-39

REF: Comprehensive Plan and Zoning – MPS&S: Ch.5(G)

Nuisance Law

Reading: MPS&S: Ch. 2, 47-68; Ch. 3, 71 (Hadecek v. Sebastian)

31 Zoning and Early U.S. Supreme Court Decisions

Reading: MPS&S: Ch. 2, 78-93, Ch. 3, 209-214, 266-268

### **FEBRUARY**

7 Takings

Reading: MPS&S: Ch. 2, 68-77, 93-127

REF: Lingle v. Chevron, 73 U.S.L.W. 4343 (2005), reversing Agins

14 Takings: Compensation

Reading: MPS&S: Ch. 2, 127-175

MPS&S: 106-107, n. 5, 203, n.2, 385, n. 3 (Palazzolo)

Supp: State ex. Rel. Shemo v. City of Mayfield Heights,

95 Ohio St. 3d 59 and Ohio St. 3d 379 (2002)

REF: Pacific Legal Foundation [www.pacificlegal.org](http://www.pacificlegal.org)

21 Takings: Eminent Domain

Reading: Supp: Kelo v. City of New London, 125 U.S. 2655 (2005)

Supp: City of Norwood v. Horney (Argued, Ohio Supreme Court – Jan. 11, 2006)

REFS: Poletown Neighborhood Council v. City of Detroit, 304 N.W. 2d 455 (1981),  
Rvd., County of Wayne v. Hathcock, 684 N.W. 2d 765 (2004)

Institute for Justice [www.ij.org](http://www.ij.org)

Substantive Due Process/Equal Protection

Reading: MPS&S: Ch. 2, 175-195

Barriers to Judicial Relief: Ripeness and Abstention

Reading: MPS&S: Ch. 2, 195-208

28 Zoning and Judicial Review of Zoning

Reading: MPS&S: Ch. 3, 214-266

Recurring Issues in Zoning (Density and Intensity of Use)

Reading: MPS&S: Ch. 3, 269-285

Supp: Jaylin Investments v. Village of Moreland Hills, 107 Ohio 3d 339  
(decided Jan. 11, 2006)(large lot zoning)

MARCH

7 Recurring Issues in Zoning

Reading: MPS&S: Ch. 3, 286-354

Midterm Exam

14 CSU Spring Break: No Class

21 Zoning Process

Reading: MPS&S: Ch. 5, 477-597

28 Zoning Process, Subdivision Controls

Reading: MPS&S: Ch. 6, 623-652

PUDs and Planned Communities

Reading: MPS&S: Ch. 6, 706-727

Land Use and the First Amendment: Adult Businesses and Religious Uses

Reading: MPS&S

: Ch.3, 355-378

## APRIL

### 4 Exclusionary Zoning/Fair Housing

Reading: MPS&S: Ch. 4, 411-438, 445-475

#### Ballot Box Zoning

Reading: MPS&S: Ch. 5, 597-622

REF: Buckeye Community Hope Foundation v. City of Cuyahoga Falls, 538 U.S. 188 (2003)

### 11 Dedications, Exactions, and Impact Fees

Reading: MPS&S: Ch. 6, 652-706

Supp: Home Builders Assoc. v. City of Beavercreek, 89 Ohio St. 3d 121 (2000)

Housing Appeals Boards and Inclusionary Zoning MPS&S: Ch. 4, 438-444

REF: Massachusetts Anti-Snob Zoning Act - Citizens' Housing and Planning Association: [www.chapa.org/40b\\_fact.html](http://www.chapa.org/40b_fact.html)

### 18 Environmental Land Use Regulation

Reading: Ch. 3, 379-410

REFS: Palazzolo (wetlands), First English (floodplain), Lucas (coastal erosion)

#### Growth Management

Reading: MPS&S: Ch. 1, 39-46, Ch. 7, 729-745

REF: Tahoe-Sierra Preservation Council, Ch. 2, 158-167

### 25 Growth Management (continued)

Reading: MPS&S: Ch. 7, 745-854

Supp: Schenk v. City of Hudson, 114 F. 3d 590 (6<sup>th</sup> Cir. 1997)

REFS: APA, Growing Smart Legislative Handbook (2002)

American Planning Association (APA) [www.planning.org](http://www.planning.org)

Stuart Meck, "Present at the Creation: A Personal Account

of the APA Growing Smart Project", Land Use & Zoning Digest (March 2002)

Michael Lewyn, "Twenty-First Century Planning and the Constitution",

74 U. Colo. L. Rev. 651 (2003)

Carl Abbott, Deborah Howe, Sy Adler, Eds., Planning the Oregon Way:

A Twenty-Year Evaluation (Oregon State University Press, 1994)

Cleveland: [www.ecocitycleveland.org](http://www.ecocitycleveland.org)

Ohio: [www.greaterohio.org](http://www.greaterohio.org)

U.S: Smart Growth Network [www.smartgrowth.org](http://www.smartgrowth.org)

MAY

2 Aesthetics

Reading: MPS&S: Ch. 8, 855-935

REF: Penn Central (historic preservation)

9 Final Exam