

# Introduction to Law for Planners

*DCRP PLAN 724 (3 credits)*

Spring 2024

## SYLLABUS

Version 1 – 12.18.2023

### INSTRUCTOR

LeAnn Nease Brown

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Office Hours: Generally 10:00 to 5:30, Mondays to Fridays (call or email for appointment, no drop-in appointments)

### TEACHING ASSISTANT

Joanne Chen

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**CLASS MEETINGS:** Mondays and Wednesdays, 12:45-2:00, January 10 – April 29

Genome Sciences Building, G010

**COURSE WEBSITE:** The course will use UNC CANVAS, listed as PLAN724.001.SP24.

**COURSE COVERAGE:** This course introduces the legal authority for land use regulations, zoning ordinances and other development regulations. Legal requirements for adopting, amending and repealing ordinances for making quasi-judicial land use decisions are explored. Because state-enabling authority and caselaw establish and inform the rules of local land use, this course focuses on North Carolina law. Particular attention will be given to statutory and constitutional authority for and limitations on land use regulations. We will explore zoning tools such as conditional zoning and special use permitting and limitations such as contract and spot zoning. Subdivision regulations, historic district, and environmental regulations are reviewed. The focus of the course will be local land use regulation, but state and federal programs are also addressed. The course is designed to provide a foundation of relevant legal precepts for those involved in zoning, planning and land use activities.

**COURSE LEARNING OUTCOMES:** This course is designed to assist students in achieving the following learning outcomes. Students will be able to

- Explain the conceptual and legal framework underlying traditional and modern land use planning techniques including zoning, subdivision regulation, development agreements, and specialized strategies for dealing with aesthetic, historic preservation, environmental, and growth management issues, with an eye to both national and North Carolina trends
- Explain key constitutional principles (including due process, equal protection, regulatory takings, and the First Amendment) pertinent to land use regulation
- Engage in effective problem solving to address common land use problems through use of relevant cases, statutes, ordinances, and other documents and strategies.

- Communicate effectively in plain English about relevant legal precepts regarding land use issues to government officials, colleagues, supervisors and the public

**COURSE REQUIREMENTS:** This course is designed to provide students with hands-on experience that should allow them to feel better prepared to research, write, and speak on topics involving land use law. To that end, the course requirements are as follows:

- |       |               |   |
|-------|---------------|---|
| • 10% | Participation | Attendance, quizzes, and contributions                      |
| • 20% | Memo 1        | Ordinance Review (not to exceed 1000 words); due 01/29/24   |
| • 20% | Memo 2        | Hearing Comparison (not to exceed 1000 words); due 03/25/24 |
| • 30% | Memo 3        | Problems (not to exceed 1000 words); due 04/10/24           |
| • 20% | Memo 4        | Final Memo (not to exceed 1000 words); due 04/24/24         |

**ATTENDANCE POLICY:** Regular and punctual class attendance is required by accrediting authorities and is part of each student's required work in classes. Students are expected to attend all classes, except in cases of emergency or prior approval from the instructor. In no event shall a student miss more than twenty percent of classes. For purposes of this class, "attendance" in class means that students have read the required material and are prepared to engage in discussion. Failure to satisfy this minimum requirement may lead to a decision by the instructor to drop the student from the course or impose a lower grade. In addition, students who miss class or fail to participate (even if meeting the minimum threshold) may fail to gain available points for class participation. Please email the instructor in advance if you plan to be absent.

**COURSE RESOURCES/MATERIALS:**

*Required Texts:*

All required readings will be available through the course site on Canvas. The primary reading text will be David Owens' *Land Use Law in North Carolina* (4<sup>th</sup> edition, 2023). The 3<sup>rd</sup> edition in a pdf version will be on the Canvas site. Chapter and page references are to the 3<sup>rd</sup> edition. The text from the 4<sup>th</sup> edition will be posted as it becomes available. Required cases, statutes, and additional readings will be posted there.

*Optional Resources*

Recommended Resources focusing on North Carolina (available at Knapp Sanders Library at the UNC School of Government)

- David Owens and Adam Lovelady, *Quasi-Judicial Handbook: A Guide for Boards Making Development Regulation Decisions* (2017) (copy on reserve)
- Adam Lovelady, *Land Subdivision Regulation in North Carolina* (2015) (copy on reserve)
- UNC School of Government Planning and Land Use Development Resource Page: <https://www.sog.unc.edu/resources/microsites/planning-and-development-regulation> (includes summaries of key issues, reports of surveys of NC practices, litigation and legislative summaries, and links to NC and national planning sites)

Treatises: single volume, hard copy

- Mandelker, *Land Use Law*
- Jurgensmeyer & Roberts, *Land Use Planning and Development Regulation Law*

Treatises: multi-volume

- Rathkopf, *Law of Zoning and Planning*
- Salkin, *American Law of Zoning*
- Williams, *American Law Planning Law*

Blogs

- Coates Canons (UNC School of Government): <http://canons.sog.unc.edu/>
- Law of the Land (Dean Patricia Salkin, Touro Law School): <http://lawoftheland.wordpress.com/>
- NC Legal Landscapes (Tom Terrell): <http://nclegallandscapes.wordpress.com/>
- Womble Carlyle, North Carolina Land Use Litigator: <http://nclanduse.blogspot.com/>

Specialized Journals

- *The Urban Lawyer*

Other Websites

- American Planning Association: [www.planning.org](http://www.planning.org)
- Lincoln Institute of Land Policy: <http://www.lincolninst.edu/>
- Planetizen: <http://www.planetizen.com/>
- SmartGrowth: <http://www.smartgrowth.org/>

**HONOR CODE OBLIGATIONS:** The University of North Carolina at Chapel Hill has had a student-led honor system for over 100 years. Academic integrity is at the heart of Carolina and we all are responsible for upholding the ideals of honor and integrity. The student-led Honor System is responsible for adjudicating any suspected violations of the Honor Code and all suspected instances of academic dishonesty will be reported to the honor system. Information, including your responsibilities as a student is outlined in the Instrument of Student Judicial Governance. Your full participation and observance of the Honor Code is expected.

The Honor Code is in effect in this class and all others at the University. Honor Code violations are taken seriously. I encourage all students to become familiar with its terms set out at <http://instrument.unc.edu>. If you have questions, it is your responsibility to ask me about the Code's application. All written work and other projects must be submitted with a statement that you have complied with the requirements of the Honor Code in all aspects of the submitted work.

**ACCOMMODATIONS:** The University of North Carolina at Chapel Hill facilitates the implementation of reasonable accommodations, including resources and services, for students with disabilities, chronic medical conditions, a temporary disability or pregnancy complications resulting in difficulties with accessing learning opportunities. All accommodations are coordinated through the Accessibility Resources and Service Office. See the ARS Website for contact information: <https://ars.unc.edu> or email [ars@unc.edu](mailto:ars@unc.edu). Relevant policy documents as they relation to registration and accommodations determinations and the student registration form are available on the [ARS website under the About ARS tab](#).

**READING ASSIGNMENTS.** Below is a table outlining the topics and reading assignments for each class. I will update this calendar as the semester progresses. All readings will be on Canvas or linked from this table. "LUL" refers to David Owens' *Land Use Law in North Carolina*. "CC" refers to the Coates' Canons

Local Government Law Blog. "GS" refers to the General Statutes of North Carolina (copy GS Chapter 160D provided on Canvas). Readings noted in (parenthesis) are for extra context, but a secondary priority for class preparation.

<b>Framework and Perspectives</b>		
1/10	1. Development Regulations Overview (basic regs, types of decisions)	CC: <a href="#">Types of Decisions</a> Ordinance Excerpt LUL: Ch. 2 & 6
1/17	2. Legal Documents, Research, and Property Basics	How to Read a Legal Citation Legal Research in a Nutshell, Ch. 1 (Szypszak, Real Estate and NC Law (excerpt))
1/22	3. Governance and Jurisdiction (federal, state, local; preemption; annexation; ETJ)  <i>Memo 1 Assigned</i>	LUL: Ch 4 & 5
1/24	4. Land Subdivision Authority and Site Plan Review	GS 160D-801 to -808 LUL Ch 7
1/29	5. Individual and Community  <i>Memo 1 Due</i>	<i>Euclid</i> , 272 US 365 <i>Aydlett</i> , 201 NC 602 LUL: Ch 3
1/31	6. Race and Zoning  <i>Memo 2 Assigned (Public Meetings)</i>	Rothstein, Color of Law, Ch. 3 <i>Clinard v. City of Winston-Salem</i> , 217 N.C. 119 (1940) <i>Village of Arlington Heights</i> , 97 U.S. 555 (1977)
2/5	7. Participation and Politics (growth machine, homevoter)	Been, et al, Are Homevoters Overtaking? Zoning Disagreements Pit Nhbhds against Developers
<b>Types of Decisions</b>		
2/7	8. Plans and Planning	CC: <a href="#">Comprehensive Plans</a> G.S. 160D-501 to -503 Lewyn, (Somewhat) False Hope of Comp Planning
2/14	9. Administrative Decision-Making	LUL: pages 377-388 of Chapter 21 GS: 160D-401 to -405 <i>County of Lancaster</i> , 334 NC 496
2/19	10. Quasi-Judicial Decision-Making (Variances)	<i>Humble Oil</i> , 284 NC 458 LUL: pages 231-259 of Chapter 15; pages 283-295 of Chapter 17 GS: 160D-406 & -705

2/21	11. Legislative Decision-Making (Rezoning)	LUL Ch 11 GS 160D-601 to -605 <i>Heaton</i> , 277 NC 506 (CC: <a href="#">Procedures for Legislative Development Decisions</a> , <a href="#">Considerations for Leg Decisions</a> , <a href="#">Illegitimate Considerations</a> )
2/26	12. Discretionary Approval (Conditional Zoning & SUPs)	LUL pages 215-218 of Chapter 13, pages 265-269 of Chapter 16, pages 321-332 of Chapter 19 Example Approvals and Questions (CC: <a href="#">Conditional Zoning</a> )
2/28	13. Form-Based Codes	Blue Hill Form District Ch 4 in A Legal Guide to Urban and Sust Dev
	<b><u>Land Use Administration</u></b>	
3/4	14. Inspections and Enforcement	LUL: pages 388-401 of Chapter 21 Zoning Practice: Enforcing the Zoning Code
3/18	15. Interpreting the Ordinance and Appeals of Staff Decisions	CC: <a href="#">Interpreting the Zoning Ordinance</a> GS 160D-405 Interpretation Problems
3/20	16. Permit Choice and Vested Rights	CC: <a href="#">Permit Choice</a> LUL: Ch 19 Discussion Problems
3/25	17. Nonconforming Situations and Changes to Approvals  <i>Memo 2 Due (Public Meetings)</i>	LUL: Ch 20 Discussion Problems CC: <a href="#">Major Amendments</a> and <a href="#">Minor Modification</a>
	<b><u>Protections and Limitations</u></b>	
3/27	18. Spot Zoning	LUL: Ch. 12 <i>Chrismon</i> , 322 NC 611
4/01	19. Constitutional Limits	LUL: pages 569-588 of Chapter 28 CC: <a href="https://canons.sog.unc.edu/sign-litigation-a-brief-analysis-of-reed-v-town-of-gilbert/">https://canons.sog.unc.edu/sign-litigation-a-brief-analysis-of-reed-v-town-of-gilbert/</a>
4/03	20. Statutory Limits  <i>Memo 3 Assigned</i>	LUL: pages 415-424 of Chapter 22

4/8	21. Eminent Domain and Takings	LUL: Ch 24 <i>Finch</i> , 325 NC 352
4/10	22. Exactions  <i>Memo 3 Due</i>	GS: 160D-804 <i>Lanvale</i> , 366 N.C. 142 (birthdays July-December) <i>Dolan</i> (birthdays January-June)
	<b><u>Change and Reform</u></b>	
4/15	23. Missing Middle Housing	--Zoning Practice: Housing Reform Through State Legislation and Local Zoning --Durham Staff Memo on Expanding Housing Choice --Portillo, Single-Family Zoning Is Still the Crux . . .
4/17	24. Sprawl and Growth Management  <i>Memo 4 Assigned</i>	LUL: Ch 9 Barnett & Blaesser, <i>Reinventing</i> , Ch 1
4/22	25. Participation and Engagement	--Einstein et al, <i>Nbhd Defenders</i> --Holder, <i>Raleigh Wants to Raze</i> . . .
4/24	26. Environmental Law  <i>Memo 4 Due</i>	LUL Ch 10
4/29	27. Resilience and Local Land Use Historic Preservation  <i>Last Day of Class</i>	--NCORR, <i>Resilience Quick Guide</i> --Garvin, <i>Putting Sust Zoning Into Practice</i>  <i>ASP 298 N.C. 207</i> LUL: pages 436-441 of Chapter 22 Discussion Problem

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