

MUNICIPAL LAW

Western University Department of Political Science

Local Government Program

Fall Term 2012

COURSE DESCRIPTION: MUNICIPAL LAW PA 9911

Instructor(s) Ken Strong, Tara Oudekerk and Jennifer Smout

Course Times

Course Times For PA 9911, 2012		
Term	Day	Time
Fall	September 14	3:00 – 7:00
Fall	September 15	9:00 – 5:00
Fall	October 26	3:00 – 7:00
Fall	October 27	9:00 – 5:00
Fall	November 23	3:00 – 7:00
Fall	November 24	9:00 – 5:00

Important Dates

Assignment	Date	Time
Take Home Exercise	November 24	5:00
Paper	TBA	

Instruction

Seminar Discussions and Lectures

Assessment

50% Paper
20% Participation
30% Take Home Exercise

Materials

Reading materials prepared by instructor, *Municipal Act* and *Planning Act*.

The reading material will be e-mailed to you in WORD format. If you are unable to receive them in this manner, kindly let us know.

The core legislation which we will be referencing is:

- i. *Municipal Act*, 2001. S.O. 2001, c. 25, available on e-laws: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_01m25_e.htm
- ii. *Planning Act*, R.S.O. 1990, c. P13, as amended, available on e-laws: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90p13_e.htm

The parts of the Act you should be familiar with will be referenced in the materials and in class lectures and discussions.

We will also be referencing other legislation, policies and plans throughout the course.

Description

The functions, obligations and responsibilities of municipalities have increased substantially over the last few decades. At the same time, the provincial government has undertaken a host of legislative initiatives, including a complete overhaul of the *Municipal Act*, designed to reform the roles of municipalities in Ontario. With change comes opportunity. The course surveys the field of municipal law, the changes and opportunities, and focuses particularly on legal issues that tend to arise for municipal officers, administrators and employees.

Contact Information

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SCHEDULE OF TOPICS, SUBJECT TO MODIFICATION

Date	Topic(s)
September 14th	Introduction Legal Research Introduction to Law in Canada Introduction to Municipal Law
September 15th	Introduction to Municipal Law Cont.... Municipal Practices and Procedures
October 26th	Manifestation of Municipal Decisions Challenging (or Defending) Municipal Decisions Methods of Enforcing Municipal Decisions
October 27th	Introduction to Land Use Planning Law in Ontario
November 23rd	Special Topics in Municipal Law
November 24th	Special Topics in Land Use Planning Law Common Issues in Municipal Law

For the 50% Paper component, prepare a paper on a municipal law topic. It can be on a municipal or land use theme of your choice.

For the 20% Participation component, students are expected to participate in class and demonstrate a good understanding of the course materials through their involvement with in class exercises, group work and informal presentations.

For the 30% Take Home Exercise component, students will receive the assignment on the first day of class and will be required to hand in the written assignment on the last day of class. Each student will be required to write a short paper on one of the questions included in the take home assignment.

MUNICIPAL LAW

SYLLABUS FALL 2012

INTRODUCTION

PART I: INTRODUCTION TO LAW IN CANADA

- A.** Structure of the Law
 - 1. Common Law
 - 2. Legislation
 - 3. Constitutional-Division of Powers
 - 4. Court system, Administrative Tribunals

- B.** Overview of Areas of Law
 - 1. Contracts
 - 2. Torts
 - 3. Property
 - 4. Administrative Law
 - 5. Criminal Law

PART II: INTRODUCTION TO MUNICIPAL LAW

- A.** Powers of a Municipality – Constitutional and Statutory Framework for Municipal Corporations
 - 1. General Scope of Municipal Power
 - 2. Municipal Legislation in Ontario
 - 3. Purpose of Municipalities

4. Municipalities as Bodies Corporate
 5. Municipal Corporate Powers to be Exercised by Council
- B. General Municipal Powers**
1. Broad Grants of Power
 2. Scope of Power
 3. Natural Person Power
 4. Broad Authority and Spheres of Jurisdiction
 5. Restrictions on Municipal Powers
 6. Delegation
- C. Specific Municipal Powers – *Municipal Act*, 2011, Part III**
1. Overview
 2. Highways
 3. Transportation
 4. Waste Management
 5. Public Utilities
 6. Culture, Parks, Recreation and Heritage
 7. Drainage and Flood Control
 8. Structures, Including Fences and Signs
 9. Parking, Except on Highways
 10. Animals
 11. Economic Development
 12. Health, Safety and Nuisance
 13. Closing of Retail Business Establishments

14. Natural Environment

PART III: PROCEDURES, DECISIONS AND ENFORCEMENT

A. Municipal Practises and Procedures: – *Municipal Act, 2011* Part VI

1. Who is Eligible to be on Council?
2. Roles of Council, the Mayor, Officers and Staff
3. Meetings and Hearings
4. Accountability and Transparency
 - i. Meetings and Hearings
 - ii. Roles, Practises and Procedures of Officers

B. Manifestation of Municipal Decisions

1. By-laws
 - Components of a By-law
 - Technique for Passing a By-law
 - Effect of a By-law
 - Drafting the By-law
 - Proving the Existence of a By-law (in Court)
2. Resolutions
3. Informal Decisions

C. Challenging (or Defending) Municipal Decisions

1. Broad and Purposive Construction and Deference to Municipalities
2. Procedure on Challenges
 - Application to Quash
 - Judicial Review
 - Application under Rules of Civil Procedure
 - Civil Action
 - Defending a Prosecution or Injunction

3. Merits

- (a) Interpretation
 - (1) Invasion of Federal Field
 - (2) Pre-emption of Occupied Field
 - (3) Conflict or Double Aspect
- (b) The *Charter*
 - (1) Section 1: Rights and Freedoms and Reasonable Limits
 - (2) Section 2: Fundamental Freedoms
 - (3) Section 7: Legal Rights: Life, liberty, and security of the person
 - (4) Section 11: Proceedings in criminal and penal matters
 - (5) Section 15: Equality rights
- (c) Statute
 - (1) Repeal of Enabling Legislation
 - (2) Unauthorized sub-delegation
 - (3) Fettering discretion
 - (4) Territorial limitation
 - (5) Conflict with/evasion of provincial legislation/policy
- (d) Public Policy
 - (1) Discrimination
 - (2) Uncertainty
 - (3) Bad Faith
 - (4) Interference with Existing Rights

D. Methods of Enforcing Municipal Decisions

- 1. Prosecution as Provincial Offences
- 2. Statutory Injunction
- 3. Statutory Order to Comply or to Stop
- 4. Remedy by Municipality

PART IV: INTRODUCTION TO LAND USE PLANNING LAW IN ONTARIO

- A.** Introduction to Planning Concepts and Principles
- B.** Provincial Planning Policy and Legislation (Provincial Policy Statement)
- C.** Regional and Local Official Plans

- D. Zoning By-laws
- E. Minor Variances
- F. Subdivision Control – Consents/Severances
- G. Site Plan Control
- H. Legal Non-Conforming Uses
- I. Enforcement

PART V: SPECIAL TOPICS IN MUNICIPAL LAW

- A. Municipal Finance
- B. Licensing
- C. Municipal Freedom of Information and Protection of *Privacy Act*
- D. Local Board, Commissions, Municipal Service Corporations

PART VI: SPECIAL TOPICS IN LAND USE PLANNING LAW

- A. Expropriation
- B. Community Improvement Plans
- C. Heritage Conservation

PART VII: COMMON ISSUES IN MUNICIPAL LAW

- A. Conflicts of *Interest Act*
- B. Dealing with Internal and External Legal Counsel
- C. Solicitor Client Privilege