

# MUNICIPAL LAW

Western University Department of Political Science Local Government Program

Course Outline for Fall Term 2015

**Instructor(s):**

Ken Strong and Tara Oudekerk  
Suite 1214, 130 Dufferin Avenue London, ON N6A 5R2  
T (519) 672-3535 F (519) 672-3565  
E-mail: strong@municipallawyers.ca and oudekerk@municipallawyers.ca

**Office Hours:** Before and After Class and By Appointment

**Course Times:** Friday 3 – 7 p.m., Saturdays 9 a.m. – 5 p.m.

**Course Dates:** September 18 and 19, October 30 and 31, November 27 and 28

All classes will be held in room 4255 SSC (Social Science Centre)

**Course Objectives:**

Legal considerations play an important role in many aspects of municipal government in the Province of Ontario. The focus of this course is on legal issues that tend to arise for municipal officers, administrators and employees in Ontario. This course is not designed to make you into a lawyer. It introduces legal concepts that arise often for administrators and gives you the tools you need to recognize legal problems and work through them with the municipal solicitor(s).

The educational aims of this course are:

<u><i>Course Outcomes</i></u>	<u><i>Description</i></u>
<i>Knowledge and Understanding</i>	Introductory level knowledge of legal principles that students are likely to encounter as municipal administrators
	Sufficient knowledge to allow students to form a mature understanding of the role of municipal law in local government.
<i>Intellectual Skills</i>	Increased ability to parse a problem into its constituent sub-problems.
	Enhanced ability to create defensible arguments on local government policy recommendations and decisions using core public law principles, and correspondingly to critique the arguments of others.
<i>Practical Skills</i>	Ability to read and digest legal material.
	Ability to discuss and write about legal issues, together with their practical and policy implications.
<i>Transferrable Skills</i>	Introduction to the IRAC model (Issue, Rule, Analysis and Conclusion) as a means to assist problem solving.
	Introduction to the principles of statutory interpretation.
	Ability to master, organize, and use novel and complex information.
	Ability to communicate orally and in writing.

### *Expectations for Class*

Self-study of the course material is expected to be completed before class, and forms the core of the knowledge building experience. We cannot emphasize strongly enough that students need to complete the assigned readings prior to each class so they are prepared to contribute to class discussions and group work.

Understanding is enhanced through class lectures, discussions, exercises and group work. The course is designed to invite discussion and thought not only of municipal law principles but also their economic, social, and real world effects. Students are asked to differentiate between issues and tackle them one at a time. Class exercises and discussions are conducive to developing arguments and gaining support or opposition from their peers. Students are expected to develop

the ability to discuss and write about the legislation, cases and secondary materials they are exposed to in this course.

The use of electronic aids such as laptops, cell phones and tablets will not be necessary for this course. We discourage any use of these devices during class time for anything other than reference to legislation, class materials and note taking.

### **Course Materials:**

No text books are required for this course. The reading materials are posted on OWL. If you are unable to receive them in this manner, kindly let one of the instructors know and they can be emailed to you in WORD format. The core legislation we will be referencing is the *Municipal Act, 2001* and the *Planning Act*. These are available online at: <http://www.ontario.ca/laws>. We will also be referencing other legislation, policies and plans throughout the course and provide references in the materials posted on OWL to assist students with finding these resources when required.

### **Course Requirements and Evaluation**

#### *General Assessment*

In general terms, the use and display of critical, analytical, and synthetic skills in class discussions, class exercises, class participation, and assignments are the hallmarks of successful students, and are rewarded accordingly in student evaluation.

The components of student evaluations are summarized in the following chart:

<b>Component</b>	<b>Value</b>	<b>Due Date</b>
Class Participation	20%	Throughout
Assignment 1: IRAC Exercise	30%	November 9, 2015 at 5:00 p.m.
Assignment 2: Report on a Legal Problem or Paper	50%	December 15, 2015 at 5:00 p.m.

All Assignments shall be double spaced, in sentences and paragraph format (no point form) and in at least 11 point font, submitted by email at or before the due date and time to [oudekerk@municipallawyers.ca](mailto:oudekerk@municipallawyers.ca) and [strong@municipallawyers.ca](mailto:strong@municipallawyers.ca).

Assignments submitted after the due date without prior approval from the instructors will be subject to a late penalty of 2% per day, weekends included. In general, the late penalty may be waived only due to medical or family emergencies.

No plagiarism or unoriginal work will be tolerated.

These components are more thoroughly described below.

### **Class Participation (20%)**

Quality of student comments is more important than quantity. We will be looking for students to demonstrate their knowledge of the reading materials and lecture materials during class, as well as their ability to synthesize and critically discuss these materials. We encourage an interactive environment and provide opportunities for participation through class discussion, group work and informal question periods. We encourage a positive, inclusive, and supportive learning environment. We discourage negative comments and attitudes. We expect all students to participate in group and class discussions. We will be taking attendance and your attendance will have a significant impact on your participation mark.

### **Assignment One - IRAC (Issue, Rule, Analysis and Conclusion) Exercise—Due November 9 at 5 p.m. (30%)**

IRAC stands for Issue, Rule, Analysis, and Conclusion. This is a problem solving method used in legal decision making. On October 31, students will be given 5 short fact scenarios and are expected to identify the legal issue and rule in each scenario and briefly analyze how those apply to the fact scenario and state what they think the outcome will be. This assignment involves applying the knowledge gained from the Week 1 and 2 Readings and class lectures. Prior to receiving the assignment, students will have the opportunity to do the same exercise in class and will have all of the tools and knowledge required to complete this assignment.

Submissions should not exceed 5 typed, double-spaced, 11 font pages (1 page per fact scenario).

This assignment is designed to introduce students to the IRAC method of problem solving and decision making so that they can respond to legal problems in an organized and thoughtful manner and work productively with legal counsel to resolve matters.

### **Assignment Two - Due December 15 at 5 p.m. (50%)**

**Option #1 - Report on a Legal Problem** – On October 1, students will be given a fictional fact scenario and a memo prepared by the municipal solicitor. The assignment is to prepare a detailed staff report setting out the municipality's options and your recommendations for what steps the

municipality should take to resolve the problems created by the situation described in the fact scenario.

Submissions should not exceed 12 typed, double-spaced, 11 font pages.

This assignment is designed to examine the student's familiarity with the assigned material, create defensible arguments on local government policy decisions using core legal principles, and improve the student's ability to synthesize, analyze, and discuss problems and solutions.

### **Option #2**

Students must write a paper on one of 5 topics that will be provided by the instructors on October 1<sup>st</sup>.

Papers should not exceed 12 typed, double-spaced, 11 font pages.

All sources used for your paper should be properly acknowledged in footnotes or citations. Proper citation of sources will avoid plagiarism.

Guidelines for citing sources may be found at the following link: <http://www.lib.uwo.ca/services/styleguides.html>

You should conduct research that is necessary to support your positions and conclusions. You are encouraged to display critical and analytical skills in relation to local government legal issues, and to communicate independent conclusions in a clear and concise manner.

Each of the paper topics encourages a consideration of underlying legal and societal principles and objectives, the current legal framework that exists, and importantly, a critical analysis of the legal framework against the underlying legal and society principles and objectives. Independent thought and mature consideration of local government and local government laws is required. Your analysis may consider things like whether the results achieved are correct or incorrect, an identification of any deficiencies and any recommended amendments, changes or a different approach to resolving the issue. A good paper will contain a critical analysis and independent thought beyond what has been expressed by others on the topic.

Students opting to write the paper are encouraged to do their research early and to complete an outline for review by an instructor no later than November 13.

### Schedule of Topics and Readings

<b>Date</b>	<b>Topic</b>	<b>Required Reading</b>
18 September 2015	Introductions	Course Outline
	Introduction to Law <ul style="list-style-type: none"> <li>• Structure of the Law</li> <li>• Overview of Areas of Law</li> <li>• Relationship between administrators, Councils, and solicitors</li> </ul>	Materials Pages 2-10
	Rule of Law Principles <ul style="list-style-type: none"> <li>• Introduction to the Rule of Law</li> <li>• Rule of Law in the Context of Local Government</li> </ul>	Materials, Pages 11 and 12 <u>Skim</u> (for these purposes) Materials Pages 13-150
19 September 2015	Structure and Types of Powers of Municipal Governments <ul style="list-style-type: none"> <li>• Constitutional Position of Municipalities and Implications</li> <li>• Municipalities as Bodies Corporate</li> <li>• Exercise of Powers</li> <li>• Municipal Organization, Delegation, and Roles</li> </ul>	Materials, Pages 13-26, 42-48, 68-73
	Municipal Powers <ul style="list-style-type: none"> <li>• General Municipal Powers</li> <li>• Specific Municipal Powers</li> </ul>	Materials, Pages 26-42, 48-68
30 October 2015	Council Meetings <ul style="list-style-type: none"> <li>• Meetings</li> <li>• Accountability and Transparency</li> <li>• Conflict of Interest</li> </ul>	Materials, Pages 73-97, 151-158
	Law Making, Regulation, and Enforcement <ul style="list-style-type: none"> <li>• Manifestation of Municipal Decisions</li> </ul>	Materials, Pages 98-150
31 October 2015	Law Making, Regulation, and Enforcement (continued) <ul style="list-style-type: none"> <li>• Challenging (or Defending Municipal Decisions)</li> <li>• Enforcing Municipal Decisions</li> </ul>	Materials, Pages 98-150

	Expropriations	None (Guest Lecture)
	Introduction to Land Use Planning <ul style="list-style-type: none"> <li>• History of planning</li> <li>• Purpose of planning</li> <li>• Planning tools</li> </ul>	The Municipal Councillor's Guide 2015, pages 77-106  <a href="http://www.mah.gov.on.ca/AssetFactory.aspx?did=4965">http://www.mah.gov.on.ca/AssetFactory.aspx?did=4965</a>
27 November 2015	Land Use Planning <ul style="list-style-type: none"> <li>• Heritage</li> <li>• Applications and Appeals</li> <li>• Case Study</li> </ul>	
28 November 2015	Economic Development <ul style="list-style-type: none"> <li>• Tools</li> <li>• Obstructions</li> <li>• Community Improvement Plans</li> </ul>	Materials, Pages 64-65 Community Improvement Planning Handbook 2008 <a href="http://www.mah.gov.on.ca/AssetFactory.aspx?did=6408">http://www.mah.gov.on.ca/AssetFactory.aspx?did=6408</a>
	Special Topics in Municipal Law	
	Current Events	