

# Local Government Law

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## **Overview:**

Much of our daily interaction with law and government is with *local* law and *local* government. Local governments are tasked with providing public goods as central as public schools and police; they pass laws and issue regulations governing everything from how loud parties can be to what one can eat; and, by setting property taxes levels, engaging in zoning and providing valuable services, they have an enormous impact on the value of what is for most families their largest asset, their home. Local government law is also extremely important to legal practice. Lawyers with practices in areas as different as real estate law, criminal defense, tax, litigation, civil rights, water law and environmental law frequently have to interact with local governmental entities – e.g. zoning boards, local police, town assessors, specialized local authorities – and with the rules governing what local governments can and cannot do

Most law school classes, however, ignore local governments and local laws. This class will change that focus, examining both the law governing the structural role of local governments in the American system of governance and the actual content of local laws and policy. A special focus will be put on the regulation of politics at the local level, looking at how the rules governing local elections affect the results of those elections.

The course will use cutting edge research in economics and political science about cities, but will use those theoretical and empirical studies to address the nuts and bolts of local government law. As such, it should be interesting to anyone from hard-boiled former city managers to students who merely want to know why property is so expensive where they live or why local elections are so uncompetitive. This is an exciting class with provocative and fascinating examples but it is also one that will prepare you for much real world law practice.

## **Details:**

**Readings:** We will use the Briffault & Reynolds, State and Local Government Law casebook. A packet with supplemental readings will also be available at the copy center.

**Office Hours:** Rather than holding formal office hours,

**Grading:** The final exam is 100% of your grade subject to a one third class participation adjustment at my discretion.

## **Syllabus:**

This is my general plan for the semester. It is not, however, set in stone, and may change over the course of the semester.

### **I. Introduction: Local Governments, Local Economies and Local Politics**

Class 1: Introduction: Three Views of the City

Briffault & Reynolds (henceforth B&R): pgs. 8-46

Reader: Ed Glaeser, *Are Cities Dying?* (excerpt)

### **II. Local Governments and the Constitution**

Class 2: What is a Local Government?

B&R: 68-106

Class 3: Democracy, the City, and Governmental Forms

B&R: 109-122, 147-173, 176-181

### **III. Local Government Formation & Boundary Change**

Class 4: The Significance of Local Boundaries and Municipal Incorporation

B&R: 174-75, 183-210

Class 5: Annexation and Boundary Change

B&R: 210-258, 266-69

Class 6: Boundary Change and Voting, Special District and a review

B&R: 252-75

We will review the first two sections during this class. Although there will be time to ask questions in class, please email questions to me before class if you want to make sure they get answered.

### **IV. State-Local Relations**

Class 7: State Power and Its Limits

B&R: 278-295, 306-14

Class 8: Dillon's Rule:

B&R: 314-331

Class 8: Home Rule and Home Rule as a Sword

B&R: 331-370

Class 9: Home Rule as a Shield and Preemption  
B&R: 370-388, 406-22 (We will probably only get started on pre-emption in this class)

Class 10: Preemption continued and a review of City-State Relations  
B&R: 406-422, 429-40, 442-449.

## V. Interlocal Relations and Metropolitan Area Problems

Classes 11 and 12: Regionalism and Zoning: The Road to and From Mt. Laurel  
B&R: 138-143 (through note 1), 450-86, 609-623  
*City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986)  
William Fischel, *The Economics of Zoning* (excerpt)  
Ed Glaeser and Joseph Gyourko, *Zoning's Steep Price*

Class 13: Regionalism and School Finance  
B&R: 486-524

Class 14: Interlocal Conflict and Cooperation: The Provision of Services  
B&R: 531-43, 546-60  
Reader: Clayton Gillette, *The Conditions of Interlocal Cooperation* (excerpt)

Class 15: Regional Governance  
B&R: 524-31, 560-69, 578-599

## VI. Local Government and Democracy:

Class 16: Small Governments and Tiebout: The Homevoter Hypothesis  
Reader: WILLIAM A. FISCHEL; *THE HOMEVOTER HYPOTHESIS* (excerpt)  
Reader: Richard Schragger, *Consuming Government* (review of Homevoter Hypothesis) (excerpt)

Class 17: Elections  
B&R: 394-406,  
Reader: David Schleicher, *Why Is There No Partisan Competition in City Council Elections? The Role of Election Law* (excerpt)  
Reader: *Harrisburg School District v. Zogby*, 828 A.2d 1079 (Pa. 2003).  
Natalie Gomez-Velez, *Public School Governance and Democracy: Does Public Participation Matter?*, 53 Vill. L. Rev. 297 (2008) (part)  
News stories on evolution cases and local school board elections  
Laurie Goodstein, *The 2005 Elections: School Board; Evolution Slate Outpolls Rivals*, N.Y. Times, Nov. 9, 2005, at A24;  
Pam Belluck, *Board Decision on Evolution Roils an Election in Kansas*, N.Y. Times, July 29, 2000, at A1;  
John W. Fountain, *Kansas Puts Evolution Back Into Public Schools*, N.Y. Times, Feb. 14, 2001, at A18

## **VII. Local Taxes, Spending and Regulation**

### Class 18: Public Purpose Requirements and Review

B&R: 624-48

Part of this class will be spent reviewing the last two units. I will take questions, but if you have questions you want to make sure get answered, please email them to me in advance

### Class 19: Property Taxes

B&R: 648-686

### Class 20: Assessments, Fees and Charges

B&R: 703-34

### Classes 21 and 22: Blight, Taking and Local Finance

B&R: 761-85, 829-836

Kelo v. City of New London

Didden v. City of Port Chester

Part of the second class will be spent reviewing the last units. I will take questions, but if you have questions you want to make sure get answered, please email them to me in advance

### Class 23: Local Debt I:

B&R: 789-819

### Class 24: Local Debt II

B&R: 819- 828, 836-844

### Class 25: Duty to Provide Services

B&R: 878-900

### Class 26: Inequality in Service Provision

B&R: 900-924

### Class 27: Civil Service

B&R: 924-30, 955-63, 966-990

### Class 28: Local Policing and a review

B&R: 1009-1025