

Municipal Law II

Description of the course

Municipal Law II expands on some of the topics introduced in Municipal Law I and will enhance your understanding of legal concepts, systems and practices associated with local authority administration.

Learning Objectives

- Outline the processes by which land use controls are imposed
- Describe the basic forms of land use control
- Provide examples of land use control
- Describe legal limitations on the use of the land use regulation powers
- Confirm the protections for the public that are built into the system
- Distinguish among zoning, subdivision controls, and other controls
- Identify ways to make zoning flexible
- Be familiar with other ways to regulate the use of land
- Identify and describe the sources of Canadian access and privacy laws
- Describe and distinguish between the two major models of access/privacy legislation in Canada
- Describe what is required to comply with the Fair Information Principles
- Describe and differentiate the concepts of privacy, information privacy, confidentiality and access
- Explain how to process a request for access
- Outline the operation of mandatory and discretionary exceptions to access and the concept of severing documents
- Describe how to process a breach of privacy complaint
- Explain how municipalities can minimize access requests and privacy complaints
- Distinguish between a contractor and an employee
- Describe considerations and obligations that municipalities may have under the agreement on internal trade, that go beyond the common law practices of tendering
- Describe several types of land agreements that municipalities may enter into with another party
- Define the purpose of several types of contract clauses
- Apply contract principles to critically review municipal agreements
- Apply best legal writing practices when drafting contracts
- Describe the limits placed on expenditures, liabilities (including borrowing) and making investments
- Highlight municipal penalties and processes for contravention

- Describe the purpose of expanding service fees
- Outline the requirements of legislation in relation to imposing and collecting development cost charges
- Describe the limited authorization of the use of gifts as a source of revenue
- Explain the importance of a financial planning and budgeting process
- Explain ways to measure or audit public accountability
- Compare today's municipal legislation to that of earlier centuries and discuss why change is needed to today's municipal legislation
- Recognize the primary revenue generators for municipalities and explain why these generators are not financially sufficient today
- Describe how government offloading negatively affects municipalities
- Describe the concept of local self-government and identify any efforts made by your municipality to have local self-government realized in the constitution
- Explain the options available to provincial legislatures for granting powers to local governments
- Identify and describe major municipal milestones in the areas of local government consultation, amendments, joint decision making, provincial compliance with municipal regulations, and delegation of adequate powers

Course Outline

Module 1 On average, one-third to one-half of all lawsuits against municipalities that are heard by the courts involve issues of land use and control. The municipal impact on land use is thus significant to any consideration of municipal law.

While we will refer to municipalities throughout this module, it must be remembered that several types of local authorities have the power to regulate land use directly—conservation authorities and special-purpose planning bodies among them—and all have a direct impact through their own use of land.

Module 2 Beginning in the early 1980s, federal, provincial and territorial governments in Canada adopted legislation that addressed access to information and the protection of privacy. As a direct consequence of this legislation, Canadians now enjoy a set of *information rights*. Those rights include:

- access to information that is in the custody or control of governmental bodies; and
- limitations on what personal information those government bodies can collect, use or disclose.

At the federal level, two separate statutes were created: the *Access to Information Act* and the *Privacy Act*. Separate positions of commissioner were created to provide oversight of those respective laws.

Subsequent legislation in provinces and territories, with a couple of exceptions, integrated both privacy and access in a single statute and vested oversight responsibility in a single officer, usually called the *Information and Privacy Commissioner*. A small number of oversight officers, who meet frequently both formally and informally to discuss common problems and solutions, provide oversight of these different laws.

Module 3 *Contracts* are legally enforceable agreements between two or more parties. At the heart of a contract are mutual promises made by each party, defining the rights and obligations of each party to the other. Contracts may be written or oral.

This module will review contract basics and describe specific types of contracts into which municipalities commonly enter. The module will also introduce and examine common contractual provisions.

Module 4 Municipal taxation jurisdiction and authority, and municipal financing powers and procedures come from the creators of the municipalities, the provincial and territorial governments. Under section 92(8) of the *Constitution Act, 1867* (formerly the *British North America Act*), a province may delegate its powers to municipal institutions. The courts have held that provincial governments may create and empower municipalities to provide local services, works and facilities that fall under provincial jurisdiction. The provinces and territories have given municipalities taxing and financing powers in order to pay operating and capital costs, and otherwise provide municipal governance. Although municipalities are not recognized in Canadian constitutional documents as an order of government, they are regarded as government by their taxpayers. Municipal finance and taxation are subject to applicable provincial or territorial legislation and decisions of the courts.

Module 5 This module addresses the diversity and creativity of provincial and territorial legislation across Canada, which governs the cities, towns, districts and villages in which over 80 per cent of the Canadian population lives.

Required Readings

Module 2

Report of the Access to Information Review Task Force. (2002, June 12). Starting with the Basics: Access Principles and the Right of Access. *Access to Information: Making it Work for Canadians* (p 17-20). Ottawa: Public Works and Government Services. Retrieved from <http://www.atirtf-geai.gc.ca/accessReport-e.pdf>

Ontario Office of the Information and Privacy Commissioner. (2003, June 11). Key Issues. *Annual Report* (p 5-12). Toronto: Office of the Information and Privacy Commissioner. Retrieved from http://www.ipc.on.ca/images/Resources/up-ar_02e.pdf

Alberta Office of the Information and Privacy Commissioner. (1996, May 29). Summary. *Order 96-014*. Edmonton: Office of the Information and Privacy Commissioner (Adjudicator: Justice R.M. Cairns).

Ontario Office of the Information and Privacy Commissioner. (1996, July 31). *Order M-813*. Toronto: Office of the Information and Privacy Commissioner. Retrieved from http://www.ipc.on.ca/images/Findings/Attached_PDF/M-813.pdf

Provincial Government of Alberta, Access and Privacy Branch. (2002, August 14). *Commissioner's Orders and Investigation Reports: Application by the Town of Ponoka to disregard an access request under section 55 of the FOIP Act*. Edmonton: Access and Privacy Branch,

British Columbia Office of the Information and Privacy Commissioner. (1999, April 15). *Order 303-1999*. Victoria: Office of the Information and Privacy Commissioner. Retrieved from <http://www.oipc.bc.ca/orders/1999/Order303.html>

Nova Scotia Office of the Review Officer, Darce Fardy (Review Officer).(2003, September 11). *Report F1-03-47 (M)*. Halifax: Office of the Review Officer.

Ontario Office of the Information and Privacy Commissioner. (1993, October 26). *Investigation Order I93-008M*. Toronto: Ontario Office of the Information and Privacy Commissioner. Retrieved from http://www.ipc.on.ca/images/Findings/Attached_PDF/I93-031M.pdf

Module 4

Fenn, M. (2002). The Changing Role of the Municipal Sector. *Canadian Tax Journal*, 50(1), 147-155.

Burleton, D. (2002). *Executive Summary: A Choice Between Investing in Canada's Cities or Disinvesting in Canada's Future, (Special Report, TD Bank Financial Group)*. Toronto, ON: TD Economics.

Federation of Canadian Municipalities. (2001). Executive Summary. *Early Warning: Will Canadian Cities Compete?* (p i – v). Ottawa: Federation of Canadian Municipalities.

City of Winnipeg. "Model Framework for a City Charter." Winnipeg: Federation of Canadian Municipalities' Big City Mayors' Caucus, May 30, 2002.
http://www.canadascities.ca/pdf/model_framework.pdf

Module 5

City of Winnipeg. (2002, May 30). *Model Framework for a City Charter*. Winnipeg: Federation of Canadian Municipalities 'Big City Mayors' Caucus.

Federation of Canadian Municipalities. (2002). *Communities in an Urban Century: Symposium Report* (p 3-12). Toronto: Federation of Canadian Municipalities.

Graded Assignments

Discussion Boards:

Grade Value: 8%

Students are required to participate in all 5 online discussions. Each online discussion will consist of an initial posting on the discussion topic and response postings (comments) either in response to a classmate's posting or as an augmentation of your initial posting. Students will have approximately one week to meet the requirements of each discussion board. Focused online discussions allow students to express their understanding of information that is covered in each of the modules, to discuss that information with classmates and their instructor, and to integrate the results of those discussions into their own learning.

Essay 1:

Grade Value: 25%

Requirements: 1000-1500 words, double spaced, 12 pt. font

Final Assignment:

Grade Value: 35%

The final assignment is cumulative. Students are given one week to complete the assignment.

Evaluation Criteria

Essays

Essays in all courses are evaluated according to the following criteria:

Thesis (Grade Weight = 20%)

Excellent (A: 86–100)	Good (B: 72–85)	Satisfactory (C: 60–71)	Poor (D–F: 0–59)
<ul style="list-style-type: none">• Thesis is clearly stated, creative, original and insightful• Presents a Point of View (POV) based on a critical analysis of factual evidence and relevant theory	<ul style="list-style-type: none">• Thesis is clearly stated and insightful• Presents a POV based on an assessment of factual evidence and may refer to relevant theory	<ul style="list-style-type: none">• Thesis is lacking in clarity and precision• Presents a POV based on a limited assessment of factual evidence and on common knowledge, generalizations and some theory	<ul style="list-style-type: none">• Thesis is poorly stated, ambiguous or absent• Fails to present a POV or presents a POV that is not based on analysis of factual evidence relevant theory or any other viable form of support

Background and Course Content (Grade Weight = 20%)

Excellent (A: 86–100)	Good (B: 72–85)	Satisfactory (C: 60–71)	Poor (D–F: 0–59)
<ul style="list-style-type: none">• Elaboration of the thesis is concise, focused explicitly situated (relevant to the community of learners and practitioners), contextualized (related to real life scenarios for practitioners) and draws on the student's personal experiences	<ul style="list-style-type: none">• Elaboration of the thesis is clear and somewhat situated and contextualized• The essay contains some background information that is not central to the thesis so the focus on the thesis sometimes waivers	<ul style="list-style-type: none">• Elaboration of the thesis is somewhat clear, but too much time is given to contextualizing and situating the thesis• The extra emphasis on the background and context tends to draw the focus of the essay away from the central thesis	<ul style="list-style-type: none">• The thesis is neither situated nor contextualized in terms of practical professional experiences and/or situations• Focus on the thesis is poor or absent

Research, Supporting Data and Analysis (Grade Weight = 25%)

Excellent (A: 86–100)	Good (B: 72–85)	Satisfactory (C: 60–71)	Poor (D–F: 0–59)
<ul style="list-style-type: none"> • Demonstrates a clear grasp of the complexity of the issues arising from the thesis • Refers to a full range of relevant current resources (course materials, external sources), and contemporary research findings • Uses relevant data, analyses and conclusions to conduct a thoroughly and objective examination of the validity of the thesis • Includes a critical analysis of the sources used 	<ul style="list-style-type: none"> • Demonstrates an understanding of the central issues arising from the thesis • Refers to current sources, including contemporary research findings • Draws on related analyses and conclusions that support the thesis • Uses a somewhat uncritical analysis of this information to examine the validity of the thesis 	<ul style="list-style-type: none"> • Demonstrates an appreciation for some of the issues arising from the thesis • Refers to current sources, research, opinions, and observations that support the thesis • The resources, evidence, and analyses used are somewhat limited in scope • Information is used in an uncritical way to examine the validity of the thesis 	<ul style="list-style-type: none"> • Fails to indicate an appreciation or understanding of issues that arise from the thesis • Makes limited or no reference to current sources, contemporary research or other forms of factual evidence, opinions or analyses to support the thesis • Does not use the information that is presented to assess the validity of the thesis

Conclusions (Grade Weight = 15%)

Excellent (A: 86–100)	Good (B: 72–85)	Satisfactory (C: 60–71)	Poor (D–F: 0–59)
<ul style="list-style-type: none"> • Conclusions are clear, creative and insightful • Contain a clear, cogent reiteration of and support for the central points of the thesis • Thorough careful analysis confirms the superiority of this POV over other POVs. • The conclusions are based on arguments that are developed throughout the essay and offer a convincing defense of thesis and a compelling, insightful closure 	<ul style="list-style-type: none"> • Conclusions are clear and valid • Contain a cogent reiteration of the central points of the thesis • A careful analysis tends to support the superiority of this POV over a competing POV • The conclusions support the main hypothesis of the essay and provide a convincing sense of closure 	<ul style="list-style-type: none"> • Conclusions are offered but in a disorganized way • The central points of the thesis are reiterated • Analysis supports the thesis but little consideration is given to other POVs. • The thesis defense is somewhat successful but there is only a limited sense of closure 	<ul style="list-style-type: none"> • Conclusions are vague or absent • There is little or no reiteration of the central points of the thesis • Analysis is weak and offers limited support for the thesis and does not consider alternative POVs • Fails to defend the thesis adequately and provides no sense of closure

Writing Style and Essay Structure (Grade Weight = 10%)

Excellent (A: 86–100)	Good (B: 72–85)	Satisfactory (C: 60–71)	Poor (D–F: 0–59)
<ul style="list-style-type: none"> • Essay is very well organized • Central ideas are presented very clearly, cogently and effectively • Thesis is insightful and creative and functions as a unifying factor throughout the paper • There is a critical analysis and integration of ideas throughout the paper 	<ul style="list-style-type: none"> • Essay is well organized • Central ideas are presented clearly, and effectively • Thesis is sound and imaginative and is referred back to frequently throughout the paper • Paper is analytical and relationships between ideas are clearly developed 	<ul style="list-style-type: none"> • Some parts of the essay are less well organized • Central ideas are fairly clear, but could be presented more effectively and consistently • Thesis is generally sound but utilized inconsistently as a unifying factor in the paper • Paper presents some analysis and integration of ideas 	<ul style="list-style-type: none"> • Essay lacks organization • Central ideas are unclear and poorly presented • Thesis is unclear and lacking in insight, creativity and soundness • Paper is neither analytical nor integrative

Grammar and Mechanics (Grade Weight = 10%)

Excellent (A: 86–100)	Good (B: 72–85)	Satisfactory (C: 60–71)	Poor (D–F: 0–59)
<ul style="list-style-type: none"> • All sources are cited accurately • Minimal spelling, punctuation, and grammatical errors • Essay submitted on time (or delayed, with instructor permission) 	<ul style="list-style-type: none"> • Most sources are cited correctly • A few spelling, punctuation, and grammatical errors • Essay submitted late (marks deducted at instructor's discretion) 	<ul style="list-style-type: none"> • Some sources are cited incorrectly or inappropriately • Some spelling, punctuation, and grammatical errors • Essay submitted late (marks deducted at instructors discretion) 	<ul style="list-style-type: none"> • Sources not cited or cited incorrectly or inappropriately • Excessive spelling, punctuation, and grammatical errors • Essay submitted very late

Thesis	(Grade Weight = 20%)
Background and Course Content	(Grade Weight = 20%)
Research, Supporting Data and Analysis	(Grade Weight = 25%)
Conclusions	(Grade Weight = 15%)
Writing Style and Essay Structure	(Grade Weight = 10%)
Grammar and Mechanics	(Grade Weight = 10%)

Discussion Boards

Discussion Postings (includes initial and response postings) in all courses are evaluated according to the following criteria:

1. Demonstrates an understanding of a course concept. This applies to your initial and response posts, and includes the following elements:

- a. Are your posts relevant to the assigned topic and question?

- b. Do your posts demonstrate accurate understanding of course material?
- c. Does the subject field convey the essence of your post (in less than 10 words)?

Important Note for Quality Posts: While your posts will often draw on past experiences and informed opinions, the most successful posts will support personal opinions with reference to the course material.

2. Advances the discussion by adding new knowledge. This applies to your response posts, in which you should try to broaden the perspective presented in another post by building on their ideas or pushing those ideas in a new direction. Some possible ways to do this are:

- a. Apply references to course material/theoretical concepts.
- b. Provide a comparable example from your own work experience thereby extending the original idea, but with a new 'twist'.
- c. Provide a counter-example based on personal experiences that refute or weaken the position taken by the initial author (e.g. I hear you say this..., but my experience suggests this...)
- d. Apply a related concept from the course that the initial post did not refer to.
- e. Apply a related example from current events or some other resource.

Basic Requirements for Course Assignments

File Types: assignments must be submitted on the Course Site in MS Word .doc, .docx, or in .rft format. (These file types can be opened in Brightspace and receive comments; other formats such as .wpd cannot).

All assignments should be in 12 Times New Roman (TNR) font, double-spaced with a 1" margin on each side. Each assignment should be approximately 10 pages in length.

Each page should include the student's name and page numbers in the header or footer.

Each assignment should have a cover sheet as part of the document that has the following: course name, student's full name, instructor's name and essay title (ie. Essay Assignment #1).

Software and Technology Requirements

This course will use Brightspace learning management system for class communications, content distribution, and assessments.

Log on to: **dal.brightspace.com**

To access the course:

Username: Your College of Continuing Education username cXXXX.cce

Initial Password: Your College of Continuing Education password (it is recommended that you change this password and keep it in a safe place as we are unable to reset it at the College).

For this course, you will need a reliable and frequent access to a computer and to the Internet. You might also need a headset with a microphone or speakers and a microphone to be able to listen to online resources and conduct other activities in the course (not needed in all courses).

Brightspace supports the most common operating systems:

PC: Windows 8, Windows 7, Windows Vista

Mac: Mac OS X Mavericks

Note: computers using Windows XP, Windows 8 RT and OS X 10.6 or lower are no longer supported. Also please ensure that you have the most recent Adobe program downloaded to be able to access certain types of files on Brightspace.

Technology issues are not an excuse for missing a course requirement – make sure your computer is configured correctly and address issues well in advance of deadlines.

Help Desk Information

For technology or computer issues, you should contact the Help Desk at Dalhousie University.

Phone: 902-494-2376

Toll-free: 1-800-869-3931

Email: helpdesk@dal.ca

Operating Hours

Fall & Winter Hours

08:00am - 12:00am Monday - Friday

10:00am - 12:00am Saturday - Sunday

Summer Hours (May – Aug)

08:00am - 09:00pm Monday - Friday

08:00am - 06:00pm Friday

10:00am - 06:00pm Saturday – Sunday

You will find tutorials online under ‘Student Supports’ that will familiarize you with various aspects of Brightspace.

For issues related to course content and requirements, please contact your instructor.

Student Instructor Interaction

Instructors are committed to providing a learning experience through thoughtful planning, implementation and assessment of course activities. They are committed to being readily available to students throughout the course by:

1. Replying to emails within 24-48 hours.
2. Returning graded course work with feedback within 7-10 days of each assignment due date.

Brightspace and Privacy

While connected to Dalhousie University’s Learning Management System (Brightspace), students may be tracked for their use of the features and tools. For the life of the online course/program, all administrators and instructors with access to the course can request full or partial reports of tracked data for any student(s). Instructors may use tracked information to help determine grades—specifically date stamps on discussion postings and assignment file uploads are used to determine if activities were completed by a specific deadline, and to calculate late penalties if applicable.

Aggregate class and data is used by administrators to study usability, access, and pedagogical issues in the online learning environment.

Brightspace tracks each student’s use of all course tools and features, including:

- Entry time into each tool and feature
- Exit time from each tool and feature

- Time spent in each tool and feature per session
- Time spent in each tool and feature during the entire course
- Total time in Brightspace
- Number of Brightspace sessions
- Discussion messages read
- Discussion messages posted
- Mail messages read
- Mail messages sent
- Calendar entries viewed
- Calendar entries added
- Assignments read
- Assignments submitted
- Content files viewed
- Web links viewed
- Media library collections viewed
- Media library entries viewed

Academic Integrity

The commitment of the College of Continuing Education is to graduate future leaders of business, government and society who manage and lead with integrity. So when you submit any work for evaluation in this course or any other, please ensure that you are familiar with your obligations under Dalhousie University's Academic Integrity Policies. Dalhousie offers many ways to learn about academic writing and presentations; so that all members of the University community may acknowledge the intellectual property of others. Knowing how to find, evaluate, select, synthesize and cite information for use in assignments is called being "information literate." Information literacy is taught by Dalhousie University Librarians in classes and through online tutorials. See guides and tutorials at http://www.dal.ca/dept/university_secretariat/academic-integrity/student-resources.html

Do not plagiarize any materials for this course. Further guidance on what constitutes plagiarism, how to avoid it, and proper methods for attributing sources, *please see* <http://plagiarism.dal.ca/Student%20Resources/>

Furthermore, the University's Senate has affirmed the right of any instructor to require that student papers be submitted in both written and computer readable format, and to submit any paper to a check such as that performed by Safe Assign anti-plagiarism software. As a student in this class, you are to keep an electronic copy of any paper you submit, and the course instructor may require you to submit that electronic copy on demand.

Diversity and Nondiscrimination

Dalhousie University is committed to maintaining a community that recognizes and values the worth and dignity of every person. The University recognizes the diversity of its students and is committed to providing a learning experience in which students are able to participate, without discrimination on grounds prohibited by the Nova Scotia Human Rights Act. In particular, the University is committed to facilitating students' access to the University's academic programs, activities, facilities and services.

The University seeks to develop and nurture diversity and encourages each individual to reach his or her own potential. Dalhousie University prohibits discrimination against any member of the university community on the basis of race, religion, color, age, gender, ethnic, national or aboriginal origin, marital status, parental status, disability, source of income, political belief and sexual orientation.

The University is obliged to make every reasonable effort short of undue hardship to take substantial, timely and meaningful measures to eliminate or reduce the discriminatory effects of the learning and community environment.

Course Evaluation

At the end of each course, you will be invited and encouraged to complete a formal course evaluation. Evaluations provide an opportunity to provide honest and anonymous feedback on course content and instruction quality. Your feedback contributes to continuous improvement of our courses. We would appreciate hearing your thoughts and opinions on the course/program. Thank you for engaging in this process. All responses will be held in strictest confidence.

Special Needs and Accommodation

It is the student's responsibility to self-identify and make a request for accommodation. The request for accommodation must be made reasonably in advance of the course or program in relation to which accommodation is being sought so that a decision can be made. The University will consider a request for accommodation made by a third party (physician, family member, caregiver, advocate or other representative) only where the student has provided prior written consent.

A request for accommodation must include the reasons for the accommodation, supporting documentation, the accommodation being requested and suggestions as to how the accommodation can be achieved, copies of medical reports (if applicable) to substantiate the request and where the request relates to a learning disability, a report describing the nature of the disability.

Disability Statement

In an effort to create a classroom environment that maximizes the success of all students, we encourage you to make us aware of any barriers that may inhibit your learning. Please feel free to ask any time about concerns or questions you may have about assignments, activities, or examinations.

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Dalhousie University College of Continuing Education

Local Government Program

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