**Unit 20 Outline**

**Land Use Controls and Property Development**

**Outline**

I. Land-Use Controls

A. Land use is controlled and regulated through public and private restrictions and through the public ownership of land by federal, state, and local governments.

B. Illinois Home Rule

1. Any municipality with a population in excess of 25,000

2. home rule unit may elect by referendum not to be one

3. municipality of fewer than 25,000 people may elect by referendum to become one

4. Home rule units have greater freedom to enforce their laws

IN ILLINOIS…*Article VII of the Illinois Constitution allows for home rule units of government. Any municipality with a population in excess of 25,000 and any county that has a chief executive officer elected by the people are automatically home rule units. However, a home rule unit may elect by referendum not to be one. On the other hand, a municipality of fewer than 25,000 people may elect by referendum to become a home rule unit of government. Townships are not allowed to be home rule units.*

*Constitutionally, a home rule unit of government may exercise any power and perform any function pertaining to its government, including the exercise of police power by way of laws that control the use of land. They also have greater freedom to enforce their laws, including the power to jail offenders for up to six months. (A violation of a land-use control would not ordinarily warrant imprisonment, but home rule units are able to establish an appropriate schedule of fines and injunctive relief.)*

*Non-home rule units do not have such unlimited powers. Instead, they derive their authority to pass land-use controls from the state government through enabling statutes.*

*Occasionally, the laws of one unit of government conflict with another’s. If any ordinance of a home rule county conflicts with any ordinance of a home rule municipality, the municipal ordinance prevails. If a municipality has passed a zoning ordinance, it will supersede any county or township zoning ordinance, home rule notwithstanding. Township zoning ordinances must give way to county zoning ordinances, and townships are not empowered to pass subdivision controls or building codes.*

II. The Comprehensive Plan

A. The comprehensive plan, or master plan, establishes development goals on the local level and usually includes the following basic elements:

1. Land use

2. Housing needs of present and anticipated residents

3. Movement of people and goods

4. Community facilities and utilities

 5. Energy conservation

III. Zoning—No nationwide or statewide zoning ordinances exist. Rather, zoning powers are conferred on municipal governments by state enabling acts.

A. Zoning ordinances

B. Zoning Objectives

1. PUDs

2. Constitutional issues and zoning ordinances

C. Zoning Permits

 1. Zoning hearing board

 2. Nonconforming use

 3. Conditional-use permits and variances

IV. Building Codes/Certificates of Occupancy

V. Subdivision

A. Subdivider

1. A person who buys undeveloped acreage and divides it into smaller lots for sale to individuals or developers or for the subdivider’s own use

 B. Developer

1. Improves the land, constructs homes or other buildings on the lots, and sells them

 C. Regulation of land development

 1. Land development plan

 2. Plats

 D. Subdivision plans

 1. Impact fees

 E. Subdivision density

 1. Street patterns

 a. Gridiron pattern

(1) Large lots, wide streets, and limited-use service alleys

 b.. Curvilinear system

(2) Integrates major arteries of travel with smaller secondary and cul-de-sac streets carrying minor traffic

VI. Private Land-Use Controls

A. Restrictive Covenants—Set the standards for all the parcels within a defined subdivision

 1. Covenants, conditions, and restrictions (CC&Rs)

 2. Enforced through court injunction

B. Homeowners Association Regulations

 1. Condominium board

 2. Declaration, bylaws, and regulations

IN ILLINOIS…*Any restrictive covenant that forbids or restricts conveyance, encumbrance, occupancy, or lease on the basis of race, color, religion, or national origin is void. Exceptions to the Illinois Human Rights Act are allowed for religious and charitable organizations.*

VII. Regulation of Land Sales

A. Interstate Land Sales Full Disclosure Act—Federal law regulating the interstate sale of unimproved lots, designed to prevent fraudulent marketing schemes.

1. Disclosure report

2. Revocation right

3. Exemptions

4. Penalties

IN ILLINOIS . . . *The sale or promotion within Illinois of subdivided land is regulated by the Illinois Land Sales Registration Act of 1999. The act regulates the offering, sale, lease, or assignment of any improved or unimproved land divided into 25 or more lots and offered as a part of a common promotional plan.*

*Under the act, subdividers must register with the state, and file a full disclosure report containing information on the land, location, tax status, financial arrangements and liens associated with the offering. As in the federal statute, a purchaser who receives the report prior to signing a contract or agreement may cancel the contract or agreement by giving notice to the seller any time before midnight of the seventh day following the signing of the contract or agreement. A purchaser who does not receive this report before a contract or agreement is signed may cancel the contract or agreement anytime within two years from the date of signing.*