

Original

IN THE HOUSE

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HOUSE BILL NO. 178

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An Act regarding City Planning; repealing
Sec. 16-1-35, 23rd, ACLA 1949 and
Sec. 16-6-1 and 16-6-2, ACLA 1949.

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. That Sec., 16-1-35, 23rd, ACLA 1949 and Sec.
16-6-1 and 16-6-2, ACLA 1949 be and hereby are repealed.

Section 2. CREATION AND APPOINTMENTS OF CITY PLANNING
COMMISSION. The Council of any incorporated municipality may
create a city planning commission. The City planning
commission shall consist of not less than five, nor more than
nine members, appointed by the mayor and confirmed by the
council for a term of three years; provided, however, that
in the first instance one third thereof shall be appointed for
three years, one third for two years, and one third for one
year. Not more than one-third of the members shall be non-
residents of the city. Appointments to fill vacancies shall
be made by the mayor for the unexpired term only. All members
of the commission shall serve as such without compensation.

SECTION 3. ORGANIZATION, RULES, STAFF AND FINANCES. The
commission shall elect its chairman from among the appointed
members. The term of chairman shall be one year with eligibility
for re-election. The commission shall adopt rules for the
transaction of business and shall keep a record of its
resolutions, transactions, findings, and determinations, such

1 record shall be a public record. The commission may appoint
2 such employees and staff as it may deem necessary for its work,
3 and may contract with city planners and other consultants or
4 agencies for such services as it may require. The expenditures
5 of the commission, exclusive of gifts or grants, shall be
6 within the amounts appropriated for the purpose by the council.

7 SECTION 4. GENERAL PLAN. It shall be the function and
8 duty of the commission to make and adopt an official general
9 plan for the physical development of the municipality, including
10 any areas outside of its boundaries which, in the commission's
11 judgment, bear relation to the planning of the municipality. The
12 plan with the accompanying maps, plats, charts and descriptive
13 and explanatory matter, shall show the commission's recommend-
14 ations for the said physical development, and may include amongst
15 other things, the general location, character and extent of
16 streets, bridges, viaducts, parks, parkways, waterways, water-
17 fronts, play-grounds, airports and other public ways, grounds,
18 places and spaces, the general location of public buildings
19 and other public property, the general location and extent of
20 public utilities and terminals, whether publicly or privately
21 owned, for water, light, power, sanitation, transportation,
22 communication and other purposes; also the removal, relocation,
23 widening, extension, narrowing, vacating, abandonment, change
24 of use or extension of any of the foregoing public ways,
25 grounds, places, spaces, buildings, properties or utilities;
26 also a zoning plan for the regulation of the height, area, bulk,
27 location and use of private and public structures and premises
28 and of population density; also the general location, character,
29 layout and extent of community centers and neighborhood units;

1 also the general location, character, extent and layout of the
2 replanning of blighted districts and slum areas. The commission
3 may from time to time amend, extend or add to the plan or carry
4 any part or subject matter into greater detail.

5 SECTION 5. GENERAL PURPOSES OF THE PLAN. In the
6 preparation of the plan, the commission shall make careful and
7 comprehensive surveys and studies of the existing conditions
8 and future growth of the municipality and its environs. The
9 plan shall be made with the general purpose of guiding and
10 accomplishing a coordinated, adjusted and harmonious development
11 of the municipality which will, in accordance with existing,
12 and future needs, best promote public health, safety, morals,
13 order, convenience, prosperity and the general welfare, as well
14 as efficiency and economy in the process of development.

15 SECTION 6. ADOPTION OF PLAN. The commission may adopt
16 the plan as a whole by a single resolution, or, as the work
17 of making the whole plan progresses, may from time to time
18 adopt a part or parts thereof, any such part to correspond
19 generally with one or more of the functional subdivisions of
20 the subjects-matter of the plan. The adoption of the plan or
21 any part, amendment or addition shall be by resolution carried
22 by the affirmative votes of not less than a majority of all
23 the members of the commission. The resolution shall refer
24 expressly to the maps, descriptive matter and other matters
25 intended by the commission to form the whole or part of the
26 plan, and the action taken shall be recorded on the adopted
27 plan or part thereof and descriptive matter by the identifying
28 signature of the secretary of the commission, and a copy of the
29 plan or part thereof shall be certified to the chief legislative

1 body.

2 SECTION 7. MISCELLANEOUS POWERS OF THE COMMISSION. The
3 commission may make reports and recommendations relating to
4 the plan and development of the municipality to public officials
5 and agencies, public utility companies, to civic, educational,
6 professional and other organizations and to citizens. It may
7 recommend to the executive or legislative officials of the
8 municipality programs for public improvements and the financing
9 thereof. All public officials shall, upon request, furnish
10 to the commission, within a reasonable time, such available
11 information as it may require for its work. The commission,
12 its members and employees, in the performance of its work,
13 may enter upon any land and make examinations and surveys and
14 place and maintain necessary monuments and marks thereon. In
15 general, the commission shall have such powers as may be
16 necessary to enable it to perform its purposes and promote
17 municipal planning.

18 SECTION 8. LEGAL STATUS OF PLAN. Whenever the commission
19 shall have adopted the master plan of the municipality or any
20 part thereof, then and thenceforth no street, park, or other
21 public way, ground, place, or space, no public building or
22 structure, or no public utility, whether publicly or privately
23 owned, shall be constructed or authorized in the municipality
24 until and unless the location and extent thereof shall have been
25 submitted to and approved by the planning commission; provided
26 that in case of disapproval, the commission shall communicate its
27 reasons to the council, and the council, by a vote of not less
28 than two-thirds of its entire membership, shall have the power
29 to overrule such disapproval and, upon such overruling, the

1 council or the appropriate board or officer shall have the power
2 to proceed; provided, however, that if the public way, ground,
3 place, space, building, structure, or utility be one the
4 authorization or financing of which does not, under the law or
5 charter provisions governing the same, fall within the province
6 of the council or other body or official of the municipality,
7 then the submission to the planning commission shall be by the
8 board or official having such jurisdiction, and the planning
9 commission's disapproval may be overruled by said board by a
10 vote of not less than two-thirds of its entire membership or by
11 said official. The acceptance, widening, removal, extension,
12 relocation, narrowing, vacation, abandonment, change of use,
13 acquisition of land for, or sale or lease of any street or other
14 public way, ground, place, property, or structure shall be
15 subject to similar submission and approval, and the failure to
16 approve may be similarly overruled. The failure of the
17 commission to act within sixty days from and after the date
18 of official submission to it shall be deemed approval, unless
19 a longer period be granted by the council or other submitting
20 official.

21 SECTION 9. OFFICIAL MAP. From and after the time when
22 the commission shall have adopted a general plan which includes
23 major street plan, or shall have progressed in its planning
24 to the stage of the making and adoption of a major street
25 plan, and shall have certified a copy of such major street
26 plan to the Council, said council may by ordinance establish an
27 official map of the city showing the streets, highways,
28 parkways, parks, and playgrounds, theretofore laid out, adopted
29 and established by law. Such official map may also show the

1 location of the lines of streets and plats of subdivisions
2 which shall have been approved by the platting authority of
3 the municipality. Said ordinance shall make it the duty of
4 the city clerk at once to file with the office of the United
5 States Commissioner a certificate showing that the city has
6 established such official map.

7 SECTION 10. OFFICIAL MAP: ADDITIONS AND CHANGES. The
8 council is authorized and empowered, whenever and as often as
9 it may deem it for the public interest, to change or add to the
10 official map of the city so as to establish the exterior lines
11 of planned new streets, highways, parkways, parks or playgrounds,
12 or to widen, narrow, extend or close existing streets, highways,
13 parkways, parks or playgrounds. No such change shall become
14 effective until after a public hearing in relation thereto, at
15 which parties in interest and citizens shall have an opportunity
16 to be heard. At least 15 days notice of such a public hearing
17 shall be published at least once in a newspaper of general
18 circulation in the city. Before making such addition or
19 change, the council shall refer the matter to the city
20 planning commission for report thereon, but if the city planning
21 commission shall not make its report within 60 days of such
22 reference, it shall forfeit the right to further suspend action.
23 Such additions and changes when adopted shall become a part of
24 the official map of the municipality, and shall be deemed to
25 be final and conclusive with respect to the location and width
26 of the streets, highways and parkways and the location and
27 extent of parks and playgrounds shown thereon. The placing
28 of any street, highway, parkway, park or playground line or
29 lines upon the official map shall not in and of itself constitute

1 or be deemed to constitute the opening or establishment of any
2 street, parkway, park or playground, or the taking or acceptance
3 of any land for such purposes. The locating, widening or closing,
4 or the approval of the locating, widening or closing of streets,
5 highways, parkways, parks or playgrounds by the city under
6 provisions of law other than contained in this section shall be
7 deemed to be a change or addition to the official map, and shall
8 be subject to all the provisions of this section.

9 SECTION 11. REGULATION OF BUILDINGS IN BED OF MAPPED
10 STREETS. For the purpose of preserving the integrity of the
11 official map, council may provide by general ordinance that
12 no permit shall be issued for any building or structure or part
13 thereof on any land located between the mapped lines of any
14 street as shown on the official map. Any such ordinance shall
15 provide that the board of zoning appeals, if the municipality
16 have such a board, or if not, that a board of appeals created
17 for the purpose in such ordinance, shall have the power, upon
18 an appeal filed with it by the owner of any such land, to
19 authorize the grant of a permit for a building or structure or
20 part thereof within any such mapped-street location in any case
21 in which such board finds, upon the evidence and arguments
22 presented to it upon such appeal, (a) that the property of the
23 appellant of which such mapped-street location forms a part
24 will not yield a reasonable return to the owner unless such
25 permit be granted, or (b) that, balancing the interest of the
26 municipality in preserving the integrity of the official map
27 and the interest of the owner in the use and benefits of his
28 property, the grant of such permit is required by considerations
29 of justice and equity. Before taking any such action, the board

1 of appeals shall hold a hearing thereon, at least 15 days'
2 notice of the time and place of which shall be given to the
3 appellant by mail at the address specified by the appellant in
4 his appeal petition. In the event that the board of appeals
5 decides to authorize a building permit, it shall have the
6 power to specify the exact location, ground area, height, and
7 other details and conditions of extent and character, and also
8 the duration of the building, structure, or part thereof to
9 be permitted, but the appellant or any person thereafter shall
10 not be entitled to recover any damages for the taking for
11 public use of any building or improvements of any kind authorized
12 under this provision.

13 SECTION 12. MUNICIPAL IMPROVEMENTS IN STREETS: BUILDINGS
14 NOT ON MAPPED STREETS. Excepting in streets existing and
15 established by law as public streets at the date of the
16 establishment of the official map, no public water facilities,
17 sewer, or other public utility or improvement shall be construct-
18 ed after said date in any street until such street is duly placed
19 on the official map. Council may provide by general ordinance
20 that no permit for the erection of any building shall be issued
21 unless a street giving access to such proposed building existed
22 and was established by law as a public street at the time of
23 the establishment of the official map or shall have been duly
24 placed on the official map in accordance with the provisions in
25 sections 8 and 9 of this Act; provided, however, that such
26 ordinance shall contain provision whereby the applicant for such
27 permit may appeal to the board of zoning appeals or to the
28 board of appeals created in the ordinance, hearing upon which
29 appeal and notice of which shall be held and given as provided

1 in Section 10 of this Act, and such board shall have the
2 authority to authorize a permit, subject to such conditions
3 as the board may impose, where the circumstances of the case
4 do not require the proposed building to be related to existing
5 streets or to streets as shown on the official map and where
6 the permit would not tend to distort or increase the difficulty
7 of carrying out the official map or master plan of the
8 municipality.

9 SECTION 13. BUILDING SETBACK LINES. The council of any
10 incorporated city shall have the authority under an exercise
11 of its police powers by ordinance to establish or alter
12 building setback lines on private property adjacent to any street,
13 alley or other public way, and to make it unlawful and provide
14 a penalty for erecting after said establishment any building
15 or structure closer to any street line than such setback line,
16 except as may be expressly provided by ordinance. No such
17 establishment or alteration of setback lines shall become
18 effective until after a public hearing in relation thereto, at
19 which parties in interest and citizens shall have an opportunity
20 to be heard. At least 15 days of such public hearing shall be
21 published at least once in a newspaper of general circulation
22 in the city. Such setback lines may be established without
23 requiring or cutting off or removal of buildings existing at
24 the time. The powers herein given shall be so exercised as to
25 preserve constitutional rights.

26 SECTION 14. USE OF EMINENT DOMAIN FOR STREET WIDENING.
27 The council of any incorporated city shall have the authority
28 under an exercise of the power of eminent domain by ordinances
29 to establish or alter building setback lines on private

1 property adjacent to any street, alley or other public way in
2 cases where the establishment of such lines is for street
3 widening purposes, and in cases where the establishment of such
4 setback lines affects buildings or structures existing at the
5 time. No such establishment or alteration of setback lines
6 shall become effective until after a public hearing in relation
7 thereto, at which parties in interest and citizens shall have
8 an opportunity to be heard. At least 15 days of such public
9 hearing shall be published at least once in newspaper of general
10 circulation in the city. In case of the exercise of the power
11 of eminent domain, provision shall be made for ascertaining and
12 paying just compensation for any damages caused as the result
13 of establishing such setback lines.

14 SECTION 14. VACATION OF STREETS. The council of any
15 incorporated city shall have the power by ordinance to vacate
16 any street, alley or other public way whenever the public
17 interest and convenience may require. No such vacation shall
18 become effective until after a public hearing in relation there-
19 to, at which parties in interest and citizens shall have an
20 opportunity to be heard. At least 15 days notice of such
21 public hearing shall be published at least once in a newspaper
22 of general circulation in the city. Land vacated under this
23 section may be used for other public purposes or may be sold,
24 leased or otherwise disposed of according to law.