IN THE SENATE BY COMMITTEE ON MUNICIPAL AFFAIRS AND PUBLIC UTILITIES

COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 78 and 112

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An Act controlling plats, subdivisions and dedications and creating Boards of Platting ~~(and Zoning)~~ and defining their jurisdiction; providing for the alteration and vacation of plats and ~~(streets (and for jurisdiction in said Boards in independent school districts beyond city limits of cities of the first class over zoning and building regulations)~~ and further providing for standards to govern the recording of plats and prescribing penalties for the violation of this Act, and repealing Sections 16-6-1 and 16-6-2 ACLA 1949; further providing for an appropriation; ~~and declaring an emergency.~~"

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

CHAPTER I.

PLATS - RECORDING

Section 1. APPROVAL AND RECORDING OF SUBDIVISIONS: Each subdivision or dedication, before any of its lots or tracts may be sold or offered for sale, shall first be submitted for approval to the authority having jurisdiction thereof, as herein prescribed, and no sale or offer for sale shall be made unless and until the same shall be approved by such authority as herein

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Page 1 Line 8 Delete the words "and Zoning"

Pag 1 Line10 Delete from the word "Streets" on line 10 to the word "and" on line 14.

provided, with the regular approval of such authority duly shown thereon or attached thereto and until the same has been duly filed for record in the office of the U. S. Commissioner, ex-officio recorder, and no such U. S. Commissioner shall accept for filing any such subdivision or dedication unless it shows thereon such approval.

Section 2. PLATS TO BE ACKNOWLEDGED - CERTIFICATES THAT TAXES AND ASSESSMENTS ARE PAID. Every plat shall be acknowledged before any officer authorized to take acknowledgment of deeds, a certificate of which acknowledgment shall be endorsed on or annexed to the plat and recorded therewith. A person desiring to file a plat, map, subdivision, or replat of any property, or to vacate the whole or any portion of an existing plat, map, subdivision, or replat, must at the time of filing the same for record or of filing the petition to vacate, file therewith a certificate from the tax collecting official or officials of the area wherein the land is situate that all taxes levied against the property at such date have been paid.

Section 3. DEDICATION OF STREETS, ALLEYS AND THOROUGHFARES. When an area has been subdivided and a plat thereof approved and recorded in accordance herewith, all streets, alleys, thoroughfares, parks and other public areas shown thereon shall be deemed to have been dedicated to public use.

Section 4. CERTIFIED COPY OF PLAT AS EVIDENCE. A copy of any plat certified by the Precinct Recorder of the precinct in which it is recorded to be a true and complete copy of the original thereon on file in his office shall be admissible in evidence in any court of the Territory with the same effect as the original.

Section 5. RECORDED PLATS LEGALIZED. All plats recorded before the effective date of this Act, whether executed and acknowledged in accordance with the provisions of this Act or not, are hereby validated and all streets, alleys or public thoroughfares shown thereon are deemed to have been dedicated to public use, provided that nothing herein contained shall be construed as prohibiting the abandonment of any such prior plat if a subsequent plat thereof has been filed indicating such abandonment, that is to say, the last plat of the area of record, as of the effective date of this Act, shall be deemed to be the official plat of such area, and the streets, alleys or thoroughfares shown thereon shall be deemed to be the streets, alleys or thoroughfares dedicated to public use, and all streets, alleys or thoroughfares as shown on any prior plat of the same area or any part thereof, and which are in conflict with those shown on such last plat shall be deemed to have been abandoned and vacated.

Section 6. MISSING PLATS. Where a recorded plat is missing and no present record is available except by reference thereto, counterpart copies approved by the platting authority, may be recorded as of the original date of the missing plat and thereafter shall be of the same legal effect and notice as the original missing plat.

CHAPTER II.

CONTROL OF PLATS, SUBDIVISIONS AND DEDICATIONS; CREATION OF BOARDS OF PLATTING ~~AND ZONING~~

Section 1. PLATTING AUTHORITY. Whenever any land proposed to be subdivided or dedicated is situated within a city the same shall be submitted for approval to the city planning commission

Page 3 Line 26 add "s" to the word "Board" and delete the words "and Zoning"

Which shall be the platting authority for such city; if no city planning commission exists, the same shall be submitted to the city council, which shall then be the platting authority. Whenever any land proposed to be subdivided or dedicated is situated within a school district but outside a city, the same shall be submitted for approval to the Board of Platting and Zoning as hereinafter created, which shall be the platting authority for such school district outside the city. No subdivision may be filed for record until approved by the respective platting authority.

Section 2. PLATTING ~~AND ZONING~~ BOARDS ESTABLISHED. ~~There is hereby created a Platting and Zoning Board with jurisdiction over lands within those portions of independent school districts lying outside the corporate limits of cities of the first class, which Board shall be composed of two members from each city within the independent school district, two members from the independent school district, and one member from each utility district within the independent school district, and if the total of the foregoing members be an even number, one member at large to be chosen by the preceding named members. The members shall be chosen by the respective governing units above named, and their terms of office shall be for one, two and three years, as determined by lot at the first board meeting of the board.~~ At the first meeting of ~~this~~ each Board, one of its members shall be chosen as Chairman and a Clerk shall be appointed. All hearings and regular meetings shall be open to the public. Decision shall be by majority vote when a quorum is present, and proceedings shall be governed by Roberts' Rules of Order. Action shall be taken in the form of resolutions and orders. Board members shall serve

Page 4 line 11 Delete the words "and Zoning", add "s" to the word "Board"

Delete the first two sentences of Section 2, page 4 and insert the following: "There are hereby created Platting Boards with jurisdiction over lands within those portions of independent school districts lying outside the corporate limit of cities of the first class, each of which Boards shall be composed of two members appointed by the City Council of each city within the independent school district, two members appointed by the Board of the independent school district, to be appointed by the Board of each such utility district. If the total of the foregoing members be an even number, one member at large shall be chosen by the preceeding named members. The initial terms of office shall be for one, two and three years, as determined by lot at the first meeting of the Board, and the terms shall thereafter be for three years."

Page 4, Line 24 Delete the word "this" and insert the word "such"

without pay.

Section 3. JURISDICTION AND POWER OF BOARD. The Boards of Platting and Zoning shall have jurisdiction over platting, subdividing and zoning as herein provided and shall have power to make reasonable rules and regulations in printed form to implement the general grants of power herein contained.

Section 4. SUBDIVISION REGULATIONS. In the exercise of the powers conferred by this Act, the platting authority shall adopt regulations governing the subdivision of land within the jurisdiction of the platting authority. Such regulations shall be consistent with the provisions of this Act, and shall be designed to supplement such provisions and to provide for their application in further detail. Subdivision regulations once adopted may be amended by the body that originally adopted them. Before the adoption of subdivision regulations or of any substantial amendment thereof, a public hearing shall be held thereon, due notice of which shall be published at least once in a newspaper of general circulation in the area at least fifteen (15) days before the date of such hearing.

Such regulations may provide for the harmonious development of the area; for the coordination of streets within subdivisions with other existing or planned streets or with other features of any existing master plan or official map; for adequate open spaces for traffic, recreation, light, and air; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, or prosperity.

Such regulations shall prescribe standards and requirements for:

Page 5 Delete Section 3 and insert the following: "Section 3. JURISDICTION AND POWER OF BOARDS. The Boards of Platting shall have jurisdiction over platting and subdividing as herein provided, and shall make and publish rules and regulations to implement the grants of power herein contained.

Page 5 Line 7 Delete Section 4 and 5 of Chapter II, from Page 5 Line 7 through Page 8, Line 26.

(a) The design of subdivisions, including, but not limited to, the plan of streets and other rights-of-way; the relation thereof to topography, to existing or planned streets, whether outside or within the subdivision, and to the master plan of the municipal corporation or area, if such exists; the widths, alignment, grades, angles of intersection or convergence, and other details of street layout; the locations and widths of easements for public utilities or other purposes; and the plan of blocks and lots and the sizes and shapes thereof.

(b) The provision of adequate space for the standing and the loading and unloading of vehicles.

(c) The prohibition or control of reserved strips controlling the access to adjacent property.

In addition, such regulations may:

(a) Prescribe standards and requirements for the accuracy and closure of surveys; the durability, kind, and location of monuments; and the completeness, accuracy, and detailed form of preliminary and final plats, and the information to be shown thereon or to be furnished therewith.

(b) Prescribe details of procedure with respect to the filing of and action on preliminary and final plats, including requirements as to the number of copies of such plats to be furnished by the subdivider.

(c) Include requirements as to the extent to which and the manner in which streets shall be graded and improved and water, sewer, and other utility mains, piping, connections or other facilities shall be installed as a condition precedent to the approval of the plat. Such regulations may

provide that, in lieu of the completion of such work and installations previous to the final approval of a plat, the platting authority may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the platting authority the actual construction and installation of such improvements and utilities within a period specified by the platting authority and expressed in the bond; and the platting authority is hereby granted the power to enforce such bonds by all appropriate legal and equitable remedies. Such regulations may provide, in lieu of the completion of such work and installations previous to the final approval of a plat, for an assessment or other method whereby the platting authority is put in an assured position to do said work and make said installations at the cost of the owners of the property within the subdivision.

(d) Establish standards for determining the suitability of land in a proposed subdivision for the various purposes for which it is intended to be used.

(e) Require fees in connection with the filing of and action on preliminary and final plats.

(f) Require, after the adoption of a master plan, or appropriate parts thereof, the dedication or reservation, and conditions thereof, of parcels of land within a subdivision for such school sites, parks, playgrounds, and other public uses, including planting and barrier strips and natural drainage channels and waterways, as may be needed for the use of the persons who may be expected to reside in the subdivision, or for promoting or enhancing the amenity of the subdivision, and as may appropriately be located.

within the subdivision, in accordance with such standards of neighborhood design as may have been adopted as a part of or in connection with said master plan, including standards of size, shape, location, and other characteristics and qualifications of parcels for such respective purposes.

(g) Provide, at the volition of the subdivider, for control of the design of buildings, including the size, shape, appearance, and other characteristics thereof, the location of buildings, the preservation of natural growth, the protection of views and other scenic characteristics, or of any of such matters, and of other matters related or incidental thereto.

(h) Contain such other provisions as may be necessary or convenient to the exercise of the powers granted by this Act and to the furtherance of its objectives.

Section 5. PUBLIC INTEREST. It shall be the duty of the platting authority to inquire into the public use or interest proposed to be served by the establishment of a proposed subdivision or dedication, and it shall also see that appropriate provision is made in any such subdivision for streets and other public ways, parks and playgrounds, and shall also cause all other facts deemed by it relevant and designed to indicate whether or not the public interest will be served or vantaged by such subdivision or dedication, and no such subdivision or dedication shall be approved if it will be deemed not in the public interest.

Section 6. PROCEDURE ON PLATS: The platting authority shall approve or disapprove the plat of subdivision or dedication within 60 days after the filing thereof, or shall return such plat to

Page 8 Line 27 Renumber Section 6 to read "Section 4"

the applicant for modification or correction within 60 days from the date of filing thereof; otherwise, such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the platting authority on demand; provided, however, that the applicant for plat approval may consent to the extension of such period. The ground of disapproval of any plat shall be stated upon the records of the platting authority.

Section 5. <u>INFORMATION REQUIRED.</u> Every plat, subdivision or dedication shall show initial point of survey, original or re-established corners, with description of them, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat.

Section 6. <u>PENALTIES.</u> Whoever, being the owner or agent of the owner of any land located within the subdivision, transfers, sells, or agrees, or enters into a contract to sell any land in such subdivision, whether by reference to or by other use of a plat of such subdivision or otherwise, unless and until a plat of such subdivision has been prepared in full compliance with the provisions of this Act and of subdivision regulations adopted hereunder and has been approved by the platting authority having jurisdiction and has been recorded in the office of the U. S. Commissioner, as provided herein, shall be guilty of a misdemeanor, punishable by fine of not ~~less than $100.00 nor~~ more than $500.00 for each lot or parcel so transferred or sold or agreed or included in a contract to be sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalty or from the limits herein provided.

Page 9 Line 8 Renumber Section 7 to read "Section 5"

Page 9 Line 14 Renumber Section 8 to read "Section 6"

Page 9 Line 24 Delete the words "less than $100.00 nor

The platting authority may sue to enjoin such transfer or sale or agreement to sell, and may recover the said penalty by appropriate action in any court of competent jurisdiction.

It shall be unlawful to file or record any such plat of subdivisions in any public office unless the same shall bear thereon, by endorsement or otherwise, the approval of the platting authority, and any person, partnership, or corporation violating this provision shall, upon conviction thereof, be fined not more than ~~$1,000.00~~ $500.00, or be punished by a term of imprisonment of not more than six months, or may be subjected to both such fine and imprisonment.

Section 7. DEFINITIONS. For the purposes of this Act, the term "street" or "streets" means, relates to, and includes streets, avenues, boulevards, roads, lanes, alleys, and other ways; "subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided.

CHAPTER III.

VACATION OF PLATS AND STREETS

Section 1. PETITION. No plat of any area shall be altered, amended or changed, except upon petition of the owners of a majority of the land to be thereby affected, showing the changes contemplated. No street, alley or public thoroughfare or any part thereof shall be vacated, except upon petitions of the owners of the majority of the front feet of the land fronting upon the part of the street, alley or public thoroughfare sought

Page 10 Line 9 Delete "$1,000.00" and insert "$500.00"

Page 10 Line 12 Renumber Section 9 to read "Section 7"

Page 10 Line 16 Delete the word "two" and insert the word "five"

to be vacated. Such petitions shall be filed with the Clerk of the City or of the Board of Platting and Zoning, praying that the plat, addition or subdivision, or part thereof, be amended, replatted or vacated, or that the street, alley or public thoroughfare or part thereof be vacated. The petition shall be accompanied by a plat, draft or a copy of the existing plat, showing the proposed amendment, replat or vacation.

Section 2. TIME AND PLACE OF HEARING; NOTICE. Upon the payment of the costs thereof, the Clerk shall fix a time for the hearing of the petition which shall not be less than thirty nor more than sixty days after the filing, and shall cause a notice to be issued under his hand and the seal of the platting authority, stating when and by whom the petition was filed the object thereof, and the time and place of the hearing. The notice shall also generally describe the plat, addition or subdivision sought to be amended, replatted or vacated, or the street, alley or public thoroughfare or part thereof sought to be vacated. This notice shall be published once a week for three consecutive weeks in a newspaper of general circulation published within the largest governing district in which the land is located; the Clerk shall also mail by registered mail a copy of such notice to each of the owners of the affected property not joining in the petition as shon by the records in the property taxing office of the largest jurisdiction in which the land, plat or addition or subdivision is located, at the addresses there shown.

Section 3. HEARING, DETERMINATION AND ORDER. At the hearing, the platting authority shall inquire into and determine the merits of the relief prayed for and make such order as

justice and the public welfare require.

Section 4. NEW PLAT TO BE FILED; ORDER OF VACATION. If the amended plat or replat be approved, it shall be filed and recorded with the Recorder of the Recording District where the property is situated and thereafter shall be the lawful plat. Should the plat, addition, subdivision, street, alley or public thoroughfare, or part thereof be vacated and not otherwise altered, or replatted, it shall only be necessary to file with the said Recorder the order or resolution vacating the same and the Recorder shall thereupon note upon the original plat the part so vacated.

Section 5. TITLE TO VACATED AREA, STREETS, PUBLIC SQUARES. The title to the street or other public area vacated shall attach to the lots or lands bordering on such area in equal proportions, except that where the area has been originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of such boundary line shall attach to the abutting property on such side, and the street area which lies upon the other side of such boundary line shall attach to the property on such other side, provided, however, that all that portion of a vacated street which lies within the limits of a platted addition shall attach to the lots of the platted addition bordering on such area. If a public square is vacated, the title thereto shall vest in the independent school district wherein the square lies or if it lies within a city, then it shall vest in said city for the use of said city or school district, to be used and disposed of as other public lands. If the property vacated is a lot, lots or tract, title thereto shall vest in the rightful owner.

Section 6. REPEAL OF CONFLICTING ACTS. Sections 16-6-1 and 16-6-2 ACLA 1949 shall be and the same are hereby repealed.

CHAPTER IV.

ZONING

Section 1. For the public interest, health, comfort, convenience, preservation of the public peace, safety, morals, order and public welfare, the Board of Platting and Zoning, heretofore created in this Act shall have the same powers and authority within its area of jurisdiction, above set forth, as are granted to cities by Section 16-1-35, 24th ACLA 1949; provided, that where in said subsection the term "council" is used, it shall include the Board of Platting and Zoning created hereunder, and all of the provisions of said subsection shall apply to said Board, and said Board shall act as the Zoning Commission for the areas within a school district but outside incorporated municipalities with the same powers and authority as are now granted to such municipalities.

CHAPTER V.

MISCELLANEOUS

Section 1. Funds for carrying out the provisions of this Act shall be set forth in the general appropriation bill but no more than two thousand dollars per annum shall be allocated for any board created under the authority of this Act, which shall be expended only upon proper vouchers submitted by the officers of such boards in the form prescribed by the Auditor.

CHAPTER VI.

EMERGENCY

An emergency is hereby declared to exist, and this Act shall take effect immediately upon its passage and approval.

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Page 13 Line 18 Renumber Chapter V to read "Chapter IV"

Page 13 Line 26 Delete Chapter VI

Delete entire Chapter IV renumber remaining chapters.