

1 IN THE SENATE

BY SENATOR GORSUCH, BY REQUEST

2 SENATE BILL NO. 107

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to provide assistance to the incor-
7 porated and unincorporated communities of
8 Alaska for planning their orderly physical
9 growth and development; to encourage
10 community wide participation in guiding
11 such growth and development; providing for
12 the creation of an Alaska Planning Commission
13 and greater community area planning boards,
14 and for other purposes."

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

16 Section 1. CREATION AND APPOINTMENT OF COMMISSION: There
17 is hereby created the Alaska Planning Commission, hereinafter
18 referred to as the Commission, which shall consist of seven
19 members, who shall be bonafide residents of Alaska. Each member
20 of the Commission shall be appointed by the Governor, with the
21 advice and consent of the Legislature, to serve without compensa-
22 tion, except as provided herein, for a term of four years com-
23 mencing on April 1 of the year in which appointed, and until a
24 successor is appointed and duly qualified; provided that the first
25 appointments to the Commission under this Act shall be for terms
26 of two years for three members; and four years for four members.
27 There shall be one member from each of the four judicial divisions
28 and three at large. The Governor shall have power to fill any
29 vacancy in the membership of the Commission by interim appoint-

1 ment for the balance of the unexpired term. Four members of the
2 Commission shall constitute a quorum for the exercise of the
3 powers and duties herein set forth, and any orders, rules, regu-
4 lations or procedures which are issued or other actions taken
5 pursuant to a majority vote of such quorum shall be deemed the
6 action of the Commission. The Commission shall elect its Chairman
7 and Vice-Chairman from among its members and may elect such other
8 officers as it shall determine. The Commission shall adopt rules
9 for the transaction of its business and shall keep a complete
10 record of its proceedings.

11 Section 2. STAFF: The Commission shall appoint a Director
12 and authorize the employment of such other professional and
13 clerical personnel as, in its judgment, is necessary to perform
14 the duties and functions prescribed herein. The Director shall
15 have had specialized training and be competent and experienced in
16 matters pertaining to community development and planning, and
17 zoning, and, in addition, shall be a person of proven administra-
18 tive capacity and shall be qualified to represent the Commission
19 before government officials and the public.

20 Section 3. POWERS AND DUTIES: For the purpose of furthering
21 the health, safety, convenience, and general welfare of the in-
22 habitants of the Territory of Alaska, and to provide for the
23 orderly physical expansion, growth and development of Alaskan
24 communities, the Commission is hereby empowered, authorized and
25 directed to prepare and adopt or approve, and to assist local
26 planning agencies in the preparation of, comprehensive community
27 plans and development patterns for inhabited and populated com-
28 munity or urban areas and areas of probable future expansion and
29 community development, including cities, towns, villages and

1 settlements, whether incorporated or unincorporated, in the
2 Territory of Alaska. Such comprehensive plans and development
3 patterns, with the accompanying maps, plats, charts and descrip-
4 tive matter, shall show the Commission's recommendations for the
5 development of the community area involved, and shall include,
6 among other things, comprehensive data on major thoroughfare
7 systems and other public ways, schools and other public buildings,
8 parks and recreation facilities, transit and transportation, and
9 general land uses, whether for industrial, residential, business
10 or commercial purposes or a combination thereof.

11 Section 4. JURISDICTION: The powers herein conferred may
12 be exercised within existing unincorporated communities, towns,
13 villages and settlements of Alaska and such surrounding areas as
14 are capable of future settlement or community expansion, as well
15 as in new areas of foreseeable or potential community development.
16 Such powers shall extend to town sites or settlements upon the
17 public lands of the United States; but not including military or
18 Indian reservations, unless specifically requested by competent
19 authority to conduct planning and zoning activities thereon also.

20 Section 5. GREATER COMMUNITY AREAS; ESTABLISHMENT: The
21 Commission shall have the authority to establish and define the
22 limits of greater community areas, consisting of incorporated
23 cities and adjacent areas; unincorporated communities, towns,
24 villages and settlements or a combination thereof. In case an
25 incorporated city is contained in a greater community area
26 established by the Commission, the Commission shall act in an ad-
27 visory capacity and render technical assistance in matters of
28 planning, zoning and related activities within the corporate
29 limits of the incorporated city. It shall be the function of the

1 Commission to coordinate and integrate the physical development
2 pattern for the entire greater community area in the manner set
3 forth in Section 6 of this Act. The bounds or limits of the
4 greater community area may be changed from time to time as the
5 Commission deems fit to conform to present needs and probable
6 future urban development.

7 Section 6. GREATER COMMUNITY AREA PLANNING BOARDS: CREATION:

8 All planning and zoning and related functions as defined in this
9 Act for any greater community area shall be undertaken in the
10 first instance by a Planning Board, hereafter referred to as
11 Board, composed of bona fide residents of such greater community
12 area, to be appointed by the Commission with the advice and upon
13 recommendation of local officials and public bodies and citizens
14 groups within such greater community area. Each Board shall be
15 composed of seven members, selected on the basis of population in
16 the incorporated cities and the area outside the cities within
17 the greater community area. Four members of the Board shall con-
18 stitute a quorum and all official business shall be conducted and
19 any final actions or recommendations of the Board shall be taken
20 or made by majority vote of such quorum. With the aid and assis-
21 tance of the Commission, and under the direction and subject to
22 the approval of the Commission, each Board shall undertake and
23 complete a comprehensive plan and development pattern for the
24 greater community area as defined in Section 5 hereof. The Com-
25 mission may assign members of its staff to a Board and may
26 allocate the necessary funds for the operation of such Board. Such
27 plan shall be advisory only insofar as the incorporated city is
28 concerned unless ratified and adopted by action of the city council.
29 Each local Board shall cooperate closely with the official planning

1 and zoning body of the incorporated city, if one exists and shall
2 endeavor to accomplish the coordinated and integrated planning
3 and physical development of the entire greater community area.
4 If a City Planning Commission exists in the incorporated city
5 within the greater community areas, the Commission may appoint
6 such City Planning Commission to perform the duties of the Board
7 under this Act, provided that at least two members of such City
8 Planning Commission shall reside outside of the incorporated
9 city.

10 Section 7. SCOPE OF COMPREHENSIVE PLAN: In the preparation
11 of any comprehensive plan or development pattern for any community
12 in Alaska the Commission, or any local Board, shall make careful
13 surveys and studies of present conditions and future growth of
14 the community involved, having due regard to its relation to
15 neighboring territories. Each plan shall be made with the general
16 purposes of guiding and accomplishing a coordinated, adjusted and
17 harmonious development of the community and its environs which
18 will, in accordance with present and future needs, best promote
19 health, safety, morals, order, convenience, prosperity, and
20 general welfare, as well as efficiency and economy in the process
21 of development; including, among other things, adequate provision
22 for traffic, the promotion of safety from fire and other dangers,
23 adequate provision for light and air, and the promotion of the
24 healthful and convenient distribution of population, the promotion
25 of good civic design and arrangement, wise and efficient expendi-
26 ture of public funds, and the adequate provision of public utili-
27 ties and other public requirements.

28 Section 8. ADOPTION OF PLANS: Any local Board created under
29 this Act may recommend a plan for adoption as a whole by single

1 resolution of the Commission, or may recommend successive parts
2 of a plan for adoption by the Commission, said parts correspond-
3 ing with major geographical sections or divisions of the com-
4 munity or with functional subdivisions of the subject matter of
5 the plan, and may recommend any amendment or extension thereof
6 or addition thereto to the Commission for adoption. In any case,
7 whether upon recommendation of a Board or in instances of com-
8 munity plans prepared initially by the Commission itself, the
9 Commission may adopt any plan either in whole or in part, or any
10 amendment or extension thereof or addition thereto by resolution
11 passed by a majority vote.

12 Before the adoption of a plan or any such part, amendment,
13 extension, or addition, the Commission shall cause to be held at
14 least one public hearing thereon, notice of the time and place of
15 which shall be given by one publication at least 15 days prior to
16 the date set for such hearing in a newspaper of general circula-
17 tion within the community and by posting in at least three places
18 within the community readily accessible to the public. The
19 resolution shall refer expressly to the maps and descriptive and
20 other matter intended by the Commission to form the whole or part
21 of the plan, and the action taken shall be recorded on the map
22 and plan and descriptive matter by the identifying signature of
23 the Chairman and Secretary of the Commission. A copy of the plan
24 or part thereof shall be made easily accessible for public in-
25 spection in the community.

26 Section 9. **LEGAL STATUS OF PLAN:** Whenever the Commission
27 shall have adopted a comprehensive plan or development pattern
28 for any particular community, either in whole or in part, as pro-
29 vided in this Act, no street, square or park, thoroughfare or

1 other public way, ground or open space or public building or
2 structure or public utility, whether publicly or privately owned,
3 shall be constructed or authorized in the community under consid-
4 eration until the location character and extent thereof shall
5 have been submitted to and approved by the Board where a greater
6 community area exists. In case a greater community area and a
7 Board do not exist, the matter shall be submitted to the Director
8 of the Commission for approval. In case of disapproval, the
9 Board or the Director shall prepare a written report stating the
10 grounds thereof which shall be submitted to the Commission which
11 shall have the power to overrule such disapproval by majority
12 vote; provided, however, that if the public way, ground, space,
13 building, structure or utility be one the authorizing or financ-
14 ing of which does not fall within the province of the legislature,
15 then disapproval by the Commission may be overruled by the par-
16 ticular Board, Commission, or Council or governing body of the
17 particular legal or political entity having such jurisdiction by
18 a vote of not less than two-thirds of its membership.

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20 Section 10. SUBDIVISIONS: The Commission hereby is
21 authorized to prepare and adopt regulations for the subdivision
22 of land outside the jurisdiction of any incorporated city in
23 Alaska. "Subdivisions" as intended in this Act shall mean to
24 partition, plat, or subdivide land for other than agricultural
25 purposes into two or more lots, parcels, or tracts which may or
26 may not contain a dedication of any part thereof as a public
27 street or highway. The Commission may require that hereafter no
28 land may be subdivided and no subdivision plat filed or recorded
29 until submitted to and approved by the Commission. In the case
30 of subdivision of land in greater community areas as defined in

1 Section 3 hereof, but beyond the jurisdiction of the city, such
2 subdivision plans or plats shall be submitted to the Board for
3 such area for its approval, and in those cases where a greater
4 community area does not exist, the Director of the Commission
5 shall act in lieu of the Board. In case of disapproval, the
6 local Board or the Director shall prepare a written statement
7 showing the grounds for such disapproval, and an appeal may be
8 taken by the intended subdivider to the Commission. The Com-
9 mission shall provide in the regulations for adequate notice to
10 all parties in interest and for public hearing, and after fully
11 reviewing all pertinent facts, make a written finding showing its
12 approval or disapproval and the grounds therefor. All approvals
13 or disapprovals, including the date thereof, by the Board, the
14 Director and the Commission shall be recorded on the subdivision
15 plat.

16 Such regulations of the Commission may provide for proper
17 arrangement of streets in relation to other existing or planned
18 streets and to the comprehensive plan and development pattern of
19 the community, for adequate and convenient open spaces for
20 traffic, utilities, access of fire fighting apparatus, recreation,
21 light and air, and for the avoidance of congestion of population,
22 including minimum width and area of lots. The regulations may
23 include provisions as to the extent to which streets and other
24 ways shall be graded and improved and to which water and sewer
25 and other utility mains, piping, or other facilities shall be
26 installed or provided for as a condition precedent to the
27 approval of the plat.

28 Section 11. ADOPTION OF SUBDIVISION REGULATIONS: Before
29 any subdivision regulations drafted and prepared by the Commission

1 shall become effective the Commission shall cause to be held a
2 public hearing in the area affected by such regulations for the
3 purpose of receiving suggestions, criticism, or argument, oral
4 or written, with respect to the proposed regulations. Notice of
5 the time and place of such hearing shall be published four times
6 at intervals of 1 week or more in at least three newspapers of
7 general circulation in Alaska, the first such publication to be
8 made at least 60 days prior to the date set for hearing. After
9 full consideration of all objections, suggestions and argument
10 with respect to the proposed regulations, the Commission may
11 adopt the regulations by formal resolution either as originally
12 prepared or as amended.

13 **Section 12. PENALTY FOR VIOLATION OF SUBDIVISION REGULATIONS:**

14 Thereafter any violation of the subdivision regulations promul-
15 gated by the Commission shall be unlawful, and the Commission
16 hereby is authorized to provide in its regulations for the
17 assessment of penalties or fines for each separate violation
18 thereof to the extent of \$500 or less as the Commission deems
19 reasonable and just for any particular type or class of violation.
20 The amounts of such fines or penalties shall be set forth in the
21 regulation which are finally adopted by the Commission, showing
22 the maximum amount of fine or penalty for each violation of any
23 particular provision thereof. The Commission may petition any
24 court of record within the Territory of Alaska for enforcement
25 of the fine or penalty provisions herein or may seek a preliminary
26 restraining order, injunctive relief, or any lawful remedy to
27 prevent unauthorized subdivision of land contrary to the regula-
28 tions. Such action by the Commission in a court of record shall
29 be commenced and pursued to final judgment or order as other civil

1 actions in the Territory of Alaska. No title shall be valid
2 unless the subdivision plat has been approved as provided for and
3 required in this Act, and no subdivision plat may be recorded
4 unless so approved.

5 Section 13. ZONING: The Commission hereby is authorized
6 and directed to prepare, subject to valid existing rights,
7 zoning regulations for each of the community areas, other than
8 areas within the jurisdiction of incorporated cities unless re-
9 quested by the governing body of any such incorporated city,
10 which, in the discretion of the Commission require effective
11 zoning laws. Such zoning regulations shall be prepared in
12 relation to a comprehensive plan and development pattern of the
13 community involved and shall be uniform for each class or kind
14 of property throughout any land use district. In preparing
15 zoning regulations for a particular community area the Commission
16 may divide such area into districts in which restrictions may be
17 imposed as to land use, whether industrial, business, commercial
18 or residential or a combination thereof. The zoning regulations
19 may regulate and restrict the location, height and bulk of
20 buildings and other structures, percentage of lot that may be
21 occupied, set back from streets or other rights of way, size of
22 yards, courts, and other open spaces, density of population, and
23 such other physical and construction aspects of the community as
24 will promote the health, safety, convenience and general welfare
25 of its inhabitants. All such regulations shall be uniform for
26 each class or kind of property throughout each district, but the
27 regulations in one district may differ from those in other
28 districts. The regulations shall be designed to lessen conges-
29 tions in the streets; to secure safety from fire and other

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dangers; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

Section 14. ADOPTION OF ZONING REGULATIONS: No such regulation, restriction, or boundary of a district shall become effective until after a public hearing in relation thereto at which parties in interest and residents of the community shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published four times at intervals of one week or more in an official paper or newspaper of general circulation in the community, if there be one, the first such publication to be made at least sixty days prior to the date set for hearing. In addition, notice of such hearing shall be posted in at least three conspicuous public places within the community. After such public hearing the Commission may, by formal resolution, adopt the zoning regulations either as originally prepared or as amended in accordance with any additional data or different conclusion which the Commission may have derived from such hearing.

Such zoning regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed, after public hearing by formal resolution of the Commission.

The Commission may thereafter hear and decide by majority

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1 vote any applications for special exception to the terms of the
2 zoning regulations; or authorize such variances from the terms of
3 the regulations as will not be contrary to the public interest,
4 where, owing to special conditions, a literal enforcement of the
5 provisions of the regulations will result in unnecessary hardship,
6 provided that the spirit of the regulations shall be observed and
7 substantial justice done.

8 Section 15. PENALTIES FOR VIOLATION OF ZONING REGULATIONS:
9 Any violation of a zoning regulation adopted and promulgated by
10 the Commission as provided in this Act shall be unlawful, and the
11 Commission is hereby authorized to assess penalties or fines for
12 each separate offense of any zoning regulation to the extent of
13 \$500 or less as the Commission deems reasonable and just for any
14 particular type or class of violation, and each day of violation
15 shall constitute a separate offense. The amounts of such fines
16 or penalties shall be set forth in the regulations finally
17 adopted by the Commission, showing the maximum amount thereof for
18 each violation of any particular provision. The Commission may
19 petition any court of record within the Territory of Alaska for
20 enforcement of fine and penalty provisions herein, or may seek a
21 temporary restraining order or injunctive relief or any lawful
22 remedy to prevent unauthorized construction, development, land
23 use or other activities contrary to the zoning regulations. Such
24 action in a court of record shall be commenced by the Commission
25 and pursued to final judgment or order as other civil actions in
26 the Territory of Alaska.

27 Section 16. INTERIM ZONING AND SUBDIVISION CONTROL: In the
28 event the Commission finds that any community or portion of a
29 community within the Territory of Alaska, and outside of the

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limits of an incorporated city, is in immediate need of zoning or subdivision control to prevent the creation, development, construction or use of land, structures, buildings or improvements contrary to the public health, safety welfare or the orderly development of the community, the Commission may adopt temporary zoning and subdivision regulations having reference to a general preliminary plan of community development, and may require compliance therewith. A reasonable opportunity for hearing and public discussion shall be afforded interested parties prior to adopting such temporary regulations. Such regulations shall continue in effect until formal and detailed regulations as provided herein have been prepared and adopted. In preparing such temporary regulations the standards and policies contained in this Act shall be controlling, and the Commission may provide for fine and penalties and enforce such regulations within the limits and in the manner prescribed in Sections 12 and 15 of this Act.

Section 17. DISSEMINATION OF PLANNING INFORMATION: It is the intent of this Act that an important function of the Commission shall be to inform, educate, explain and to advise public officials, citizens' associations and groups, and citizens of Alaska generally of the need for and benefits to be derived from comprehensive and coordinated community planning and development and equitable and foresighted zoning and subdivision control. To this end the Commission is authorized and directed to make available to interested groups and persons, in so far as possible, the services of its technical staff, reports and publications of competent planning authorities, publications of information and data derived from studies undertaken by or at the direction of the Commission, and such other information as may stimulate civic

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and community interest.

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2 Section 18. COOPERATION AND EXCHANGE OF INFORMATION: The
3 Commission shall cooperate with and seek the opinion, advice and
4 aid of the various Federal, Territorial and Municipal agencies
5 whose duties or activities within the Territory of Alaska involve
6 or are related to community planning and development. Such
7 agencies may designate particular officials or offices with whom
8 the Commission shall foster and develop harmonious liaison to
9 permit the interchange of scientific knowledge, the results of
10 special studies, information and data as to special programs of
11 development, undertaken or contemplated, and such other informa-
12 tion, special skills or knowledge as will contribute to or may be
13 essential in the formulation of satisfactory community plans or
14 development patterns.

15 Section 19. AUTHORITY: The Commission, and any of its
16 members, officers and employees in the performance of their
17 functions and duties, shall have the right to enter upon land
18 at such times and in such manner as not to inconvenience the
19 owners or occupants thereof, to make examinations and surveys
20 and place necessary monuments and markers thereon. Within the
21 limits of available appropriations, the Commission may enter
22 into contracts for professional and personal services, may employ
23 skilled technicians for special studies and investigations, may
24 purchase necessary supplies and equipment, procure office space,
25 and incur such obligations as may be necessary or expedient in
26 carrying out its functions and each member of the Commission may
27 be reimbursed for actual and necessary traveling and subsistence
28 expenses incurred in connection with the performance of his
29 duties under this Act. In general, the Commission shall have

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such powers as may be appropriate to enable it to promote and accomplish satisfactory community planning and development and related activities under this Act. All public officials, municipalities, Departments and Agencies of the Territory of Alaska having maps, charts, and data deemed by the Commission to be useful or essential to community planning and development studies are empowered and directed to make such information available for the use of the Commission, its members, officers, or employees.

Section 20. SAVING CLAUSE: It is hereby declared to be the intent of the Legislature that if any provision of this Act, or the application thereof to any persons or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act or its application to other persons or circumstances, but shall be confined in its operation to the provisions of this Act or its application to the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

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