

1 IN THE SENATE

BY SENATOR GORSUCH, BY REQUEST

2 SENATE BILL NO. 112

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to be known as the Municipal
7 Subdivision Act."

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

9 Section 1. APPROVAL OF SUBDIVISIONS: Each subdivision or
10 dedication, before any of its lots or tracts may be sold or
11 offered for sale, shall first be submitted for approval to the
12 authority having jurisdiction thereof, as herein prescribed, and
13 no sale or offer for sale shall be made unless and until the
14 same shall be approved by such authority as herein provided,
15 with the regular approval of such authority duly shown thereon
16 or attached thereto and until the same has been duly filed for
17 record in the office of the U. S. Commissioner, ex officio
18 recorder.

19 Section 2. PLATTING JURISDICTION: The provisions of this
20 Act shall apply to all subdivision and dedication of land lying
21 within an incorporated municipality or, in the case of a city
22 with a population of 1,000 or more, of land within six miles of
23 its corporate limits and not located in any other municipality;
24 provided, however, that in the case of such extra municipal land
25 lying within six miles of more than one city, the jurisdiction
26 of each such city shall terminate at a boundary line equidistant
27 from the respective corporate limits of such cities.

28 Section 3. PLATTING AUTHORITY: Whenever any land proposed
29 to be subdivided or dedicated is situated within the jurisdiction
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Subject

1 of a city as defined in Section 2 of this Act the same shall be
2 submitted for approval to the city planning commission, which
3 shall be the platting authority for such city, and no subdivision
4 may be filed for record until approved by the city planning
5 commission.

6 Section 4. SUBDIVISION REGULATIONS: In the exercise of the
7 powers conferred by this Act, the council shall adopt regulations
8 governing the subdivision of land within the jurisdiction of the
9 platting authority, upon recommendation of the city planning
10 commission. Such regulations shall be consistent with the pro-
11 visions of this Act, and shall be designed to supplement such
12 provisions and to provide for their application in further detail.
13 Such regulations shall be adopted by the council by ordinance;
14 provided that the council may authorize and direct the planning
15 commission to adopt subdivision regulations hereunder, and regu-
16 lations so adopted shall have the same force and effect as if
17 they had been adopted by the council itself. Subdivision regu-
18 lations once adopted may be amended by the body that originally
19 adopted them. Before the adoption of subdivision regulations
20 or of any substantial amendment thereof, a public hearing shall
21 be held thereon, due notice of which shall be published at least
22 once in a newspaper of general circulation in the city at least
23 fifteen (15) days before the date of such hearing.

24 Such regulations may provide for the harmonious development
25 of the municipality and its environs; for the coordination of
26 streets within subdivisions with other existing or planned streets
27 or with other features of the master plan or official map of the
28 municipality; for adequate open spaces for traffic, recreation,
29 light, and air; and for a distribution of population and traffic

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1 which will tend to create conditions favorable to health, safety,
2 convenience, or prosperity.

3 Such regulations shall prescribe standards and requirements
4 for:

- 5 (a) The design of subdivisions, including, but not
6 limited to, the plan of streets and other rights-of-way;
7 the relation thereof to topography, to existing or planned
8 streets, whether outside or within the subdivision, and to
9 the master plan of the municipal corporation or county, if
10 such exists; the width, alignment, grades, angles of inter-
11 section or convergence, and other details of street layout;
12 the locations and widths of easements for public utilities
13 or other purposes; and the plan of blocks and lots and the
14 sizes and shapes thereof.
- 15 (b) The provision of adequate space for the standing
16 and the loading and unloading of vehicles.
- 17 (c) The prohibition or control of reserved strips
18 controlling the access to adjacent property.

19 In addition, such regulations may:

- 20 (a) Prescribe standards and requirements for the
21 accuracy and closure of surveys; the durability, kind, and
22 location of monuments; and the completeness, accuracy, and
23 detailed form of preliminary and final plats, and the in-
24 formation to be shown thereon or to be furnished therewith.
- 25 (b) Prescribe details of procedure with respect to
26 the filing of and action on preliminary and final plats,
27 including requirements as to the number of copies of such
28 plats to be furnished by the subdivider.
- 29 (c) Include requirements as to the extent to which

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1 and the manner in which streets shall be graded and improved
2 and water, sewer, and other utility mains, piping, connections,
3 or other facilities shall be installed as a condition prece-
4 dent to the approval of the plat. Such regulations may
5 provide that, in lieu of the completion of such work and in-
6 stallations previous to the final approval of a plat, the
7 platting authority may accept a bond, in an amount and with
8 surety and conditions satisfactory to it, providing for and
9 securing to the municipality the actual construction and
10 installation of such improvements and utilities within a
11 period specified by the platting authority and expressed in
12 the bond; and the municipality is hereby granted the power
13 to enforce such bonds by all appropriate legal and equitable
14 remedies. Such regulations may provide, in lieu of the
15 completion of such work and installations previous to the
16 final approval of a plat, for an assessment or other method
17 whereby the municipality is put in an assured position to
18 do said work and make said installations at the cost of the
19 owners of the property within the subdivision.

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

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

25 (f) Require, after the adoption of a master plan, or
26 appropriate parts thereof, the dedication or reservation,
27 and conditions thereof, of parcels of land within a sub-
28 division for such school sites, parks, playgrounds, and
29 other public uses, including planting and barrier strips

Proposed Act

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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 for the dedication, at the volition of the subdivider, of easements of 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) Prescribe procedure and specify conditions for the reversion of subdivided land to acreage, as provided in Section 10 of this Act.

(i) 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

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3 whether or not the public interest will be served or vantaged by
4 such subdivision or dedication, and no such subdivision or dedi-
5 cation shall be approved if it will be deemed not in the public
6 interest.

7 **Section 6. PROCEDURE ON PLATS:** The platting authority shall
8 approve or disapprove the plat of subdivision or dedication within
9 60 days after the filing thereof, or shall return such plat to
10 the applicant for modification or correction within 60 days from
11 the date of filing thereof; otherwise, such plat shall be deemed
12 to have been approved and a certificate to that effect shall be
13 issued by the platting authority on demand; provided, however,
14 that the applicant for plat approval may waive this requirement
15 and consent to the extension of such period. The ground of dis-
16 approval of any plat shall be stated upon the records of the
17 platting authority.

18 **Section 7. EFFECT OF PLAT APPROVAL ON STATUS OF DEDICATIONS:**
19 The approval of a plat by the platting authority shall not be
20 deemed to constitute or affect an acceptance by the municipality
21 or public of the dedication of any street or other ground thereon.

22 **Section 8. ACCEPTANCE OF AND IMPROVEMENTS IN UNAPPROVED**
23 **STREETS:** From and after the time when the platting jurisdiction
24 of any municipal platting authority shall have attached by virtue
25 of the adoption of subdivision regulations as provided in section
26 4 of this Act, the municipality or other public authority shall
27 not accept, lay out, open, improve, grade, pave, or light any
28 street or authorize the laying of water mains, sewers, connections,
29 or other facilities or utilities in any street within the muni-
30 cipality or other territorial jurisdiction of said platting
authority as defined in section 2 of this Act, unless such street

1 shall have been accepted or opened as, or shall have otherwise
2 received the legal status of, a public street prior to the said
3 attachment of the platting authority's subdivision jurisdiction,
4 or unless such street correspond in its location and lines with
5 a street shown on a subdivision plat approved by said platting
6 authority or on an official map adopted by the council; provided,
7 however, that the council, or, in the case of a street outside
8 of the municipality, the governing body of such outside territory,
9 may locate and construct or may accept any other street if the
10 ordinance or other measure for such location and construction or
11 for such acceptance be first submitted to said platting authority
12 for its approval and, if disapproved by the platting authority,
13 be passed by not less than two-thirds of the entire membership
14 of council or said governing body; and a street approved by the
15 platting authority upon such submission, or constructed or
16 accepted by said two-thirds vote after disapproval by the plat-
17 ting authority, shall have the status of an approved street as
18 fully as though it had be originally shown on a subdivision
19 plat approved by the platting authority or on an official map
20 adopted by the council.

21 Section 9. ERECTION OF BUILDINGS: From and after the time
22 when the platting jurisdiction of any municipal platting author-
23 ity shall have attached, no building permit shall be issued for
24 or no building shall be erected on any lot within the terri-
25 torial jurisdiction of said platting authority, unless the
26 street giving access to the lot upon which said building is
27 proposed to be placed shall be accepted or opened as, or shall
28 have otherwise received the legal status of, a public street
29 prior to that time, or unless such street correspond in its

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location and lines with a street shown on a subdivision plat approved by said platting authority or on an official map adopted by the council or with a street located or accepted by the council, or in the case of territory outside of the municipal corporation, by the governing body thereof after submission to said platting authority and, in case of said platting authority's disapproval, by the favorable vote required in section 9 of this Act. Any building erected in violation of this section shall be deemed an unlawful structure, and the building official or solicitor of the municipality or other official designated by the council may bring action to enjoin such erection or cause it to be vacated or removed.

Section 10. REVERSION OF SUBDIVIDED LAND TO ACREAGE: The owner of any land subdivided into lots may file for record a plat for the purpose of showing such land as acreage. Such plat and the procedure in connection therewith shall conform to the requirements of this Act with respect to preliminary and final plats and action thereon, except that:

(a) No survey or certificate of any surveyor or engineer shall be required; provided, however, that the municipal corporation or county may require a survey of the exterior boundaries of the land and the placing of suitable and adequate monuments along such boundaries if it finds that the last preceding survey of record of such boundaries is faulty or inadequate or that insufficient monuments are in position along such boundaries.

(b) No improvements shall be required, except such as may be necessary to provide equivalent access, as hereinafter in this section provided.

Plats filed for the purpose of reverting subdivided land

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to acreage and the procedure in connection therewith shall also conform to the requirements of subdivision regulations adopted under the provisions of this Act.

The Council may order the vacation and reversion to acreage of all or any part of a subdivision within the city limits, including the vacation of streets or other parcels of land dedicated for public purposes or any of such streets or other parcels, the plat of which subdivision was recorded as provided by law more than five (5) years before the date of such action, and which subdivision or part thereof not more than ten (10) percent of the total subdivided area has been sold as lots by the original subdivider or his successor in title. Such action shall be based on a finding by the platting authority that the proposed vacation and reversion to acreage of subdivided land conforms to the master plan of such municipal corporation or county, if one exists, and that the public health, safety, comfort, convenience, and welfare will be promoted thereby.

Before ordering the vacation and reversion of subdivided land to acreage on its own motion, the council shall hold a public hearing thereon, notice of which shall be given by publication at least once in a newspaper of general circulation in the city at least fifteen (15) days before the date of such hearing. Prior to action on any preliminary plat proposing the reversion of only a part of a subdivision to acreage, the platting authority or, in the absence of a platting authority, the council, shall hold a public hearing, with notice as aforesaid, on such preliminary plat. Upon ordering the vacation and reversion to acreage of a subdivision or part thereof, the platting authority or council shall cause a plat accurately

1 showing the boundaries of the land reverted to acreage to be
2 filed for record in the office of the U. S. Commissioner and
3 ex-officio Recorder of Deeds.

4 If land in a subdivision or part thereof is proposed for
5 reversion to acreage, either at the instance of the council
6 or by the filing of a plat by the owner, and such land is
7 subject to existing zoning regulations, the council shall,
8 concurrently with the proceedings for vacation and reversion
9 to acreage or for consideration of and action on such plat,
10 conduct proceedings for such amendment, if any, of such zoning
11 regulations as such council may deem to be advisable in view
12 of the conditions that will exist subsequent to such reversion
13 to acreage.

14 No owner of any parcel of land in a subdivision shall be
15 deprived by the reversion to acreage of any part of the sub-
16 division, by whatever procedure, of reasonable access to such
17 parcel nor of reasonable access therefrom to existing community
18 facilities to which such parcel has theretofore had access;
19 provided that such access remaining or provided after such
20 vacation need not be the same as that theretofore existing,
21 but shall be reasonably equivalent thereto.

22 Section 11. RECORDATION OF PLATS: From and after the
23 effective date of this Act no U. S. Commissioner, ex-officio
24 Recorder, shall receive or record the final plat of a subdivi-
25 sion unless the same conforms in all respects to the provisions
26 of this Act and of subdivision regulations adopted hereunder.
27 Appearance on the plat of a certificate of approval thereof by
28 the platting authority having jurisdiction over the subdivision
29 of land in the subdivision, duly signed by the appropriate

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1 officer of such authority, shall be prima facie evidence that
2 such plat is in conformity with the provisions of this Act and
3 of subdivision regulations adopted hereunder, but the register
4 of deeds may make such check of such plat as he may deem to be
5 advisable in order to satisfy himself of such conformity.

6 Neither the approval of a final plat by the platting
7 authority having jurisdiction, nor the recording of a final plat
8 shall be deemed to validate any error in such plat or in the
9 survey of the subdivision covered thereby, or to render the
10 platting authority or city, or any officer or employee thereof
11 liable for any damages resulting from any such error.

12 No preliminary plat of a subdivision shall be filed for
13 record, received for record, or recorded.

14 The recording of a plat of a subdivision except as provided
15 in this Act shall be void, and any plat so recorded from and
16 after the effective date of this Act shall be void.

17 Section 12. PENALTIES, RELIEF FOR BUYER: Whoever, being
18 the owner or agent of the owner of any land located within the
19 subdivision, transfers, sells, or agrees, or enters into a
20 contract to sell any land in such subdivision, whether by
21 reference to or by other use of a plat of such subdivision or
22 otherwise, unless and until a plat of such subdivision has been
23 prepared in full compliance with the provisions of this Act and
24 of subdivision regulations adopted hereunder and has been
25 approved by the platting authority having jurisdiction and has
26 been recorded in the office of the U. S. Commissioner, as
27 provided herein, shall be guilty of a misdemeanor, punishable by
28 fine of not less than \$100.00 nor more than \$500.00 for each
29 lot or parcel so transferred or sold or agreed or included in

1 a contract to be sold; and the description by metes and bounds
2 in the instrument of transfer or other document used in the
3 process of selling or transferring shall not exempt the trans-
4 action from such penalty or from the limits herein provided.
5 The municipal corporation may sue to enjoin such transfer or
6 sale or agreement to sell, and may recover the said penalty
7 by appropriate action in any court of competent jurisdiction.
8 Any contract to sell land in violation of this section shall be
9 voidable at the option of the purchaser, and the purchaser may
10 recover from such owner or agent of such owner any damages he
11 may have suffered by reason of the violation of any of the
12 provisions of this Act or of subdivision regulations adopted
13 hereunder. If the municipal corporation deems that an un-
14 approved subdivision is against the public interest, it may,
15 in addition to the penalties herein provided, request such
16 court of competent jurisdiction to void any such subdivision.

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

25 Section 13. DEFINITIONS: For the purposes of this Act,
26 the term "street" or "streets" means, relates to, and includes
27 streets, avenues, boulevards, roads, lanes, alleys, and other
28 ways; "subdivision" means the division of a tract or parcel
29 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.

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