

1 IN THE HOUSE

2 HOUSE BILL NO. 87

BY MR. KAY

(By Request)

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-SECOND SESSION

5 A BILL

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

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

9 Section 1. CREATION AND APPOINTMENTS OF CITY PLANNING COM-
10 MISSION. The Council of any incorporated municipality may create
11 a city planning commission. The city planning commission shall
12 consist of not less than five, nor more than nine members, ap-
13 pointed by the mayor and confirmed by the council for a term of
14 three years; provided, however, that in the first instance one-
15 third thereof shall be appointed for three years, one-third for
16 two years, and one-third for one year. Not more than one-third
17 of the members shall be non-residents of the city. Appointments
18 to fill vacancies shall be made by the mayor for the unexpired
19 term only. All members of the commission shall serve as such
20 without compensation.

21 Sec. 2. ORGANIZATION, RULES, STAFF AND FINANCES. The com-
22 mission shall elect its chairman from among the appointed members.
23 The term of chairman shall be one year with eligibility for re-
24 election. The commission shall adopt rules for the transaction
25 of business and shall keep a record of its resolutions, trans-
26 actions, findings, and determinations, such record shall be a
27 public record. The commission may appoint such employees and
28 staff as it may deem necessary for its work, and may contract
29 with city planners and other consultants or agencies for such

1 services as it may require. The expenditures of the commission,
2 exclusive of gifts or grants, shall be within the amounts appro-
3 priated for the purpose by the council.

4 Sec. 3. GENERAL PLAN. It shall be the function and duty of
5 the commission to make and adopt an official general plan for the
6 physical development of the municipality, including any areas
7 outside of its boundaries which, in the commission's judgment,
8 bear relation to the planning of the municipality. The plan with
9 the accompanying maps, plats, charts and descriptive and explanat-
10 tory matter, shall show the commission's recommendations for the
11 said physical development, and may include amongst other things,
12 the general location, character and extent of streets, bridges,
13 viaducts, parks, parkways, waterways, waterfronts, play-grounds,
14 airports and other public ways, grounds, places and spaces, the
15 general location of public buildings and other public property,
16 the general location and extent of public utilities and terminals
17 whether publicly or privately owned, for water, light, power,
18 sanitation, transportation, communication and other purposes;
19 also the removal, relocation, widening, extension, narrowing,
20 vacating, abandonment, change of use or extension of any of the
21 foregoing public ways, grounds, places, spaces, buildings, prop-
22 erties or utilities; also a zoning plan for the regulation of
23 the height, area, bulk, location and use of private and public
24 structures and premises and of population density; also the
25 general location, character, layout and extent of community
26 centers and neighborhood units; also the general location,
27 character, extent and layout of the replanning of blighted dis-
28 tricts and slum areas. The commission may from time to time
29 amend, extend or add to the plan or carry any part or subject

1 matter into greater detail.

2 Sec. 4. GENERAL PURPOSES OF THE PLAN. In the preparation
3 of the plan, the commission shall make careful and comprehensive
4 surveys and studies of the existing conditions and future growth
5 of the municipality and its environs. The plan shall be made
6 with the general purpose of guiding and accomplishing a coordi-
7 nated, adjusted and harmonious development of the municipality
8 which will, in accordance with existing and future needs, best
9 promote public health, safety, morals, order, convenience,
10 posterity and the general welfare, as well as efficiency and
11 economy in the process of development.

12 Sec. 5. ADOPTION OF PLAN. - The commission may adopt the
13 plan as a whole by a single resolution, or, as the work of making
14 the whole plan progresses, may from time to time adopt a part or
15 parts thereof, any such part to correspond generally with one or
16 more of the functional subdivisions of the subjects-matter of the
17 plan. The adoption of the plan or any part, amendment or addi-
18 tion shall be by resolution carried by the affirmative votes of
19 not less than a majority of all the members of the commission.
20 The resolution shall refer expressly to the maps, descriptive
21 matter and other matters intended by the commission to form the
22 whole or part of the plan, and the action taken shall be recorded
23 on the adopted plan or part thereof and descriptive matter by the
24 identifying signature of the secretary of the commission, and a
25 copy of the plan or part thereof shall be certified to the chief
26 legislative body.

27 Sec. 6. MISCELLANEOUS POWERS OF THE COMMISSION. The com-
28 mission may make reports and recommendations relating to the
29 plan and development of the municipality to public officials and

1 agencies, public utility companies, to civic, educational, pro-
2 fessional and other organizations and to citizens. It may recom-
3 mend to the executive or legislative officials of the municipal-
4 ity programs for public improvements and the financing thereof.
5 All public officials shall, upon request, furnish to the commis-
6 sion, within a reasonable time, such available information as
7 it may require for its work. The commission, its members and
8 employees, in the performance of its work, may enter upon any
9 land and make examinations and surveys and place and maintain
10 necessary monuments and marks thereon. In general, the commis-
11 sion shall have such powers as may be necessary to enable it to
12 perform its purposes and promote municipal planning.

13 Sec. 7. LOCAL STATUS OF PLAN. Whenever the commission
14 shall have adopted the master plan of the municipality or any
15 part thereof, then and thenceforth no street, park, or other
16 public way, ground, place or space, no public building or struc-
17 ture, or no public utility, whether publicly or privately owned,
18 shall be constructed or authorized in the municipality until and
19 unless the location and extent thereof shall have been submitted
20 to and approved by the planning commission; provided that in case
21 of disapproval, the commission shall communicate its reasons to
22 the council, and the council, by a vote of not less than two-
23 thirds of its entire membership, shall have the power to overrule
24 such disapproval and, upon such overruling, the council or the
25 appropriate board or officer shall have the power to proceed;
26 provided, however, that if the public way, ground, place, space,
27 building, structure, or utility be one the authorization or
28 financing of which does not, under the law or charter provisions
29 governing the same, fall within the province of the council or

1 other body or official of the municipality, then the submission
2 to the planning commission shall be by the board or official
3 having such jurisdiction, and the planning commission's disap-
4 preval may be overruled by said board by a vote of not less than
5 two-thirds of its entire membership or by said official. The
6 acceptance, widening, removal, extension, relocation, narrowing,
7 vacation, abandonment, change of use, acquisition of land for,
8 or sale or lease of any street or other public way, ground, place
9 property, or structure shall be subject to similar submission and
10 approval; and the failure to approve may be similarly overruled.
11 The failure of the commission to act within sixty days from and
12 after the date of official submission to it shall be deemed ap-
13 preval, unless a longer period be granted by the council or
14 other submitting official.

15 Sec. 8. OFFICIAL MAP. From and after the time when the
16 commission shall have adopted a general plan which includes major
17 street plan, or shall have progressed in its planning to the stage
18 of the making and adoption of a major street plan, and shall have
19 certified a copy of such major street plan to the Council, said
20 council may by ordinance establish an official map of the city
21 showing the streets, highways, parkways, parks, and playgrounds,
22 therefore laid out, adopted and established by law. Such
23 official map may also show the location of the lines of streets
24 and plats of subdivisions which shall have been approved by the
25 platting authority of the municipality. Said ordinance shall
26 make it the duty of the city clerk at once to file with the
27 office of the United States Commissioner a certificate showing
28 that the city has established such official map.

29 Sec. 9. OFFICIAL MAP: ADDITIONS AND CHANGES. The council

1 is authorized and empowered, whenever and as often as it may deem
2 it for the public interest, to change or add to the official map
3 of the city so as to establish the exterior lines of planned new
4 streets, highways, parkways, parks or playgrounds, or to widen,
5 narrow, extend or close existing streets, highways, parkways,
6 parks or playgrounds. No such change shall become effective until
7 after a public hearing in relation thereto, at which parties in
8 interest and citizens shall have an opportunity to be heard. At
9 least 15 days notice of such a public hearing shall be published
10 at least once in a newspaper of general circulation in the city.
11 Before making such addition or change, the council shall refer
12 the matter to the city planning commission for report thereon,
13 but if the city planning commission shall not make its report
14 within 60 days of such reference, it shall forfeit the right to
15 further suspend action. Such additions and changes when adopted
16 shall become a part of the official map of the municipality, and
17 shall be deemed to be final and conclusive with respect to the
18 location and width of the streets, highways and parkways and the
19 location and extent of parks and playgrounds shown thereon. The
20 placing of any street, highway, parkway, park or playground line
21 or lines upon the official map shall not in and of itself con-
22 stitute or be deemed to constitute the opening or establishment
23 of any street, parkway, park or playground, or the taking or ac-
24 ceptance of any land for such purposes. The locating, widening
25 or closing, or the approval of the locating, widening or closing
26 of streets, highways, parkways, parks or playgrounds by the city
27 under provisions of law other than contained in this section shall
28 be deemed to be a change or addition to the official map, and
29 shall be subject to all the provisions of this section.

1 Sec. 10. REGULATION OF BUILDINGS IN BED OF MAPPED STREETS.

2 For the purpose of preserving the integrity of the official map,
3 the council may provide by general ordinance that no permit shall
4 be issued for any building or structure or part thereof on any
5 land located between the mapped lines of any street as shown on
6 the official map. Any such ordinance shall provide that the
7 Board of Adjustment shall have the power, upon an appeal filed
8 with it by the owner of any such land, to authorize the grant of
9 a permit for a building or structure or part thereof within any
10 such mapped-street location in any case in which such board finds
11 upon the evidence and arguments presented to it upon such appeal,
12 (a) that the property of the appellant of which such mapped-
13 street location forms a part will not yield a reasonable return
14 to the owner unless such permit be granted, or (b) that, balan-
15 cing the interest of the municipality in preserving the integ-
16 rity of the official map and the interest of the owner in the
17 use and benefits of his property, the grant of such permit is
18 required by considerations of justice and equity. Before taking
19 any such action, the Board of Adjustment shall hold a hearing
20 thereon, at least 15 days' notice of the time and place of which
21 shall be given to the appellant by mail at the address specified
22 by the appellant in his appeal petition. In the event that the
23 Board of Adjustment decides to authorize a building permit, it
24 shall have the power to specify the exact location, ground area,
25 height, and other details and conditions of extent and character,
26 and also the duration of the building, structure, or part thereof
27 to be permitted, but the appellant or any person thereafter
28 shall not be entitled to recover any damages for the taking for
29 public use of any building or improvements of any kind authorized

1 under this provision.

2 Sec. 11. MUNICIPAL IMPROVEMENTS IN STREETS: BUILDINGS NOT
3 ON PAVED STREETS. Excepting in streets existing and established
4 by law as public streets at the date of the establishment of the
5 official map, no public water facilities, sewer, or other public
6 utility or improvement shall be constructed after said date in
7 any street until such street is duly placed on the official map.
8 Council may provide by general ordinance that no permit for the
9 erection of any building shall be issued unless a street giving
10 access to such proposed building existed and was established by
11 law as a public street at the time of the establishment of the
12 official map or shall have been duly placed on the official map
13 in accordance with the provisions in sections 7 and 8 of this
14 Act; provided, however, that such ordinance shall contain pro-
15 vision whereby the applicant for such permit may appeal to the
16 Board of Adjustment, hearing upon which appeal and notice of
17 which shall be held and given as provided in section 9 of this
18 Act, and such board shall have the authority to authorize a per-
19 mit, subject to such conditions as the board may impose, where
20 the circumstances of the case do not require the proposed build-
21 ing to be related to existing streets or to streets as shown on
22 the official map and where the permit would not tend to distort
23 or increase the difficulty of carrying out the official map or
24 master plan of the municipality.

25 Sec. 12. BUILDING SETBACK LINES. The council of any in-
26 corporated city shall have the authority under an exercise of
27 its police powers by ordinance to establish or alter building
28 setback lines on private property adjacent to any street, alley
29 or other public way, and to make it unlawful and provide a

1 penalty for erecting after adoption of such ordinance any build-
2 ing or structure closer to any street line than such setback line,
3 except as may be expressly provided by the ordinance. No such
4 establishment or alteration of setback lines shall become effec-
5 tive until after a public hearing in relation thereto, at which
6 parties in interest and citizens shall have an opportunity to be
7 heard. At least 15 days notice of such public hearing shall be
8 published at least once in a newspaper of general circulation in
9 the city. Such setback lines may be established without requir-
10 ing or cutting off or removal of buildings existing at the time.
11 The powers herein given shall so be exercised as to preserve con-
12 stitutional rights.

13 Sec. 13. USE OF EMINENT DOMAIN FOR STREET WIDENING. The
14 council of any incorporated city shall have the authority [under
15 an exercise of the power of eminent domain] by ordinance to
16 establish or alter building setback lines on private property
17 adjacent to any street, alley or other public way in cases where
18 the establishment of such lines is for street widening purposes,
19 and in cases where the establishment of such setback lines
20 affects building or structures existing at the time. No such
21 establishment or alteration of setback lines shall become effec-
22 tive until after a public hearing in relation thereto, at which
23 parties in interest and citizens shall have an opportunity to be
24 heard. At least 15 days notice of such public hearing shall be
25 published at least once in newspapers of general circulation in
26 the city. In case of the exercise of the power of eminent domain,
27 provision shall be made for ascertaining and paying just com-
28 pensation for any damages caused as the result of establishing
29 such setback lines.]

p. 9, Lines 14 & 15: strike word "under" through word "domain";
and strike "s" on word "ordinances"

p. 9, line 26: after word "city." strike the following sentence
and insert in lieu thereof new sentence as follows:
"Upon the establishment of setback lines as herein
provided, the council may, by exercise of its power
of eminent domain and through proper judicial
proceedings, obtain the private property necessary
for the street widening purpose."

1 Sec. 14. VACATION OF STREETS. In addition to authority
2 granted by other laws, the council of any incorporated city shall
3 have the power by ordinance to vacate any street, alley or other
4 public way whenever the public interest and convenience may re-
5 quire. No such vacation shall become effective until after a
6 public hearing in relation thereto, at which parties in interest
7 and citizens shall have an opportunity to be heard. At least 15
8 days notice of such public hearing shall be published at least
9 once in a newspaper of general circulation in the city. Land
10 vacated under this section may be used for other public purposes
11 or may be sold, leased or otherwise disposed of according to law.

12 Sec. 15. Section 16-1-35, 23rd, Alaska Compiled Laws Anno-
13 tated, 1949, is hereby repealed.
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