

MAINE STATE LEGISLATURE

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N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 127

H. P. 190

House of Representatives, January 27, 1943.

Referred to Committee on Legal Affairs, ordered printed and sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Payson of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT Relating to Municipal Planning and Zoning.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Planning and zoning powers of municipalities. The legislative body of any city and the inhabitants of any town may provide for a planning board, for the preparation by it of coordinated plans for the development of such municipality and for their enforcement. For this purpose they may, in such measure as is deemed reasonably necessary in the interest of health, safety or the general welfare, regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, or other purposes; the height, number of stories, area, bulk, and construction of buildings and other structures; the size and width of lots and of yards and other open spaces thereon; the density of population; the setback of buildings along streets, parks, or public waters; the subdivision and development of land; and the erection of buildings within the lines of streets, ways, or parks shown on an official map or not abutting on approved streets. For the purpose of any such regulation they may adopt a zoning plan dividing the municipality into zones of such number, shape and extent, and may establish an official map or maps and development plans of the whole or any portion of the area of such municipality, as may be deemed best suited to carry out the purpose of this section. Such regu-

lations may include requirements as to the extent to which and the manner in which streets shall be improved and drainage and utilities shall be installed or assured as a condition precedent to the approval of a plat or subdivision. No amendment of a zoning plan shall be adopted except by a 2/3 vote, in a city of its legislative body, or in a town of a town meeting.

All such regulations shall be worked out as parts of a comprehensive plan for the development of such municipality, and shall be designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic accidents and congestion; to secure safety from fire and other dangers; to provide adequate light and air; to prevent overcrowding of land and population; to promote a wholesome and agreeable home environment; to prevent the development of unsanitary areas for housing purposes; to secure a well-articulated and adequate street system; to promote a coordinated development of the un-built areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve natural resources; or to facilitate the adequate provision of transportation, water, sewerage, and other public utilities, services and requisites.

A building or land used or to be used by a public service corporation may be exempted in part or whole from regulations enacted under this section provided that, upon petition, the public utilities commission, after due notice and a public hearing, adjudge such exemption to be reasonably necessary for the convenience or welfare of the public.

Regulations enacted under this section shall not apply to structures and the use thereof existing at the time they are enacted but shall apply to alterations in structure or use made thereafter.

Sec. 2. Platting approval. No register of deeds shall hereafter file or record any plat of a subdivision of land lying within any municipality until it shall have been approved by the municipal officers and such approval entered on the plat by the city or town clerk. If the legislative body of a city or the inhabitants of a town so ordain and certify such action to the appropriate register of the deeds, no subdivision of land in such a manner as to require a street or way for access to a lot shall thereafter be filed or recorded until a plat of the same shall have been approved by the municipal officers. If the legislative body of a city, or the inhabitants of a town, having a planning board so ordain and certify such action to the appropriate register of deeds, such board shall in their stead pass upon plats under this section and access ways under section 3. The filing or

recording of a plat without the approval required by this section shall be void. Whoever transfers or sells or agrees or negotiates to sell any land by reference to or exhibition of or by other use of a plat of subdivision of land into 5 or more lots before such plat has been approved as provided herein and recorded by the appropriate register of deeds shall be punished by a fine of not more than \$200 for each lot so transferred or sold or agreed or negotiated to be sold. Any municipality may enjoy such transfer or sale or agreement of sale of land within the municipality.

Sec. 3. Official maps. The legislative body of a city or the inhabitants of a town may establish an official map thereof showing the location of the public streets and parks and of ways used in common by more than 2 owners, and the boundaries of zones, theretofore established. The city or town clerk shall certify the fact of the official map to the register of deeds of the county in which such city or town is situated, who shall receive and record the same. The lines of public streets and parks and the boundaries of zones thereafter established and the lines of streets, ways, and parks thereafter approved under section 2 of this section shall by such actions become parts of the official map.

After the planning board of a municipality shall have adopted a master plan under section 4, in a city the legislative body and in a town the inhabitants thereof may place on the official map the lines of planned new streets, parks, and street and park extensions and widenings. The placing of any street, park, or line upon the official map shall not be deemed to constitute the opening or establishment of any street or park or the taking or acceptance of any land for street or park purposes. No permit shall be issued for any building or structure or part thereof on any land located between the mapped lines of any street, way, or park as shown on the official map except on appeal under section 5.

In any municipality having an official map under this section, no pavement, public water facility, sewer, or other public utility or improvement shall be constructed along any street not on such map, and the legislative body of city or the inhabitants of a town may ordain that no permit for the erection of any dwelling, or of any other building requiring access from a street, shall be issued unless a street or way giving access thereto appears on such map or is approved for such purpose by the municipal officers.

Sec. 4. Duties of planning boards. Any planning board established under section 1 shall consist of 5 members no one of whom shall be a salaried official of the municipality. The terms of members shall be such that one term expires each year.

The planning board of any municipality may prepare and adopt and thereafter amend by a majority vote of the board, after public hearing in each case on its tentative proposals, a comprehensive master plan showing its recommendations for the development of the municipality, which may include, among other things, the proposed general location, extent, type of use, layout, and character: of streets, bridges, viaducts, tunnels, grade separations of streets and railroads, parks, parkways, playgrounds, waterway and waterfront developments, airports, public buildings, and other public ways, grounds, places, spaces, and property; of utilities and terminals, whether publicly or privately owned, for water, light, power, heat, sanitation, transportation, communication, and other purposes; and of community centers, neighborhood units, and rehabilitated blighted districts and slum areas; and may include a proposed zoning plan for regulating the location, use, size, construction, and open spaces of buildings, the use of land, and population density. The master plan, upon adoption, and as thereafter amended, shall be a public record.

In a municipality having a planning board hereafter established, no regulation, official map, or zoning or other plan shall be enacted, established, or amended, and no plat, street, or way shall be approved, under sections 1 to 3, inclusive, and no public building, structure, utility, or roadway, or street, way, park, or other public land shall be authorized, established, or modified in location or extent until the planning board shall have reported its recommendations in regard to the location and extent thereof. This report shall be made only after the board has made a careful investigation and is convinced that the plans or regulations recommended by it will fit in with the comprehensive master plan adopted or being prepared by it for the development of the municipality. Before making such report the board shall hold a public hearing on its tentative proposals and recommendations. In a city, if the board disapproves any enactment, establishment, amendment, approval, or authorization, such action shall not become effective except by the favorable vote of $\frac{4}{5}$ of the legislative body. If the board fails to report within 45 days after submission to it of a proposed action, it shall be deemed to have approved such action.

In a municipality having a city or town engineer, no plat shall be approved under section 2 until the engineer has had opportunity to report thereon in regard to grades, feasibility of drainage and sewerage, and character of road surfacing.

In a city not having a planning board the legislative body, and in a town not having a planning board the inhabitants thereof, may provide for a zoning committee and authorize it to act in lieu of a planning board in

recommending enactment of a zoning plan as authorized under section 1, and of amendments thereto.

Sec. 5. Appeals. The legislative body of any city and the inhabitants of any town regulating building or use of buildings or land under sections 1 to 3, inclusive, shall by ordinance create a board of appeals. Such ordinance shall specify the number and terms of members, mode of appointment, and other details relating to the organization and procedure of such board, and shall provide for one or more associate members to act thereon in place of any member unable to act, due to interest, absence from the state, or physical incapacity. Such ordinance shall authorize such board, by unanimous vote of its members after a public hearing in each case, to interpret the details of the application of ordinances and regulations enacted under such sections in accordance with general rules set forth in such ordinances or regulations, including the power to determine appeals from the alleged erroneous refusal of building permits and to permit exceptions to or variations from regulations in the classes of cases or situations and in accordance with the principles, conditions, and procedure specified therein and so as to grant reasonable use of property where necessary to avoid confiscation and without substantially departing from the intent of plans and regulations made under such sections. Appeals shall lie from decisions of said board to the superior court according to the provisions of section 20 of chapter 27.

Sec. 6. Relation to other acts. Sections 137 to 144, inclusive, of chapter 5 and sections 31 and 32 of chapter 27 of the revised statutes, as amended, are hereby repealed. In a municipality not having a planning board ordinances and regulations previously enacted under such sections shall continue in full force and effect and may be amended in accordance with the provisions of such sections until said ordinances and regulations are repealed or superseded by ordinances or regulations under sections 1 to 5, inclusive. Upon establishment of a planning board in such a municipality and in any municipality heretofore having a planning board all provisions of ordinances or regulations enacted under such repealed sections not inconsistent with the provisions of sections 1 to 5, inclusive, shall continue in full force and effect as though enacted thereunder and any provisions inconsistent with sections 1 to 5, inclusive, shall be void. If the legislative body of a city or the inhabitants of a town heretofore having a planning board so ordain such board shall hereafter act as a planning board under sections 1 to 4, inclusive.