Chapter 227

1969 REPLACEMENT PART

City Planning and Zoning

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CITY PLANNING COMMISSION

227.010 Definitions for ORS 227.010 to 227.150. As used in ORS 227.010 to 227.150, unless the context requires otherwise:

(1) "City council" means a city council, board of trustees or other legislative body of any city.

(2) "Commission" means a city planning commission.

(3) "City" means any incorporated city or town.

227.020 Authority to create planning commission. Any city council may, by ordinance, create a city planning commission for the city.

227.030 Membership and expenses. (1) The commission shall consist of nine members to be appointed by the mayor, not more than two of whom shall be nonresidents of the city. Commission members shall receive no compensation but shall be reimbursed for duly authorized expenses.

(2) Not more than two members of the commission may be city officers who, if appointed by the mayor, shall serve as ex officio nonvoting members.

[Amended by 1969 c.430 §1]

227.040 Terms of office; vacancies. At the first meeting of the commission, the seven appointed members shall choose their term of office by lot as follows: One for one year, two for two years, two for three years and two for four years. Immediately thereafter, the members shall notify the mayor and council in writing of such allotment. Their successors shall hold office for four years. Any vacancy shall be filled by the mayor for the unexpired portion of the term.

227.050 Election of president and vice president. The commission, at its first meeting, shall elect a president and vice president, who shall be voting members and who shall hold office during the pleasure of the commission.

[Amended by 1969 c.430 §2]

227.060 Election and duties of secretary; annual report. The commission shall elect a secretary who need not be a member of the commission. The secretary shall keep an accurate record of all commission proceedings. The commission shall on the first day of October of each year make and file a report of all its transactions with the city council.

227.070 Meetings, rules, office of commission. Five members of the commission shall constitute a quorum. The commission may make and alter rules and regulations for its government and procedure consistent with laws of this state and with the city charter and ordinances. It shall meet at least once a month. The city council shall assign to the commission an office or headquarters in the city hall, if possible, in which to hold its meetings, transact its business and keep its records.

[Amended by 1969 c.430 §3]

227.080 Employes and expenses. The commission may employ consulting advice on municipal problems, a secretary and such clerks as may be necessary; and pay for their services, and for such other expenses as the commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of the commission, out of funds at the disposal of the commission, as authorized by the city council.

227.090 Powers and duties of commission. Except as otherwise provided by law, the commission may:

(1) Recommend and make suggestions to the city council and to all other public authorities concerning laying out, widening, extending, parking and locating of streets, sidewalks and boulevards, relief of traffic congestion, betterment of housing and sanitation conditions and establishment of zones of districts limiting the use, height, area and bulk of buildings and structures.

(2) Recommend to the city council and all other public authorities plans for regulation of the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of all public utilities, harbor, shipping and transportation facilities.

(3) Recommend to the city council and all other public authorities plans for promotion, development and regulation of industrial and economic needs of the community in respect to private and public enterprises engaged in industrial pursuits.

(4) Advertise the industrial advantages and opportunities of the municipality and

availability of real estate within the municipality for industrial settlement.

(5) Encourage industrial settlement within the municipality.

(6) Make an economic survey of present and potential possibilities of the municipality with a view to ascertaining its industrial needs.

(7) Study needs of existing local industries with a view to strengthening and developing local industries and stabilizing employment conditions.

(8) Do and perform all other acts and things necessary or proper to carry out the provisions of ORS 227.010 to 227.150.

(9) Study and propose in general such measures as may be advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and of the area six miles adjacent thereto.

227.095 Definitions applicable to ORS 227.100 and 227.110. As used in ORS 227.100 and 227.110, "subdivision" and "plat" have the meanings given those terms in ORS 92.010.
[1955 c.756 §28]

227.100 Submission of plats for subdivisions and plans for street alterations and public buildings to commission; report. All subdivision plats located within the city limits, and all plans or plats for vacating or laying out, widening, extending, parking and locating streets or plans for public buildings shall first be submitted to the commission by the city engineer or other proper municipal officer, and a report thereon from the commission secured in writing before approval is given by the proper municipal official.
[Amended by 1955 c.756 §26]

227.110 City approval required prior to recording of subdivision plats and plats or deeds dedicating land to public use within six miles of city. (1) All subdivision plats and all plats or deeds dedicating land to public use in that portion of a county within six miles outside the limits of any city shall first be submitted to the city planning commission or, if no such commission exists, to the city engineer of the city and approved by the commission or engineer before they shall be recorded.

(2) It shall be unlawful to receive or record such plan, plat or replat or deed in any public office unless the same bears thereon the approval, by indorsement, of such commission or city engineer. However, the indorsement of the commission or city engineer of the city with boundaries nearest the land such document affects shall satisfy the requirements of this section in case the boundaries of more than one city are within six miles of the property so mapped or described. If the governing bodies of such cities mutually agree upon a boundary line establishing the limits of the jurisdiction of the cities other than the line equidistant between the cities and file the agreement with the recording officer of the county containing such boundary line, the boundary line mutually agreed upon shall become the limit of the jurisdiction of each city until superseded by a new agreement between the cities or until one of the cities files with such recording officer a written notification stating that the agreement shall no longer apply.
[Amended by 1955 c.756 §27]

227.120 Procedure and approval for renaming streets. Within six miles of the limits of any city, the commission, if there is one, or if no such commission legally exists, then the city engineer, shall recommend to the city council the renaming of any existing street, highway or road, other than a county road or state highway, if in the judgment of the commission, or if no such commission legally exists, then in the judgment of the city engineer, such renaming is in the best interest of the city and the six mile area. Upon receiving such recommendation the council shall afford persons particularly interested, and the general public, an opportunity to be heard, at a time and place to be specified in a notice of hearing published in a newspaper of general circulation within the municipality and the six mile area not less than once within the week prior to the week within which the hearing is to be held. After such opportunity for hearing has been afforded, the city council by ordinance shall rename the street or highway in accordance with the recommendation or by resolution shall reject the recommendation. A certified copy of each such ordinance shall be filed for record with the county clerk or recorder, and a like copy shall be filed with the county assessor and county surveyor. The county surveyor shall enter the new names of such streets and roads in red ink on any filed plat and tracing thereof which may be affected, together with appropriate notations concerning the same.

227.130 Hearing on, submission and report of all zoning and improvement ordinances. Copies of all ordinances for establishment of boundaries of any zone or district provided by ORS 227.090, and all ordinances regulating or limiting the use, height, area, bulk and construction of buildings to be submitted to the council, before they are presented to the council, shall be first submitted by the auditor or city clerk to the commission for recommendation. The auditor or city clerk shall immediately so notify the council, and the commission shall make its recommendation thereon in writing to the council. The commission shall first hold a public hearing at such time and place as may be directed by the council, and make a careful and appropriate investigation thereon. Before final action is taken by the city council, or any department of a city government, on the location or design of any public building, bridge, statue, park, parkway, boulevard, playground or public grounds the same shall be submitted to the commission for consideration and report. Unless the city council definitely names a longer period for the return of a report specified in ORS 227.090 to 227.150, the approval of the commission to any matter so referred to it in accordance with the provisions of those sections shall be deemed to have been given at the end of 30 days after the receipt of the matter in writing by its secretary unless the commission submits a report thereon prior to that time.

227.140 Recommendations and reports on location of buildings. The commission may make recommendations to any person, copartnership, corporation or public authority with reference to the location of buildings, structures or works to be erected, constructed or altered by or for such person, copartnership, corporation or public authority. However, such recommendation shall not have the force or effect of a law or ordinance, except when so prescribed by law or by city ordinance. Any person, copartnership or public authority having charge of the construction, placing or designing of buildings or other structures and improvements, or objects of art, may call upon the commission for a report thereon.

227.150 Acceptance of gifts and federal funds. The commission may receive gifts, bequests or devises of property to carry out any of the purposes of ORS 227.010 to 227.150, which property shall be set over to the municipality to be used by it in furtherance of the purposes of those sections pursuant to the recommendation of the commission. The commission may recommend and make suggestions to the city council and other public authorities concerning acceptance from the United States of America, or any of its agencies, of such funds as may be made available to municipalities for any purpose contemplated by those sections. The city council may accept from the United States of America, or any of its agencies, such funds as may be made available to the municipalities for any such purpose and may enter into such contracts and agreements with the United States, or any of its agencies, as may be necessary, proper and convenient, not contrary to the laws of this state.

ZONING AND BUILDING SETBACK ORDINANCES

227.210 Definitions for ORS 227.220 to 227.280. As used in ORS 227.220 to 227.280, "council" means the city council, board of trustees or other legislative body of any incorporated city and town.

227.220 Zoning authority. For the public interest, health, comfort, convenience, preservation of the public peace, safety, morals, order and the public welfare, the council may by ordinance create or divide the city into districts within some of which it shall be lawful and within others of which it shall be unlawful to erect, construct, alter or maintain certain buildings, or to carry on certain trades or callings or within which the height and bulk of future buildings shall be limited.

227.230 Powers of city to create zones and districts; building restrictions. (1) The council may by ordinance regulate, restrict and segregate the location of industries, the several classes of business, trades or callings, the location of apartment or tenement houses, clubhouses, group residences, two family dwellings, single family dwellings and the several classes of public and semipublic buildings, and the location of buildings or property for specified uses, and may divide the city into districts of such number, shape and area as the council may deem best suited to carry out the purposes of ORS 227.220 to 227.280, subject to the provisions of ORS 227.250 and 227.260.

(2) The council may place reasonable regulations and limitations upon the height and bulk of buildings erected after May 29, 1919, and regulate and determine the area of yards, courts and other open spaces having due regard of the use and occupancy in such case.

227.240 Purpose, scope and matters considered in making regulations. (1) For each district provided for by subsection (1) of ORS 227.230, regulations may be imposed designating the class of use that shall be excluded or subjected to special regulations and designating the uses for which buildings may not be erected or altered, or designating the class of use which only shall be permitted. These regulations shall be designed to promote the public health, safety and general welfare. The council shall give reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the direction of building development in accord with a well considered plan.

(2) The regulations provided for by subsection (2) of ORS 227.230 shall be uniform for each class of buildings throughout each district. The regulations in one or more districts may differ from those in other districts. The regulations shall be designed to secure safety from fire and other dangers and to promote the public health and welfare, and to secure provision for adequate light, air and reasonable access. The council shall pay reasonable regard to the character of buildings erected before May 29, 1919, in each district, the value of the land, and the use to which it may be put to the end that the regulations may promote public health, safety and welfare.

227.250 Recommendations and reports on proposed zoning by planning commission. In municipalities having a city planning commission the council shall require such commission to recommend the boundaries of districts referred to in subsection (1) of ORS 227.230 and appropriate regulations and restrictions to be enforced therein. The commission shall make a tentative report and hold public hearings thereon at such times and places as the council requires before submitting its final report. The council shall not determine the boundaries of any district or impose any regulations until after the final report of the city planning commission is filed with the city clerk.

227.260 Hearing and notice prior to final action. Upon receiving the final report required by ORS 227.250, the council shall afford persons particularly interested, and the general public, an opportunity to be heard at a time and place to be specified in a notice of hearing published in a newspaper to be designated for that purpose. This newspaper shall be a local newspaper, if there is one; otherwise, a newspaper of general circulation within the municipality. The notice shall be published not less than three times in any daily, or not less than once in any other newspaper of general circulation within the municipality and within the week within which the meeting is to be held.

227.270 Proceedings in cities not having planning commission. In municipalities where there is no city planning commission, the council may proceed in the manner prescribed in ORS 227.250 and 227.260. It shall make the tentative report, arrange for and hold the public hearings, make the final report and afford all persons particularly interested, and the general public, an opportunity to be heard at the time and place and in the manner prescribed in those sections.

227.280 Penalty for zoning violations. The council may establish penalties for violation of any ordinance established under ORS 227.210 to 227.270 and in effect.

227.285 [1959 c.601 §1; repealed by 1969 c.460 §2 (227.286 enacted in lieu of 227.285)]

227.286 Building ordinances applicable to public property except federal property. Ordinances adopted by a city regulating the location, construction, maintenance, repair, alteration, use and occupancy of land and buildings and other structures may apply to school district, county, state and other publicly owned or occupied property, except property of the United States.
[1969 c.460 §3 (enacted in lieu of 227.285)]

227.290 Building setback lines established by city council. The council or other governing body of any incorporated city, under an exercise of its police powers, may establish or alter building setback lines on private property adjacent to any alley, street, avenue, boulevard, highway or other public way in such city. It may make it unlawful and provide a penalty for erecting after said establishment any building or structure closer to the street line than such setback line, except as may be expressly provided by ordinance. The council or body

shall pass and put into effect such ordinances as may be needed for the purpose of providing for a notice to and hearing of persons owning property affected before establishing any such setback line. Such setback lines may be established without requiring a cutting off or removal of buildings existing at the time. The powers given in this section shall be so exercised as to preserve constitutional rights.

227.300 Use of eminent domain power to establish setback lines. The council or other governing body of any incorporated city, under an exercise of the power of eminent domain, may establish or alter building setback lines on private property adjacent to any alley, street, avenue, boulevard, highway, or other public way in such city in cases where the establishment of such setback lines is for street widening purposes, and in cases where the establishment of such setback lines affects buildings or structures existing at the time. The council or other governing body of the city shall pass and put into effect such ordinances as may be needed for the purpose of providing for a notice to and hearing of persons whose property is affected by such establishment. In case of the exercise of the power of eminent domain, provision shall be made for ascertaining and paying just compensation for any damages caused as the result of establishing such setback lines.

227.310 Zoning and land use regulations applicable to area outside city continue to apply to area when included within city until altered or discontinued by city. Zoning or land use ordinances or zoning regulations applicable to any area not within a city shall not cease to apply to the area merely because such area is later included within a city, but shall continue to apply until altered or discontinued by the legislative body of the city in a manner provided by law.
[1957 c.67 §1]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon, on December 1, 1969

Robert W. Lundy
Legislative Counsel

CHAPTERS 228 TO 235

[Reserved for expansion]