

ORDINANCE NO. 120

CITY PLANNING ORDINANCE

AN ORDINANCE TO PROVIDE FOR CITY PLANNING, INCLUDING PARK DEVELOPMENT AND MAINTENANCE; THE CREATION, ORGANIZATION AND POWERS OF THE PARK AND PLANNING COMMISSION; THE REGULATION OF SUBDIVISION OF LAND AND THE ESTABLISHMENT OF STREET GRADES; THE ESTABLISHMENT OF BUILDING LINES AND THE ACQUISITION OF RIGHT TO KEEP PLANNED STREETS FREE FROM BUILDINGS; AND PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE.

Section 1. Definitions. For the purpose of this ordinance certain terms are defined as provided in this section. Wherever appropriate the singular includes the plural and the plural includes the singular. "Council" means the city council, "Commission" means the park and planning commission. The term "streets" includes streets, avenues, boulevards, roads, lanes, alleys, viaducts, and other ways. "Subdivision" means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

TITLE 1. CITY PLANNING AND THE COMMISSION

Section 2. The Commission. For the purpose of carrying out the provisions of this ordinance, namely, to make, adopt, amend, extend, add to and carry out a city plan, a commission shall be appointed, provided, however, that from the date of the passage of this ordinance until October 1st, 1932, and until their successors shall have been duly appointed as hereinafter provided, and qualified, the Commission shall consist of the members heretofore appointed by the Corporation Court as the Zoning Commission, namely, George E. Garrett, N. J. Lawler, R. L. Kane, John U. Reardon and B. B. Ezrine, said members of the Zoning Commission having, by authority of Resolution heretofore adopted by the Council, made comprehensive surveys and studies with the view of recommending a master plan for the physical development of the City, and they are hereby authorized and directed to utilize all materials and data heretofore compiled and assembled in carrying into effect the provisions of this ordinance.

On and after October 1st, 1932, the commission shall consist of five members, namely, a member of council to be selected by it as a member ex-officio, and four persons, who shall be appointed by the Mayor. All members of the commission shall serve as such without compensation. The term of the ex-officio member shall correspond to his official tenure. The term of each appointed member shall be five years or until successor takes office, except that the respective terms of the members first appointed shall be two, three, four, and five years. Members other than the member selected by council may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. Council may for like cause remove the member selected by it. The mayor or council, as the case may be, shall file a written statement of reasons for such removal. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of members selected or appointed by him, and by council in the case of the councilmanic member.

Section 3. Organization and Rules. The commission shall elect its chairman and create and fill such other of its offices as it may determine. The term of chairman shall be one year, with eligibility for reelection. The commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

Section 4. Staff and Finances. The commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other municipal employees. The commission may also contract with city planners, engineers, architects, and other consultants for such services as it may require. All expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by council.

SECTION 5. GENERAL POWERS AND DUTIES. It shall be the function and duty of the commission to make and adopt a master plan for the physical development of the municipality. Such plan, with the accompanying maps, plats, charts, and descriptive matter shall show the commission's recommendations for the development of the city, and may include, among other things, the general location, character, and extent of streets, viaducts, bridges, waterways, water fronts, boulevards, parkways, playgrounds, parks, aviation fields, and other public ways, grounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals. The commission may from time to time amend, extend, or add to the plan.

SECTION 6. PURPOSES IN VIEW. In the preparation of such plan the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

SECTION 7. PROCEDURE OF COMMISSION. The commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the municipality or with functional subdivision of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension, or addition the commission shall hold at least one public hearing thereon, notice of the

time and place of which shall be given by one publication in a newspaper of general circulation in the city. The adoption of the plan or of any such part or amendment or extension or addition shall be by resolution of the commission carried by the affirmative votes of not less than three members of the commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairman and secretary of the commission. An attested copy of the plan or part thereof shall be certified to council and to the Clerk of the Corporation Court.

SECTION 8. LEGAL STATUS OF OFFICIAL PLAN. Whenever the commission shall have adopted the master plan of the municipality or of one or more major sections or districts thereof no street, park, or other public way, ground, or open space, or public building or structure, or public utility, whether publicly or privately owned, shall be constructed or authorized in the municipality or in such planned section and district until the location, character, and extent thereof shall have been submitted to and approved by the commission: Provided, that in case of disapproval the commission shall communicate its reasons to council, which shall have the power to overrule such disapproval by a recorded vote of not less than two thirds of its entire membership: Provided, however, that if the public way, ground, space, building, structure, or utility be one the authorization or financing of which does not, under the law or charter provisions governing same, fall within the province of the council, then the submission to the commission shall be by the board, commission, or body having such jurisdiction, and the commission's disapproval may be overruled by said board, commission or body by a vote of not less than two-thirds of its membership. The failure of the commission to act within 60 days from and after the date of official submission to the commission shall be deemed approval.

SECTION 9. MISCELLANEOUS POWERS AND DUTIES OF COMMISSION. The commission shall have power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Members of the commission, when duly authorized by the commission, may attend city planning conferences or meetings of city planning institutes or hearings upon pending city planning legislation, and the commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public-utility companies, civic, educational, professional, and other organizations, and with citizens with relation to the protecting or carrying out of the plan. The commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall, upon request, furnish to the commission, within a reasonable time, such available information as it may require for its work. The commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this ordinance.

SECTION 10. ZONING. The commission shall have all powers heretofore granted by law to the zoning commission, and, from and after the creation of the planning commission all powers and records of the zoning commission shall be transferred to the planning commission.

TITLE II. SUBDIVISION CONTROL

SECTION 11. SUBDIVISION JURISDICTION. The territorial jurisdiction of the commission over the subdivision of land shall include all land located in the City of Alexandria.

SECTION 12. SCOPE OF CONTROL OF SUBDIVISIONS. After the planning commission shall have adopted a major street plan and shall have filed a certified copy of such plan in the office of the Clerk of the Corporation Court, then no plat of a subdivision of land within the city shall be filed or recorded until it shall have been approved by the commission and such approval entered in writing on the plat by the chairman and secretary of the commission.

SECTION 13. SUBDIVISION REGULATIONS. Before exercising the powers referred to in section 12, the commission shall adopt regulations governing the subdivision of land. Such regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population.

Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the commission may provide for a tentative approval of the plat previous to such installation; but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat, the commission may accept a bond with surety to secure to the city the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission.

All such regulations shall be published as provided by law for the publication of ordinances, and, before adoption, a public hearing shall be held thereon. A copy thereof shall be certified by the commission to the Clerk of the Corporation Court.

SECTION 14. PROCEDURE, LEGAL EFFECT OF APPROVAL OF PLAT. The commission shall approve or disapprove a plat within 30 days after the submission thereof to it; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the commission on demand: Provided, however, that the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent; and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the said address by registered mail of the time and place of such hearing not less than five days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land. Every plat approved by the commission shall, by virtue of such ap-

proval, be deemed to be an amendment of or an addition to or a detail of the city plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat. The planning commission may, from time to time, recommend to council amendments of the zoning ordinance or map or additions thereto to conform to the commission's recommendations for the zoning regulation of the territory comprised within approved subdivisions. The commission shall have the power to agree with the applicant upon use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the zoning ordinance. Such requirements or restrictions shall be stated upon the plat prior to the approved and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance.

SECTION 15. PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS. Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells or agrees to sell or negotiates to sell any land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been approved by the commission and recorded or filed in the office of the Clerk of the Corporation Court, shall forfeit and pay a penalty of \$100 for each lot or parcel so transferred or sold or agreed or negotiated to be sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The commission may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the said penalty by a civil action in any court of competent jurisdiction.

SECTION 16. IMPROVEMENTS IN UNAPPROVED STREETS. The municipality shall not accept, lay out, open, improve, grade, pave, curb, or light any street, or lay or authorize water mains, or sewer or connections to be laid in any street, within any portion of territory for which the commission shall have adopted a major street plan, unless such street (a) shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to the adoption of such plan, or unless such street (b) corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the commission or with a street on a street plat made by and adopted by the commission. Council may, however, accept any street not shown on or not corresponding with a street on the official master plan or on an approved subdivision plat or an approved street plat, provided the ordinance or other measure accepting such street be first submitted to the commission for its approval and, if approved by the commission, be enacted or passed by not less than a majority of the entire membership of council or, if disapproval by the commission, be enacted or passed by not less than two-thirds of the entire membership of council. A street approved by the commission upon submission by council, or a street accepted by a two-thirds vote after disapproval by the commission, shall thereupon have the status of an approved street as fully as though it had been originally shown on the official master plan or on a subdivision plat approved by the commission or had been originally platted by the commission.

SECTION 17. ERECTION OF BUILDINGS. After the commission shall have adopted a major street plan of the city, no building shall be erected on any lot within such territory or part, nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be placed (a) shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to that time, or unless such street (b) corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the commission or with a street on a street plat made by and adopted by the commission or with a street accepted by council, after submission to the commission, by the favorable vote required in section 16 of this ordinance. Any building erected in violation of this section shall be deemed an unlawful structure, and the City Manager may cause it to be vacated and have it removed.

TITLE III.—BUILDINGS IN MAPPED STREETS

SECTION 18. RESERVATION OF LOCATIONS OF MAPPED STREETS FOR FUTURE PUBLIC ACQUISITION. The commission is empowered, after the adoption of a major street plan, to make, from time to time, surveys for the exact location of the lines of a street or streets in any portion of the city and to make a plat of the area thus surveyed, showing the land which it recommends be reserved for future acquisition for public streets. Such future street area, as shown on the plat, may be new streets and for a widening of existing streets by the establishment of building lines. The commission, before adopting any such plat, shall hold a public hearing thereon, notice of the time and place of which, with a general description of the area covered by the plat, shall be given not less than 10 days previous to the time fixed therefor by one publication in a newspaper of general circulation in the City. After such a hearing the commission shall transmit the plat, as originally made or modified as may be determined by the commission, to council. Thereupon by resolution, council may approve and adopt or may reject such plat or may modify it with the approval of the commission, or, in the event of the commission's disapproval, council may, by a favorable vote of not less than two-thirds of its entire membership, modify such plat and adopt the modified plat. Upon such adoption the clerk of council shall transmit one attested copy of the plat to the Clerk of the Corporation Court and retain one copy for the purpose of public examination and hearings. Such approval and adoption of a plat shall not, however, be deemed the opening or establishment of any street, nor the taking of land for street purposes, nor for public use, nor as a public improvement, but solely as a reservation of the street locations shown thereon, for future taking or acquisition for public use. The commission may, at any time, negotiate for or secure from the owner or owners of any such lands releases of claims for damages, or compensation for such reservations or agreements indemnifying the city from such claims by others, which releases or agreements shall be binding upon the owner or owners executing the same and their successors in title. At any time after the filing of a plat with the Clerk of the Corporation Court, the commission and the owner of any land containing a reserved street location may agree upon a modification of the location of the lines of the proposed street, such agreement to include a release by said owner of any claim for compensation or damages by reason of such modification; and thereupon the commission may make a plat corresponding to the said modification and transmit same to council; and if such modified plat be

approved by council, the clerk of council shall transmit an attested copy thereof to the said Clerk of the Corporation Court, and said modified plat shall take the place of the original plat.

SECTION 19. CONTROL OF BUILDING IN THE BED OF MAPPED STREETS. From and after the recording of any street plat approved by council, as provided in Section 18 of this ordinance, no permit shall be issued for any building on any part of the land between the lines of a proposed street as thus platted; Provided, however, that the board of zoning appeals shall have the power, upon an appeal filed with it by the owner of any such land and by a vote of a majority of its members, to grant a permit for a building in such platted street location in any case in which such board finds, upon the evidence and arguments presented to it upon such appeal: (a) That the entire property of the appellant, of which such reserved street location forms a part, can not yield a reasonable return to the owner unless such permit be granted; and (b) that, balancing the interest of the municipality in preserving the integrity of such street plat and of the municipal plan and the interest of the owner of the property in the use of his property and in the benefits of the ownership thereof; the grant of such permit is required by consideration of reasonable justice and equity. Before taking any such action the board of appeals shall give a hearing at which the parties in interest shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be given to the appellant by mail at the address specified by the appellant in his appeal petition and shall be published in a newspaper of general circulation in the city. In the event that the board of appeals grants a building permit in any such appeal it shall specify the exact location, ground, area, height, and other details as to the extent and character of the building for which the permit is granted.

TITLE IV.—PARK DEVELOPMENT AND MAINTENANCE

SECTION 20. PARK JURISDICTION AND ACTIVITIES. The commission shall, subject to the authority of the council, have the exclusive control, management and maintenance of all the public parks, parkways, lakes, water parks, municipal squares, improved or unimproved, and the grounds surrounding all municipal buildings (except school buildings) now owned or controlled, or which may hereafter be acquired by the city, either within or without the corporate limits. It shall have the management and control of the beautifying and parking of any ground, street or boulevard, or part thereof, or of any cemetery belonging to the city which the city council may designate to receive such improvements. Said commission shall in addition exercise supervision and control over the planting and care of all trees, plants and shrubs of any kind in the public parks and other grounds under its jurisdiction, as well as on or in the streets and sidewalks of the city. It may in the name of the city take and hold by purchase, devise, bequest or otherwise such real and personal property as may be needful for carrying out the intents and purposes for which the said board was established; it shall recommend to the council the institution of condemnation proceedings, including excess condemnation, whenever, in its judgment, private property should be taken in the name of the city for the purposes of enlarging the park system of the said City; it may, with the approval of the council, sell and convey or lease lands belonging to the said department, and all proceeds from such sales or leases shall be deposited in the city treasury to the credit of the public park fund; it shall have power for and on behalf of the city to receive donations, legacies or be-

quests for the improvement or maintenance of the public parks of the city, or for the acquirement of new parks, and all such moneys derived from such donations, legacies or bequests, be deposited in the city treasury to the credit of the public park fund, and same may be drawn therefrom and paid out only in the manner provided for the payment of moneys legally appropriated for the acquirement, support and improvement of the public parks of the city.

SECTION 21. PARK EMPLOYEES, RULES AND REGULATIONS. The commission shall have power to appoint and employ a park superintendent and such other officers and assistants and laborers as it may deem necessary for the efficient administration of the affairs of said department; prescribe and fix their duties, authority, compensation and qualifications as to residence or otherwise. It shall have the management and disposal of all funds legally apportioned or received from any source for support and maintenance of the said public parks and grounds. It shall have power to establish rules and regulations for the conduct of its employees, and may require adequate bonds from any or all of them, except laborers, for the faithful performance of their duties, in such amounts as may be fixed by it; such bonds to be approved by the council and filed in the office of the city clerk. It shall have the power to formulate and adopt rules and regulations for the government of said parks and other grounds under its jurisdiction.

SECTION 22. VIOLATIONS. Any violation of any of the provisions of this ordinance except as otherwise herein provided shall be punishable by fine of not exceeding \$300 or imprisonment in the City Jail for not more than 90 days or both in the discretion of the court.

SECTION 23. SAVING CLAUSE. Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 24. CONFLICT. All ordinances or parts thereof in conflict herewith are hereby repealed.

SECTION 25. This ordinance shall take effect on the day following its publication in The Alexandria Gazette.

Approved this 21st day of July, 1932.

EDMUND F. TICER, Mayor.