

CORRECTED COPY

LEGISLATIVE BILL 207

Approved by the Governor February 20, 1993

Introduced by Hartnett, 45; Schimek, 27; Will, 8

AN ACT relating to municipal planning; to amend sections 19-924, 19-925, and 19-929, Reissue Revised Statutes of Nebraska, 1943; to provide for interjurisdictional planning commissions; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 19-924, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-924. For ~~the purpose~~ purposes of sections 19-924 to 19-929; ~~certain terms are defined as provided in this section; and sections 4 to 7 of this act;~~

~~Whenever appropriate the singular includes the plural, and the plural includes the singular.~~

(1) Municipality or municipal ~~includes or relates~~ shall mean or relate to cities of the first and second ~~class~~ classes and villages; :

(2) Mayor ~~means~~ shall mean the chief executive of the municipality, whether the official designation of ~~his~~ the office ~~be is~~ mayor, ~~chairman~~ chairperson, city manager, or otherwise; and :

(3) Council ~~means~~ shall mean the chief legislative body of the municipality.

Sec. 2. That section 19-925, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-925. Any municipality is hereby authorized and empowered to make, adopt, amend, extend, and carry out a municipal plan as provided in sections 19-924 to 19-929; and sections 4 to 7 of this act and to create by ordinance a planning commission with the powers and duties ~~herein~~ set forth in such sections. The planning commission of a city shall be designated city planning commission or city plan commission, and the planning commission of a village shall be designated the village planning commission or village plan commission.

Sec. 3. That section 19-929, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-929. (1) ~~It shall be the function and duty of the~~ Except as provided in sections 4 to 7 of this act, the planning commission ~~to~~ shall (a) make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which, in the commission's judgment, bear relation to the planning of such municipality,

and including a comprehensive development plan as defined by section 19-903, ~~(b)~~ ~~to~~ prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments, ~~;~~ and ~~(c)~~ consult ~~with~~ and advise ~~with~~ public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implemental programs. The commission ~~shall have the power to~~ may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports. The municipal governing body shall not hold its public meetings or take action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, or zoning until it has received the recommendation of the planning commission if such commission in fact has been created and is existent. The governing body may set a reasonable time within which the recommendation from the planning commission is to be received. A recommendation from the planning commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the governing body has designated, by ordinance, an agent pursuant to section 19-916.

(2) The commission may, with the consent of the governing body, in its own name; (a) make and enter into contracts with public or private bodies, (b) ~~;~~ receive contributions, bequests, gifts, or grant funds from public or private sources, (c) ~~;~~ expend the funds appropriated to it by the municipality, (d) ~~;~~ employ agents and employees, ~~;~~ and (e) acquire, hold, and dispose of property.

The commission may on its own authority make arrangements consistent with its program, ~~;~~ conduct or sponsor special studies or planning work for any public body or appropriate agency, ~~;~~ receive grants, remuneration, or reimbursement for such studies or work, ~~;~~ and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

(3) The commission may grant conditional uses or special exceptions to property owners for the use of their property if the municipal governing body has, through a zoning ordinance or special ordinance, generally authorized the commission to exercise such powers and has approved the standards and procedures adopted by the commission ~~adopted~~ for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building

permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the commission, except that the municipal governing body may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The municipal governing body may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and ~~which~~ will promote the public interest.

Sec. 4. (1) For any matter within the jurisdiction of a municipality's planning commission relating to that portion of the municipality's zoning jurisdiction as defined in section 16-901 or 17-1001 outside the corporate limits of the municipality which is within a county other than the county in which the municipality is located, the powers, duties, responsibilities, and functions of the planning commission of the municipality with regard to such matter shall be assumed by the municipality's interjurisdictional planning commission established under section 5 of this act when the formation of such a commission is requested by either the municipality or the county within which the municipality is not located as provided in subsection (2) of this section.

(2) Any municipality exercising zoning jurisdiction as defined in section 16-901 or 17-1001 outside its corporate limits but within a county other than the county within which the municipality is located or the county within which such municipality is exercising such zoning jurisdiction may, by formal resolution of a majority of the voting members of its governing body, request the formation of an interjurisdictional planning commission to exercise the jurisdiction granted by sections 4 to 7 of this act. Such resolution shall be transmitted to the appropriate municipality or county and its receipt formally acknowledged.

Sec. 5. The interjurisdictional planning commission of a municipality shall consist of six members. Three members shall be chosen by the mayor of the municipality with the approval of the council from the membership of the municipality's planning commission. Three members shall be chosen by the county board of the county within which the municipality exercises zoning jurisdiction under the circumstances specified in section 4 of this act. The three members chosen by the county board shall be members of the county planning commission as described in section 23-114.01. Members of the interjurisdictional planning commission shall serve without compensation and without reimbursement for expenses incurred pursuant to carrying out sections 4 to 7 of this act for terms of one year. Members shall hold office until their successors are appointed and qualified. Vacancies shall be filled by appointment by the body which appointed the member creating the vacancy.

Sec. 6. A municipality exercising zoning jurisdiction under the circumstances set out in section 4 of this act shall create an interjurisdictional planning commission by ordinance within sixty days after the formal passage of a resolution pursuant to subsection (2) of section 4 of this act. All matters filed with the municipality within ninety days after such date which are properly within the jurisdiction of the

interjurisdictional planning commission shall, after the effective date of the ordinance, be referred to such commission until such time as both the municipality and the county agree by majority vote of each governing body to eliminate the interjurisdictional planning commission and transfer its jurisdiction to the planning commission of the municipality.

Sec. 7. The provisions of sections 4 to 6 of this act shall not apply in a county within which the interjurisdictional planning commission would exercise jurisdiction if such county does not exercise the authority granted by section 23-114.

Sec. 8. That original sections 19-924, 19-925, and 19-929, Reissue Revised Statutes of Nebraska, 1943, are repealed.