

Alabama

Enabling Legislation for Planning and Zoning

Bree Robinson

CPLN 7430 - Land Use Law

Dr. Becki Retzlaff

February 5, 2020

When looking for information regarding the enabling legislature for planning and zoning in Alabama, I looked in to the 2019 Code of Alabama. Once I accessed the 2019 Code of Alabama, I looked in Title 11 – Counties and Municipal Corporations, Title 2 – Provisions Applicable to Municipal Corporations Only, and finally Chapter 52 – Planning, Zoning, and Subdivisions, which included 4 articles of information. I chose to research planning and zoning legislature for Alabama because I am an Alabama native, and I thought it might be interesting to look into the planning and zoning ordinances for my home state. I own a home in Valley, AL and have been curious about the zoning in this area, as well as the whole state. It is a well-known fact that Alabama is not the most advanced state and is recognized as being the state with the most amendments made to its constitution. Some may view Alabama as a state of indecisive people, so I was curious if the Code of Alabama reflected this for the world of planning, as well.

### **Planning**

The AL Code § 11-52-2 (2019) kicks off by outlining that any city or town is authorized to make, adopt, amend, extend, add to, or carry out a municipal plan. It also specifies that the planning commission of a city shall be designated city planning commission as council specifies. The commission is to consist of 9 members, or 12 to 16 in any Class 1 municipality. Also, depending on the population size, additional members might be added. The mayor is always involved and being on the commission is unpaid. They are to hold on regular meeting per month and the term office of the chairman shall be one year, with eligibility for reelection. “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” (AL Code § 11-52-4).

The council will set amounts that the commission uses to fund equipment, accommodations, and employees. The commission will create a master plan, also called a

comprehensive plan, which entails the physical development of all areas in the city, as well as any surrounding areas that are relevant to the city's growth. This master plan should include maps, plats, charts, as well as descriptive matter that shows recommendations for the development of the area (AL Code § 11-52-8). The master plan basically includes everything relevant to the city, from the general location to zoning plans, open spaces, military installations, etc... It is a very long lists of details that need to be included. The commission will publish the plan and adopt it, but amendments, extensions, or additions to the plan are common. In order to create the best master plan for a city possible, the commissions will take surveys and studies of present and future conditions and growth patterns in order to gauge how to move forward with the plan (AL Code § 11-52-9). I personally like that this was included in the master plan, as I think that you can never have enough community input and participation. Listening to citizens and representing them is a large part of the planning world.

### **Zoning**

In Alabama, each city divides the territory within its limits into business, industrial, and residential zones. They may also include information such as character and use of structures and improvements in their zoning plan (AL Code § 11-52-70). They also will divide the city into districts, in which there are set uniform regulations regarding construction, alteration, repair, use of buildings, land, etc. These regulations are supposed to compliment the master plan, or comprehensive plan, and are designed to increase safety and to encourage appropriate land use (AL Code § 11-52-71). Through these regulations, cities also have the power to restrict the heights of buildings, number of stories, size, and lot size (AL Code § 11-52-73). I'm glad this is included, as recently in Auburn I've heard more about height restrictions than we used to. As condominiums are built higher and higher, I've heard citizens call for more restrictions on this.

Municipalities also have the power to establish more particular regulations within residential districts, but they must promote safety or general welfare and cannot discriminate in favor any of the inhabitants. This includes the use of any zoning regulation or law that might negatively impact a mentally retarded or mentally ill inhabitant or exclude them from a multi-family neighborhood (AL Code § 11-52-75.1).

In order for a zoning ordinance to be passed there are a set of conditions that have to be met beforehand. For example for the first set of procedures, the proposal must be published in the newspaper twice consecutively at least 15 days before passage, or in the event of there not being a newspaper, they must post the proposed ordinance at four places around the city with the time and place of the next meeting. The second set includes that all information on the ordinance must be posted in the paper for three consecutive weeks; twice in the legal section and once in the regular section (AL Code § 11-52-77). Overall, nothing can be passed until a public hearing is held and citizens have an opportunity to speak on the issue. Even once passed, they can still be amended, supplemented, changed, modified, or even repealed (AL Code § 11-52-78).

Any city or town may appoint a zoning commission to make recommendation on boundaries and regulations. They will make a report, hold a hearing on it for comments, and then finalize a final report to the planning commission. Similarly, there may be a need for board of adjustment to be appointed. They would have power to hear and decide appeals as well as hear and decide special exceptions. After making decisions, citizens have up to fifteen days to appeal a decision to the board of adjustment (AL Code § 11-52-80).

### **Implementation**

When it comes to the master plan, it may be adopted and implemented as a whole or by successive sections of the plan. It is not uncommon for comprehensive plans to change or be

amended. However, before this happens, the commission must hold at least one public hearing and give notice of the adoption, amendment, extension, or addition. There will be a vote among commission members, which will need to pass with 6 out of 9 members, or 12 out of 16 members (AL Code § 11-52-10). Everything must be approved by the commission before moving forward, which can lead to a slow-moving process.

In the realm of zoning, if a violation occurs, such as a building being constructed where it shouldn't have been or a structure being built too high, the proper local authorities may use appropriate action to prevent it or stop it from already happening (AL Code § 11-52-83). Citizens or corporations must go through the proper channels when starting a project, or they risk breaking laws or ordinances, which can result in heavy fines and or arrest.

### **Recommendations for Improvement**

One of the first things I thought to suggest concerns the way that planners are supposed to announce and hold their meetings. As discussed, planners are to post it in the newspaper and then hold a meeting regarding the changes made. I understand that they could go above and beyond what is posted in the 2019 Code of Alabama, but I think it should be standard to do more. For example, newspaper sales have gone down over the years, as many people check their news online and through social media. I think planners should tap into this and use social media to their advantage to garner support and opinions from citizens. They should have local news stations announce planning meetings if possible, as well.

I do think the code is easy to read and should be easily read by an average citizen. I like that there is a section on definitions, as to not confuse anyone reading the documents. One of my only concerns while reading it, is that the planning commission has so much power to make decisions or turn them down. I didn't see a whole lot of information regarding concerns from

citizens and how to handle them. I would have liked to see more regarding citizen concerns and voices. It leaves it up to the planner to make a responsible call by listening to them, but it is not strictly enforced in my opinion. I don't think it yields to my view of Alabama being an indecisive state, but I think it leaves wiggle rooms for indecisive communities to go round and round when trying to make decisions in the planning world.

## **Bibliography**

“2019 Code of Alabama :: Title 11 - Counties and Municipal Corporations. :: Title 2 - Provisions Applicable to Municipal Corporations Only. :: Chapter 52 - PLANNING, ZONING AND SUBDIVISIONS.” Justia Law. Accessed February 5, 2020.  
<https://law.justia.com/codes/alabama/2019/title-11/title-2/chapter-52/>.