

ORDINANCE NO. 353

AN ORDINANCE CREATING A CITY PLANNING COMMISSION FOR THE CITY OF REXBURG, IDAHO, PURSUANT TO THE PROVISIONS OF CHAPTER 51 OF THE FIRST EXTRAORDINARY IDAHO SESSION LAWS OF 1935, AND APPOINTING A ZONING COMMISSION PURSUANT TO THE PROVISIONS OF CHAPTER 49-406, IDAHO CODE ANNOTATED; CREATING A BOARD OF ADJUSTMENT: TO PROVIDE A MASTER PLAN FOR THE DEVELOPMENT OF THE CITY; ADOPTING THE UNIFORM BUILDING CODE, PUBLISHED BY THE PACIFIC COAST BUILDING OFFICIALS CONFERENCE, AND PROVIDING FOR AMENDMENTS THERETO; CREATING THE OFFICE AND POSITION OF BUILDING INSPECTOR OF THE CITY OF REXBURG, IDAHO; DEFINING CERTAIN TERMS USED IN SAID ORDINANCE, TO PRESCRIBE PENALTIES, AND THE MANNER IN WHICH SUCH PROVISIONS SHALL BE ENFORCED.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG, IDAHO:

ARTICLE 1. ADMINISTRATION

Section 1. Planning Commission.

There is hereby created a planning commission for the City of Rexburg, Idaho, pursuant to the provisions of Chapter 51 of the First Extraordinary Idaho Session Laws of 1935. Said planning commission shall consist of seven members, one to be designated from among the members of the City council by the mayor, and the other six to be appointed by the mayor from among the resident taxpayers of the city, provided one member may be a non-resident taxpayer, at least four of whom shall hold no other public municipal office. Of the six members first appointed, two shall be appointed for two years, two for four years, and two for six years; all subsequent appointments shall be for periods of six years, or until their successors shall have been appointed. All appointments to the planning commission by the mayor shall be subject to approval of the city council, and any member of the planning commission may be removed for cause after public hearing by the city council. Members of the planning commission shall be selected without respect to political affiliations and shall serve without compensation.

The planning commission may appoint employees and and may contract with city planners and other consultants, provided its expenditures, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council.

The planning commission shall elect its own chairman for a term of one year from among the six appointive members. Regular meetings shall be held at least once each month. The planning commission shall adopt rules for its own organization and for the transaction of business and shall keep a public record of its proceedings. All meetings shall be open to the public.

Section 1.A - (insert - Ord. 376)

The planning commission shall also serve as a zoning commission, pursuant to the provisions of Section 49-406, Idaho Code Annotated.

Section 2. Board of Adjustment.

There is hereby created a board of adjustment consisting of five members appointed by the mayor with the approval of the city council, two of whom shall be members of the planning commission, with terms corresponding to their terms on the planning commission, and the other three to be appointed for terms of three years each, except that of the three first appointed, one shall be appointed for one year, one for two years, and one for three years. The members shall be subject to removal from office by the city council for cause stated in writing and after public hearing. The board of adjustment shall organize, elect a chairman, adopt rules of procedure, and hold meetings at the call of the chairman or at other times specified by the board. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public. The board of adjustment shall keep minutes of its meetings, showing the vote of each member upon each question, or if absent or failing to vote showing such fact, and shall keep records of its examinations and other official actions; all of which shall be immediately filed in the office of the board and shall be a public record. Such board shall hear and decide appeals from and review any order, requirement or decision or determination made by the planning and zoning commission and building inspector under this ordinance.

Appeals to the board of adjustment shall follow the procedure outlines in the rules of the board; provided, that such rules shall become effective only after a public hearing and approval by the city council.

Section 3. Building Code.

The Uniform Building Code, 1943 Edition, and all subsequent editions, as published by the Pacific Coast Building Officials Conference (three copies of the latest edition to be on file in the office of the City Clerk) shall be known as and is hereby adopted by reference as the Building Code of the city of Rexburg, Idaho, with whatever amendments may be passed from time to time by the city council to supplement it. The requirements of the latest edition of such Uniform Building Code shall prevail over all prior editions.

Section 4. Building Inspector.

There is hereby created the office and position of Building Inspector of Rexburg, Idaho. The Building Inspector shall furnish good and sufficient bond to the people of the State of Idaho in the penal sum of one thousand (\$1,000.00) dollars, to be approved by the city council, conditioned that he shall faithfully perform and execute the duties of the office of building inspector, and shall pay over all moneys that shall come into his hands as building inspector to the City of Rexburg, and shall deliver to his successor all papers and other things pertaining to his office.

Repealed by Ord. 354  
repealed # 459

## ARTICLE II. THE MASTER PLAN PROGRAM

Section 1. The Master Plan.

It shall be the function and duty of the planning commission to make, adopt, and certify to the city council a master plan for the development of the city. The master plan shall show the planning commission's recommendations and may include, among other things, the general location, character, and extent of streets, parks, parkways, playgrounds, airports, and other public spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned; the acceptance of widening, removal, extension, relocation, narrowing, vacation, abandonment, or change of use of any of the foregoing; the general location, character, layout, and extent of community centers and neighborhood units; the general character, extent, and layout of the re-planning of blighted areas; a zoning plan for the regulation of the height, area, bulk, location, and use of private and public structures and premises, and of population density; beautification of public buildings, streets, parks, and grounds.

Section 2. Official Map.

From and after the time when the planning commission shall have adopted a major street plan, the city council may establish an official map of the whole or any part of the city theretofore existing and established by law as public streets. Such official map may also show the location of the lines of streets on plats of subdivisions which shall have been approved by the planning commission, and the lines of proposed new streets or street extensions, widenings, narrowings, or vacations which have been accurately surveyed and definitely located. Before the city council shall adopt the official map or any amendments or additions to it, such map or amendments shall be submitted to the planning commission for its approval or disapproval, and to the public at a public hearing. The city council may overrule the disapproval of the planning commission by a majority vote. The official map, when adopted, shall be recorded in the office of the county recorder.

Section 3. Protection of Mapped Streets.

From and after the time when an official map has been recorded in the office of the county recorder, no permit shall be issued by the building inspector for any building or structure or part thereof on any land located between the mapped lines of any street as shown on the official map. Any person aggrieved by his inability to obtain such a permit may appeal to the board of adjustment herein created. The board of adjustment shall have the power, upon an appeal filed with it by the owner of any such land to recommend to the city council the grant of a permit for a building or structure or part thereof within any mapped-street location in any case in which the board of adjustment, upon the evidence, finds (a) that the property of the appellant of which such mapped-street location forms a part will not yield a reasonable return to the owner unless such permit be granted, or (b) that, balancing of interest of the municipality in preserving the integrity of the official map and interest of the owner in the use and benefits of the property, the grant of such permit is required by considerations of justice and equity. Before taking any such action, the board of adjustment shall hold a public hearing thereof. In the event that the board of adjustment decides to recommend a building permit, it shall have the power to specify the exact location ground area, height, and other details and conditions of extent and character and also the duration of the building, structure, or part thereof to be permitted.

Section 4. Subdivision Control.

Any and all maps, plats and replats of lands which require the approval of the city council shall first be submitted to the planning commission for its suggestions.

From and after the time when the planning commission shall have adopted a major street plan and shall have certified the same to the city council, no plat of a subdivision of land lying within the city shall be filed or recorded in the county recorder's office until it shall have been submitted to and approved by the planning commission and the city council, and such approval entered in writing on the plat by the designated representatives of each. The filing or recording of a plat of a subdivision without such approval shall be void. The planning commission shall prepare regulations governing the subdivision of land within the city, such regulations to be effective when approved by the city council after public hearing.

In this ordinance the word "subdivision" shall mean the division of a tract or parcel of land into two or more parts for the purpose, whether immediate or future, for sale or development for residential purposes. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring such land shall not exempt the subdivision from such regulations.

Section 5. Legal Status of the Master Plan.

Whenever the city council shall have adopted the master plan or any part thereof, thenceforth no street, park or other public way, ground, place or space, no public building or structure, and no public utility, whether publicly or privately owned, shall be constructed or authorized until and unless the location and extent thereof shall conform to said plan or shall have been submitted to and approved by the planning commission; provided, that in case of disapproval, the planning commission shall communicate its reasons to the city council, school board, or other board or agency chiefly concerned, and such city council or other agency by a vote of not less than a majority of its entire membership, shall have the power to overrule such disapproval. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for, or sale or lease of any street or other public way, property, or structure, shall be subject to similar submissions and approval, and the failure to approve may be similarly overruled. The failure of the planning commission to act within thirty days from and after the date of official submission to it shall be deemed approval, unless a longer period be granted by city council or other submitting body, board, or official.

ARTICLE III. GENERAL PURPOSES, POWERS AND DUTIES

3, 1946  
It shall be the duty of the planning commission to recommend and make suggestions to the city council, for the adoption of co-ordinated plans for the physical development of the city; for the formation of zoning districts; to make suggestions concerning the laying out, widening, extending and locating of streets, roads and highways for the relief of traffic; to make suggestions concerning density of population and development of land within the jurisdiction of the city; to make suggestions concerning the future growth, development and beautification of the City of Rexburg, in order to promote the public health, morals, safety and welfare of the inhabitants thereof; to give suggestions and advice to individuals, firms, or corporations concerning landscaping or location of buildings, structures of works to be erected, constructed or altered by or for such individuals, firms, or corporations. Said planning commission may cooperate with other and like commissions along the lines and purposes prescribed in this ordinance. It may recommend to the mayor and city council programs for public improvements and the financing thereof. In general, the planning commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning.

ARTICLE IV. VALIDITY

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

ARTICLE V. PENALTY

Any person, firm, or corporation who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars, nor more than one hundred dollars for each offense, and shall be imprisoned until such fine be paid. Each day that a violation is permitted to exist shall constitute a separate offense.

ARTICLE VI. REPEALING CONFLICTING ORDINANCES

All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance, are hereby repealed.

Passed by the City Council of the City of Rexburg, Idaho, this 12th day of February, 1946.

Approved by the Mayor of the City of Rexburg, Idaho, this 12th day of February, 1946.

J. B. DeMott  
Mayor.

ATTEST:

Edna P. Hegsted  
City Clerk

(SEAL)