

Chapter 227

City Planning and Zoning

Chapter 227

LAW REVIEW CITATIONS: 2 WLJ 366, 384-398, 399-419, 420-433.

227.030

ATTY. GEN. OPINIONS: Validity of charter provision that all members be residents of city, 1956-58, p 163.

227.040

ATTY. GEN. OPINIONS: City planning commission members as "officers," 1956-58, p 163.

227.090

LAW REVIEW CITATIONS: 48 OLR 245.

227.110

ATTY. GEN. OPINIONS: Necessity for approval of plat of cemetery within six miles of city, 1930-32, p 586; city jurisdiction after county adoption of subdivision regulations, (1970) Vol 35, p 410.

227.120

ATTY. GEN. OPINIONS: Authority to number and re-number houses outside corporate limits of a city, 1952-54, p 5; renaming of plat by subdivider, 1960-62, p 380.

227.210 to 227.310

CASE CITATIONS: *Rust v. Eugene*, (1970) 3 Or App 386, 474 P2d 374; *Salem v. Trussell*, (1970) 3 Or App 465, 474 P2d 371, Sup Ct review denied.

LAW REVIEW CITATIONS: 48 OLR 247; 4 WLJ 456.

227.220

NOTES OF DECISIONS

Adoption and enforcement of a zoning plan that is fairly conceived and equally applied tends to promote the general welfare, and is within the scope of the police power; and a zoning ordinance cannot be said to be invalid unless it is clearly shown to be arbitrary and unreasonable. *Kroner v. Portland*, (1925) 116 Or 141, 240 P 536; *Berger v. Salem*, (1930) 131 Or 674, 284 P 273; *Page v. Portland*, (1946) 178 Or 632, 165 P2d 280.

A city may properly enact an ordinance regulating the use of property for business purposes. *Kroner v. Portland*, (1925) 116 Or 141, 240 P 536.

A zoning ordinance applicable to a permit pending at the time of its enactment is not necessarily invalid for retroactivity. *Berger v. Salem*, (1930) 131 Or 674, 284 P 273.

A city has power to amend a zoning ordinance from time to time, if there has been a substantial change of conditions

and the amendment has some reasonable relation to the end sought to be attained, that is, furtherance of the public interests. *Page v. Portland*, (1946) 178 Or 632, 165 P2d 280.

Although a city council has wide discretion in enacting zoning ordinances, it has no right to place restrictions on one person's property and by mere favor remove such restrictions from another's property. There must be reasonable ground for the discrimination. *Id.*

Zoning laws must adhere to enabling legislation. *Robertson v. Salem*, (1961) 191 F Supp 604, rev'g 201 Or 45, 268 P2d 599.

While the enactment of a zoning ordinance establishes no vested rights in property owners who acquire no contractual rights thereby and who hold their property subject to a valid exercise of the police power, a home owner has the right to rely on the rule that a classification made by ordinance will not be changed unless the change is required for the public good. *Page v. Portland*, (1946) 178 Or 632, 165 P2d 280.

Business activities which existed prior to the enactment of original ordinances zoning the district as residential, and which were defined in the ordinances as nonconforming uses, could not be considered relative to the question whether there had been any substantial change in the character of the district. *Id.*

In the absence of any change in the character of a district which was zoned as residential, except for several nonconforming uses which were authorized prior to enactment of the ordinance and consisted of stores on one corner of an intersection, there was no reasonable ground for an amendment to permit the use of two lots on another corner of the same intersection for business purposes, and such amendment had no substantial relation to the public welfare. *Id.*

Zone changes in order to permit the construction of an electric substation was not "spot" zoning. *Holt v. Salem*, (1951) 192 Or 200, 234 P2d 564.

FURTHER CITATIONS: *Witham Hill Corp. v. City of Corvallis*, (1963) 234 Or 236, 380 P2d 792; *Oregon City v. Hartke*, (1965) 240 Or 35, 400 P2d 255.

ATTY. GEN. OPINIONS: Compensable damage for loss of value caused by capitol mall zoning, 1960-62, p 270.

LAW REVIEW CITATIONS: 5 OLR 140; 12 OLR 136; 40 OLR 263; 49 OLR 154.

227.230

NOTES OF DECISIONS

A city's use of a zoning ordinance so that the state may later acquire property at depreciated value is a taking of private property for public use without just compensation. *Robertson v. Salem*, (1961) 191 F Supp 604, rev'g 201 Or 45, 268 P2d 599.

The city is empowered to wholly exclude a business from all zones if there is a rational basis for excluding it. *Oregon City v. Harke*, (1965) 240 Or 35, 400 P2d 255.

Aesthetic considerations alone may warrant an exercise of the police power. Id.

ATTY. GEN. OPINIONS: Appraisal of land within an area zoned by an ordinance which the court held unconstitutional, 1964-66, p 144.

LAW REVIEW CITATIONS: 49 OLR 154.

227.240

NOTES OF DECISIONS

This section refers to the public health, safety and general welfare of the municipality exercising the zoning authority, and the values of the landowners within that area. Robertson v. Salem, (1961) 191 F Supp 604, rev'g 201 Or 45, 268 P2d 599.

Zoning is an exercise of the police power and must bear some relation to the general public welfare of the municipality. Id.

LAW REVIEW CITATIONS: 46 OLR 329.

227.290

CASE CITATIONS: Menstell v. Johnson, (1928) 125 Or 150, 262 P 853, 266 P 891, 57 ALR 311.

227.310

ATTY. GEN. OPINIONS: City residents voting on county zoning ordinance, 1966-68, p 469.

