

**FIRST CLASS CITIES, AUTHORIZED TO ENACT ZONING ORDINANCES**  
**Act of May 6, 1929, P.L. 1551, No. 469**  
AN ACT

Cl. 11

Authorizing cities of the first class to adopt and enforce zoning ordinances; regulating and restricting the height, location, size, bulk and use of buildings and/or land, the areas to be occupied by buildings in proportion to the size of the lots upon which they stand, the size of courts, yards and other open spaces appurtenant thereto, and the density of population, and for these purposes to establish districts and boundaries; to designate and regulate residential, commercial and industrial or other uses within such districts and boundaries; and providing for the appointment of a zoning commission and a board of adjustment, the creation of a bureau of zoning, and setting forth the duties and functions of said commission, board and bureau; providing for the administration and enforcement of rules and ordinances authorized by this act, and penalties for violations thereof.

GRANT OF POWER

Section 1. Grant of power

For the purpose of promoting the health, safety, morals, and general welfare of the community, cities of the first class are hereby authorized and empowered to regulate and restrict, by ordinance, the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location, use and occupancy of buildings, structures and land, for trade, industry, residence or other purposes, so that such uses may be permitted in or excluded from certain portions or sections of such cities, or subject to special regulations. 1929, May 6, P.L. 1551, Sec. 1.

Section 2. Districts

For any or all of said purposes, the council may, by ordinance, divide the city into districts, of such number, shape, size and area as may be deemed best suited to carry out the purposes of this act, and, within such districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, use or occupancy of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings, structures or land throughout each district, but the regulations in one district may differ from those in other districts. 1929, May 6, P.L. 1551, Sec. 2.

Section 3. Purposes in view

Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate

provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things to the topography and character of the district, and its peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city. 1929, May 6, P.L. 1551, Sec. 3.

#### Section 4. Method of procedure

The council of such city shall provide for the manner in which such regulations and restrictions, and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However no such regulations, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in an official paper, or a paper of general circulation, in such city. 1929, May 6, P.L. 1551, Sec. 4.

#### Section 5. Changes

Such regulations, restrictions and boundaries may, from time to time, be amended, supplemented, modified or repealed. In case, however, of a protest against any such change, duly signed and acknowledged by the owners of twenty (20) per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear or adjoining on the sides thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such change shall not become effective except by the favorable vote of three-fourths of all the members of the council of such city. The provisions of the previous section relative to public hearings and official notice shall apply equally to all changes or amendments. 1929, May 6, P.L. 1551, Sec. 5.

#### Section 6. Zoning commission

In order to avail itself of the powers conferred by this act, the mayor of any such city shall appoint a commission of seven or more members, to be known as the Zoning Commission, to recommend the boundaries of the various districts and the appropriate restrictions and regulations to be enforced therein, and to include in such recommendations such maps, charts or prints as it may deem necessary, desirable or convenient, to show the locations and boundaries of the respective districts in which such regulations and restrictions shall apply. The said recommendations shall be in the form of a proposed zoning ordinance, and shall provide for a board of adjustment, a bureau of zoning, and the rules and regulations for the administration of said ordinance by the said bureau in accordance with the provisions of this act. The zoning commission shall make a preliminary report, and hold public hearings thereon, before submitting its final report, and the council of such city shall not hold its public hearings or take action until it has received the final report of such commission. 1929, May 6, P.L. 1551, Sec. 6.

#### Section 7. Approval by council

The proposed bill or ordinance, prepared by the zoning commission, shall not become effective until it shall have been passed by the council of such city in the manner required for the passage of other ordinances, and subject to executive action as in other cases: Provided, That, before final action of the city council shall be taken, public hearings shall be held by the council, or a committee thereof to which such proposed bill or ordinance may be referred, whereat all persons interested in the subject matter shall be afforded an opportunity to be heard, at specified time and place or times and places, after due notice of such hearing or hearings, published for six (6) consecutive days in two (2) daily morning and two (2) daily evening newspapers of general circulation in such cities. 1929, May 6, P.L. 1551, Sec. 7.

Section 8. Board of Adjustment.--If a city of the first class avails itself of the provisions of this act, the mayor of such city shall, with the approval of council, appoint a board of adjustment, and, in the regulations and restrictions adopted pursuant to the authority of this act, may provide that the said board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance, in harmony with its general purposes and intent and in accordance with general or specific rules therein contained. The board of adjustment shall consist of five members, one of whom shall be designated to serve until the first day of January following the adoption of the zoning ordinance, two until the first day of the second January thereafter, and two until the first day of the third January thereafter. Their successors shall be appointed on the expiration of their respective terms to serve three years. The members of the board shall be removable for cause by the appointing authority, upon written charges and after public hearing. Vacancies shall be filled by the appointing authority for the unexpired term of any member whose term becomes vacant. The council may provide for the compensation of those members of the board of adjustment who do not hold any other office or position of profit under the city government, or any department thereof, or in or under the government of the United States, or of this Commonwealth, or of any county, city, or other public political subdivision thereof. The mayor of such city shall designate the chairman of the board. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this act. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. The chairman, or, in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating 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.

Appeals to the board of adjustment may be taken by any person aggrieved, or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer.

Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the board of adjustment, or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this act, or of any ordinance adopted pursuant thereto.

2. To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

3. To authorize, upon appeal, in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above-mentioned powers, such board may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and, to that end, shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(8 repealed in part Apr. 28, 1978, P.L.202, No.53)

**Compiler's Note:** Section 4(a) of Act 53 of 1978 provided that the repeal of the penultimate paragraph of section 8 shall take effect one year after the general effective date of Act 53.

#### Section 9. Bureau of zoning

If any city of the first class avails itself of the provisions of this act, there shall be attached to the department of public works of such city a bureau of zoning, under the direction of a chief of said bureau, and with such other officials, clerks and employees as the council may determine. All ordinances passed under the provisions of this act shall be enforced by the bureau of zoning, subject to the right of appeal to the board of adjustment, and to the courts as herein provided for. 1929, May 6, P.L. 1551, Sec. 9.

#### Section 10. Penalties

If any building or structure shall be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land used in violation of this act, or of any ordinance or regulation made under authority hereof, the person or persons, artificial or natural, knowingly so offending, shall be subject to a fine of not more than one thousand (\$1,000.00) dollars, and not less than one hundred (\$100.00) dollars, as prescribed by the council of any such city to be recovered as fines and penalties of like amount are now recoverable by law. The fact of such violation being committed shall be prima facie evidence that it was knowingly done. In case of any such actual or threatened violation, either the said city, or the bureau officer or official designated for the enforcement of any ordinance passed by virtue of this act, may institute any appropriate action or proceeding to prevent or abate such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or occupation, or to restrain or prevent any illegal act or business or use, under this act, or under any such ordinance or regulation. 1929, May 6, P.L. 1551, Sec. 10.

#### Section 12. Conflict with other laws

Wherever the regulations made under authority of this act require a greater width or size of yards, courts, or other open spaces, or require a lower height of building, or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulations, the provisions of the regulations made under authority of this act shall govern. Wherever the provisions of any other statute, or local ordinance or regulation, require a greater width or size of yards, courts, or other open spaces, or require a lower height of building, or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this act, the provisions of such statute or local ordinance or regulations shall govern.

All acts or parts of acts inconsistent with this act be and the same are hereby repealed. 1929, May 6, P.L. 1551, Sec. 12.