

and if any one or more sections, clauses, or sentences and parts of this Act shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this Act in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

SEC. 26. TIME OF TAKING EFFECT. *Be it further enacted*, That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed February 12, 1935.

W. P. MOSS,
Speaker of the Senate.

WALTER M. HAYNES,
Speaker of the House of Representatives.

Approved February 14, 1935.

HILL McALISTER,
Governor.

CHAPTER 33

SENATE BILL No. 117

(By Moss, Carter, Maxwell, Boyd, Harris, Evins, Loveless, Cate, Draper, Hale, Fowler, Dodson, Atchley, Trotter, Ewell, Howell, Carden, Mosby, Elkins, Jones, Abernathy.)

AN ACT to empower County Courts to provide for the establishment of districts or zones within those portions of

counties which lie outside of municipal corporations, and to empower such County Courts, by ordinance, to regulate, within such zones or districts, the location, height and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density and distribution of population, and the uses of land, buildings and structures; to provide for the carrying out of such ordinances and penalties for the violations thereof; to provide for County Boards of Zoning Appeals and the powers and procedures thereof; and authorizing establishment of the position of building commissioner in zoned counties.

SECTION 1. GRANT OF POWER. *Be it enacted by the General Assembly of the State of Tennessee*, That the quarterly county court of any county is hereby empowered, in accordance with the conditions and the procedure specified in the subsequent sections of this Act, to regulate, in the portions of such county which lie outside of municipal corporations, the location, height and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes.

SEC. 2. REGIONAL ZONING TO BE PRECEDED BY AND BASED ON PLANTS (PLANS*) SUBMITTED BY REGIONAL PLANNING COMMISSION. *Be it further enacted*, That from and after the time when the regional planning commission of any planning region defined and created by the State planning commission makes and certifies to the quarterly county court of any county located in whole or part in such region a zoning plan, including both the text of a zoning ordinance and the zoning maps, representing the recommendations of such planning commission for the regulation by districts or zones of the location, height and size of

buildings and other structures, the percentage of lots that may be occupied, the sizes of yards, courts and other open spaces, the density and distribution of population, the location and uses of buildings and structures for trade, industry, residence, recreation or other purposes and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes, then said county court may, by ordinance, exercise the powers granted in Section 1 of this Act and, for the purpose of such exercise, may divide the territory of the county which lies within said region but outside of municipal corporations into districts of such number, shape or area as it may determine and within such districts may regulate the erection, construction, reconstruction, alteration and uses of buildings and structures and the uses of land. All such regulations shall be uniform for each class or kind of buildings throughout any such district, but the regulations in one district may differ from those in other districts. The regional planning commission may make and certify a single plan for all the territory of the county which lies within said region but outside of municipal corporations, or may make and certify separate and successive plans for parts of such territory which it deems to be suitable for urban or non-urban development or which for other reasons it deems to be an appropriate territorial unit for a zone plan; and correspondingly any ordinance enacted by the county court may cover and include the said whole territory of the county which lies within said region but outside of municipal corporations covered and included in any such single plan or in any such separate and successive plans. No ordinance covering more or less than the entire area covered by any such certified plan shall be enacted or put into effect until or unless it be first submitted to the regional planning commis-

sion and be approved by said commission or, if disapproved, receive the favorable vote of not less than two-thirds of the entire membership of said county court.

SEC. 3. PURPOSES OF ZONING REGULATIONS. *Be it further enacted*, That such regulations shall be designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the State of Tennessee and of its counties, including, among other things, lessening congestion in the roads or reducing the wastes of excessive amount of roads; securing safety from fire and other dangers; promoting adequate light and air; preventing on the one hand excessive concentrations of population and, on the other hand, excessive and wasteful scattering of population or settlement; promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve adequate provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunity, recreation, soil fertility, food supply and the protection of both urban and non-urban development.

SEC. 4. METHOD OF PROCEDURE. *Be it further enacted*, That after the certification of a zone plan from the regional planning commission and before the enactment of any such zoning ordinance, the county court shall hold a public hearing thereon of the time and place of which at least thirty (30) days notice shall be given by one publication in a newspaper of general circulation in the county. Such notice shall state the place at which the text and maps as certified by the planning commission may be examined. No change in or departure from the text or

maps as certified by the regional planning commission shall be made, unless such change or departure be first submitted to the certifying planning commission for its approval, disapproval or suggestion, and, if disapproved, shall receive the favorable vote of a majority of the entire membership of the county court; and the planning commission shall have thirty days from and after such submission within which to send its report to the county court. Any such ordinance shall be published at least once in the official newspaper of the county or in a newspaper of general circulation in the county, and shall not be in force until it is so published.

SEC. 5. AMENDMENTS. *Be it further enacted*, That the county court may from time to time amend the number, shape, boundary, area or any regulation of or within any district or districts or any other provision of any zoning ordinance; but any such amendment shall not be made or become effective unless the same be first submitted for approval, disapproval or suggestions to the regional planning commission of the region in which the territory covered by the ordinance is located, and, if such regional planning commission disapproves within thirty (30) days after such submission, such amendment shall require the favorable vote of a majority of the entire membership of the county court. Before finally adopting any such amendment, the county court shall hold a public hearing thereon, at least thirty (30) days notice of the time and place of which shall be given by at least one publication in a newspaper of general circulation in the county; and any such amendment shall be published at least once in the official newspaper of the county or in a newspaper of general circulation in the county.

SEC. 6. BOARD OF APPEALS. *Be it further enact-*

ed, That the county court of any county which enacts zoning regulations under the authority of this Act shall create a county board of zoning appeals of three or five members. The county court shall be the appointing power of the members of such board of appeals and may fix their compensation and their terms, which terms shall be of such length and so arranged that the term of one member will expire each year. The county court may remove any member for cause upon written charges and after a public hearing. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. The county court may appoint associate members of said board, and, in the event that any regular member be temporarily unable to act owing to absence from the county, illness, interest in a case before the board, or other cause, his place may be taken during such temporary disability by an associate member designated for the purpose by the county court. The county court of two or more counties may, by ordinances enacted by both or all of them, arrange and provide for a joint or common board of zoning appeals.

The County Court may provide and specify, in its zoning or other ordinance, general rules to govern the organization, procedure and jurisdiction of said board of appeals, which rules shall not be inconsistent with the provisions of this Act; and the said board may adopt supplemental rules of procedure, not inconsistent with this Act or such general rules.

The zoning ordinance may provide that the board of appeals may, in appropriate cases and subject to appropriate principles, standards, rules, conditions and safeguards set forth in the ordinance, make special exceptions to the terms of the zoning regula-

tions in harmony with their general purpose and intent. The county court may also authorize the board of appeals to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions as they arise in the administration of the zoning regulations.

Appeals to the board of appeals may be taken by any person aggrieved, or by any officer, department or board of the county affected, by any grant or withholding of a building permit or by any other decision of a building commissioner or other administrative official based in whole or part upon the provisions of any ordinance under this Act.

The board of appeals shall have the following powers:

1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by the county building commissioner or any other administrative official in the carrying out or enforcement of any ordinance enacted pursuant to this Act.

2. To hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such ordinance to pass.

3. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict appli-

cation of any regulation enacted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to said property, a variance from such district application so as to relieve such difficulties or hardship, *provided* such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinances.

SEC. 7. BUILDING COMMISSIONER. *Be it further enacted*, That any county court may provide for the enforcement of its zoning regulations by means of the withholding of building permits and, for such purpose, may establish and fill a position of county building commissioner and may fix the compensation attached to said position. From and after the establishment of such position and the filling of same, it shall be unlawful to erect, construct, reconstruct, alter or use any building or other structure within the territory covered by such zoning regulations without obtaining a building permit from such county building commissioner, and such building commissioner shall not issue any permit unless the plans of and for the proposed erection, construction, reconstruction, alteration or use fully conform to all zoning regulations then in effect.

SEC. 8. OTHER ENFORCEMENT AND REMEDIES. *Be it further enacted*, That it shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any regulation in or of any provision of any ordinance or any amendment thereof enacted or adopted by any county court under the authority of this Act. Any person, firm or corporation violating any such regulation or provision or any provision of this

Act shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law. Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used or any land is or is proposed to be used in violation of this Act or of any regulation or provision enacted or adopted by any county court under the authority granted by this Act, such county court, the attorney general, the district attorney for the judicial circuit in which such violation occurs or is threatened, the county building commissioner or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions proceeding or proceedings to prevent or enjoin or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

SEC. 9. CONFLICT WITH OTHER LAWS. *Be it further enacted*, That 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 buildings or less number of stories or require a greater percentage of lot to be left unoccupied or imposed other higher standards than are required in any other statute, the provisions of the regulations made under authority of this Act shall govern. Whenever the provisions of any other statute require a greater width or size of yards, courts or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the standards than (that*) are required by the

regulations made under Authority of this Act, the provisions of such statute shall govern.

SEC. 10. *Be it further enacted*, That, for the purposes of this Act, "regional planning commission" means any regional planning commission established by the state planning commission as authorized by law; and includes any municipal planning commission designated by the state planning commission, as authorized by law, as the regional planning commission of a planning region composed of the territory of a single municipality together with territory adjoining but outside of such municipality.

SEC. 11. *Be it further enacted*, That this Act shall not be construed as authorizing the requirement of building permits nor providing for any regulation of the erection, construction, or reconstruction of any building or other structure on lands now devoted to agricultural uses or which may hereafter be used for agricultural purposes, *provided however*, such building or structure is incidental to the agricultural enterprise. Nor shall this Act be construed as limiting or affecting in any way or controlling the agricultural uses of land.

SEC. 12. *Be it further enacted*, That this Act shall not be construed as repealing or modifying any provision of any private act heretofore enacted relating to the powers of any county therein designated or of any municipality therein designated to enact zoning regulations in such county or in territory lying outside of such municipality.

It is hereby provided that the provisions of this Act shall not apply to improvements, repairs or constructions made and financed by private persons,

firms or corporations and/or with private capital. *Provided* nothing in this Act shall be construed to in any way control or interfere with the use by any person of his own property or the renting of same.

SEC. 13. *Be it further enacted*, That should any section or provision of this Act be held to be unconstitutional, the same shall not affect the validity of this Act as a whole or any part thereof other than the part so held to be unconstitutional.

SEC. 14. *Be it further enacted*, That this Act take effect from and after its passage, the public welfare requiring it.

Passed February 12, 1935.

W. P. MOSS,
Speaker of the Senate.

WALTER M. HAYNES,
Speaker of the House of Representatives.

Approved February 14, 1935.

HILL McALISTER,
Governor.

CHAPTER 34

SENATE BILL No. 118

(Moss, Carter, Maxwell, Boyd, Harris, Sprouse, Evins, Loveless, Chambers, Bramley, Cate, Wright, Draper, Abernathy, Atchley, Trotter, Howell, Ewell, Ashley, Carden, Fowler, Jones, Elkins, Mosby, Hale, Dodson.)

AN ACT to empower municipalities to provide for the establishment, government and maintenance of municipal

planning commissions in such municipalities; to prescribe the powers, duties and procedure of such planning commissions; and to regulate the location, construction and authorization of public ways, grounds, buildings, structures and utilities in planning municipalities.

SECTION 1. CREATION AND APPOINTMENT OF PLANNING COMMISSION. *Be it enacted by the General Assembly of the State of Tennessee*, That the chief legislative body of any municipality (whether designated board of aldermen, board of commissioners or by other title) may create and establish a municipal planning commission. Such planning commission shall consist of not less than five (5) members and not more than ten (10) members, the number of members within said limits to be determined by the chief legislative body. One of the members shall be the chief executive officer of the municipality (whether designated mayor, manager or other title), and one of the members shall be a member of the chief legislative body of the municipality selected by such legislative body. All other members shall be appointed by such chief executive officer. All members of the commission shall serve as such without compensation, except membership in the zoning board of appeals. The terms of appointive members shall be of such length as may be specified by said chief legislative body, *provided however*, that they shall be so arranged that the term of one member will expire each year. Any vacancy in an appointive membership shall be filled for the unexpired term by the chief executive officer of the municipality, who shall also have authority to remove any appointive member at his pleasure.

SEC. 2. ORGANIZATION, RULES, STAFF AND FINANCES. *Be it further enacted*, That the commission shall elect its chairman from amongst the appointive members. The term of chairman shall be one year