

SEC. 17. *Be it further enacted*, That all reports, whether of judgment, opinion, recommendation or otherwise and all plans of the state planning commission and/or any regional planning commission provided for herein shall be merely advisory and nothing herein shall make compliance therewith mandatory; *provided, however*, that nothing in this section shall be construed to impair the effect of any plan adopted by a municipal planning commission pursuant to Section 14 of this Act.

SEC. 18. *Be it further enacted*, That should any section or provision of this Act be held to be unconstitutional or invalid, 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 or invalid.

SEC. 19. *Be it further enacted*, That this Act take effect from and after its passage, the public welfare requiring it.

Passed February 14, 1935.

W. P. Moss,  
*Speaker of the Senate.*

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

Approved February 19, 1935.

HILL McALISTER,  
*Governor.*

## CHAPTER 44

## SENATE BILL No. 114

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

AN ACT to empower municipalities to provide for the establishment of districts or zones within the corporate limits, and to empower such municipalities, by ordinance, to regulate, within such zones or districts, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings and structures; to provide for boards of zoning appeals; to provide for the carrying out of such ordinances, and to provide a penalty for the violation thereof.

SECTION 1. GRANT OF POWER. *Be it enacted by the General Assembly of the State of Tennessee*, That for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare, the board of aldermen, board of commissioners or other chief legislative body of any municipality by whatever title designated, (and hereinafter designated as "chief Legislative body"), is hereby empowered, in accordance with the conditions and the procedure specified in this Act, to regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes.

SEC. 2. THE ZONE PLAN. *Be it further enacted*, That whenever the planning commission of the municipality makes and certifies to the chief legisla-

tive body a zoning plan, including both the full text of a zoning ordinance and the maps, representing the recommendations of the planning commission for the regulation by districts or zones of the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the size of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes, then the chief legislative body may exercise the powers granted and for the purposes mentioned in Section 1 of this Act and may divide the municipality into districts or zones of such number, shape and areas it may determine, and, for the said purposes, may regulate the erection, construction, reconstruction, alteration and uses of buildings and structures and the uses of land.

SEC. 3. METHOD OF PROCEDURE. *Be it further Enacted*, That before enacting the zoning ordinance or any amendment thereof, the chief legislative body shall hold a public hearing thereon, at least fifteen days notice of the time and place of which shall be published in the official municipal journal or in a newspaper of general circulation in the municipality. No change in or departure from the text or maps as certified by the planning commission shall be made, unless such change or departure be first submitted to the planning commission and approved by it or, if disapproved, receive the favorable vote of a majority of the entire membership of said chief legislative body.

SEC. 4. AMENDMENTS. *Be it further enacted*, That the zoning ordinance, including the maps, may from time to time be amended; but no amendment

shall become effective unless it be first submitted to and approved by the planning commission or, if disapproved, shall receive the favorable vote of a majority of the entire membership of the chief legislative body.

SEC. 5. BOARD OF APPEALS. *Be it further enacted*, That the chief legislative body may create a board of zoning appeals of three or five members, may specify the mode of appointment of members of such board and their terms, which terms shall be of such length and so arranged that the term of one member shall expire each year; or the chief legislative body may designate the planning commission of the municipality as the board of zoning appeals. The compensation of members of said board shall be as fixed by said chief legislative body.

Said chief legislative body may provide and specify, in its zoning or other ordinance, general rules to govern the organization and procedure and jurisdiction of said board of appeals, which rules shall not be inconsistent with the provisions of this Act; and the board of appeals 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 the principles, standards, rules, conditions and safeguards set forth in the ordinance, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. The chief legislative body 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, board or bureau of the municipality affected by any grant or refusal of a building permit or other act or decision of the building commissioner of the municipality or other administrative official based in whole or part upon the provisions of any ordinance enacted 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, permit, decision or refusal made by the municipal building commissioner or any other administrative official in the carrying out or enforcement of any provision 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 zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this Act would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property, to authorize, upon an appeal relating to said property, a

variance from such strict 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 ordinance.

SEC. 6. ENFORCEMENT AND REMEDIES. *Be it further enacted*, That the chief legislative body may provide for the enforcement of any ordinance enacted under this Act. A violation of any such ordinance is hereby declared to be a misdemeanor. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any ordinance enacted under this Act, the building commissioner, municipal counsel or other appropriate authority of the municipality, or any adjacent or neighboring property owner who would be specially damaged by such violation, may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

SEC. 7. CONFLICT WITH OTHER LAWS. *Be it further enacted*, That whenever 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 impose other higher standards than are required in any other statute, the provisions of the regulations made under authority of this Act shall govern. Wherever 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 regulations made under authority of this Act, the provisions of such statute shall govern.

SEC. 8. ZONING UNDER SPECIAL ACTS. *Be it further enacted*, That nothing contained in this Act shall be deemed to supplant or modify the provisions of any special or private act relating to the zoning or zoning powers of any municipality referred to in such special or private act, and all the provisions of such special or private act shall remain in full force and effect; but insofar as the provisions of this Act be not inconsistent with the provisions of such special or private act, the provisions of this Act shall apply to the zoning powers and procedure of such municipality.

SEC. 9. *Be it further enacted*, That should any section or provision of this Act be held to be unconstitutional or invalid, the same shall not affect the validity of the Act as a whole or any part thereof other than the part so held to be unconstitutional.

SEC. 10. *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 19, 1935.

HILL McALISTER,  
*Governor.*

## CHAPTER 45

### SENATE BILL NO. 115

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

AN ACT to provide for the regulation and approval by municipal planning commissions, before filing for record, of plats of the subdivision or resubdivision of lands lying in municipalities; to define the duties of county registers in counties in which such municipalities may be situated, with reference to filing and recording such plats, and to make it a misdemeanor in office for any county register to violate the provisions of this Act; to provide penalties for selling from unapproved plats; regulating the acceptance and improvements of and in unapproved streets; and regulating the erection of buildings with reference to access to approved streets.

SECTION 1. PLANNING COMMISSION PLATTING AUTHORITY. *Be it enacted by the General Assembly of the State of Tennessee*, That from and after the time when the planning commission of any municipality shall have adopted a master plan which includes at least a major street plan or shall have progressed in its master planning to the stage of the making and adoption of a major street plan, and shall have filed a certified copy of such major street plan in the office of the county register of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality shall be filed or recorded until it shall have been submitted to and approved by the said planning commission and such approval entered in writing on the plat by the secretary of the commission.

No county register shall file or record a plat of a subdivision of land within the municipality without the approval of the planning commission as re-