

*Section 507.3. Regional Planning Commission to Make Master Plan.—It shall be the function and duty of the regional planning commission to make a master plan and such surveys and studies as may be essential thereto for the physical development of the region, as created in accordance with the provisions of section 507.2 of this act. Such master plan shall include all the elements of physical development that may be locally important and desirable.*

*Section 507.4. Delegated Powers of Regional Planning Commission.—The council or corresponding administrative bodies of any political subdivision, and the county commissioners of any county so cooperating, may delegate to the regional planning commission, by ordinance or resolution, any or all of the powers and duties of the planning commission of such political subdivision, with respect to the territory of the political subdivision so enacting or resolving, and, in case of a county, any and all of the powers and duties of a county planning commission for the territory of the county so resolving.*

APPROVED—The 25th day of June, A. D. 1937.

GEORGE H. EARLE

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No. 435

AN ACT

To amend the act, approved the second day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand two hundred seventy-eight), entitled "An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto," by conferring on such counties the power to adopt ordinances and resolutions providing for the zoning and regulation of the location, height, bulk, and use of buildings and other structures, and of the uses of land, and the requirement of building permits in the portions of counties lying outside of cities, boroughs, and townships of the first class; providing for the creation, organization, powers, and duties of county zoning commissions and boards of adjustment; imposing duties on the State Planning Board and on State officials, departments, and agencies; and prescribing penalties.

Section 1. Be it enacted, &c., That article five of the act, approved the second day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand two hundred seventy-eight), entitled "An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto," is hereby amended by adding immediately after the article heading thereof a new section to read as follows:

Article 5,  
act of May 2,  
1929 (P. L.  
1278), amended  
by adding a  
new section.

*Section 410. Ordinances and Resolutions.*—The board of commissioners may adopt resolutions and ordinances prescribing the manner in which powers of the county shall be carried out and generally regulating the affairs of the county. All such ordinances, unless otherwise provided by law, shall be published at least once in one newspaper of general circulation in the county. Such ordinance shall not become effective until ten days after the publication aforesaid. In any case in which maps, plans or drawings of any kind are adopted as part of an ordinance, the commissioners may, instead of publishing the same as part of the ordinance, refer in publishing the ordinance to the place where such maps, plans or drawings are on file and may be examined.

The board of county commissioners may also prescribe fines and penalties, not exceeding three hundred dollars (\$300.00) in any instance, for the violation of county ordinances, which fines and penalties may be collected by suit brought in the name of the county before any justice of the peace in like manner as debts of like amount may be sued for by existing laws.

Section 2. The article heading of article six of said act is hereby amended to read as follows:

Heading of  
Article VI,  
amended.

#### ARTICLE VI

#### COUNTY PLANNING COMMISSION AND ZONING

##### (a) County Planning Commission

Section 3. Article six of said act is hereby amended by adding at the end thereof a new subdivision and sections to read as follows:

Following  
new sections  
added.

##### (b) County Zoning

*Section 510.1. Grant of Power.*—The board of county commissioners of any county is hereby empowered, in accordance with the conditions and procedure specified in the subsequent sections of this article, by ordinance, to regulate in any portion or portions of such county which lie outside of cities, boroughs and townships of the first class, the location, height, bulk, and size of buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts, and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

*Section 510.2. Zoning Commission.*—In order to avail itself of the powers conferred by this act, the board of county commissioners shall appoint a permanent commission of three, five or seven members, which shall be known as the county zoning commission.

*Any individual, whether in private or ex-officio capacity, may be appointed to serve on such commission, and the majority of the members thereof shall be individuals who do not hold elective public office. The boards of county commissioners of two or more counties may arrange or provide for a joint or common commission, and, for the purposes of this act, any such joint or common zoning commission shall be deemed the zoning commission of each of such counties. The board of county commissioners shall provide for reimbursement of the members of the zoning commission for actual expenses incurred, and shall provide for the filling of vacancies in the membership of such commission, and for the removal of a member for non-performance of duty or misconduct.*

*In any county where a county planning board has been or shall be established, the board of county commissioners may, in lieu of establishing a zoning commission as provided in this section, confer and impose on such planning board the additional power and duty of serving as the county zoning commission with all the powers and duties conferred by this act upon the county zoning commission.*

*Section 510.3. Assistance from State Agencies; Personnel.—The zoning commission is directed to make use of the expert advice and information which may be furnished by appropriate State and Federal officials, departments, and agencies, particularly the Pennsylvania State Planning Board, and all State officials, departments, and agencies having information, maps, and data pertinent to county zoning are hereby authorized and directed to make the same available for the use of the county zoning commission, as well as to furnish such other technical assistance and advice as they may have available for such purpose. The zoning commission may employ such trained personnel as the funds provided therefor may permit.*

*Section 510.4. Preparation of Zoning Plan.—It shall be the duty of the zoning commission of any county to make, for certification to the board of county commissioners of such county, a zoning plan or plans, including both the full text of the zoning ordinance or ordinances and the maps and representing the recommendations of the commission for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, recreation, agri-*

culture, forestry, soil conservation, water supply conservation or other purposes.

When the efforts of such commission shall have reached the stage of a tentative plan, the commission shall hold at least one public hearing on each tentative plan to be separately submitted, notice of which hearings shall be published at least fifteen days before the date of the hearing in a newspaper of general circulation in the county. The notice shall contain the time and place of hearing, and shall specify the place and times at which the tentative text and maps of the zoning ordinance may be examined. For the purpose of its public hearing or hearings, the commission shall have power to summon witnesses, administer oaths, and compel the giving of testimony.

Before finally adopting and certifying any zoning plan, the zoning commission shall submit its tentative plan to the State Planning Board for advice and recommendations. The approval of the State Planning Board shall be presumed unless the State Planning Board shall, within forty-five days after such submission, present its advices and criticisms in respect to such zoning plan.

In the event that, after such public hearing or hearings and after such submission to the State Planning Board, the zoning commission, in the light of the developments at such hearing or hearings or the advices and recommendations of the State Planning Board, makes changes in its said tentative plan, there shall be no requirement of any hearing upon such changes or any submission of such changes to the State Planning Board.

*Section 510.5. Zoning Ordinance.*—From and after the time when a zoning commission of any county, in accordance with the procedure specified in the next preceding section of this article, makes, adopts, and certifies to the board of county commissioners of its county, each zoning plan, including both the full text of a zoning ordinance and the maps, then the board of county commissioners may, by ordinance, exercise the powers granted to it in section five hundred ten and one-tenth of this act, and, for the purpose of such exercise, the board of county commissioners may divide the territory of the county, which lies outside of municipalities which now have authority to adopt and enforce zoning ordinances, into districts or zones of such number, shape or area as it may determine, and within such districts, or any of them, may regulate the erection, construction, reconstruction, alteration, and uses of buildings and structures and the uses of land, and may require and provide for the issuance of building permits as a condition precedent to the right to erect, construct, reconstruct or alter any building or structure within any district covered by such zoning ordinance. All such regulations

shall be uniform for each class or kind of buildings throughout any district, but the regulations in one district may differ from those in other districts.

Section 510.6. *Method of Procedure.*—After receiving the certification of a zone plan from the zoning commission and before the enactment of any zoning ordinance, the board of county commissioners shall hold a public hearing thereon, of the time and place of which at least thirty 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 zoning commission may be examined. The board may conduct consultative hearings or referenda to aid it in determining the desirability of contemplated or recommended regulations. No change in or departure from the text or maps, as certified by the zoning commission, shall be made unless such change or departure shall first be submitted to the zoning commission for its approval or disapproval or suggestions. The zoning commission shall have thirty days from and after such submission within which to send its report to the board of county commissioners: Provided, however, That no approval, disapproval or suggestions of the zoning commission shall have more than advisory effect or shall in anywise bind the board of county commissioners.

Section 510.7. *Purposes of Zoning Regulations.*—Such regulations shall be designated and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity or welfare of the present and future inhabitants of the State of Pennsylvania, including, amongst other things, the lessening of congestion in the streets or roads or reducing the waste of excessive amounts of roads, securing safety from fire and other dangers, providing adequate light and air, preventing on the one hand excessive concentration 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 opportunities, recreation, soil, fertility, food supply, protection of the tax base, securing economy in governmental expenditures, fostering the State's agricultural and other industries, and the protection of both urban and non-urban development.

Section 510.8. *Amendments.*—The board of county commissioners may, from time to time, amend the number, shape, boundary or area of any district or districts, or any regulation of, or within, such district or districts,

or any other provision of any zoning ordinance, but no such amendment shall be made or become effective until the same shall have been proposed by or be first submitted for approval, disapproval or suggestions to the zoning commission and the Pennsylvania State Planning Board. Any proposal, approval, disapproval or suggestions of the zoning commission or the State Planning Board shall have advisory effect only and not be binding upon the board of county commissioners, and, unless such zoning commission or State Planning Board shall have transmitted its report upon the proposed amendment within thirty days after the submission thereof to it, the board of county commissioners shall be free to proceed to the adoption of the amendment without further awaiting the receipt of the report\* of the zoning commission or State Planning Board. Before finally adopting any such amendment, the board of county commissioners shall hold a public hearing thereon, at least thirty 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.

*Section 510.9. Cooperation Between Counties.*—The zoning commission of any county may cooperate with the zoning commissions of other counties and with the planning, zoning, legislative, and administrative authorities of cities, boroughs, first-class townships or other municipalities, either within or without such county, with a view to coordinating and integrating the zoning of the county with the planning and zoning of other counties or of municipalities. The zoning commission shall also have power to appoint such committee or committees, and adopt such rules for the conduct of its business, as it may deem proper to effect such cooperation or to more expeditiously and effectively perform its functions.

*Section 510.10. The Board of Adjustment.*—The board of county commissioners of any county which enacts zoning regulations under the authority of this act, shall provide for a board of adjustment of three to five members and for the manner of the appointment of such members. Not more than half of the members of such board may at any time be members of the zoning commission. The board of county commissioners shall fix per diem compensation and terms for the members of such board of adjustment, which terms shall be of such length and so arranged that the term of at least one member will expire each year. Any member of the board of adjustment may be removed for cause by the board of county commissioners upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the

\* "port" in the original.

case of original appointments. The board of county commissioners may appoint associate members of such 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 of any other cause, his place may be taken during such temporary disability by an associate member designated for the purpose. The boards of county commissioners of two or more counties may arrange and provide for a joint or common board of adjustment of four or five members, which joint or common board of adjustment shall be deemed the board of adjustment of each of such counties.

The board of county commissioners shall provide and specify in its zoning or other ordinances general rules to govern the organization, procedure, and jurisdiction of said board of adjustment, which rules shall not be inconsistent with the provisions of this act, and the board of adjustment may adopt supplemental rules of procedure not inconsistent with this act or such general rules.

Any zoning ordinance of the board of county commissioners may provide that the board of adjustment may in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the zoning ordinance, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. The commissioners may also authorize the board of adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions, as they may arise in the administration of the zoning regulations.

Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. 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 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.

Section 510.11. Appeals to the Board of Adjustment. — Appeals to the board of adjustment may be taken by any person aggrieved by his inability to obtain a building permit, or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning ordinance. Appeals to the board of adjust-

ment may be taken by any officer, department, board or bureau of the county affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of the zoning ordinance. The time within which such appeal must be made, and the form or other procedure relating thereto, shall be as specified in the general rules provided by the board of county commissioners to govern the procedure of such board of adjustment or in the supplemental rules of procedure adopted by such board.

Upon appeals the board of adjustment 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 an administrative official or agency based on or made in the enforcement of the zoning ordinance.

(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 application 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 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 ordinances.

The concurring vote of four members of the board in the case of a five-member board, and of three members in the case of a three-member board, shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or agency or to decide in favor of the appellant.

Section 510.12. *Court Review.*—Any persons jointly or severally aggrieved by any decision of the board of adjustment or any taxpayer or any officer, department, board or bureau of the county may present to the court of common pleas of the county, in which the property concerning which such decision was made is located, a petition duly verified, setting forth that such decision



is illegal in whole or in part, specifying the grounds of the illegality. Such a petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. Upon the presentation of such petition, the court may allow a writ of certiorari, directed to the board of adjustment, to review such decision of the board of adjustment, and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

Section 510.13. *Violations; Enforcement and Remedies.*—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 zoning ordinance, or any amendment thereof, enacted or adopted by any board of county commissioners under the authority of this act. Any person, firm or corporation violating any such regulation, provision or amendment, or any provision of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00), or imprisoned not more than ten days, or both. 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 of any ordinance, or amendment thereof, enacted or adopted by any board of county commissioners under the authority granted by this act, such board, the district attorney of the county or any owner of real estate within the district in which such building, structure or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

Section 510.14. *Nonconforming Uses.*—The lawful use of a building or structure, or the lawful use of any land, as existing and lawful at the time of the enactment of a zoning ordinance, or in the case of an amendment of an ordinance, then at the time of such amendment, may, except as hereinafter provided, be continued although such use does not conform with the provisions of such ordinance or amendment, and such use may be extended throughout the same building, provided no structural alteration of such building is proposed or made for the purpose of such extension. The board of county commissioners may provide in any zoning ordinance for the restoration, reconstruction, extension or substitution of nonconforming uses upon such terms and conditions as may be set forth in the zoning ordinance. The board of county commissioners may in any zoning ordinance provide for the termination of nonconforming uses, either by specifying the period or periods in which nonconforming uses shall be required to cease, or by providing a formula or formulae whereby the compulsory termination of a nonconforming use may be so fixed as to allow for the recovery or amortization of the investment in the nonconformance.

If any county acquire title to any property by reason of tax delinquency and such property be not redeemed as provided by law, the future use of such property shall be in conformity with the then provisions of the zoning ordinance of the county, or with any amendment of such ordinance, equally applicable to other like properties within the district in which the property acquired by the county is located.

Section 510.15. *List of Nonconforming Uses.*—Immediately after the adoption of any zoning ordinance or amendment by the board of county commissioners, the county zoning commission shall prepare and publish a complete list of all nonconforming uses and occupations existing at the time of the adoption of such ordinance

or amendment. Such list shall contain the names and addresses of the owner or owners of such nonconforming use and of any occupant, other than the owner, the legal description or descriptions of the land, and the nature and extent of land use. After any necessary corrections have been made under a procedure prescribed by the board of county commissioners, copies of such list shall, when approved by such body, be filed for record in the offices of the recorder of deeds and of the chief clerk in the county in which the lands are situated, and shall be corrected yearly as the board of county commissioners may prescribe.

*Section 510.16. Filing.*—Upon the adoption of any zoning ordinance or regulation, map or maps, the board of county commissioners may file the originals with the chief clerk and a certified copy of each in the office of the county recorder of deeds, which copies shall be accessible to the public. The recorder of deeds shall index such ordinances and regulations as nearly as possible in the same manner as he indexes instruments pertaining to the title of land.

*Section 510.17. Finances.*—The board of county commissioners is empowered to appropriate out of the general county fund such moneys, otherwise unappropriated, as it may deem fit to finance the work of the county zoning commission and of the board of adjustment, and to enforce the zoning regulations and restrictions which are adopted, and to accept grants of money and service for these purposes, and other purposes, in accordance with this act, from either private or public sources, State or Federal.

*Section 510.18. Conflict with Other Laws.*—Whenever any 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 smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under 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 any regulations made under authority of this act, the provisions of such statute shall govern.

*Section 510.19. Act Not to Apply to Certain Buildings of Public Utility Corporations.*—This act shall not apply to any existing or proposed building, or extension thereof, used or to be used by public utility corporations, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing,

*decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.*

*Section 510.20. Definitions.—The words “amend,” “amendment,” “amendments” or “amended,” in this act, shall be deemed to include any modification of the text or phraseology of any provision of any zoning ordinance, or amendment thereof, or any repeal or elimination of any such provision, or part thereof, or any addition to the ordinance, or to an amendment thereof, and shall also be deemed to include any change in the number, shape, boundary or area of any district or districts, any repeal or abolition of any map forming part of, or referred to, in any zoning ordinance or any part of such map, any addition to such map, any new map or maps, or any other change in the maps or any map.*

APPROVED—The 25th day of June, A. D. 1937.

GEORGE H. EARLE

No. 436

AN ACT

To amend the act, approved the fourteenth day of May, one thousand nine hundred and twenty-five (Pamphlet Laws, seven hundred thirty), entitled “An act for the protection of the public health in the manufacture and sale of carbonated beverages and still drinks; providing for the registration thereof; prohibiting the sale, offering or exposing for sale, exchange or giving away thereof in certain cases unless registered; regulating the manufacture, bottling, preparation, mixing, and compounding of carbonated beverages or still drinks, and the sale and dispensing thereof; creating a special fund in the State Treasury; and providing penalties,” as amended, by further regulating the manufacture and sale of carbonated beverages and still drinks; changing the penalties prescribed; and providing for injunctions in certain cases.

Section 1,  
act of May 14,  
1925 (P. L.  
730), as  
amended by  
act of May 6,  
1927 (P. L.  
851), further  
amended.

Section 1. Be it enacted, &c., That section one of the act, approved the fourteenth day of May, one thousand nine hundred and twenty-five (Pamphlet Laws, seven hundred thirty), entitled “An act for the protection of the public health in the manufacture and sale of carbonated beverages and still drinks; providing for the registration thereof; prohibiting the sale, offering or exposing for sale, exchange or giving away thereof in certain cases unless registered; regulating the manufacture, bottling, preparation, mixing, and compounding of carbonated beverages or still drinks, and the sale and dispensing thereof; creating a special fund in the State Treasury; and providing penalties,” as amended by section one of the act, approved the sixth day of May, one thousand nine hundred and twenty-seven