

LEGISLATIVE HISTORY

of

R.S. 40:55-30. Zoning - General Purposes and Powers

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Laws 1928, Chapter 274 - S.65 - Introduced January 16, 1928 by Mr. Mackay.
This bill had no statement. It was amended several times.

Laws 1948, Chapter 305, Section 1 - A.307 - Introduced February 16, 1948 by Mr. Pike.
The statement on the original bill was:

Certain of the amendments proposed in this bill will provide the municipalities with the additional power to zone the use of land as granted under the new constitution. Other proposed amendments are designed to eliminate certain conditions which permitted and even encouraged municipalities to set up zoning without due regard for its effect upon their possible and desirable development. In other respects, the proposed revisions give the zoning boards of adjustment a more exact definition of their powers and duties; the lack of which specifications under the former act have resulted in confusion and occasionally emasculation of the ordinances, as originally enacted. These proposed revisions are a result of experience since the enactment of the original law, both in New Jersey and throughout the United States.

The wording added to this section by the 1948 act appears to follow the wording in the 1947 Constitution (underlining shows added words):

New Jersey Constitution of 1947, Art. IV, Sect. VI, par. 2.

2. The Legislature may enact general laws under which municipalities, other than counties, may adopt zoning ordinances limiting and restricting to specified districts and regulating therein, buildings and structures, according to their construction, and the nature and extent of their use, and the nature and extent of the uses of land, and the exercise of such authority shall be deemed to be within the police power of the State. Such laws shall be subject to repeal or alteration by the Legislature

The following pages in New Jersey Constitutional Convention, 1947. Proceedings. 3 volumes, refer to this provision.

Vol. 1, page 142.

Mr. Edward F. O'Mara (reporting for Committee on the Legislature:

We have broadened the zoning provision, so as to make it apply not only to the regulation of structures and buildings but also to the regulation of the use of land itself.

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Vol. II, page 1528 to 1531.
Zoning monograph by Francis W. Hopkins.

Vol. III - Proceedings of the Committee on the Legislative,
and Appendix.

We found the following references to this provision:
p. 538-539; p. 736-737; p. 860-863; p. 880-882.

The proposed 1944 Constitution had the same wording as the 1947 Constitution,
although there are minor differences in punctuation.

This provision in the 1944 Constitution is discussed in:

974.90	New Jersey Joint Legislative Committee to
C758	Formulate a Draft of a Proposed Revised
1944h	Constitution...
Vol. 1	Public hearing...February 9, 1944, p. 16

The proposed 1942 Constitution did not make any changes in this paragraph
from the 1844 Constitution as amended.

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LEGISLATIVE HISTORY
of
R.S. 40:55-33 and 40:55-35
Zoning Commissions - changes in zoning plan

Laws 1928, Chapter 274, sec. 6 and 8. S-65, Introduced January 16, 1928 by Mr. Mackay. This bill had no statement. It was amended several times.

Laws 1948, Chapter 305, sec. 3 and 4. A-307, Introduced February 16, 1948 by Mr. Pike. The statement on the original bill was:

Statement

Certain of the amendments proposed in this bill will provide the municipalities with the additional power to zone the use of land as granted under the new constitution. Other proposed amendments are designed to eliminate certain conditions which permitted and even encouraged municipalities to set up zoning without due regard for its effect upon their possible and desirable development. In other respects, the proposed revisions give the zoning boards of adjustment a more exact definition of their powers and duties; the lack of which specifications under the former act have resulted in confusion and occasionally emasculation of the ordinances, as originally enacted. These proposed revisions are a result of experience since the enactment of the original law, both in New Jersey and throughout the United States.

The following sections of the bill as introduced show the changes intended from the 1928 law:

3. Section 40:55-33 of the Revised Statutes is amended to read as follows:

40:55-33. Hereafter, prior to the adoption of any zoning ordinance the governing body or board of public works shall appoint a commission of citizens of the municipality, to be known as the zoning commission, and empower a planning board in accordance with sections 40:55-3, 40:55-4 and 40:55-6 of the Revised Statutes to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commissions/The planning board thus empowered shall make a preliminary report and thereafter hold public hearings thereon before submitting its final report, and the governing body or board of public works shall not hold public hearing or public hearings, or adopt such zoning ordinance, until it has received the

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final report of such commission planning board. The provisions of this section shall not apply to an amendment or repeal of any zoning ordinance.

4. Section 40:55-35 of the Revised Statutes is amended to read as follows:

40:55-35. Such regulations, limitations and restrictions may be amended, changed, modified, or repealed, and the boundaries of such districts may be changed, by ordinance, but no amendment or change shall become effective unless the ordinance proposing such amendment or change shall first have been submitted to the planning board, when such board exists, for approval, disapproval or suggestions, and the planning board shall have a reasonable time, not less than thirty days, for consideration and report, and in the case of an unfavorable report by the planning board such amendment shall not become effective except by a favorable vote of two-thirds of the governing body.

In the case of a protest against such proposed change signed by the owners of twenty per centum (20%) or more either of the area of the lots or land included in such proposed change, or of those immediately adjacent the lots or land in the rear thereof extending one hundred feet therefrom, or of those the lots or land on either side thereof or directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, therefrom (exclusive of street space), such amendment or change shall not become effective except by the favorable vote of three-fourths two thirds of all the members of the governing body or board of public works of such municipality.

This provision shall not apply to the repeal of zoning ordinances in effect prior to April third, one thousand nine hundred and twenty-eight.

First Official Copy Reprint - Section 3 changed:

3. Section 40:55-33 of the Revised Statutes is amended to read as follows:

40:55-33. Hereafter, prior to the adoption of any zoning ordinance the governing body or board of public works shall appoint a commission of citizens of the municipality, to be known as the zoning commission, or a planning board in accordance with sections 40:53-3, 40:53-4 and 40:53-6 of the Revised Statutes, and empower such commission or planning board to recommend the boundaries of the various districts and appropriate regulations to be enforced therein.

Such commission or planning board thus empowered shall make a preliminary report and thereafter hold public hearings thereon before submitting its final report, and the governing body or board of public works shall not hold public hearing or public hearings or adopt such zoning ordinance, until it has received the final report of such commission or planning board. The provisions of this section shall not apply to an amendment or repeal of any zoning ordinance.

Section 4 is unchanged.

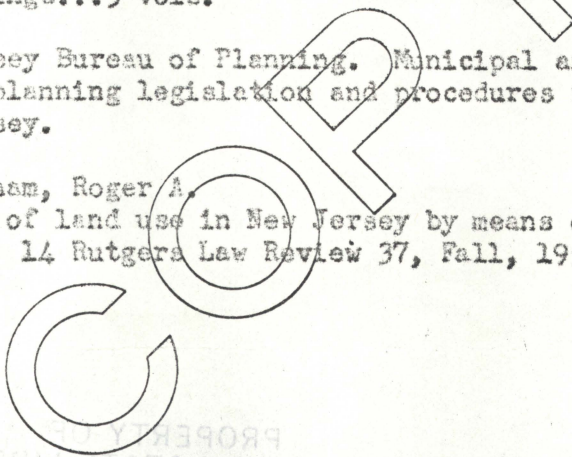
Second Official Copy Reprint: Section 3 and 4 unchanged.

For discussions of zoning legislation in New Jersey, the following may be consulted:

New Jersey Constitutional Convention, 1947.
Proceedings...5 vols.

New Jersey Bureau of Planning. Municipal and county planning legislation and procedures in New Jersey.

Cunningham, Roger A.
Control of land use in New Jersey by means of zoning. 14 Rutgers Law Review 37, Fall, 1959.



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40:55-50

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December 23, 1970

LEGISLATIVE HISTORY OF R.S.40:55-50
(Effect on public utilities)

L.1928 -C274 - S65.

Amended during passage (copy enclosed of all forms of
bill and amendments.
No statement.

There was a hearing on this bill but it apparently was never
transcribed. The State Library does not have it

No additional information was located.

JH/EH
Enclosure

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STATE OF NEW JERSEY

INTRODUCED JANUARY 16, 1928.

By Mr. MACKAY.

Referred to Committee on Judiciary.

AN ACT to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1 1. Municipality. The term "Municipality" where used in this act shall be con-
2 strued to mean "City", "Town", "Village", "Borough", "Township", and any mu-
3 nicipality governed by a board of commissioners or improvement commission, but
4 shall not include counties.

1 2. Governing Body. The term "Governing Body", where used in this act, shall
2 be construed to mean the board or body in each municipality empowered by statute
3 to exercise general legislative power.

1 3. General Purpose. Any municipality of this State may, by a zoning ordi-
2 nance, limit and restrict to specified districts and may regulate therein, buildings
3 and structures according to their construction, and the nature and extent of their
4 use, and the exercise of such authority, subject to the provisions herein contained,
5 shall be deemed to be within the police power of the State. The authority con-
6 ferred by this act shall include the right to regulate and restrict the height, number
7 of storioⁿ and size of buildings, and other structures, the percentage of lot that
8 may be occupied, the size of yards, courts, and other open spaces, the density of
9 population, and the location and use and extent of use of buildings and structures
10 for trade, industry, residence, or other purposes.

1 4. Districts. For any or all of said purposes the local governing body may
2 divide the municipality into districts of such number, shape, and area as may be
3 deemed best suited to carry out the purposes of this act; and within such districts
4 it may regulate and restrict the erection, construction, reconstruction, alteration, re-
5 pair, or use of buildings, or other structures. All such regulations shall be uniform
6 for each class or kind of buildings throughout each district, but the regulations in
7 one district may differ from those in other districts.

1 5. Purposes in View. Such regulations shall be made in accordance with a
2 comprehensive plan and designed for one or more of the following purposes: to
3 lessen congestion in the streets; to secure safety from fire, panic and other dangers;
4 to promote health and the general welfare; to provide adequate light and air; to
5 prevent the overcrowding of land; to avoid undue concentration of population; to
6 facilitate the adequate provision for transportation, water, sewerage, schools, parks,
7 and other public requirements. Such regulations shall be made with reasonable con-
8 sideration, among other things, to the character of the district and its peculiar suit-
9 ability for particular uses, and with a view of conserving the value of buildings and
10 encouraging the most appropriate use of land throughout such municipality.

1 6. Zoning Commission. Prior to the adoption of any zoning ordinance the
2 governing board shall appoint a commission of citizens of the municipality, to be
3 known as the zoning commission, to recommend the boundaries of the various or-
4 iginal districts, and appropriate regulations to be enforced therein. Such commis-
5 sion shall make a preliminary report and thereafter hold public hearings thereon be-
6 fore submitting its final report, and the governing body shall not hold its public
7 hearings, or adopt such zoning ordinance, until it has received the final report of
8 such commission; *provided, however*, the foregoing provisions of this section shall
9 not apply to an amendment or repeal of any zoning ordinance. No zoning ordi-
10 nance shall be adopted, amended, or repealed, until after public h ; thereon by
11 the governing body, at which parties in interest and citizens shall have an oppor-
12 tunity to be heard. Said ordinance and notice of the time and place of hearing
13 thereon shall be published at least once in an official newspaper, if there be one,
14 or otherwise in a newspaper of general circulation in the municipality, and such
15 publication shall take place ten or more days prior to such hearing.

1 7. Existing Zoning Ordinances Saved. Wherever any municipality shall have
2 adopted an ordinance, or ordinances, for any of the purposes set forth in this act,
3 such ordinance, or ordinances, shall be deemed to have been adopted under the
4 provisions of this act; and it shall not be necessary in such cases for the governing
5 body to appoint a zoning commission as provided by section six herein. All such
6 ordinances shall remain in full force and effect, except insofar as they are incon-
7 sistent with the provisions of this act, until they shall have been amended, or re-
8 pealed by the governing body.

1 8. Changes. Such regulations, restrictions and boundaries may be amended,
2 changed, modified, or repealed. In case of a protest against such proposed change,
3 signed by the owners of twenty per centum or more either of the area of the lots in-
4 cluded in such proposed change, or of those immediately adjacent in the rear thereof
5 extending one hundred feet therefrom, or of those directly opposite thereto extending
6 one hundred feet from the street frontage of such opposite lots, such amendment
7 shall not become effective except by the favorable vote of three-fourths of all the
8 members of the governing body of such municipality.

1 9. Board of Adjustment. Such local governing body shall provide for the ap-
2 pointment of a board of adjustment and in the regulations and restrictions adopted
3 pursuant to the authority of this act may provide that the said board of adjust-
4 ment may, in appropriate cases and subject to appropriate conditions and safe-
5 guards, make special exceptions to the terms of the ordinance in harmony with its
6 general purpose and intent and in accordance with general or specific rules therein
7 contained.

8 The board of adjustment shall consist of five members, who shall not hold any
9 other office or position under the municipality, each to be appointed for such term
10 as the governing body may prescribe and be removable for cause by the governing
11 body upon written charges and after public hearing. Vacancies shall be filled for
12 the unexpired term of any member whose term becomes vacant.

13 The board shall adopt rules in accordance with the provisions of any ordinance
14 adopted or in force pursuant to this act. Meetings of the board shall be held at
15 the call of the chairman and at such other times as the board may determine. Such
16 chairman, or in his absence the acting chairman, may administer oaths and compel

17 the attendance of witnesses. Upon the failure of any person to answer in re-
18 sponse to the subpoena of such officer, application may be made to the court for
19 an order compelling the attendance of such witness. All meetings of the board shall
20 be open to the public. The board shall keep minutes of its proceedings, showing
21 the vote of each member upon each question, or, if absent or failing to vote, in-
22 dicating such fact, and shall keep records of its examinations and other official ac-
23 tions, all of which shall be immediately filed in the office of the board and shall be a
24 public record.

25 Appeals to the board of adjustment may be taken by any person aggrieved or
26 by any officer, department, board, or bureau of the municipality affected by any de-
27 cision of the administrative officer. Such appeal shall be taken within a reasonable
28 time, as provided by the rules of the board, by filing with the officer from whom
29 the appeal is taken and with the board of adjustment a notice of appeal specifying
30 the grounds thereof. The officer from whom the appeal is taken shall forthwith
31 transmit to the board all the papers constituting the record upon which the action
32 appealed from was taken.

33 An appeal stays all proceedings in furtherance of the action appealed from
34 unless the officer from whom the appeal is taken certifies to the board of adjust-
35 ment after the notice of appeal shall have been filed with him that by reason of
36 facts stated in the certificate a stay would, in his opinion, cause imminent peril to
37 life or property. In such case, proceedings shall not be stayed otherwise than by
38 a restraining order which may be granted by the board of adjustment or by the
39 Court of Chancery on application on notice to the officer from whom the appeal is
40 taken and on due cause shown. The board of adjustment shall fix a reasonable time
41 for the hearing of the appeal, giving due notice thereof to the appellant. Said ap-
42 pellant shall thereupon at least five days prior to the time appointed for said hear-
43 ing, give personal notice to all property owners within two hundred feet (200') of
44 the property to be affected by said appeal. Such notice shall be given either per-
45 sonally or by leaving a copy thereof at the usual place of abode of said property
46 owners, if said owners are the occupants of the property affected by such appeal, or
47 are residents of the municipality in which said property is located. Whenever sch

48 owners are nonresidents of said municipality, such notice may be given by sending
 49 written notice thereof by registered mail to the last known address of the property
 50 owner or owners, as shown by the most recent tax lists of said municipality. Said
 51 appellant shall by affidavit present satisfactory proof to the said board of adjust-
 52 ment at the time of the hearing that said notices have been duly served as afore-
 53 said. Upon the hearing any party may appear in person or by agent or by
 54 attorney.

55 The board of adjustment shall have the following powers:

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

59-60 2. To hear and decide special exceptions to the terms of the ordinance upon
 61 which such board is required to pass under such ordinances; *provided*, that no such
 62 exception shall be made to grant or allow the extension of a structure or use into
 63 a district restricted against such use unless the lands affected thereby abut such re-
 64 stricted district; *and provided, further*, that no such extension, or change of use,
 65 shall extend more than one hundred feet beyond the boundary line of the district
 66 in which such structure or use is authorized by the zoning ordinance.

67 3. To authorize upon appeal in specific cases such variance from the terms of
 68 the ordinance as will not be contrary to the public interest, where, owing to special
 69 conditions, a literal enforcement of the provisions of the ordinance will result in un-
 70 necessary hardship, and so that the spirit of the ordinance shall be observed and
 71 substantial justice done; *and provided*, that no such exception, or variance, shall be
 72 made to grant or allow the extension of a structure or use into a district restricted
 73 against such use unless the lands affected thereby abut such restricted district; *and*
 74 *provided, further*, that no such extension, or change of use, shall extend more than
 75 one hundred feet beyond the boundary line of the district in which such structure
 76 or use is authorized by the zoning ordinance.

1 10. Enforcement and Remedies. The governing body may provide by ordi-
 2 nance for the enforcement of this act and of any ordinance or regulation made
 3 of the order. In case any building or structure is erected, constructed, altered, re-
 ted, or maintained, or any building or structure, is used in violation

5 of this act or of any ordinance or other regulation made under authority conferred
6 hereby, the proper local authorities of the municipality, in addition to other reme-
7 dies, may institute any appropriate action or proceedings to prevent such unlawful
8 erection, construction, reconstruction, alteration, repair, conversion, maintenance, or
9 use, to restrain, correct, or abate such violation, to prevent the occupancy of said
10 building, structure, or land, or to prevent any illegal act, conduct, business, or use
11 in or about such premises.

1 11. Conflict With Other Laws. Wherever the regulations made under
2 authority of this act require a greater width or size of yards, courts, or other open
3 spaces, or require a lower height of building or less number of stories, or require
4 a greater percentage of lot to be left unoccupied, or impose other higher standards
5 than are required in any other statute or local ordinance or regulation, the provi-
6 sions of the regulations made under authority of this act shall govern. Where-
7 ever the provisions of any other statute or local ordinance or regulation require a
8 greater width or size of yards, courts, or other open spaces, or require a lower height
9 of building or a less number of stories, or require a greater percentage of lot to be
10 left unoccupied, or impose other higher standards than are required by the regu-
11 lations made under authority of this act, the provisions of such statute or local
12 ordinance or regulation shall govern.

1 12. Construction. In construing the provisions of this act, all courts shall con-
2 strue the same most favorable to municipalities, it being the intention hereof to
3 grant to municipalities of this State in the fullest and most complete manner pos-
4 sible the police powers of the State for the regulation within the boundaries of
5 the respective municipalities of all matters related to the subject matter of this act.
6 This act shall not apply to existing property or buildings used or to be used by
7 public utilities, in furnishing service, if upon a petition of the public utility, the
8 Board of Public Utility Commissioners shall, after a public hearing, of which the
9 municipality affected shall have notice, decide that the present or proposed situation
10 of the building in question is reasonably necessary for the service, convenience or
11 welfare of the public.

1 13. Repealer. All acts or parts of acts inconsistent with the provisions hereof
2 are hereby repealed, and this act shall take effect immediately.

STATE OF NEW JERSEY

ADOPTED FEBRUARY 7, 1928.

AN ACT to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use.

1 BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1 1. Municipality. The term "Municipality," where used in this act, shall be con-
2 strued to mean "City," "Town," "Village," "Borough," "Township," and any mu-
3 nicipality governed by a board of commissioners or improvement commission, but
4 shall not include counties.

1 2. Governing Body. The term "Governing Body," where used in this act, shall
2 be construed to mean the board or body in each municipality empowered by
3 statute to exercise general legislative power therein.

1 3. General Purpose. Any municipality of this State may, by a zoning ordi-
2 nance, limit and restrict to specified districts and may regulate therein, buildings
3 and structures according to their construction, and the nature and extent of their
4 use, and the exercise of such authority, subject to the provisions herein contained,
5 shall be deemed to be within the police power of the State. Such ordinance shall be
6 adopted by the governing body of such municipality, as hereinafter provided,
7 except in cities having a board of public works, and in such cities shall be adopted
8 by said board of public works. The authority conferred by this act shall include
9 the right to regulate and restrict the height, number of stories, and sizes of build-
10 ings, and other structures, the percentage of lot that may be occupied, the sizes of
11 yards, courts and other open spaces, the density of population, and the location and
12 use and nature of use of buildings and structures for trade, industry, residence,
13 or other purposes.

1 4. Districts. For any or all of said purposes the governing body or board of
2 public works may divide the municipality into districts of such number, shape, and
3 area as may be deemed best suited to carry out the purposes of this act; and within
4 such districts it may regulate and restrict the erection, construction, reconstruction,
5 alteration, repair, or use of buildings, or other structures. All such regulations
6 shall be uniform for each class or kind of buildings or other structures through-
7 out each district, but the regulations in one district may differ from those in other
8 districts.

1 5. Purposes in View. Such regulations shall be made in accordance with a
2 comprehensive plan and designed for one or more of the following purposes: To
3 lessen congestion in the streets; to secure safety from fire, panic and other dangers;
4 to promote health, morals or the general welfare; to provide adequate light and air;
5 to prevent the overcrowding of land or buildings; to avoid undue concentration
6 of population; to facilitate the adequate provision for transportation, water, sew-
7 erage, schools, parks, and other public requirements. Such regulation shall be made
8 with reasonable consideration, among other things, to the character of the district
9 and its peculiar suitability for particular uses, and with a view of conserving the
10 value of property and encouraging the most appropriate use of land throughout
11 such municipality.

1 6. Zoning Commission. Prior to the adoption of any zoning ordinance, the
2 governing body or board of public works shall appoint a commission of citizens of
3 the municipality, to be known as the zoning commission, to recommend the bound-
4 aries of the various original districts, and appropriate regulations to be enforced
5 therein. Such commission shall make a preliminary report and thereafter hold
6 public hearings thereon before submitting its final report, and the governing body
7 or board of public works shall not hold public hearing or public hearings, or adopt
8 such zoning ordinance, until it has received the final report of such commission;
9 *provided, however,* the foregoing provisions of this section shall not apply to an
10 amendment or repeal of any zoning ordinance.

11 No zoning ordinance shall be adopted, amended, or repealed until after public
12 hearing thereon by the governing body or board of public works, at which parties
13 in interest and citizens shall have an opportunity to be heard. Said ordinance and

14 notice of the time and place of hearing thereon shall be published at least once in an
15 official newspaper, if there be one, or otherwise in a newspaper of general circu-
16 lation in the municipality, and such publication shall take place ten or more days
17 prior to such hearing.

1 7. Existing Zoning Ordinances Saved. Wherever any municipality shall have
2 adopted an ordinance, or ordinances, prior to the adoption of this act, for any of the
3 purposes set forth in this act, such ordinance, or ordinances, shall continue in effect
4 as if they had been adopted under the provisions of this act; and it shall not be
5 necessary in such cases for the governing body or board of public works to appoint
6 a zoning commission as provided by section six herein. All such ordinances shall
7 remain in full force and effect, except insofar as they are inconsistent with the pro-
8 visions of this act, until they shall have been amended, or repealed by the govern-
9 ing body or board of public works.

1 8. Changes. Such regulations, limitations and restrictions may be amended,
2 changed, modified, or repealed, and the boundaries of such districts may be
3 changed, by ordinance. In case of a protest against such proposed change, signed
4 by the owners of twenty per centum or more, either of the area of the lots included
5 in such proposed change, or of those immediately adjacent in the rear thereof ex-
6 tending one hundred feet therefrom, or of those directly opposite thereto extend-
7 ing one hundred feet from the street frontage of such opposite lots, such amend-
8 ment shall not become effective except by the favorable vote of three-fourths of all
9 the members of the governing body or board of public works of such municipality,
10 except that this provision shall not apply to the repeal of zoning ordinances in effect
11 prior to the adoption of this act.

1 9. Board of Adjustment. The governing body or board of public works, shall
2 provide for the appointment of a board of adjustment and in the regulations and
3 restrictions adopted pursuant to the authority of this act shall provide that the said
4 board of adjustment may, in appropriate cases and subject to appropriate conditions
5 and safeguards, make special exceptions to the terms of the ordinance in harmony
6 with its general purpose and intent and in accordance with general or specific rules
7 therein contained.

8 The board of adjustment shall consist of five members, who shall not hold any
9 elective office or position under the municipality, each to be appointed for such
10 term as the governing body or board of public works, may prescribe and be remov-
11 able for cause by the governing body, or board of public works, upon written
12 charges and after public hearing. The governing body, or board of public works,
13 shall provide for the filling of vacancies resulting from the unexpired term of any
14 member.

15 The board of adjustment shall adopt rules in accordance with the provisions
16 of any ordinance adopted or in force pursuant to this act. Meetings of the board
17 shall be held at the call of the chairman and at such other times as the board may
18 determine. Such chairman, or in his absence, the acting chairman, may administer
19 oaths and compel the attendance of witnesses. Upon the failure of any person to
20 answer in response to the subpoena of such officer, application may be made to the
21 Supreme Court or any justice thereof, for an order compelling the attendance of such
22 witness. All meetings of the board shall be open to the public. The board shall
23 keep minutes of its proceedings, showing the vote of each member upon each ques-
24 tion, or, if absent or failing to vote, indicating such fact, and shall keep records
25 of its examinations and other official actions, all of which shall be immediately filed
26 in the office of the board and shall be a public board.

27 Appeals to the board of adjustment may be taken by any person aggrieved or
28 by any officer, department, board, or bureau of the municipality affected by any
29 decision of the administrative officer. Such appeal shall be taken within a reasonable
30 time, as provided by the rules of the board, by filing with the officer from whom
31 the appeal is taken and with the board of adjustment a notice of appeal specifying
32 the grounds thereof. The officer from whom the appeal is taken shall forthwith
33 transmit to the board all the papers constituting the record upon which the action
34 appealed from was taken.

35 An appeal stays all proceedings in furtherance of the action in respect of
36 which the decision appealed from was made, unless the officer from whom the appeal
37 is taken certifies to the board of adjustment after the notice of appeal shall have
38 been filed with him that by reason of facts stated in the certificate a stay would,
39 in his opinion, cause imminent peril to life or property. In such case, proceedings

40 shall not be stayed otherwise than by a restraining order which may be granted by
41 the board of adjustment or by the Court of Chancery on application on notice to
42 the officer from whom the appeal is taken and on due cause shown.

43 The board of adjustment shall fix a reasonable time for the hearing of the appeal,
44 giving due notice thereof to the appellant. Said appellant shall thereupon at least five
45 days prior to the time appointed for said hearing, give personal notice to all property
46 owners within two hundred feet (200') of the property to be affected by said
47 appeal. Such notice shall be given either by handing a copy thereof to the said
48 property owners or by leaving a copy thereof at the usual place of abode of said
49 property owners, if said owners are the occupants of the property affected by such
50 appeal or are residents of the municipality in which said property is located.

51-60 Whenever said owners are nonresidents of said municipality, such notice may
61 be given by sending written notice thereof by registered mail to the last known
62 address of the property owner or owners, as shown by the most recent tax lists of
63 said municipality. Where the owners are partnerships, service upon any partner,
64 as above outlined, shall be sufficient, and where the owners are corporations, serv-
65 ice upon any officer, as above set forth, shall be sufficient. Said appellant shall
66 by affidavit present satisfactory proof to the said board of adjustment at the time
67 of the hearing that said notices have been duly served as aforesaid. Upon the
68 hearing any party may appear in person or by agent or by attorney.

69 Whenever an appeal shall be taken to a board of adjustment pursuant to this
70 act, said board shall render its decision upon such appeal within sixty days from
71 the date of the hearing on such appeal, and in any event, within ninety days from
72 the date of the filing of the appeal as herein provided, and upon failure so to do,
73 such appeal at the expiration of such time, shall be deemed to be decided adversely
74 to the appellant, in the same manner as though the said board had rendered a
75 decision to that effect.

76 The board of adjustment shall have the following powers:

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

80 2. To hear and decide special exceptions to the terms of the ordinance upon
81 which such board is required to pass under such ordinance, provided that no such
82 exception shall be made to grant or allow a structure or use in a district restricted
83 against such structure or use unless the lands in respect of which the exception
84 is made abut a district in which such structure or use is authorized by the zoning
85 ordinance, and provided further that no such structure or use shall be allowed
86 more than one hundred (100) feet beyond the boundary line of the district in
87 which such structure or use is authorized by the zoning ordinance.

88 3. To authorize upon appeal in specific cases such variance from the terms
89 of the ordinance as will not be contrary to the public interest, where, owing to special
90 conditions, a literal enforcement of the provisions of the ordinance will result in
91 unnecessary hardship, and so that the spirit of the ordinance shall be observed and
92 substantial justice done; *and provided*, that no such variance shall be made to grant or
93 allow a structure or use in a district restricted against such structure or use unless
94 the lands in respect of which the variance is made abut a district in which such
95 structure or use is authorized by the zoning ordinance; *and provided, further*, that
96 no such structure or use shall be allowed more than one hundred (100) feet beyond
97 the boundary line of the district in which such structure or use is authorized by the
98 zoning ordinance.

99 4. To recommend in writing to the governing board or board of public works,
100 upon appeal in specific cases, that a structure or use be allowed in a district restricted
101 against such structure or use where the lands in respect of which such recommenda-
102 tion is made do not abut a district in which such structure or use is authorized by
103 the zoning ordinance or where such lands are more than one hundred feet beyond
104 the boundary line of the district in which such structure or use is allowed by the
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106 by resolution, approve or disapprove such recommendation; and in case such recom-
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108 the administrative officer in charge of granting permits shall forthwith issue a permit
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110 In exercising the above mentioned powers, such board of adjustment may, in con-
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112 modify the order, requirement, decision or determination appealed from, and make
113 such order, requirement, decision or determination as ought to be made, and to that
114 end have all the powers of the administrative officer from whom the appeal is
115 taken.

116 The concurring vote of three members of the board of adjustment shall be
117 necessary to reverse any order, requirement, decision or determination of any such
118 administrative officer, or to decide in favor of the applicant any matter upon which
119 it is required to pass under any such ordinance, or to effect or recommend any excep-
120 tions to or variations from such ordinance.

121 No writ of certiorari to review any decision of the board of adjustment shall
122 issue unless application therefor be made within thirty days after the filing of the
123 decision in the office of the board. The allowance of the writ shall not stay pro-
124 ceeding upon the decision appealed from unless so ordered by the court.

1 10. Enforcement and Remedies. The governing body or board of public works
2 may provide by ordinance for the enforcement of this act and of any ordinance or
3 regulation made thereunder. In case any building or structure is erected, con-
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5 is used in violation of this act or of any ordinance or other regulation made under
6 authority conferred hereby, the proper local authorities of the municipality, in addi-
7 tion to other remedies, may institute any appropriated action or proceedings to pre-
8 vent such unlawful erection, construction, reconstruction, alteration, repair, con-
9 version, maintenance, or use, to restrain, correct, or abate such violation, to prevent
10 the occupancy of said building, structure, or land, or to prevent any illegal act, con-
11 duct, business, or use in or about such premises.

1 11. Conflict With Other Laws. Wherever the regulations made under author-
2 ity of this act require a greater width or size of yards, courts, or other open spaces,
3 or require a lower height of building or less number of stories, or, require a greater
4 percentage of lot to be left unoccupied, or impose restrictions more extensive than are
5 required in any other statute or local ordinance or regulation, the provisions of
6 the regulations made under authority of this act shall govern. Wherever the pro-
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 11 made under authority of this act, the provisions of such statute or local ordinance
 12 or regulation shall govern.

1 12. Construction. In construing the provisions of this act, all courts shall
 2 construe the same most favorably to municipalities, it being the intention hereof
 3 to grant to municipalities of this State in the fullest and most complete manner
 4 possible the police powers of the State for the regulation within the boundaries of
 5 the respective municipalities of all matters related to the subject matter of this act.
 6 This act or any ordinance or regulation made under authority of this act, shall not
 7 apply to property or to buildings or structures used or to be used by public utilities,
 8 in furnishing service, if upon a petition of the public utility, the Board of Public
 9 Utility Commissioners shall, after a public hearing, of which the municipality
 10 affected shall have notice, decide that the present or proposed situation of the
 11 building or structure in question is reasonably necessary for the service, convenience
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1 13. Repealer. The following acts are specifically repealed: *provided, however*, that
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4 An act entitled "A supplement to an act entitled 'An act concerning municipal-
 5 ities,' approved March twenty-seventh, one thousand nine hundred and seventeen,"
 6 which said supplement was approved March eleventh, one thousand nine hundred and
 7 twenty-four, being chapter 146 of the Laws of 1924.

8 An act entitled "A supplement to an act entitled 'A supplement to an act entitled
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 11 and twenty-four," which supplement was approved March thirty-first, one thousand
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13 An act entitled "A supplement to an act entitled 'A supplement to an act entitled
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 15 twenty-seventh, one thousand nine hundred and seventeen," approved March eleventh,

16 one thousand nine hundred and twenty-four,' which supplement was approved
17 March thirty-first, one thousand nine hundred and twenty-six," which supplement
18 was approved March twenty-eighth, one thousand nine hundred and twenty-seven,
19 being chapter 203 of the Laws of 1927.

1 14. All acts and parts of acts inconsistent with the provisions of this act are
2 hereby repealed.

1 15. This act shall take effect immediately.

Mr. Case, on leave, introduced

Senate Bill No. 247, entitled "An act to amend an act entitled 'An act to regulate the practice of courts of law' (Revision of 1903), approved April fourteenth, nineteen hundred and three,"

Which was read for the first time by its title, ordered to have a second reading, and referred to the Committee on Revision and Amendment of the Laws.

The same Senator, on leave, introduced

Senate Bill No. 248, entitled "A supplement to an act entitled 'An act relating to courts having criminal jurisdiction and regulating proceedings in criminal cases' (Revision of 1898), approved June fourteenth, one thousand eight hundred and ninety-eight,"

Which was read for the first time by its title, ordered to have a second reading, and referred to the Committee on Revision and Amendment of the Laws.

The same Senator, on leave, introduced

Senate Bill No. 249, entitled "An act providing for the appointment and compensation of secretaries to the chancellor and justices of the Supreme Court,"

Which was read for the first time by its title, ordered to have a second reading, and referred to the Committee on Revision and Amendment of the Laws.

Committee Substitute for Senate Bill No. 65, entitled "An act to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use,"

Was taken up on third reading.

Mr. Reeves asked unanimous consent to amend said bill on third reading.

Which was agreed to.

The following amendment to Committee Substitute for Senate Bill No. 65 was read and adopted:

On page 8, section 12, line 7, after the word "to" and before the word "property" insert the word "existing".

Senate Joint Resolution No. 7 was taken up on third reading and laid over on motion of Mr. Davis.

Senate Bill No. 202, entitled "An act to amend an act entitled 'An act to regulate elections' (Revision of 1920), passed May fifth, one thousand nine hundred and twenty,"

Was taken up and read a third time.

Upon the question, "Shall this Senate bill pass?" it was decided as follows:

In the affirmative were—

Messrs. Davis, Forsyth, Larson, Mackay, Pierson, Prall, Richards, Stevens (President), Stiles, Wolber—11.

In the negative—None.

The Secretary was directed by the President to carry said bill to the House of Assembly and inform that body that the Senate has passed the same, and requests its concurrence therein.

Committee Substitute for Senate Bill No. 65, entitled "An act to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use,"

Was taken up.

Mr. Case offered the following amendment:

Amend par. 12, p. 8, by striking out lines 1 to 5 inclusive.

Mr. Mackay asked a roll call.

The amendment was passed by the following vote:

In the affirmative were—

Messrs. Case, Cole, Forsyth, Pierson, Prall, Richards, Stiles—7.

In the negative were—

Messrs. Davis, Mackay, Simpson, Stevens (President), Stiles, Wolber—6.

Mr. Richards asked consent to amend.

Mr. Case moved that Committee Substitute for Senate Bill No. 65, with impending amendment, be laid on the table until Monday evening.

Mr. Stiles, on leave, introduced

Senate Bill No. 279, entitled "An act to further amend an act entitled 'An act respecting the Orphans' Court and relating to the powers and duties of the Ordinary and the Orphans' Court and Surrogates' (Revision one thousand eight hundred and

sand eight hundred and ninety-eight,' which supplement was approved March nineteenth, one thousand nine hundred twenty-seven,"

Was taken up and read a third time.

Upon the question, "Shall this Senate bill pass?" it was decided as follows:

In the affirmative were—

Messrs. Abell, Carhart, Case, Cole, Forsyth, Mackay, McAllister, Pierson, Powell, Prall, Richards, Read, Reeves, Simpson, Stevens (President), Stiles, Wolber—17.

In the negative—None.

The Secretary was directed by the President to carry said bill to the House of Assembly and inform that body that the Senate has passed the same, and requests its concurrence therein.

Mr. Mackay moved that Committee Substitute for Senate Bill No. 165 be taken from the table and placed on third reading.

Which motion was adopted.

Committee Substitute for Senate Bill No. 65, entitled "An act to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use,"

Was taken up on third reading.

Mr. Mackay asked unanimous consent to amend said bill on third reading.

Which was agreed to.

The following amendment to Committee Substitute for Senate Bill No. 65 was read and adopted:

Page 4, line 18. After the second word "chairman" and before the word "may" insert the following: "Shall have power to issue subpoenas for the attendance of witnesses and the production of records and,"

Page 4, line 19. Place a period after the word "oaths" and strike out the following words "and compel the attendance of witnesses."

Page 7, section 10, line 7. Strike out the last letter "d" from the word "appropriated" to make it read "appropriate."

Mr. Richards asks unanimous consent to further amend Committee Substitute for Senate Bill No. 65.

Which was agreed to.

Mr. Richards offered the following amendment to Committee Substitute for Senate Bill No. 65:

Amend paragraph five, line seven, page two. After the word "requirements" change the period to a comma and add the following: "provided that nothing herein contained shall authorize regulations that actually result in the taking of private property for a public use without just compensation."

Which amendment was adopted by the following vote:

In the affirmative were—

Messrs. Case, Mackay, McAllister, Pierson, Prall, Richards, Reeves, Stevens (President), Stiles, Yates—9.

In the negative were—

Messrs. Abell, Cole, Davis, Larson, Mackay, Simpson, Wolber—7.

Mr. Pierson asked unanimous consent to further amend Committee Substitute for Senate Bill No. 65, which was agreed to.

Mr. Pierson offered the following amendment to Committee Substitute for Senate Bill No. 65.

Page 6, line 86, after the word "hundred" insert the words "and fifty." Strike out the numeral "100" and substitute "150."

Line 96, after the word "hundred" insert the words "and fifty." Strike out the numeral "100" and substitute therefor the numerals "150."

Line 103, after the word "hundred" insert the words "and fifty" and after the word "feet" insert the numerals "150" in parentheses.

Which amendment was adopted by the following vote:

In the affirmative were—

Messrs. Abell, Case, Larson, Mackay, Pierson, Reeves, Simpson, Stevens (President), Wolber, Yates—10.

In the negative were—

Messrs. McAllister, Powell, Richards—3.

Committee Substitute for Senate Bill No. 65, entitled "An act to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings

[SECOND OFFICIAL COPY REPRINT.]

COMMITTEE SUBSTITUTE FOR
SENATE, No. 65

STATE OF NEW JERSEY

ADOPTED FEBRUARY 7, 1928.

AN ACT to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use.

1 BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1 1. Municipality. The term "Municipality," where used in this act, shall be con-
2 strued to mean "City," "Town," "Village," "Borough," "Township," and any mu-
3 nicipality governed by a board of commissioners or improvement commission, but
4 shall not include counties.

1 2. Governing Body. The term "Governing Body," where used in this act, shall
2 be construed to mean the board or body in each municipality empowered by
3 statute to exercise general legislative power therein.

1 3. General Purpose. Any municipality of this State may, by a zoning ordi-
2 nance, limit and restrict to specified districts and may regulate therein, buildings
3 and structures according to their construction, and the nature and extent of their
4 use, and the exercise of such authority, subject to the provisions herein contained,
5 shall be deemed to be within the police power of the State. Such ordinance shall be
6 adopted by the governing body of such municipality, as hereinafter provided,
7 except in cities having a board of public works, and in such cities shall be adopted
8 by said board of public works. The authority conferred by this act shall include
9 the right to regulate and restrict the height, number of stories, and sizes of build-
10 ings, and other structures, the percentage of lot that may be occupied, the sizes of
11 yards, courts, and other open spaces, the density of population, and the location and
12 use and extent of use of buildings and structures for trade, industry, residence,
13 or other purposes.

1 4. Districts. For any or all of said purposes the governing body or board of
2 public works may divide the municipality into districts of such number, shape, and
3 area as may be deemed best suited to carry out the purposes of this act; and within
4 such districts it may regulate and restrict the erection, construction, reconstruction,
5 alteration, repair, or use of buildings, or other structures. All such regulations
6 shall be uniform for each class or kind of buildings or other structures through-
7 out each district, but the regulations in one district may differ from those in other
8 districts.

1 5. Purposes in View. Such regulations shall be made in accordance with a
2 comprehensive plan and designed for one or more of the following purposes: To
3 lessen congestion in the streets; to secure safety from fire, panic and other dangers;
4 to promote health, morals or the general welfare; to provide adequate light and air;
5 to prevent the overcrowding of land or buildings; to avoid undue concentration
6 of population; to facilitate the adequate provision for transportation, water, sew-
7 erage, schools, parks, and other public requirements. Such regulation shall be made
8 with reasonable consideration, among other things, to the character of the district
9 and its peculiar suitability for particular uses, and with a view of conserving the
10 value of property and encouraging the most appropriate use of land throughout
11 such municipality.

1 6. Zoning Commission. Prior to the adoption of any zoning ordinance, the
2 governing body or board of public works shall appoint a commission of citizens of
3 the municipality, to be known as the zoning commission, to recommend the bound-
4 aries of the various original districts, and appropriate regulations to be enforced
5 therein. Such commission shall make a preliminary report and thereafter hold
6 public hearings thereon before submitting its final report, and the governing body
7 or board of public works shall not hold public hearing or public hearings, or adopt
8 such zoning ordinance, until it has received the final report of such commission;
9 *provided, however,* the foregoing provisions of this section shall not apply to an
10 amendment or repeal of any zoning ordinance.

11 No zoning ordinance shall be adopted, amended, or repealed, until after public
12 hearing thereon by the governing body or board of public works, at which parties
13 in interest and citizens shall have an opportunity to be heard. Said ordinance and

14 notice of the time and place of hearing thereon shall be published at least once in an
15 official newspaper, if there be one, or otherwise in a newspaper of general circu-
16 lation in the municipality, and such publication shall take place ten or more days
17 prior to such hearing.

1 7. Existing Zoning Ordinances Saved. Wherever any municipality shall have
2 adopted an ordinance, or ordinances, prior to the adoption of this act, for any of the
3 purposes set forth in this act, such ordinance, or ordinances, shall continue in effect
4 as if they had been adopted under the provisions of this act; and it shall not be
5 necessary in such cases for the governing body or board of public works to appoint
6 a zoning commission as provided by section six herein. All such ordinances shall
7 remain in full force and effect, except insofar as they are inconsistent with the pro-
8 visions of this act, until they shall have been amended, or repealed by the govern-
9 ing body or board of public works.

1 8. Changes. Such regulations, limitations and restrictions may be amended,
2 changed, modified, or repealed, and the boundaries of such districts may be
3 changed, by ordinance. In case of a protest against such proposed change, signed
4 by the owners of twenty per centum or more, either of the area of the lots included
5 in such proposed change, or of those immediately adjacent in the rear thereof ex-
6 tending one hundred feet therefrom, or of those directly opposite thereto extend-
7 ing one hundred feet from the street frontage of such opposite lots, such amend-
8 ment shall not become effective except by the favorable vote of three-fourths of all
9 the members of the governing body or board of public works of such municipality,
10 except that this provision shall not apply to the repeal of zoning ordinances in effect
11 prior to the adoption of this act.

1 9. Board of Adjustment. The governing body or board of public works, shall
2 provide for the appointment of a board of adjustment and in the regulations and
3 restrictions adopted pursuant to the authority of this act shall provide that the said
4 board of adjustment may, in appropriate cases and subject to appropriate conditions
5 and safeguards, make special exceptions to the terms of the ordinance in harmony
6 with its general purpose and intent and in accordance with general or specific rules
7 therein contained.

8 The board of adjustment shall consist of five members, who shall not hold any
9 elective office or position under the municipality, each to be appointed for such
10 term as the governing body or board of public works, may prescribe and be remov-
11 able for cause by the governing body, or board of public works, upon written
12 charges and after public hearing. The governing body, or board of public works,
13 shall provide for the filling of vacancies resulting from the unexpired term of any
14 member.

15 The board of adjustment shall adopt rules in accordance with the provisions
16 of any ordinance adopted or in force pursuant to this act. Meetings of the board
17 shall be held at the call of the chairman and at such other times as the board may
18 determine. Such chairman, or in his absence, the acting chairman, may administer
19 oaths and compel the attendance of witnesses. Upon the failure of any person to
20 answer in response to the subpoena of such officer, application may be made to the
21 Supreme Court or any justice thereof, for an order compelling the attendance of such
22 witness. All meetings of the board shall be open to the public. The board shall
23 keep minutes of its proceedings, showing the vote of each member upon each ques-
24 tion, or, if absent or failing to vote, indicating such fact, and shall keep records
25 of its examinations and other official actions, all of which shall be immediately filed
26 in the office of the board and shall be a public record.

27 Appeals to the board of adjustment may be taken by any person aggrieved or
28 by any officer, department, board, or bureau of the municipality affected by any
29 decision of the administrative officer. Such appeal shall be taken within a reasonable
30 time, as provided by the rules of the board, by filing with the officer from whom
31 the appeal is taken and with the board of adjustment a notice of appeal specifying
32 the grounds thereof. The officer from whom the appeal is taken shall forthwith
33 transmit to the board all the papers constituting the record upon which the action
34 appealed from was taken.

35 An appeal stays all proceedings in furtherance of the action in respect of
36 which the decision appealed from was made, unless the officer from whom the appeal
37 is taken certifies to the board of adjustment after the notice of appeal shall have
38 been filed with him that by reason of facts stated in the certificate a stay would,
39 in his opinion, cause imminent peril to life or property. In such case, proceedings

40 shall not be stayed otherwise than by a restraining order which may be granted by
41 the board of adjustment or by the Court of Chancery on application on notice to
42 the officer from whom the appeal is taken and on due cause shown.

43 The board of adjustment shall fix a reasonable time for the hearing of the appeal,
44 giving due notice thereof to the appellant. Said appellant shall thereupon at least five
45 days prior to the time appointed for said hearing, give personal notice to all property
46 owners within two hundred feet (200') of the property to be affected by said
47 appeal. Such notice shall be given either by handing a copy thereof to the said
48 property owners or by leaving a copy thereof at the usual place of abode of said
49 property owners, if said owners are the occupants of the property affected by such
50 appeal or are residents of the municipality in which said property is located.

51-60 Whenever said owners are nonresidents of said municipality, such notice may
61 be given by sending written notice thereof by registered mail to the last known
62 address of the property owner or owners, as shown by the most recent tax lists of
63 said municipality. Where the owners are partnerships, service upon any partner,
64 as above outlined, shall be sufficient, and where the owners are corporations, serv-
65 ice upon any officer, as above set forth, shall be sufficient. Said appellant shall
66 by affidavit present satisfactory proof to the said board of adjustment at the time
67 of the hearing that said notices have been duly served as aforesaid. Upon the
68 hearing any party may appear in person or by agent or by attorney.

69 Whenever an appeal shall be taken to a board of adjustment pursuant to this
70 act, said board shall render its decision upon such appeal within sixty days from
71 the date of the hearing on such appeal, and in any event, within ninety days from
72 the date of the filing of the appeal as herein provided, and upon failure so to do,
73 such appeal at the expiration of such time, shall be deemed to be decided adversely
74 to the appellant, in the same manner as though the said board had rendered a
75 decision to that effect.

76 The board of adjustment shall have the following powers:

77 1. To hear and decide appeals where it is alleged there is error in any order,
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80 2. To hear and decide special exceptions to the terms of the ordinance upon
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85 ordinance, and provided further that no such structure or use shall be allowed
86 more than one hundred (100) feet beyond the boundary line of the district in
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88 3. To authorize upon appeal in specific cases such variance from the terms
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90 conditions, a literal enforcement of the provisions of the ordinance will result in
91 unnecessary hardship, and so that the spirit of the ordinance shall be observed and
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97 the boundary line of the district in which such structure or use is authorized by the
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99 4. To recommend in writing to the governing board or board of public works,
100 upon appeal in specific cases, that a structure or use be allowed in a district restricted
101 against such structure or use where the lands in respect of which such recommenda-
102 tion is made do not abut a district in which such structure or use is authorized by
103 the zoning ordinance or where such lands are more than one hundred feet beyond
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106 by resolution, approve or disapprove such recommendation; and in case such recom-
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113 such order, requirement, decision or determination as ought to be made, and to that
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124 ceeding upon the decision appealed from unless so ordered by the court.

1 10. Enforcement and Remedies. The governing body or board of public works
2 may provide by ordinance for the enforcement of this act and of any ordinance or
3 regulation made thereunder. In case any building or structure is erected, con-
4 structed, altered, repaired, converted, or maintained, or any building or structure
5 is used in violation of this act or of any ordinance or other regulation made under
6 authority conferred hereby, the proper local authorities of the municipality, in addi-
7 tion to other remedies, may institute any appropriated action or proceedings to pre-
8 vent such unlawful erection, construction, reconstruction, alteration, repair, con-
9 version, maintenance, or use, to restrain, correct, or abate such violation, to prevent
10 the occupancy of said building, structure, or land, or to prevent any illegal act, con-
11 duct, business, or use in or about such premises.

1 11. Conflict With Other Laws. Wherever the regulations made under author-
2 ity of this act require a greater width or size of yards, courts, or other open spaces,
3 or require a lower height of building or less number of stories, or, require a greater
4 percentage of lot to be left unoccupied, or impose restrictions more extensive than are
5 required in any other statute or local ordinance or regulation, the provisions of
6 the regulations made under authority of this act shall govern. Wherever the pro-
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 11 made under authority of this act, the provisions of such statute or local ordinance
 12 or regulation shall govern.

1 12. Construction. In construing the provisions of this act, all courts shall
 2 construe the same most favorably to municipalities, it being the intention hereof
 3 to grant to municipalities of this State in the fullest and most complete manner
 4 possible the police powers of the State for the regulation within the boundaries of
 5 the respective municipalities of all matters related to the subject matter of this act.
 6 This act or any ordinance or regulation made under authority of this act, shall not
 7 apply to existing property or to buildings or structures used or to be used by public
 8 utilities in furnishing service, if upon a petition of the public utility, the Board of
 9 Public Utility Commissioners shall after a hearing, of which the municipality
 10 affected shall have notice, decide that the present or proposed situation of the
 11 building or structure in question is reasonably necessary for the service, convenience
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1 13. Repealer. The following acts are specifically repealed: *provided, however*, that
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17 March thirty-first, one thousand nine hundred and twenty-six," which supplement
18 was approved March twenty-eighth, one thousand nine hundred and twenty-seven,
19 being chapter 203 of the Laws of 1927.

1 14. All acts and parts of acts inconsistent with the provisions of this act are
2 hereby repealed.

1 15. This act shall take effect immediately.

In the affirmative were—

Messrs. Altman, Applegate, Blunt, Case, Chandless, Ellis, Gabrielson, Gopsill, Hanson T. L. (Speaker), Huelsenbeck, Jones, Knight, Kuser, Leap, McMurray, McWilliams, Morrison, Muir, Newcomb, Olden, Powers, Rittenhouse, Siracusa, Smock, Spair, Sterner, Stewart, Wettstein—28.

In the negative were—

Messrs. Barison, Baxter, Birkenmeier, Carty, Clift, Compton, D'Elia, Finn, Hanson F. J., Harvey, Letzgas, Litwin, Mercolino, Otto, Pierson, Pindar, Purdy, Stelle, Summers, Urbanski, Ward, Wise—22.

The Speaker declared Assembly Bill No. 367 lost.

Mr. Letzgas moved that the vote by which Assembly Bill No. 367 was lost be reconsidered.

Mr. Birkenmeier, moved that the motion be laid on the table.

Which motion was adopted.

Mr. Chandless asked for the record on Committee Substitute for Senate Bill No. 65 which was furnished by the Clerk.

Mr. Chandless moved that Committee Substitute for Senate Bill No. 65 be taken upon third reading.

Which motion was adopted.

Mr. Chandless asked unanimous consent, under suspension of the rules, to offer the following amendments to Committee Substitute for Senate Bill No. 65.

Which motion was adopted.

On line fourteen of Assembly amendments to Committee Substitute for Senate Bill No. 65, strike out the word "company" and substitute in lieu thereof the word "building".

Mr. Chandless moved the adoption of the amendments.

Mr. Chandless moved, under suspension of the rules, that the Committee Substitute for Senate Bill No. 65 be taken up on third reading.

Committee Substitute for Senate Bill No. 65, as amended, entitled "An act to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use,"

Morrison, Muir, Newcomb, Olden, Otto, Powers, Purdy, Rittenhouse, Siracusa, Smock, Spair, Sterner, Summers, Ward, Wettstein, Wise—32.

In the negative were—

Messrs. Barison, Baxter, Birkenmeier, Blunt, Carty, Cassini, D'Elia, Finn, Gabrielson, Greenberg, Haines, Huelsenbeck, Jones, Kautz, Knight, Letzgus, Litwin, McDermott, Mercolino, Pierson, Pindar, Renner, Stelle, Stewart, Urbanski—25.

The Clerk was directed by the Speaker to carry said bill to the Senate and inform that body that the House of Assembly has passed the same notwithstanding the Governor's objections thereto.

Mr. Chandless asked for the record on Senate Bill No. 65 which was furnished by the Clerk.

Mr. Chandless moved that the vote by which Senate Bill No. 65, with Assembly amendments, was passed, be reconsidered.

On which motion the ayes and nays were called with the following result:

In the affirmative were—

Messrs. Altman, Applegate, Barison, Barrett, Baxter, Birkenmeier, Black, Blunt, Carty, Case, Cassini, Chandless, Clift, Compton, D'Elia, Ellis, Finn, Gabrielson, Gopsill, Greenberg, Haines, Hanson F. J., Hanson T. L. (Speaker), Harvey, Huelsenbeck, Jones, Kautz, Knight, Kuser, Leap, Letzgus, Litwin, McDermott, McMurray, McWilliams, Mercolino, Morrison, Muir, Newcomb, Olden, Otto, Pierson, Pindar, Powers, Purdy, Renner, Rittenhouse, Siracusa, Smock, Spair, Stelle, Sterner, Stewart, Summers, Urbanski, Ward, Wettstein, Wise—58.

In the negative—None.

Mr. Chandless moved that the vote by which Assembly amendments to Senate Bill No. 65 were passed, be reconsidered.

Assembly amendments to Committee Substitute for Senate Bill No. 65.

Amend the title of the act by eliminating the "period" after the word "use" and insert a "comma" in lieu thereof, and after the word "use" add the following "and the repeal of sundry zoning laws".

Strike out in paragraph five, lines six to nine inclusive, the words: "to facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements; provided, that nothing herein contained shall authorize regulations that actually result in the taking of private property for a public use without just compensation."

and substitute the following words:

"Provided, that no ordinance adopted pursuant to this act shall prevent the continuance of an existing nonconforming use where the building wherein such use shall have been carried on shall be destroyed by fire, by the act of God, or the public enemy but every building may be restored for said use subject to the compliance by the owner thereof with any valid building regulation relating to the structure of such company."

Amend section thirteen by adding a new paragraph between lines seven and eight as follows:

"An act entitled 'An act to amend an act entitled "A supplement to an act entitled 'An act concerning municipalities,' approved March twenty-seventh, one thousand nine hundred and seventeen," approved March eleventh, one thousand nine hundred and twenty-four', which act was approved March twelfth, one thousand nine hundred and twenty-five, being chapter fifty-eight of the laws of one thousand nine hundred and twenty-five."

Mr. Chandless moved unanimous consent to withdrawn Assembly amendments to Senate Bill No. 65.

On which motion the ayes and nays were called, with the following result:

In the affirmative were—

Messrs. Altman, Applegate, Barison, Barrett, Baxter, Birkenmeier, Black, Blunt, Carty, Case, Cassini, Chandless, Clift, Compton, D'Elia, Ellis, Finn, Gabrielson, Gopsill, Greenberg, Haines, Hanson F. J., Hanson T. L. (Speaker), Harvey, Huelsenbeck, Jones, Kautz, Knight, Kuser, Leap, Letzgus, Litwin, McDermott, McMurray, McWilliams, Mercolino, Morrison, Muir, Newcomb, Olden, Otto, Pierson, Pindar, Powers, Purdy, Renner, Rittenhouse, Siracusa, Smock, Spair, Stelle, Sterner, Stewart, Summers, Urbanski, Ward, Wettstein, Wise—58.

In the negative—None.

The Speaker declared Assembly amendments to Senate Bill No. 65 withdrawn.

[THIRD OFFICIAL COPY REPRINT.]

COMMITTEE SUBSTITUTE FOR

SENATE, No. 65

STATE OF NEW JERSEY

ADOPTED FEBRUARY 7, 1928.

AN ACT to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1 1. Municipality. The term "Municipality," where used in this act, shall be con-
2 strued to mean "City," "Town," "Village," "Borough," "Township," and any mu-
3 nicipality governed by a board of commissioners or improvement commission, but
4 shall not include counties.

1 2. Governing Body. The term "Governing Body," where used in this act, shall
2 be construed to mean the board or body in each municipality empowered by
3 statute to exercise general legislative power therein.

1 3. General Purpose. Any municipality of this State may, by a zoning ordi-
2 nance, limit and restrict to specified districts and may regulate therein, buildings
3 and structures according to their construction, and the nature and extent of their
4 use, and the exercise of such authority, subject to the provisions herein contained,
5 shall be deemed to be within the police power of the State. Such ordinance shall be
6 adopted by the governing body of such municipality, as hereinafter provided,
7 except in cities having a board of public works, and in such cities shall be adopted
8 by said board of public works. The authority conferred by this act shall include
9 the right to regulate and restrict the height, number of stories, and sizes of build-
10 ings, and other structures, the percentage of lot that may be occupied, the sizes of
11 yards, courts, and other open spaces, the density of population, and the location and
12 use and extent of use of buildings and structures for trade, industry, residence,
13 or other purposes.

1 4. Districts. For any or all of said purposes the governing body or board of
2 public works may divide the municipality into districts of such number, shape, and
3 area as may be deemed best suited to carry out the purposes of this act; and within
4 such districts it may regulate and restrict the erection, construction, reconstruction,
5 alteration, repair, or use of buildings, or other structures. All such regulations
6 shall be uniform for each class or kind of buildings or other structures through-
7 out each district, but the regulations in one district may differ from those in other
8 districts.

1 5. Purposes in View. Such regulations shall be made in accordance with a
2 comprehensive plan and designed for one or more of the following purposes: To
3 lessen congestion in the streets; to secure safety from fire, panic and other dangers;
4 to promote health, morals or the general welfare; to provide adequate light and air;
5 to prevent the overcrowding of land or buildings; to avoid undue concentration
6 of population; to facilitate the adequate provision for transportation, water, sew-
7 erage, schools, parks, and other public requirements; *provided*, that nothing herein
8 contained shall authorize regulations that actually result in the taking of private
9 property for a public use without just compensation. Such regulation shall be made
10 with reasonable consideration, among other things, to the character of the district
11 and its peculiar suitability for particular uses, and with a view of conserving the
12 value of property and encouraging the most appropriate use of land throughout
13 such municipality.

1 6. Zoning Commission. Prior to the adoption of any zoning ordinance, the
2 governing body or board of public works shall appoint a commission of citizens of
3 the municipality, to be known as the zoning commission, to recommend the bound-
4 aries of the various original districts, and appropriate regulations to be enforced
5 therein. Such commission shall make a preliminary report and thereafter hold
6 public hearings thereon before submitting its final report, and the governing body
7 or board of public works shall not hold public hearing or public hearings, or adopt
8 such zoning ordinance, until it has received the final report of such commission;
9 *provided, however*, the foregoing provisions of this section shall not apply to an
10 amendment or repeal of any zoning ordinance.

11 No zoning ordinance shall be adopted, amended, or repealed, until after public
12 hearing thereon by the governing body or board of public works, at which parties

13 in interest and citizens shall have an opportunity to be heard. Said ordinance and
14 notice of the time and place of hearing thereon shall be published at least once in an
15 official newspaper, if there be one, or otherwise in a newspaper of general circu-
16 lation in the municipality, and such publication shall take place ten or more days
17 prior to such hearing.

1 7. Existing Zoning Ordinances Saved. Wherever any municipality shall have
2 adopted an ordinance, or ordinances, prior to the adoption of this act, for any of the
3 purposes set forth in this act, such ordinance, or ordinances, shall continue in effect
4 as if they had been adopted under the provisions of this act; and it shall not be
5 necessary in such cases for the governing body or board of public works to appoint
6 a zoning commission as provided by section six herein. All such ordinances shall
7 remain in full force and effect, except insofar as they are inconsistent with the pro-
8 visions of this act, until they shall have been amended, or repealed by the govern-
9 ing body or board of public works.

1 8. Changes. Such regulations, limitations and restrictions may be amended,
2 changed, modified, or repealed, and the boundaries of such districts may be
3 changed, by ordinance. In case of a protest against such proposed change, signed
4 by the owners of twenty per centum or more, either of the area of the lots included
5 in such proposed change, or of those immediately adjacent in the rear thereof ex-
6 tending one hundred feet therefrom, or of those directly opposite thereto extend-
7 ing one hundred feet from the street frontage of such opposite lots, such amend-
8 ment shall not become effective except by the favorable vote of three-fourths of all
9 the members of the governing body or board of public works of such municipality,
10 except that this provision shall not apply to the repeal of zoning ordinances in effect
11 prior to the adoption of this act.

1 9. Board of Adjustment. The governing body or board of public works, shall
2 provide for the appointment of a board of adjustment and in the regulations and
3 restrictions adopted pursuant to the authority of this act shall provide that the said
4 board of adjustment may, in appropriate cases and subject to appropriate conditions
5 and safeguards, make special exceptions to the terms of the ordinance in harmony
6 with its general purpose and intent and in accordance with general or specific rules
7 therein contained.

8 The board of adjustment shall consist of five members, who shall not hold any
9 elective office or position under the municipality, each to be appointed for such
10 term as the governing body or board of public works, may prescribe and be remov-
11 able for cause by the governing body, or board of public works, upon written
12 charges and after public hearing. The governing body, or board of public works,
13 shall provide for the filling of vacancies resulting from the unexpired term of any
14 member.

15 The board of adjustment shall adopt rules in accordance with the provisions
16 of any ordinance adopted or in force pursuant to this act. Meetings of the board
17 shall be held at the call of the chairman and at such other times as the board may
18 determine. Such chairman, or in his absence, the acting chairman, shall have power
19 to issue subpoenas for the attendance of witnesses and the production of records
19½ and may administer oaths. Upon the failure of any person to an-
20 swer in response to the subpoena of such officer, application may be made to the
21 Supreme Court or any justice thereof, for an order compelling the attendance of such
22 witness. All meetings of the board shall be open to the public. The board shall
23 keep minutes of its proceedings, showing the vote of each member upon each ques-
24 tion, or, if absent or failing to vote, indicating such fact, and shall keep records
25 of its examinations and other official actions, all of which shall be immediately filed
26 in the office of the board and shall be a public record.

27 Appeals to the board of adjustment may be taken by any person aggrieved or
28 by any officer, department, board, or bureau of the municipality affected by any
29 decision of the administrative officer. Such appeal shall be taken within a reasonable
30 time, as provided by the rules of the board, by filing with the officer from whom
31 the appeal is taken and with the board of adjustment a notice of appeal specifying
32 the grounds thereof. The officer from whom the appeal is taken shall forthwith
33 transmit to the board all the papers constituting the record upon which the action
34 appealed from was taken.

35 An appeal stays all proceedings in furtherance of the action in respect of
36 which the decision appealed from was made, unless the officer from whom the appeal
37 is taken certifies to the board of adjustment after the notice of appeal shall have
38 been filed with him that by reason of facts stated in the certificate a stay would,

39 in his opinion, cause imminent peril to life or property. In such case, proceedings
40 shall not be stayed otherwise than by a restraining order which may be granted by
41 the board of adjustment or by the Court of Chancery on application on notice to
42 the officer from whom the appeal is taken and on due cause shown.

43 The board of adjustment shall fix a reasonable time for the hearing of the appeal,
44 giving due notice thereof to the appellant. Said appellant shall thereupon at least five
45 days prior to the time appointed for said hearing, give personal notice to all property
46 owners within two hundred feet (200') of the property to be affected by said
47 appeal. Such notice shall be given either by handing a copy thereof to the said
48 property owners or by leaving a copy thereof at the usual place of abode of said
49 property owners, if said owners are the occupants of the property affected by such
50 appeal or are residents of the municipality in which said property is located.

51-60 Whenever said owners are nonresidents of said municipality, such notice may
61 be given by sending written notice thereof by registered mail to the last known
62 address of the property owner or owners, as shown by the most recent tax lists of
63 said municipality. Where the owners are partnerships, service upon any partner,
64 as above outlined, shall be sufficient, and where the owners are corporations, serv-
65 ice upon any officer, as above set forth, shall be sufficient. Said appellant shall
66 by affidavit present satisfactory proof to the said board of adjustment at the time
67 of the hearing that said notices have been duly served as aforesaid. Upon the
68 hearing any party may appear in person or by agent or by attorney.

69 Whenever an appeal shall be taken to a board of adjustment pursuant to this
70 act, said board shall render its decision upon such appeal within sixty days from
71 the date of the hearing on such appeal, and in any event, within ninety days from
72 the date of the filing of the appeal as herein provided, and upon failure so to do,
73 such appeal at the expiration of such time, shall be deemed to be decided adversely
74 to the appellant, in the same manner as though the said board had rendered a
75 decision to that effect.

76 The board of adjustment shall have the following powers:

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

80 2. To hear and decide special exceptions to the terms of the ordinance upon
81 which such board is required to pass under such ordinance, provided that no such
82 exception shall be made to grant or allow a structure or use in a district restricted
83 against such structure or use unless the lands in respect of which the exception
84 is made about a district in which such structure or use is authorized by the zoning
85 ordinance, and provided further that no such structure or use shall be allowed
86 more than one hundred and fifty (150) feet beyond the boundary line of the district in
87 which such structure or use is authorized by the zoning ordinance.

88 3. To authorize upon appeal in specific cases such variance from the terms
89 of the ordinance as will not be contrary to the public interest, where, owing to special
90 conditions, a literal enforcement of the provisions of the ordinance will result in
91 unnecessary hardship, and so that the spirit of the ordinance shall be observed and
92 substantial justice done; *and provided*, that no such variance shall be made to grant or
93 allow a structure or use in a district restricted against such structure or use unless
94 the lands in respect of which the variance is made about a district in which such
95 structure or use is authorized by the zoning ordinance; *and provided, further*, that
96 no such structure or use shall be allowed more than one hundred and fifty (150) feet
97 beyond the boundary line of the district in which such structure or use is author-
98 ized by the zoning ordinance.

99 4. To recommend in writing to the governing board or board of public works,
100 upon appeal in specific cases, that a structure or use be allowed in a district restricted
101 against such structure or use where the lands in respect of which such recommenda-
102 tion is made do not about a district in which such structure or use is authorized by
103 the zoning ordinance or where such lands are more than one hundred and fifty (150)
104 feet beyond the boundary line of the district in which such structure or use is allowed
105 by the zoning ordinance. Whereupon, the governing body or board of public works
106 may, by resolution, approve or disapprove such recommendation; and in case such
107 recommendation shall be approved by the governing body or board of public works,
108 then the administrative officer in charge of granting permits shall forthwith issue
109 a permit for such structure or use.

110 In exercising the above mentioned powers, such board of adjustment may, in con-
111 formity with the provisions of this act, reverse or affirm, wholly or partly, or may

112 modify the order, requirement, decision or determination appealed from, and make
113 such order, requirement, decision or determination as ought to be made, and to that
114 end have all the powers of the administrative officer from whom the appeal is
115 taken.

116 The concurring vote of three members of the board of adjustment shall be
117 necessary to reverse any order, requirement, decision or determination of any such
118 administrative officer, or to decide in favor of the applicant any matter upon which
119 it is required to pass under any such ordinance, or to effect or recommend any excep-
120 tions to or variations from such ordinance.

121 No writ of certiorari to review any decision of the board of adjustment shall
122 issue unless application therefor be made within thirty days after the filing of the
123 decision in the office of the board. The allowance of the writ shall not stay pro-
124 ceeding upon the decision appealed from unless so ordered by the court.

1 10. Enforcement and Remedies. The governing body or board of public works
2 may provide by ordinance for the enforcement of this act and of any ordinance or
3 regulation made thereunder. In case any building or structure is erected, con-
4 structed, altered, repaired, converted, or maintained, or any building or structure
5 is used in violation of this act or of any ordinance or other regulation made under
6 authority conferred hereby, the proper local authorities of the municipality, in addi-
7 tion to other remedies, may institute any appropriate action or proceedings to pre-
8 vent such unlawful erection, construction, reconstruction, alteration, repair, con-
9 version, maintenance, or use, to restrain, correct, or abate such violation, to prevent
10 the occupancy of said building, structure, or land, or to prevent any illegal act, con-
11 duct, business, or use in or about such premises.

1 11. Conflict With Other Laws. Wherever the regulations made under author-
2 ity of this act require a greater width or size of yards, courts, or other open spaces,
3 or require a lower height of building or less number of stories, or, require a greater
4 percentage of lot to be left unoccupied, or impose restrictions more extensive than are
5 required in any other statute or local ordinance or regulation, the provisions of
6 the regulations made under authority of this act shall govern. Wherever the pro-
7 visions of any other statute or local ordinance or regulation require a greater width
8 or size of yards, courts, or other open spaces, or require a lower height of building

9 or a less number of stories, or require a greater percentage of lot to be left unoccu-
 10 pied, or impose restrictions more extensive than are required by the regulations
 11 made under authority of this act, the provisions of such statute or local ordinance
 12 or regulation shall govern.

1-6 12. This act or any ordinance or regulation made under authority of this act, shall
 7 not apply to existing property or to buildings or structures used or to be used by public
 8 utilities in furnishing service, if upon a petition of the public utility, the Board of
 9 Public Utility Commissioners shall after a hearing, of which the municipality
 10 affected shall have notice, decide that the present or proposed situation of the
 11 building or structure in question is reasonably necessary for the service, convenience
 12 or welfare of the public.

1 13. Repealer. The following acts are specifically repealed: *provided, however,* that
 2 any act repealed by the following acts hereby repealed, shall not hereby be restored
 3 or made valid:

4 An act entitled "A supplement to an act entitled 'An act concerning municipal-
 5 ities,' approved March twenty-seventh, one thousand nine hundred and seventeen,"
 6 which said supplement was approved March eleventh, one thousand nine hundred and
 7 twenty-four, being chapter 146 of the Laws of 1924.

8 An act entitled "A supplement to an act entitled 'A supplement to an act entitled
 9 "An act concerning municipalities," approved March twenty-seventh, one thousand
 10 nine hundred and seventeen,' approved March eleventh, one thousand nine hundred
 11 and twenty-four," which supplement was approved March thirty-first, one thousand
 12 nine hundred and twenty-six, being chapter 315 of the Laws of 1926.

13 An act entitled "A supplement to an act entitled 'A supplement to an act entitled
 14 "A supplement to an act entitled 'An act concerning municipalities,' approved March
 15 twenty-seventh, one thousand nine hundred and seventeen," approved March eleventh,
 16 one thousand nine hundred and twenty-four,' which supplement was approved
 17 March thirty-first, one thousand nine hundred and twenty-six," which supplement
 18 was approved March twenty-eighth, one thousand nine hundred and twenty-seven,
 19 being chapter 203 of the Laws of 1927.

1 14. All acts and parts of acts inconsistent with the provisions of this act are
 2 hereby repealed.

1 15. This act shall take effect immediately.

[FOURTH OFFICIAL COPY REPRINT.]

COMMITTEE SUBSTITUTE FOR

SENATE, No. 65

STATE OF NEW JERSEY

ADOPTED FEBRUARY 7, 1928.

AN ACT to enable municipalities to adopt zoning ordinances limiting and restricting to specified districts and regulating therein buildings and structures, according to their construction, and the nature and extent of their use, and the repeal of sundry zoning laws.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1 1. Municipality. The term "Municipality," where used in this act, shall be con-
2 strued to mean "City," "Town," "Village," "Borough," "Township," and any mu-
3 nicipality governed by a board of commissioners or improvement commission, but
4 shall not include counties.

1 2. Governing Body. The term "Governing Body," where used in this act, shall
2 be construed to mean the board or body in each municipality empowered by
3 statute to exercise general legislative power therein.

1 3. General Purpose. Any municipality of this State may, by a zoning ordi-
2 nance, limit and restrict to specified districts and may regulate therein, buildings
3 and structures according to their construction, and the nature and extent of their
4 use, and the exercise of such authority, subject to the provisions herein contained,
5 shall be deemed to be within the police power of the State. Such ordinance shall be
6 adopted by the governing body of such municipality, as hereinafter provided,
7 except in cities having a board of public works, and in such cities shall be adopted
8 by said board of public works. The authority conferred by this act shall include
9 the right to regulate and restrict the height, number of stories, and sizes of build-
10 ings, and other structures, the percentage of lot that may be occupied, the sizes of
11 yards, courts, and other open spaces, the density of population, and the location and
12 use and extent of use of buildings and structures for trade, industry, residence,
13 or other purposes.

1 4. Districts. For any or all of said purposes the governing body or board of
2 public works may divide the municipality into districts of such number, shape, and
3 area as may be deemed best suited to carry out the purposes of this act; and within
4 such districts it may regulate and restrict the erection, construction, reconstruction,
5 alteration, repair, or use of buildings, or other structures. All such regulations
6 shall be uniform for each class or kind of buildings or other structures through-
7 out each district, but the regulations in one district may differ from those in other
8 districts.

1 5. Purposes in View. Such regulations shall be made in accordance with a
2 comprehensive plan and designed for one or more of the following purposes: To
3 lessen congestion in the streets; to secure safety from fire, panic and other dangers;
4 to promote health, morals or the general welfare; to provide adequate light and air;
5 to prevent the overcrowding of land or buildings; to avoid undue concentration
6 of population. Such regulation shall be made with reasonable consideration, among
7 other things, to the character of the district and its peculiar suitability for particu-
8 lar uses, and with a view of conserving the value of property and encouraging the
9 most appropriate use of land throughout such municipality.

1 6. Zoning Commission. Prior to the adoption of any zoning ordinance, the
2 governing body or board of public works shall appoint a commission of citizens of
3 the municipality, to be known as the zoning commission, to recommend the bound-
4 aries of the various original districts, and appropriate regulations to be enforced
5 therein. Such commission shall make a preliminary report and thereafter hold
6 public hearings thereon before submitting its final report, and the governing body
7 or board of public works shall not hold public hearing or public hearings, or adopt
8 such zoning ordinance, until it has received the final report of such commission;
9 *provided, however,* the foregoing provisions of this section shall not apply to an
10 amendment or repeal of any zoning ordinance.

11 No zoning ordinance shall be adopted, amended, or repealed, until after public
12 hearing thereon by the governing body or board of public works, at which parties
13 in interest and citizens shall have an opportunity to be heard. Said ordinance and
14 notice of the time and place of hearing thereon shall be published at least once in an
15 official newspaper, if there be one, or otherwise in a newspaper of general circu-

16 lation in the municipality, and such publication shall take place ten or more days
17 prior to such hearing.

1 7. Existing Zoning Ordinances Saved. Wherever any municipality shall have
2 adopted an ordinance, or ordinances, prior to the adoption of this act, for any of the
3 purposes set forth in this act, such ordinance, or ordinances, shall continue in effect
4 as if they had been adopted under the provisions of this act; and it shall not be
5 necessary in such cases for the governing body or board of public works to appoint
6 a zoning commission as provided by section six herein. All such ordinances shall
7 remain in full force and effect, except insofar as they are inconsistent with the pro-
8 visions of this act, until they shall have been amended, or repealed by the govern-
9 ing body or board of public works.

1 8. Changes. Such regulations, limitations and restrictions may be amended,
2 changed, modified, or repealed, and the boundaries of such districts may be
3 changed, by ordinance. In case of a protest against such proposed change, signed
4 by the owners of twenty per centum or more, either of the area of the lots included
5 in such proposed change, or of those immediately adjacent in the rear thereof ex-
6 tending one hundred feet therefrom, or of those directly opposite thereto extend-
7 ing one hundred feet from the street frontage of such opposite lots, such amend-
8 ment shall not become effective except by the favorable vote of three-fourths of all
9 the members of the governing body or board of public works of such municipality,
10 except that this provision shall not apply to the repeal of zoning ordinances in effect
11 prior to the adoption of this act.

1 9. Board of Adjustment. The governing body or board of public works, shall
2 provide for the appointment of a board of adjustment and in the regulations and
3 restrictions adopted pursuant to the authority of this act shall provide that the said
4 board of adjustment may, in appropriate cases and subject to appropriate conditions
5 and safeguards, make special exceptions to the terms of the ordinance in harmony
6 with its general purpose and intent and in accordance with general or specific rules
7 therein contained.

8 The board of adjustment shall consist of five members, who shall not hold any
9 elective office or position under the municipality, each to be appointed for such

10 term as the governing body or board of public works, may prescribe and be remov-
11 able for cause by the governing body, or board of public works, upon written
12 charges and after public hearing. The governing body, or board of public works,
13 shall provide for the filling of vacancies resulting from the unexpired term of any
14 member.

15 The board of adjustment shall adopt rules in accordance with the provisions
16 of any ordinance adopted or in force pursuant to this act. Meetings of the board
17 shall be held at the call of the chairman and at such other times as the board may
18 determine. Such chairman, or in his absence, the acting chairman, shall have power
19 to issue subpoenas for the attendance of witnesses and the production of records
19½ and may administer oaths. Upon the failure of any person to an-
20 swer in response to the subpoena of such officer, application may be made to the
21 Supreme Court or any justice thereof, for an order compelling the attendance of such
22 witness. All meetings of the board shall be open to the public. The board shall
23 keep minutes of its proceedings, showing the vote of each member upon each ques-
24 tion, or, if absent or failing to vote, indicating such fact, and shall keep records
25 of its examinations and other official actions, all of which shall be immediately filed
26 in the office of the board and shall be a public record.

27 Appeals to the board of adjustment may be taken by any person aggrieved or
28 by any officer, department, board, or bureau of the municipality affected by any
29 decision of the administrative officer. Such appeal shall be taken within a reasonable
30 time, as provided by the rules of the board, by filing with the officer from whom
31 the appeal is taken and with the board of adjustment a notice of appeal specifying
32 the grounds thereof. The officer from whom the appeal is taken shall forthwith
33 transmit to the board all the papers constituting the record upon which the action
34 appealed from was taken.

35 An appeal stays all proceedings in furtherance of the action in respect of
36 which the decision appealed from was made, unless the officer from whom the appeal
37 is taken certifies to the board of adjustment after the notice of appeal shall have
38 been filed with him that by reason of facts stated in the certificate a stay would,
39 in his opinion, cause imminent peril to life or property. In such case, proceedings
40 shall not be stayed otherwise than by a restraining order which may be granted by

41 the board of adjustment or by the Court of Chancery on application on notice to
42 the officer from whom the appeal is taken and on due cause shown.

43 The board of adjustment shall fix a reasonable time for the hearing of the appeal,
44 giving due notice thereof to the appellant. Said appellant shall thereupon at least five
45 days prior to the time appointed for said hearing, give personal notice to all property
46 owners within two hundred feet (200') of the property to be affected by said
47 appeal. Such notice shall be given either by handing a copy thereof to the said
48 property owners or by leaving a copy thereof at the usual place of abode of said
49 property owners, if said owners are the occupants of the property affected by such
50 appeal or are residents of the municipality in which said property is located.

51-60 Whenever said owners are nonresidents of said municipality, such notice may
61 be given by sending written notice thereof by registered mail to the last known
62 address of the property owner or owners, as shown by the most recent tax lists of
63 said municipality. Where the owners are partnerships, service upon any partner,
64 as above outlined, shall be sufficient, and where the owners are corporations, serv-
65 ice upon any officer, as above set forth, shall be sufficient. Said appellant shall
66 by affidavit present satisfactory proof to the said board of adjustment at the time
67 of the hearing that said notices have been duly served as aforesaid. Upon the
68 hearing any party may appear in person or by agent or by attorney.

69 Whenever an appeal shall be taken to a board of adjustment pursuant to this
70 act, said board shall render its decision upon such appeal within sixty days from
71 the date of the hearing on such appeal, and in any event, within ninety days from
72 the date of the filing of the appeal as herein provided, and upon failure so to do,
73 such appeal at the expiration of such time, shall be deemed to be decided adversely
74 to the appellant, in the same manner as though the said board had rendered a
75 decision to that effect.

76 The board of adjustment shall have the following powers:

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

80 2. To hear and decide special exceptions to the terms of the ordinance upon
81 which such board is required to pass under such ordinance, provided that no such

82 exception shall be made to grant or allow a structure or use in a district restricted
83 against such structure or use unless the lands in respect of which the exception
84 is made abut a district in which such structure or use is authorized by the zoning
85 ordinance, and provided further that no such structure or use shall be allowed
86 more than one hundred and fifty (150) feet beyond the boundary line of the district in
87 which such structure or use is authorized by the zoning ordinance.

88 3. To authorize upon appeal in specific cases such variance from the terms
89 of the ordinance as will not be contrary to the public interest, where, owing to special
90 conditions, a literal enforcement of the provisions of the ordinance will result in
91 unnecessary hardship, and so that the spirit of the ordinance shall be observed and
92 substantial justice done; *and provided*, that no such variance shall be made to grant or
93 allow a structure or use in a district restricted against such structure or use unless
94 the lands in respect of which the variance is made abut a district in which such
95 structure or use is authorized by the zoning ordinance; *and provided, further*, that
96 no such structure or use shall be allowed more than one hundred and fifty (150) feet
97 beyond the boundary line of the district in which such structure or use is author-
98 ized by the zoning ordinance.

99 4. To recommend in writing to the governing board or board of public works,
100 upon appeal in specific cases, that a structure or use be allowed in a district restricted
101 against such structure or use where the lands in respect of which such recommenda-
102 tion is made do not abut a district in which such structure or use is authorized by
103 the zoning ordinance or where such lands are more than one hundred and fifty (150)
104 feet beyond the boundary line of the district in which such structure or use is allowed
105 by the zoning ordinance. Whereupon, the governing body or board of public works
106 may, by resolution, approve or disapprove such recommendation; and in case such
107 recommendation shall be approved by the governing body or board of public works,
108 then the administrative officer in charge of granting permits shall forthwith issue
109 a permit for such structure or use.

110 In exercising the above mentioned powers, such board of adjustment may, in con-
111 formity with the provisions of this act, reverse or affirm, wholly or partly, or may
112 modify the order, requirement, decision or determination appealed from, and make
113 such order, requirement, decision or determination as ought to be made, and to that

114 and have all the powers of the administrative officer from whom the appeal is
115 taken.

116 The concurring vote of three members of the board of adjustment shall be
117 necessary to reverse any order, requirement, decision or determination of any such
118 administrative officer, or to decide in favor of the applicant any matter upon which
119 it is required to pass under any such ordinance, or to effect or recommend any excep-
120 tions to or variations from such ordinance.

121 No writ of certiorari to review any decision of the board of adjustment shall
122 issue unless application therefor be made within thirty days after the filing of the
123 decision in the office of the board. The allowance of the writ shall not stay pro-
124 ceeding upon the decision appealed from unless so ordered by the court.

1 10. Enforcement and Remedies. The governing body or board of public works
2 may provide by ordinance for the enforcement of this act and of any ordinance or
3 regulation made thereunder. In case any building or structure is erected, con-
4 structed, altered, repaired, converted, or maintained, or any building or structure
5 is used in violation of this act or of any ordinance or other regulation made under
6 authority conferred hereby, the proper local authorities of the municipality, in addi-
7 tion to other remedies, may institute any appropriate action or proceedings to pre-
8 vent such unlawful erection, construction, reconstruction, alteration, repair, con-
9 version, maintenance, or use, to restrain, correct, or abate such violation, to prevent
10 the occupancy of said building, structure, or land, or to prevent any illegal act, con-
11 duct, business, or use in or about such premises.

1 11. Nonconforming Building and Uses. Any nonconforming use or structure
2 existing at the time of the passage of an ordinance may be continued upon the lot
3 or in the building so occupied, and any such structure may be restored or repaired in
4 the event of partial destruction thereof.

1 12. Conflict With Other Laws. Wherever the regulations made under author-
2 ity of this act require a greater width or size of yards, courts, or other open spaces,
3 or require a lower height of building or less number of stories, or, require a greater
4 percentage of lot to be left unoccupied, or impose restrictions more extensive than are
5 required in any other statute or local ordinance or regulation, the provisions of
6 the regulations made under authority of this act shall govern. Wherever the pro-

7 visions of any other statute or local ordinance or regulation require a greater width
 8 or size of yards, courts, or other open spaces, or require a lower height of building
 9 or a less number of stories, or require a greater percentage of lot to be left unoccu-
 10 pied, or impose restrictions more extensive than are required by the regulations
 11 made under authority of this act, the provisions of such statute or local ordinance
 12 or regulation shall govern.

1-6 13. This act or any ordinance or regulation made under authority of this act, shall
 7 not apply to existing property or to buildings or structures used or to be used by public
 8 utilities in furnishing service, if upon a petition of the public utility, the Board of
 9 Public Utility Commissioners shall after a hearing, of which the municipality
 10 affected shall have notice, decide that the present or proposed situation of the
 11 building or structure in question is reasonably necessary for the service, convenience
 12 or welfare of the public.

1 14. Repealer. The following acts are specifically repealed; *provided, however*, that
 2 any act repealed by the following acts hereby repealed, shall not hereby be restored
 3 or made valid:

4 An act entitled "A supplement to an act entitled 'An act concerning municipal-
 5 ities,' approved March twenty-seventh, one thousand nine hundred and seventeen,"
 6 which said supplement was approved March eleventh, one thousand nine hundred and
 7 twenty-four, being chapter 146 of the Laws of 1924.

7½ An act entitled "An act to amend an act entitled 'A supplement to an act en-
 8 titled "An act concerning municipalities," approved March twenty-seventh, one
 8½ thousand nine hundred and seventeen,' approved March eleventh, one thousand nine
 9 hundred and twenty-four," which act was approved March twelfth, one thousand
 9½ nine hundred and twenty-five, being chapter fifty-eight of the Laws of one thousand
 10 nine hundred and twenty-five.

10½ An act entitled "A supplement to an act entitled 'A supplement to an act entitled
 11 "An act concerning municipalities," approved March twenty-seventh, one thousand
 11½ nine hundred and seventeen,' approved March eleventh, one thousand nine hundred
 12 and twenty-four," which supplement was approved March thirty-first, one thousand
 12½ nine hundred and twenty-six, being chapter 315 of the Laws of 1926.

13 An act entitled "A supplement to an act entitled 'A supplement to an act entitled

14 "A supplement to an act entitled 'An act concerning municipalities,' approved March
15 twenty-seventh, one thousand nine hundred and seventeen," approved March eleventh,
16 one thousand nine hundred and twenty-four,' which supplement was approved
17 March thirty-first, one thousand nine hundred and twenty-six," which supplement
18 was approved March twenty-eighth, one thousand nine hundred and twenty-seven,
19 being chapter 203 of the Laws of 1927.

1 15. All acts and parts of acts inconsistent with the provisions of this act are
2 hereby repealed.

1 16. This act shall take effect immediately.

STATE OF NEW JERSEY

1 Amend the title of the act by eliminating the "period" after the word "use" and
2 insert a "comma" in lieu thereof, and after the word "use" add the following "and
3 the repeal of sundry zoning laws".

4 Strike out in paragraph five, lines six to nine inclusive, the words: "to facilitate
5 the adequate provision for transportation, water, sewerage, schools, parks and other
6 public requirements; provided, that nothing herein contained shall authorize regula-
7 tions that actually result in the taking of private property for a public use without just
8 compensation."

9 and substitute the following words:

10 "*Provided*, that no ordinance adopted pursuant to this act shall prevent the con-
11 tinuance of an existing nonconforming use where the building wherein such use shall
12 have been carried on shall be destroyed by fire, by the act of God, or the public enemy
13 but every building may be restored for said use subject to the compliance by the owner
14 thereof with any valid building regulation relating to the structure of such company."

15 Amend section thirteen by adding a new paragraph between lines seven and eight
16 as follows:

17 "An act entitled 'An act to amend an act entitled "A supplement to an act entitled
18 'An act concerning municipalities,' approved March twenty-seventh, one thousand nine
19 hundred and seventeen," approved March eleventh, one thousand nine hundred and
20 twenty-four', which act was approved March twelfth, one thousand nine hundred and
21 twenty-five, being chapter fifty-eight of the Laws of one thousand nine hundred and
22 twenty-five."

[SECOND OFFICIAL COPY REPRINT.]

ASSEMBLY AMENDMENTS TO COMMITTEE SUBSTITUTE FOR
SENATE, No. 65

STATE OF NEW JERSEY

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19 hundred and seventeen," approved March eleventh, one thousand nine hundred and
20 twenty-four', which act was approved March twelfth, one thousand nine hundred and
21 twenty-five, being chapter fifty-eight of the Laws of one thousand nine hundred and
22 twenty-five."