

hundred three), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," is hereby amended by adding thereto, after section one thousand five hundred and forty-one, a new subdivision to read as follows:

*(h) Revolving Fund for Street, Sidewalk, and Sewer Improvements*

*Section 1550. Special Tax; Bond Issue.—Townships are hereby empowered to levy and collect annually a tax upon all property, taxable for township purposes, not to exceed five mills on the dollar in any one year, for the purpose of creating and maintaining a revolving fund, to be used by such township in making permanent street, sidewalk, or sewer improvements, prior to the collection of the cost and expense, or any part thereof, from the property owners adjoining or abutting thereon by such township under existing laws. Any such revolving fund may also be begun by funds raised through the issuance of bonds of the township, in the manner provided by law, for the making of permanent street, sidewalk, or sewer improvements.*

*Section 1551. Repayments into Revolving Fund.—When the cost and expense, or any part thereof, of the construction of any permanent street, sidewalk, or sewer improvement, which has been made under existing laws and which has been aided in its construction from the said revolving fund hereby provided for, shall have been assessed and collected from the owners of the property adjoining or abutting upon such improvement, it shall be applied to the credit of said revolving fund, to the extent of the withdrawal therefrom for such purpose.*

APPROVED—The 1st day of July, A. D. 1937.

GEORGE H. EARLE

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No. 504

AN ACT

Authorizing townships of the second class to adopt and enforce zoning ordinances regulating the location, construction, and use of buildings, the size of courts and open spaces, the density of population, and the use of land.

Be it enacted, &c., That,

Section 1. Grant of Power.—For the purpose of promoting health, safety, morals or the general welfare of townships of the second class, the boards of township supervisors of townships of the second class are hereby empowered to regulate and restrict by ordinance the

height, number of stories, and size of buildings and other structures and percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes; and may also establish by ordinance and maintain building lines and set back building lines upon any or all public streets, roads, highways, lanes, and alleys: Provided, however, That the power hereby granted shall be suspended in any township or part of a township during any period of time that any zoning ordinance adopted pursuant to law by the county commissioners of the county shall continue to be in effect in such township or part of a township, and any ordinance adopted by any township before the adoption of such county ordinance shall likewise be suspended during such period: Provided further, That the powers hereby granted shall not be exercised if taxpayers, whose property valuation as assessed for tax purposes within the township shall amount to fifty-one per centum or more of the total property valuation as assessed for tax purposes within the township, shall sign and file in the office of the prothonotary of the county in which the township is located a written protest against the exercise of such powers.

Zoning  
restrictions.

Proviso.

Section 2. Districts.—For any or all said purposes, the board of township supervisors may divide the township into districts, of such number, shape, and area as may be deemed best suited to carry out the purpose of this act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in another district.

Districts.

Section 3. Purpose in View.—Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the roads and streets, to secure safety from fire panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.

Purposes.

Section 4. Method of Procedure.—The board of

township supervisors of such township of the second class shall provide by ordinance the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and, from time to time, amended, supplemented or changed. However, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such township.

Procedure.

Public hearing,  
and notice  
thereof.

Section 5. Changes.—Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change, signed by the owners of twenty per cent or more, either of the area of the lots included in such proposed change or of those immediately adjacent in the rear thereof extending one hundred feet therefrom or of those directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of all the township supervisors. The provisions of the previous section, relative to public hearings and official notice, shall apply equally to all changes or amendments.

Changes.

Protest.

Public hearings  
and notice  
thereof.

Section 6. Zoning Commission.—In order to avail itself of the powers conferred by this act, the board of township supervisors shall appoint a commission of five citizens, to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such council shall not hold its public hearings or take action until it has received the final report of such commission.

Zoning  
commission.

Section 7. Board of Adjustment.—Such board of township supervisors may appoint a board of adjustment, and, in the regulations and restrictions adopted pursuant to the authority of this act, may provide that said board of adjustment may in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

Board of  
adjustment.

Three members.

The board of adjustment shall consist of three members, one of whom shall be designated to serve until the first day of January following the adoption of the zoning ordinance, one until the first day of the second January thereafter, and one until the first day of the third January thereafter. Their successors shall be appointed

on the expiration of their respective terms, to serve three years. The members of the board shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

Vacancies.

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this act. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Rules.

Witnesses.

Minutes.

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

Appeals to the board of adjustment.

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

Appeal stays proceedings.

Exceptions.

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

Hearings by board of adjustment.

The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or de-

Powers of the board of adjustment.

termination made by an administrative official in the enforcement of this act or of any ordinance adopted pursuant thereto.

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

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

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

Petition common pleas court for appeal from decision of board of adjustment.

Petition within 30 days after decision of board of adjustment.

Court allows appeal.

Return.

No stay of proceedings unless on order of the court.

Any person or persons jointly or severally aggrieved by any decision of the board of adjustment, or any taxpayer or any officer of the township, may present to the court of common pleas a petition, duly verified, setting forth that such decision is illegal in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

Upon the presentation of such petition, the court may allow an appeal directed to the board of adjustment to review such decisions of the board of adjustment, and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board, and on due cause shown, grant a restraining order.

The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from, and shall be verified.

Court takes evidence or appoints referee.

Report to court.

If, upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to

the court, with its findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reserve, or affirm wholly or partly, or may modify the decision brought up for review.

Decision by court.

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

Costs.

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

The proceedings shall have preference.

Section 8. Remedies.—In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

Remedies.

Section 9. Act Not to Apply to Certain Buildings of Public Service Corporations.—This act shall not apply to any existing or proposed building or extension thereof used or to be used by public service corporations if, upon petition of the corporation, the Public Service Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

This act does not apply to public service corporations where building is necessary for public welfare.

APPROVED—The 1st day of July, A. D. 1937.

GEORGE H. EARLE

No. 505

### A SUPPLEMENT

To the act, approved the seventh day of March, one thousand nine hundred and one (Pamphlet Laws, twenty), entitled "An act for the government of the cities of the second class," establishing a department of lands and buildings in said cities; providing for its officers and employes; defining the powers, duties, and jurisdiction of said department, and in certain cases transferring the same from existing departments.

Section 1. Be it enacted, &c., That an additional executive department in the government of cities of the second class is hereby created, to be known as the department of lands and buildings.

Second class cities.

Department of lands and buildings.