

(R668, S417)

No. 487

An Act To Authorize Municipalities And Counties To Establish Planning Organizations And To Undertake Local And Regional Comprehensive Planning Programs, Including Zoning, Land Sub-division Development And Preparation Of Official Maps.

Be it enacted by the General Assembly of the State of South Carolina:

Article 1

General Provisions

SECTION 1. Declaration of legislative intent.—The intent of this act is to enable municipalities and counties acting individually or in concert to preserve and enhance their present advantages, to overcome their present handicaps, and to prevent or minimize such future problems as may be foreseen. To accomplish this intent local governments are encouraged to plan for future development; to prepare, adopt, and from time to time revise, a comprehensive plan to guide future local development; and to participate in a regional planning organization to coordinate local planning and development with that of the surrounding region. As aids in the implementation of the comprehensive plan local governments are encouraged to adopt and enforce appropriate land use controls, and cooperate with other governmental authorities.

The provisions of this act are declared to be necessary for the promotion, protection, and improvement of the public health, safety, comfort, good order, appearance, convenience, prosperity, morals, and general welfare.

Any county or municipality may, but shall not be required to, exercise any of the powers granted by this act. Whenever such a governing authority shall elect to exercise any of the powers granted by this act, such powers shall be exercised in the manner hereinafter prescribed.

SECTION 2. Existing planning organizations.—This act shall not have any effect upon the powers and duties of any planning organization, either local or regional, existing prior to the effective date of this act.

Article 2

Regional Planning

SECTION 1. Regional Planning Organization defined.—Regional planning organization means a regional planning commission, a re-

gional planning board, or council of governments or any other organization with a membership consisting of one or more counties or municipalities, or parts thereof, individually or in combination.

SECTION 2. Establishment.—Any county or municipality or groups of such or any part thereof, individually, or in such combination as common interests dictate, by means of a duly executed agreement and other appropriate action and upon approval by the Governor, may establish a regional planning organization.

Counties and municipalities, except those located within a Standard Metropolitan Statistical Area as defined by the U. S. Bureau of the Budget, may belong to no more than one such regional planning organization.

The establishing agreement, among other things, shall include a description of the area to be served by such organization, expressed in terms of easily identifiable physical features and landmarks and established political entities.

SECTION 3. Membership, Bylaws.—Each county and municipality executing the required establishing agreement shall be a member. Representation of members shall be as prescribed in the establishing agreement which shall provide, for not less than one representative for each member. Such representatives may be serving on the member governing authorities or appointed by them, except where the regional planning organization is a council of governments. In such cases, council representation shall consist exclusively of persons serving on the member governing authorities. Regional planning organization representatives may serve without salary, and may be reimbursed for expenses incurred in the performance of their duties.

The organization shall adopt bylaws designating the officers of the organization and providing for the conduct of its business.

SECTION 4. Powers and Duties.—(a) In discharging its primary responsibilities the regional planning organization shall have the power to:

1. Study and make recommendations to its members regarding such matters as it deems appropriate;
2. Enter into and promote cooperative programs and coordinated action with and among its members and other governmental and non-governmental entities; including those of other states;
3. Prepare and from time to time revise plans and programs to improve the area's governmental services and to insure its

orderly development, which may include, among other things, consideration regarding principal highways, bridges, airports or other transportation facilities and services; region-serving parks, open spaces and recreational services; schools and other educational facilities and services; water and sewer facilities and services; and other region-serving public facilities and services. Any such plans and programs shall be based on studies of the area's physical, social, economic, and governmental conditions and trends, and they shall specifically show their relationship to the official plans and programs, if any, of the State of South Carolina and of the member local governments. Before any such plans and programs, or revisions thereof, prepared by the regional planning organization are considered for adoption they shall be submitted to the planning commissions of the members and to other organizations as appropriate for comment.

After submission those organizations shall have forty-five days in which to submit their comments to the regional planning organization. After such time the regional planning organization may adopt such plans and programs, or revisions thereto. All adopted plans and programs or revisions thereto shall be presented formally as recommendations to the participating governments and made known throughout the region.

- (b) The regional planning organization shall also have the power to:
1. Perform technical assistance services for member local governments upon request provided that all arrangements for such services shall be approved by the organization.
 2. Assist the local governments within the region in carrying out any plan or plans and programs prepared and adopted by the organization.

SECTION 5. Association with other organizations or individuals.—For the purposes of this act, any regional planning organization may cooperate with, contract with, or accept funds from Federal, State, or local governments public or semi-public agencies or private individuals or corporations, it may expend such funds and it may carry out such cooperative undertakings and contracts.

SECTION 6. Staff.—The regional planning organization may employ such staff, and consult with and retain such experts as it deems necessary.

SECTION 7. Finances; Annual Report.—(a) The members may appropriate funds to meet the expenses of the organization and may

contract with each other, as provided by law, in order to cooperatively provide needed public facilities and services.

(b) The organization shall keep books of account which shall be independently audited at least once in each calendar year. The auditor's report shall be provided to the members.

(c) The organization shall make an annual report of its activities to the political subdivisions of the State which are parties to the agreement.

Article 3

Local Planning

SECTION 1. Local Planning Commissions defined.—Local planning commission means a municipal planning commission, a county planning commission, or a joint city-county planning commission.

SECTION 2. Establishment.—The governing authority of each municipality may create a municipal planning commission. The governing authority of each county may create a county planning commission. Any combinations of municipalities or counties, may jointly create a planning commission.

SECTION 3. Jurisdictions of counties and municipalities.—Any municipality may exercise the powers granted under the provisions of this act in the total area within its corporate limits upon passage of an appropriate ordinance to that effect by the governing authority. Any county may exercise the powers granted under the provisions of this act in the total unincorporated area or parts thereof upon the passage of an appropriate resolution to that effect by the governing authority. Unincorporated areas adjacent to incorporated municipalities may be added to and included in the area under municipal jurisdiction for the purposes of this act provided that the governing authorities of the municipality and county involved shall agree as to the boundaries of such additional areas described in terms of easily identifiable physical features and landmarks and established political entities, procedures for the exercise of powers granted in this act and the manner of obtaining equitable representation on the boards and commissions provided for under this act. The agreement shall be formally stated in appropriate official action by the governing authorities involved.

The governing body of any municipality may designate its county planning commission as the official planning commission of such

municipality. In the event of such designation, and acceptance by the county planning commission and the governing authority of the county, the county planning commission may exercise such powers and duties as provided in this act for municipal planning commissions as are specified in the agreement reached by the governing authorities. Such agreement shall specify the procedures for the exercise of powers granted in this act and shall provide for the equitable representation of the municipality and the county on the boards and commissions required by this act. This agreement shall be formally stated in appropriate official action by the governing authorities involved.

SECTION 4. Principal powers of local planning commissions.—It shall be the function of the local planning commission upon the authorization of the governing authority or authorities to prepare the comprehensive plan and program for the physical, social, and economic growth of its jurisdiction in order to promote the public health, safety, morals, convenience, prosperity, or the general welfare as well as efficiency and economy in the development of its jurisdiction. The comprehensive plan and program shall include recommended means of implementation and shall be based upon careful and comprehensive surveys and studies of existing conditions and probable future development. In the discharge of its responsibilities, the local planning commission shall have the power to:

1. Prepare and revise periodically a comprehensive plan and program for the development of its jurisdiction as provided in this act.

2. Prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plan and program:

- (a) Zoning ordinances or resolutions, and maps and appropriate revisions thereof for its jurisdiction, as provided in this act;

- (b) Regulations for the subdivision of land and appropriate revisions thereof within its jurisdiction, and to administer the regulations that may be adopted as provided in this act;

- (c) An official map and appropriate revision thereof showing the exact location of existing or proposed public street, highway and utility rights-of-way and public building sites, together with regulations to control the erection of buildings or other structures or changes in land use within such rights-of-way, building sites or open spaces within its political jurisdiction or a specified portion thereof, as set forth in this act;

(d) A capital program for its jurisdiction based on the comprehensive plan and the capital improvements necessary to implement the plan. Such a capital program shall include an annual capital budget based on estimates of the cost of proposed projects and the means of financing them. The commission shall submit the capital program, including the capital budget, to the governing authority or authorities as directed.

SECTION 5. Miscellaneous powers of local commission.—The local planning commission may make, publish, and distribute maps, plans and reports and recommendations relating to the plan and program and the development of its political jurisdiction to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys, and place and maintain necessary monuments and marks thereon, *provided*, however, that the planning commission shall be liable for any injury or damage to property resulting therefrom. In general, the planning commission shall have such powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction.

SECTION 6. Appointment, removal, terms, compensation of members of local planning commissions.—A local planning commission serving not more than two political jurisdictions shall have not less than five nor more than nine members. A local planning commission serving three or more political jurisdictions shall not have a membership greater than four times the number of jurisdictions it serves.

No member of a planning commission may hold an elected public office in the municipality or county from which he is appointed. Members of the commission first to serve shall be appointed for staggered terms as described in the agreement of organization and shall serve until their successors are appointed and qualified. The compensation of the members, if any, shall be determined by the governing authority or authorities creating the commission. Any vacancy in the membership of a planning commission shall be filled for the unexpired term in the same manner as the original appointment. The governing authority or authorities creating the commission

may remove any member of the commission for cause after written notice and public hearing.

SECTION 7. Organization, rules, staff, officers and finances of local planning commissions.—A local planning commission shall organize itself electing one of its members as chairman and one as vice-chairman whose terms shall be for one year. It shall appoint a secretary who may be an officer or an employee of the governing authority or of the planning commission. The planning commission shall meet at the call of the chairman and at such times as the chairman or commission may determine.

The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. The planning commission may employ such staff and consult with and retain such experts as it deems necessary consistent with funds available. It may make expenditures for salaries of any employees and staff, contracts with consultants, and for the purchase of required equipment and supplies. The expenditures of the planning commission, exclusive of gifts to the commission or contract receipts, shall be within the amounts appropriated for the purpose by the governing authority or authorities empowered to determine, agree upon, and appropriate funds for the payment of the expenses of the planning commission or their respective shares thereof.

SECTION 8. Reports on matters referred to local planning commissions.—The governing authority may provide for the reference of any matters or class of matters to the local planning commission, with the provision that final action thereon shall not be taken until the planning commission has submitted a report thereon or has had a reasonable period of time, as determined by the governing authority to submit a report.

SECTION 9. Association with other public, semi-public or private organizations or individuals.—The planning commission may cooperate with, contract with, or accept funds from Federal, State, or local governments, including those of other states, public or semi-public agencies or private individuals or corporations; it may expend such funds; and it may carry out such cooperative undertakings and contracts as it deems necessary.

Sub-Article 1

The Comprehensive Plan

SECTION 1. Comprehensive plan and its preparation.—It shall be the duty of a local planning commission to prepare the comprehensive plan for the long-range development of its area and to perfect it from time to time. Among other things, such comprehensive plan may show existing and proposed streets, highways, expressways, bridges, tunnels, viaducts and approaches thereto; routes of railroads and transit lines, terminals, ports, airports; parks, playgrounds, forests, reservations, and other public open spaces; sites for public buildings and structures; districts for residence, business, industry, recreation, agriculture, forestry; special districts for other purposes; limited development districts for purposes of promoting conservation, adequate water supply, sanitation, sewage treatment, drainage, protection against floods, roadside appearance, and the like; areas for housing developments; location of public utilities whether publicly or privately owned, including but not limited to sewerage and water supply system; zoning districts, and other features. The plan shall recommend long-range development patterns and programs which shall be expressed in five-year increments. The comprehensive plan shall be based upon and include appropriate studies of the location and extent of present and anticipated population, social and economic resources and problems, and other useful data. Such plan shall be adopted, added to, and changed from time to time, by a majority vote of the planning commission. The local planning commission shall review the comprehensive plan or parts thereof as often as necessary, but not less than once every five years to determine whether changes in the amount, kind, or direction of development of the area or other reasons make it desirable to make additions or amendments to the plan. The plan shall be considered to be an expression of the planning commission's recommendations to the appropriate governing bodies with regard to the future growth and development of its area of jurisdiction and, as such, shall be a public record.

SECTION 2. Studies for plan; general purpose of plan.—In the preparation of such comprehensive plan, the planning commission shall make, or cause to be made, careful and comprehensive surveys and studies of present conditions and trends of future growth in its planning area. The plan shall be made and used for the purpose of guiding and accomplishing the coordinated, adjusted and harmonious

development or redevelopment of the planning area which will, in accordance with present and future needs, best promote the public health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development or redevelopment, including adequate provision for traffic, the promotion of safety from fire or other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design, appearance and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

SECTION 3. Public hearing on plan.—Before the adoption of the plan or any part, amendment, extension or addition, the planning commission shall hold at least one public hearing thereon, after not less than fifteen days' notice of the time and place of such hearing shall have been given in a newspaper having general circulation in the planning area.

SECTION 4. Requirements for adoption of plan or amendment.—Adoption of the plan or of any part, amendment, extension or addition shall be by resolution of the planning commission, carried by the affirmative votes of at least a majority of the entire membership. The resolution shall refer expressly to maps and other descriptive matter intended by the planning commission to form the whole or part of the plan and the action taken shall be recorded in its official minutes of the planning commission by the identifying signature of the chairman and secretary of the commission. A copy of the plan or part thereof as adopted shall be certified to the appropriate governing authorities and to all other legislative and administrative agencies affected by the plan.

SECTION 5. Adoption of plan as a whole or by successive resolutions.—The local planning commission shall adopt the plan as a whole by a single resolution or parts of the plan by successive resolutions. Such parts shall correspond with the major geographical sections or divisions of the planning area or with functional subdivisions of the subject matter of the comprehensive plan.

SECTION 6. Approval of comprehensive plan by governing body.—The governing authority may formally approve the comprehensive plan by appropriate official action either as a whole or as parts are completed and adopted by the planning commission.

SECTION 7. Planning Commission to pass on new streets, parks, etc.; overruling commission.—Whenever the planning commission shall have adopted a comprehensive plan, no new street, square, park or other public way, grounds or open space or public building, structure or public utility, whether publicly or privately owned, shall be constructed or authorized in the political jurisdiction of the governing authority or authorities establishing said planning commission until the location, character and extent thereof shall have been approved by the commission. In case of disapproval, the commission shall communicate its reasons to the governing authority or authorities it serves, which shall have the power to overrule such disapproval by the recorded vote of not less than two-thirds of its entire membership. But if authorization or financing of the proposed public way, ground, space, building, structure or utility within such jurisdiction does not, under the law, fall within the province of the local planning commission's governing authority or authorities, then the governmental entity having such jurisdiction shall request approval by the local planning commission. In case of the disapproval by the local planning commission, it shall communicate its reasons to its governing authority or authorities with recommended actions to be taken. Failure of the planning commission to act within sixty days from and after the date of official submission to it shall be deemed approval.

Sub-Article 2

Local Planning—Zoning

SECTION 1. Grant of power for zoning.—For the purposes of guiding development in accordance with existing and future needs and in order to protect, promote and improve the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare, the governing authorities of municipalities and counties may, in accordance with the conditions and procedures specified in this act, regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts, and other open spaces, the density and distribution of populations, and the uses of buildings, structures, and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes. The regulations shall be made in accordance with the

comprehensive plan for the jurisdiction as described in this act and shall be designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers, to promote the public health and the general welfare, to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to protect scenic areas; 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, of the character of each area and its peculiar suitability for particular uses, and with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the value of land and buildings, and encouraging the most appropriate use of land and buildings and structures.

SECTION 2. Zoning regulations and maps.—Upon the authorization of the governing authority, the local planning commission may make and certify to its governing authority or authorities the text of the recommended zoning ordinance or resolution or both and the zoning maps. Then the governing authority of the municipality or county may exercise the powers granted in this act and, for the purposes mentioned, shall create zoning districts of such number, shape and size as it may determine to be best suited to carry out the purposes of this act. Within such districts, the governing authority may regulate the erection, construction, reconstruction, alteration, and use of buildings and structures and the uses of land in accordance with the first five-year increment of the comprehensive plan. All such regulations shall be uniform for each class or kind of building or use throughout each district, but the regulations in one district may differ from those in other districts and they may be amended from time to time. The regulations may provide that land, buildings and structures and the uses thereof which are lawful at the time of the enactment or amendment of zoning regulations may be continued although not in conformity with such regulations or amendments, hereinafter called a nonconformity. The governing authority of any municipality or county may provide in the zoning ordinance or resolution for the continuance, restoration, reconstruction, extension, or substitution of nonconformities. Such governing authority may also provide for the termination of any nonconformity by specifying the period or periods in which the nonconformity shall be required

to cease or brought into conformance, or by providing a formula whereby the compulsory termination of nonconformities may be so fixed as to allow for the recovery or amortization of the investment in such nonconformity.

SECTION 3. Method of procedure for zoning.—Before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing thereon, which shall be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of such public hearing shall be given in a newspaper of general circulation in the municipality or county. No change in or departure from the text or maps as certified by the local planning commission shall be made pursuant to such hearing unless such change or departure be first submitted to the planning commission for review and recommendation. The planning commission shall have thirty days within which to submit its report to the governing authority. If the planning commission fails to submit a report within the thirty-day period, it shall be deemed to have approved the change or departure. When the required public hearing is held by the planning commission, no public hearing by the governing authority shall be required before amending the zoning ordinance or resolution or maps.

SECTION 4. Board of zoning appeals or zoning board of adjustment.—The governing authority of the municipality and the governing authority of the county may each create a board to be known as either the board of zoning appeals or zoning board of adjustment or they may jointly create a board to be known as the joint board of appeals or joint board of adjustment, all such boards hereinafter referred to as the board.

The board shall consist of not less than three nor more than five members, appointed by the governing authority or authorities of the area served. The members shall serve for overlapping terms of not less than three nor more than five years or thereafter until their successors are appointed. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of zoning appeals or zoning board

of adjustment. None of the members shall hold any other public office or position in the municipality or county.

The board shall elect one of its members chairman, who shall serve for one year or until he is reelected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the planning commission. The board shall adopt rules in accordance with the provisions of any ordinance or resolution 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. The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. 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.

Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or county. 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 appeals notice of appeal specifying the ground 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.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board, 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 or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

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

The board of appeals or 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 determination made by an administrative official in the enforcement of any ordinance or resolution adopted pursuant to this act.
2. To authorize upon appeal in specific cases a variance from the terms of the ordinance or resolution as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance or resolution will, in an individual case, result in unnecessary hardship, so that the spirit of the ordinance or resolution shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of appeals that:
 - (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography, and
 - (b) the application of the ordinance or resolution of this particular piece of property would create an unnecessary hardship, and
 - (c) such conditions are peculiar to the particular piece of property involved, and
 - (d) relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the ordinance or resolution or the comprehensive plan, *provided*, however, that no variance may be granted for a use of land or building or structure that is prohibited in a given district by ordinance or resolution.

In exercising the above powers, the board of appeals or board of adjustment may, in conformity with the provisions of this act, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. Either board in the execution of the duties for which appointed may subpoena witnesses and in case of contempt may certify such fact to the circuit court having jurisdiction.

SECTION 5. Appeals from decisions of board of appeals or board of adjustment.—Any person who may have a substantial interest in any decision of the board of appeals or board of adjustment or any officer, or bureau of the appropriate governing authority may appeal

from any decision of the board to the circuit court in and for the county by filing with the clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within thirty days after the decision of the board is rendered.

SECTION 6. Notice of appeal and filing of transcript.—Upon the filing of such an appeal, the clerk of the circuit court shall give immediate notice thereof to the secretary of the board and within thirty days from the time of such notice the board shall cause to be filed with the clerk a duly certified copy of the proceedings had before the board of appeals or board of adjustment, including a transcript of the evidence heard before it, if any, and the decision of the board.

The filing of an appeal in the circuit court from any decision of the board shall not ipso facto act as a supersedeas but the judge of the circuit court may in his discretion grant a supersedeas upon such terms and conditions as may seem reasonable and proper.

SECTION 7. Contempt of board of appeals or board of adjustment.—In case of contempt by any party, witness or other person before the board of appeals or board of adjustment, such board may certify such fact to the circuit court of the county wherein such contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose such penalty as authorized by law.

SECTION 8. Hearing and decision of circuit court; costs.—At the next term of the circuit court or, in chambers, upon ten days' notice to the parties, the resident presiding judge of the circuit court of the county shall proceed to hear and pass upon the appeal. The findings of fact by the board of appeals shall be final and conclusive on the hearing of such appeal. In determining the questions presented by the appeal the court shall determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board should be reversed by the circuit court, the board shall be charged with the costs and they shall be paid by the governing authority which established the board of appeals or board of adjustment.

SECTION 9. Appeal to supreme court.—Any party at interest who is aggrieved by the judgment rendered by the circuit court upon such appeal may appeal in the same manner as provided by

law for appeals from other judgements of the circuit court in law cases.

SECTION 10. Enforcement and remedies of zoning ordinance or resolution.—The governing authorities of municipalities or counties may provide for the enforcement of any ordinance or resolution adopted pursuant to the provisions of this act by means of the withholding of permits and for such purpose may establish and fill the position of building official or other administrative officer, as appropriate, individually or jointly, when no such position presently exists. From and after the establishment of such position and the filling of the same under the provisions of this act, it shall be unlawful to construct, reconstruct, alter, change the use of or occupy any land, building or other structure without first obtaining the appropriate permit from such official; and such official shall not issue any permit unless the requirements of this act and of any ordinance or resolution adopted pursuant to it are complied with. A violation of any ordinance or resolution adopted pursuant to the provisions of this act is hereby declared to be a misdemeanor under the laws of the State and, upon conviction thereof, an offender shall be punished in the discretion of the court. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any ordinance or resolution adopted pursuant to this act, the building official or other appropriate administrative officer, municipal or county attorney, or other appropriate authority of the municipality or county or any adjacent or neighboring property owner who would be specially damaged by such violation, may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land. Each day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed a separate offense.

SECTION 11. Financing.—The governing authority may appropriate such monies, otherwise unappropriated, as it deems fit to finance the work of the board of appeals or board of adjustment and to generally provide for the enforcement of any regulations and restrictions authorized under this act which are adopted and may accept

and expend grants of money for those purposes from either private or public sources, local, State or Federal.

SECTION 12. Conflict with other laws.—Whenever the regulations made under authority of this act require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statute, or local ordinance or regulation, the regulations made under authority of this act shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by the regulations made under authority of this act, the provisions of such statute shall govern.

Sub-Article 3

Subdivision Regulations

SECTION 1. Subdivision defined.—“Subdivision” means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy, or building development, and includes all division of land involving a new street or a change in existing streets, and includes re-subdivision and, where appropriate, to the process of subdividing or to the land or area subdivided; *provided*, however, that the following exceptions are included within this definition only for the purpose of requiring that the local planning commission be informed and have record of such subdivisions:

1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the governing authority;

2. The division of land into parcels of five acres or more where no new street is involved.

Plats of such exceptions shall be received as information by the planning commission which shall indicate such fact on the plats.

SECTION 2. Intent.—The public health, safety, economy, good order, appearance, convenience, morals, and general welfare require the harmonious, orderly and progressive development of land within the municipalities and counties of the State. In furtherance of this general intent, the regulation of land subdivision by municipal and county governing authorities is authorized for the following purposes, among others:

1. to encourage the development of economically sound and stable municipalities and counties;
2. to assure the timely provision of required streets, utilities, and other facilities and services to new land developments;
3. to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;
4. to assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, and other public purposes; and
5. to assure, in general, the wise and timely development of new areas, in harmony with the comprehensive plan of municipalities and counties.

SECTION 3. Provisions of Subdivision Regulations.—The local planning commission shall prepare and recommend to the governing authority of the city or the governing authority of the county for adoption regulations governing the subdivision of land within the municipality or unincorporated portion of the county respectively. Such regulations may provide for the harmonious development of the municipality and the county; for the coordination of streets within subdivisions with other existing or planned streets or official map streets; for the size of blocks and lots; for the dedication or reservation of land for streets, school sites, and recreation areas and of easements for utilities and other public services and facilities; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, prosperity, or general welfare. In particular, the subdivision regulations shall prescribe that no subdivision plan will be approved unless all land intended for use as building sites can be used safely for building purposes, without danger from flood or other inundation or from other menaces to health, safety, or public welfare.

Such regulations may include requirements as to the extent to which and the manner in which streets shall be graded, surfaced, and improved, and water, sewers, septic tanks, and other utility mains, piping, connections, or other facilities shall be installed as a condition precedent to the approval of the plat. Such regulations may provide that, in lieu of the completion of such work and installations previous to the final approval of a plat, the governing authority of the municipality or the governing authority of the county may accept

a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the municipality or county the actual construction and installations of such improvements and utilities within a period specified by the planning commission and expressed in the bond; and the municipality or county is hereby granted the power to enforce such bonds by all appropriate legal and equitable remedies. The regulations may also provide, in lieu of the completion of such work previous to the final approval of a plat, for an assessment or other method, including deposit of money by the subdivider in an escrow account, whereby the governing body or its agent is put in an assured position to do the work and make the installations and improvements at the expense of the subdivider. The governing authority of the municipality and the governing authority of the county are hereby given the power to adopt and to amend such land subdivision regulations after a public hearing thereon, at least fifteen days' notice of the time and place of which shall have been published in a newspaper of general circulation in the municipality or county.

SECTION 4. Planning Commission as Platting Authority.—From and after the time the local planning commission shall have prepared and adopted a comprehensive plan or at least the major street portion of such comprehensive plan and shall have recommended to the governing authority of the municipality or the governing authority of the county regulations for the subdivision of land within the municipality or county, respectively, which regulations shall have been adopted by the governing authority of the city or county, then no plat of a subdivision within the municipality or within the unincorporated portion of the county shall be filed or recorded in the office of the county where deeds are required to be recorded until it shall have been submitted to and approved by the planning commission and such approval entered in writing on the plat, by the secretary of the planning commission. The filing or recording of a plat of a subdivision without the approval of the planning commission as required by this act is hereby declared a misdemeanor and, upon conviction, is punishable as provided by law.

SECTION 5. Procedure on plats.—After adoption of subdivision regulations by the governing authority, the local commission is hereby given the authority to give tentative approval or disapproval to preliminary plats and to approve or disapprove final plats but in each case their action shall be taken within sixty days after the submission

thereof; otherwise, such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the planning commission on demand; *provided*, however, that the applicant for the planning commission's approval may waive this requirement and consent to the extension of such period. The grounds of disapproval of any plat shall be stated upon the records of the planning commission. Any plat submitted to the planning commission shall contain the name and address of a person to whom notice of hearing may be sent; and no plat shall be acted upon by the planning commission without affording a hearing thereon, notice of time and place of which shall be sent by registered or certified mail to said address not less than five days before the date fixed therefor.

SECTION 6. Duties of recording officials.—The county official whose duty it is to accept and record plats of real estate shall not accept, file or record any subdivision plat involving any area subject to any land subdivision regulations adopted pursuant to this act which plat has not been approved by the planning commission having jurisdiction. Should any public official violate the provisions of this section he shall in each instance be subject to the penalty provided in this article and the affected governing authority shall have such rights and remedies as to enforcement or collection as are provided and may enjoin any violations thereof.

SECTION 7. Effect of plat approval on status of dedications.—The approval of a plat by the local planning commission shall not be deemed to constitute or effect an acceptance by the municipality or the county or the public of the dedication of any street or other ground shown upon the plat.

SECTION 8. Penalties for transferring lots in unapproved subdivisions.—The owner or agent of the owner of any land to be subdivided within the municipality or county who transfers or sells or agrees to sell or negotiate to sell such land by reference to or exhibition of or by other use of a plat of subdivision of such land before such plat has been approved by the planning commission and recorded in the office of the clerk of the court in and for the county, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in the discretion of the court; and the description of metes and bounds in the instrument of transfer or other document used in the process of selling or transfer shall not exempt the transaction from

these penalties. The municipality or county may enjoin such transfer or sale or agreement by appropriate action.

SECTION 9. Acceptance of and improvements in unapproved streets.—From and after the time when the platting jurisdiction of a local planning commission shall have attached by virtue of the adoption by the planning commission of a major street plan and the adoption by the governing authority of land subdivision regulations recommended to them by the planning commission, the governing authority or other public authority shall not accept, lay out, open, improve, grade, pave, or light any street or lay or authorize the laying of any water mains, sewers, connections, or other public facilities or utilities in any street unless such street shall have been accepted or opened as, or shall otherwise have received the legal status of a public street prior to the attachment of the planning commission's subdivision jurisdiction, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the planning commission or on an official map made and adopted by the planning commission. The governing authority may locate and construct or may accept any other street provided that the ordinance or resolution or other measure for such approval be first submitted to the planning commission for its approval or disapproval as provided for in the procedure on plats and upon approval any such street shall have the status of an approved street as fully as though it had been originally shown on a subdivision plat approved by the planning commission or on an official map made and adopted by the planning commission.

SECTION 10. Erection of buildings.—From and after the time when the platting jurisdiction of the local planning commission shall have attached by virtue of adoption by the planning commission of a major street plan and the adoption by the governing authority of land subdivision regulations recommended to them by the planning commission, as provided in this act, no building permit shall be issued for and no building or other structure shall be erected on any lot unless the street giving access to the lot upon which the building is proposed to be placed (a) shall have been accepted or opened as, or shall have otherwise received the legal status of, a public street prior to that time; or (b) unless such street corresponds in its locations and lines with a street shown on a subdivision plat approved by the planning commission or on an official map made and adopted by the planning commission and the governing authority or with a

street located and accepted by the governing authority of the municipality or the governing authority of the county. Any building erected in violation of this section shall be deemed an unlawful structure, and the building official or municipal or county attorney or other official designated by the governing authority of the municipality or the governing authority of the county may bring appropriate action to enjoin such erection or cause it to be vacated or removed.

SECTION 11. Naming streets; changing street names.—A local planning commission created under the provisions of this act shall, by proper certificate, approve and authorize the name of any street or road hereafter laid out within the territory over which such commission has jurisdiction. It shall be unlawful for any person in laying out any new street or road to name such street or road on any plat, by any marking or in any deed or instrument without first getting the approval of the planning commission. Any person violating this provision shall be guilty of a misdemeanor and, upon conviction, shall be punished in the discretion of the court.

Any such commission may, after reasonable notice through a newspaper having general circulation wherein the commission is created and exists, recommend to the appropriate governing authority a change in the name of any street or road within the boundary of its territorial jurisdiction (a) when there is duplication of names or other conditions which tend to confuse the traveling public or the delivery of mail, orders or messages, (b) when it is found that a change may simplify marking or giving of directions to persons seeking to locate addresses or (c) upon any other good and just reason that may appear to the commission. On such name being changed, after reasonable opportunity for a public hearing, the governing authority shall issue its certificate designating the change, which shall be recorded in the office of the register of mesne conveyances or clerk of court, and the name so changed and certified shall thereafter be the legal name of the street or road.

Sub-Article 4

Official Map

SECTION 1. Official map defined.—“Official map” means a map or maps showing the location of existing or proposed public street, highway, and public utility rights-of-way, public building sites and public open spaces adopted by the governing authority of a munici-

pality or county in accordance with the provisions of this act. A public building site is one on which a building is to be constructed for public use with public funds.

SECTION 2. Intent.—Counties and municipalities may establish official maps to reserve future locations of any street, highway, or public utility rights-of-way, public building site or public open space for future public acquisition and to regulate structures or changes in land use in such rights-of-way, building sites or open spaces. This authority is declared necessary in order to promote and preserve the public safety, economy, good order, appearance, convenience, prosperity, and general welfare and is one of the several instruments of land use control authorized by this act for the implementation of comprehensive plans, or parts thereof, adopted in accordance with the provisions of this act.

SECTION 3. Establishment.—The governing authority of a municipality may establish an official map of the municipality. The governing authority of a county may establish an official map of the unincorporated areas of the county. Such official maps may show the location of existing or proposed public street, highway and utility rights-of-way, public building sites, and public open spaces. The official map may include the whole or any part or parts of the municipality or county within the jurisdiction of the establishing governing authority. The governing authority shall certify the fact of the establishment of the official maps to the clerk of the circuit court of the county.

The official map may consist of any number of separate maps which need not be drawn to the same scale; however, such maps shall be indexed on a single map depicting the area of jurisdiction of the governing authority.

SECTION 4. Recommending street or highway, public building site, public utilities or public open space lines by planning commission.—After the local planning commission shall have prepared and adopted a comprehensive plan or at least the major street portion of such plan and upon receiving approval thereof by the appropriate governing authority, the local planning commission may make or cause to be made surveys for the exact location of the lines of proposed new, extended, widened and otherwise improved streets and highways in the whole or in any portion of the municipality or county and to make and certify to the governing authority a map or maps of the area thus surveyed on which are indicated the lines recommended by the

local planning commission as the mapped lines of the rights-of-way required for future streets and highways and for future extensions, widenings and other improvements to existing streets and highways.

After the local planning commission shall have prepared and adopted a comprehensive plan or at least the public building sites, public open spaces or public utilities portion of such comprehensive plan, and upon receiving approval thereof by the appropriate governing authority, the local planning commission may make or cause to be made, from time to time, surveys of the exact location of the boundary lines of proposed new and enlarged sites for public buildings, public parks, public playgrounds, public utilities and other public open spaces in the whole or in any portion of the municipality or county and to make and certify to the governing authority of the municipality or to the governing authority of the county maps of the areas thus surveyed on which are indicated the locations of the lines recommended by the planning commission as the mapped boundary lines of future public building sites, public parks, public playgrounds, public utilities and other future open space areas.

The making or certifying of such maps by the planning commission shall be in the form of a recommendation and shall not of itself constitute the opening or establishment of any street or highway or public building site or public park, public playground, public utility or other public open space or the taking or acceptance of any land for such purpose.

SECTION 5. Method of procedure for establishment of proposed boundary lines or streets, public building sites, public utilities or public open spaces.—After the local planning commission shall have made and recommended to the appropriate governing authority maps on which are indicated the locations of the lines recommended by the planning commission as the mapped boundary lines of future streets and highways, future street and highway extensions and widenings, future public building sites, public parks, public utilities, public playgrounds and other future public open space areas, the appropriate governing authority may adopt such maps as the Official Maps.

Before adopting the map as the official map, the governing authority shall hold a public hearing thereon which shall be advertised and conducted according to the lawfully prescribed procedures for that municipality or county. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing

shall be published in a newspaper of general circulation in the municipality or county.

SECTION 6. Additions and modifications Procedure.—The governing authority of the municipality or the governing authority of the county from time to time may make additions to or modifications of its official maps.

No change in or departure from the maps shall be made until such proposed changes or departures shall first have been submitted to the local planning commission for review and recommendation. The local planning commission shall have thirty days within which to submit its report. If the local planning commission fails to submit a report within the thirty-day period, it shall be deemed to have recommended that the changes or departures be approved. Before taking such action, the governing authority shall hold a public hearing thereon, according to the provisions set forth in this act.

SECTION 7. Regulation of buildings and other structures in bed of mapped streets and highways, public building sites, public utility lines, or public open spaces.—After adoption of any official map by the governing authority of the municipality or the governing authority of the county no permit shall be issued for the construction, improvement, repair or moving of any building or structure and no change in land use shall be made on any land located within the mapped lines of any street or highway, public building site, public utility line, or public open space as shown on the official map. In cases where any permit has been refused under this authority, the following appeal procedure may be utilized by any affected property owner:

1. An appeal shall be presented to the appropriate local planning commission.
2. The local planning commission shall evaluate the appeal and make a report within thirty days to the governing authority and to any other appropriate public agency. If no report is made within thirty days, the planning commission shall be deemed to have recommended that the appeal be granted.
3. The local planning commission's report shall recommend:
 - (a) that the governing authority take official action to exempt the affected land from the restrictions of the official map; or
 - (b) that the governing authority take official action to authorize the issuance of desired permits subject to specified conditions; or

- (c) that the governing authority initiate appropriate action to acquire the property.
- 4. Upon receipt of the report of the local planning commission the governing authority shall within one hundred days:
 - (a) take official action to exempt the affected land from the restrictions of the official map; *provided*, that such exemption shall have no effect on any applicable zoning restrictions pertaining to permitted uses; or
 - (b) take official action to authorize the issuance of the denied permits subject to specified conditions accepted by the owner; *provided*, that such conditions shall not be contrary to any applicable zoning restrictions pertaining to permitted uses; or
 - (c) either enter into an agreement to acquire or institute condemnation proceedings to acquire the property affected. Action to acquire such property may be instituted by the governing authority or other appropriate public agency.

Failure of the governing authority to act within one hundred days of the receipt of the report of the local planning commission shall be deemed to constitute approval of the proposed appeal. Thereupon, denied permits shall be issued upon demand.

SECTION 8. Exemption of property from the restrictions of official map.—After adoption of any official map by the governing authority of the municipality or the governing authority of the county any property owner owning property located within the mapped lines of any street or highway, public building site, public utility line, or public open space as shown on the official map, may apply to the local planning commission for exemption of such property from the restrictions of the official map. When such application has been made the following procedure shall be utilized:

1. The local planning commission shall evaluate the application and make a report within thirty days to the governing authority and to any other appropriate public agency. If no report is made within thirty days, the planning commission shall be deemed to have recommended that the application be granted.
2. The local planning commission's report shall recommend:
 - (a) that the governing authority take official action to exempt the affected property from the restrictions of the official map; or

- (b) that the governing authority initiate appropriate action to acquire the property.
- 3. Upon receipt of the report of the local planning commission the governing authority shall within seventy-five days:
 - (a) take official action to exempt the affected property from the restrictions of the official map; *provided*, that such exemption shall have no effect on any applicable zoning restrictions pertaining to permitted uses; or
 - (b) either enter into an agreement to acquire or institute condemnation proceedings to acquire the property affected. Action to acquire such property may be instituted by the governing authority or other appropriate public agency. Failure of the governing authority to act within seventy-five days of the receipt of the report of the local planning commission shall be deemed to constitute granting of the application.

Article 4

Miscellaneous Provisions

SECTION 1. Invalidity of part.—If any portion or provision of this act is found unconstitutional, such invalidity shall not affect any other portion or provisions of this act.

Article 5

SECTION 1. This act shall take effect upon approval by the Governor.

Approved the 3rd day of July, 1967.

(R671, S533)

No. 488

An Act To Amend The Code Of Laws Of South Carolina, 1962, By Adding Section 4-137.1 So As To Require Registered Producers Of Alcoholic Beverages To File An Affirmation With The Tax Commission That Brands Imported Into The State By Such Producers Will Be Sold To South Carolina Wholesalers In Parity With Lowest Nationwide Price Schedules, And To Appropriate The Sum Of One Hundred Fifty Thousand Dollars For Operating Expenses Of The Alcoholic Beverage Control Commission.