

CHAPTER 126

S.B. No. 506

AN ACT

relating to the creation of multiple panels of, and to the operation of, a municipality's zoning board of adjustment; providing for the repeal of zoning regulations.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsections (b), (c), and (e), Section 211.008, Local Government Code, are amended to read as follows:

(b) A board of adjustment must consist of five members to be appointed for terms of two years. The appointing authority may remove a board member for cause, *as found by the appointing authority*, on a written charge after a public hearing. A vacancy on the board shall be filled for the unexpired term.

(c) The governing body, by charter or ordinance, may provide for the appointment of [four] alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(e) The board *by majority vote* shall adopt rules in accordance with any ordinance adopted under this subchapter. Meetings of the board are held at the call of the *presiding officer* [chairman] and at other times as determined by the board. The *presiding officer* [chairman] or acting *presiding officer* [chairman] may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

SECTION 2. Subsection (a), Section 211.009, Local Government Code, is amended to read as follows:

(a) The board of adjustment may:

(1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter;

(2) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so; [and]

(3) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; *and*

(4) *hear and decide other matters authorized by an ordinance adopted under this subchapter.*

SECTION 3. Subchapter A, Chapter 211, Local Government Code, is amended by adding Section 211.014 to read as follows:

Sec. 211.014. PANEL OF BOARD OF ADJUSTMENT. (a) This section applies only to a municipality with a population of 1,000,000 or more.

(b) A board of adjustment shall consist of one or more panels of five members each to be appointed for terms of two years. If more than one panel of the board is appointed, the board consists of the regular members of all of the panels. The board may adopt rules for the assignment of appeals to a panel.

(c) If the board consists of more than one panel, only one panel may hear, handle, or render a decision in a particular case. A decision of a panel of the board on a case constitutes the decision of the board.

(d) Meetings of a panel of the board are held at the call of the presiding officer of the panel and at other times as determined by the panel or the board.

(e) A panel of a board of adjustment has the powers and duties that a board of adjustment has under Sections 211.008, 211.009, 211.010, and 211.011.

SECTION 4. Subchapter A, Chapter 211, Local Government Code, is amended by adding Section 211.015 to read as follows:

Sec. 211.015. ZONING REFERENDUM IN HOME-RULE MUNICIPALITY. (a) Notwithstanding other requirements of this subchapter, the voters of a home-rule municipality may repeal the municipality's zoning regulations adopted under this subchapter by either:

(1) a charter election conducted under law; or

(2) on the initial adoption of zoning regulations by a municipality, the use of any referendum process that is authorized under the charter of the municipality for public protest of the adoption of an ordinance.

(b) Notwithstanding any procedural or other requirements of this chapter to the contrary, the governing body of a home-rule municipality may on its own motion submit the repeal of the municipality's zoning regulations, as adopted under this chapter, in their entirety to the electors by use of any process that is authorized under the charter of the municipality for a popular vote on the rejection or repeal of ordinances in general.

(c) The provision of this chapter shall not be construed to prohibit the adoption or application of any charter provision of a home-rule municipality that requires a waiting period prior to the adoption of zoning regulations or the submission of the initial adoption of zoning regulations to a binding referendum election, or both, provided that all procedural requirements of this chapter for the adoption of the zoning regulation are otherwise complied with.

(d) Notwithstanding any charter provision to the contrary, a governing body of a municipality may adopt a zoning ordinance and condition its taking effect upon the ordinance receiving the approval of the electors at an election held for that purpose.

(e) The provisions of this section may only be utilized for the repeal of a municipality's zoning regulations in their entirety or for determinations of whether a municipality should initially adopt zoning regulations, except the governing body of a municipality may amend, modify, or repeal a zoning ordinance adopted, approved, or ratified at an election conducted pursuant to this section.

(f) The provisions of this section shall not authorize the repeal of an ordinance approving land-use regulations adopted under the provisions of this chapter by a board of directors of a reinvestment zone under the authority of Section 311.010(c), Tax Code.

SECTION 5. (a) This Act takes effect September 1, 1993.

(b) The provisions of Section 3 of this Act apply only to a case filed with a board of adjustment on or after the effective date of this Act.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 22, 1993, by a viva-voce vote; the Senate concurred in House amendments on May 4, 1993: Yeas 31, Nays 0; passed the House, with amendments, on April 30, 1993: Yeas 126, Nays 0, one present not voting.

Approved May 11, 1993.

Effective Sept. 1, 1993.