

[CHAPTER 533]

AN ACT

To add certain lands to the Trinity National Forest, California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to existing valid claims, the following-described lands be, and the same are hereby, added to the Trinity National Forest, California, and made subject to all laws and regulations relating to said National Forest: The west half section 6, township 33 north, range 9 west; sections 1 and 2, north half northeast quarter section 11, northwest quarter and north half north half northeast quarter section 12, township 33 north, range 10 west; sections 35 and 36, township 34 north, range 10 west, all Mount Diablo meridian: *Provided*, That said lands shall not be subject to location or entry under the mineral laws or laws of the United States.

Approved, June 20, 1938.

June 20, 1938
[H. R. 8165]
[Public, No. 683]

Trinity National
Forest, Calif.
Lands added.

Proviso.
Restriction on loca-
tion or entry.

[CHAPTER 534]

AN ACT

Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the National Capital, the Zoning Commission created by the Act of March 1, 1920 (41 Stat. 500), is hereby empowered, in accordance with the conditions and procedures specified in this Act, to 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 of population, and the uses of buildings, structures, and land for trade, industry, residence, recreation, public activities, or other purposes; and for the purpose of such regulation said commission may divide the District of Columbia into districts or zones of such number, shape, and area as said Zoning Commission may determine, and within such districts may regulate the erection, construction, reconstruction, alteration, conversion, maintenance, and uses of buildings and structures and the uses of land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

SEC. 2. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the street, 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 undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

June 20, 1938
[H. R. 9844]
[Public, No. 684]

District of Colum-
bia, zoning regulation.

Zoning Commission,
powers and duties.
41 Stat. 500.

Regulation of loca-
tion, height, etc., of
structures.
Yards, courts, and
other open spaces.
Uses of buildings
and lands.

Division into dis-
tricts or zones.

Uniformity of regu-
lations within each
district.

Purposes of regula-
tions.

Existing regulations continued effective until amended, etc.
41 Stat. 500.

Amendments authorized.

Public hearings before becoming effective.

Notice of time and place; publication.

Vote required for amendment.

Zoning Advisory Council; creation, membership.

Submission of proposals to, before adoption.

Proviso.
Failure of Council to act within 30 days.

Maximum height of buildings.

36 Stat. 452.

Use of existing buildings.

Restriction.

Extension and substitution of nonconforming uses.

SEC. 3. The regulations heretofore adopted by the Zoning Commission under the authority of the above-mentioned Act of March 1, 1920 (41 Stat. 500), and in force at the date of the taking effect of this Act, including the maps which at said date accompany and are a part of such regulations, shall be deemed to have been made and adopted and in force under this present Act and shall be and continue in force and effect until and as they may be amended by the Zoning Commission as authorized by this Act. The Zoning Commission may from time to time amend the regulations or any of them or the maps or any of them. Before putting into effect any amendment or amendments of said regulations, or of said map or maps, the Zoning Commission shall hold a public hearing thereon. At least thirty days' notice of the time and place of such hearings shall be published at least once in a daily newspaper or newspapers of general circulation in the District of Columbia. Such published notice shall include a general summary of the proposed amendment or amendments of the regulation or regulations and the boundaries of the territory or territories included in the amendment or amendments of the map or maps, and the time and place of the hearing. The Zoning Commission shall give such additional notice of such hearing as it shall deem feasible and practicable. At such hearing it shall afford any person present a reasonable opportunity to be heard. Such public hearing may be adjourned from time to time and if the time and place of the adjourned meeting be publicly announced when the adjournment is had, no further notice of such adjourned meeting need be published.

SEC. 4. Any amendment of the regulations or any of them or of the maps or any of them shall require the favorable vote of not less than a full majority of the members of the Commission.

SEC. 5. A Zoning Advisory Council is hereby created to be composed of a representative designated by the National Capital Park and Planning Commission, a representative designated by the Zoning Commission of the District of Columbia, and a representative designated by the Commissioners of the District of Columbia, all of whom shall be persons experienced in zoning practice and shall serve without additional compensation. No amendment of any zoning regulation or map shall be adopted by the Zoning Commission unless and until such amendment be first submitted to said Zoning Advisory Council and the opinion or report of such Council thereon shall have been received by the Commission: *Provided, however,* That if said Council shall fail to transmit its opinion and advice within thirty days from the date of submission to it, then in such event the Zoning Commission shall have the right to proceed to act upon the proposed amendment without further waiting for the receipt of the opinion and advice of said Council.

SEC. 6. The permissible height of buildings in any district shall not exceed the maximum height of buildings now authorized upon any street in any part of the District of Columbia by the Act of Congress approved June 1, 1910, and amendments thereto, regulating the height of buildings in the District of Columbia.

SEC. 7. The lawful use of a building or premises as existing and lawful at the time of the original adoption of any regulation heretofore adopted under the authority of the aforesaid Act of March 1, 1920, or, in the case of any regulation hereafter adopted under this Act, at the time of such adoption, may be continued although such use does not conform with the provisions of such regulation, provided no structural alteration, except such as may be required by law or regulation, or no enlargement is made or no new building is erected. The Zoning Commission may in its discretion provide, upon such terms and conditions as may be set forth in the regulations, for the

extension of any such nonconforming use throughout the building and for the substitution of nonconforming uses.

SEC. 8. A board of zoning adjustment is hereby created which shall be composed of five members appointed by the Commissioners of the District of Columbia, namely, one member of the National Capital Park and Planning Commission or a member of the staff thereof to be designated in either case by such Commission; one member of the Zoning Commission or a member of the staff thereof to be designated in either case by such Commission; and three other members, each of whom shall have been a resident of the District of Columbia for at least three years immediately preceding his appointment and at least one of whom shall own his own home.

The representative of the National Capital Park and Planning Commission may be changed from time to time by such Commission in its discretion and in case of a vacancy in the position by death, resignation, or other disability, a new representative shall be designated by the said Commission and appointed by the Commissioners of the District of Columbia to fill said vacancy. The representative of the Zoning Commission may be changed from time to time by such Commission in its discretion and in case of a vacancy in the position by death, resignation, or other disability, a new representative shall be designated by the said Commission and appointed by the Commissioners of the District of Columbia to fill said vacancy. The terms of the three members designated by the Commissioners of the District of Columbia shall be three years each, excepting that, in the case of the initial appointments, one shall be for a term of one year and one for a term of two years. In case of any vacancy in the position of any of the three members designated by the Commissioners of the District of Columbia, the same shall be filled for the remainder of the term.

The Zoning Commission may provide and specify in its zoning regulations general rules to govern the organization and procedure of the Board of Adjustment not inconsistent with the provisions of this Act, and the Board of Adjustment may adopt supplemental rules of procedure which shall be subject to the approval of the Zoning Commission after public hearing thereon as provided in section 3. The Board of Adjustment shall choose its chairman and its other officers. 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.

The regulations adopted by the Zoning Commission may provide that the Board of Adjustment may, in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the regulations, make special exceptions to the provisions of the zoning regulations in harmony with their general purpose and intent. The Commission may also authorize the Board of Adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions as they arise in the administration of the regulations.

The Board of Adjustment shall not have the power to amend any regulation or map.

Appeals to the Board of Adjustment may be taken by any person aggrieved, or organization authorized to represent such person, or by any officer or department of the government of the District of Columbia or the Federal Government affected, by any decision of the inspector of buildings granting or refusing a building permit

Board of Zoning Adjustment; creation, composition, etc.

Changes and filling vacancies.

Terms of members.

Vacancies.

Organization and procedure.

Chairman and other officers. Meetings, records, etc.

Special exceptions to provisions of regulations.

Interpretation of maps; settlement of disputed questions, etc.

Limitation.

Appeals.

Fees.	or granting or withholding a certificate of occupancy, or any other administrative decision based in whole or part upon any zoning regulation or map adopted under this Act. The Commissioners of the District of Columbia may require and fix the fee to be charged for an appeal, which fee shall be paid, as directed by said Commissioners, with the filing of the appeal: <i>Provided</i> , That no citizens' association, or association created for civic purposes and not for profit shall be required to pay said fee. There shall be a public hearing on appeal.
<i>Proviso.</i> Exemption, citizens' associations, etc. Public hearings.	Upon appeals the Board of Adjustment shall have the following powers:
Powers of Board upon appeals.	(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by the inspector of buildings or the Commissioners of the District of Columbia or any other administrative officer or body in the carrying out or enforcement of any regulation adopted pursuant to this Act.
Alleged errors.	(2) To hear and decide, in accordance with the provisions of the regulations adopted by the Zoning Commission, requests for special exceptions or map interpretations or for decisions upon other special questions upon which such Board is required or authorized by the regulations to pass.
Requests for special exceptions, map interpretation, etc.	(3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map.
Variations from application of regulations.	(4) In exercising the above-mentioned powers the Board of Adjustment may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, determination, or refusal appealed from or may make such order as may be necessary to carry out its decision or authorization, and to that end shall have all the powers of the officer or body from whom the appeal is taken.
Authority conferred.	The concurring vote of not less than a full majority of the members of the Board shall be necessary for any decision or order.
Vote necessary for decision, etc.	Nothing herein contained shall prohibit the Zoning Commission from providing by regulation for appeals to it from any action of the Board of Zoning Adjustment.
Appeals from Board to Zoning Commission.	SEC. 9. A copy of any map established by said Zoning Commission and of its zoning regulations shall be filed in the office of the Engineer Commissioner of the District of Columbia. A copy of any regulation or any amendment adopted after the passage of this Act shall be published once in one or more daily newspapers printed in the District of Columbia for the information of all concerned.
Maps and regulations established by Zoning Commission, filing, Publication.	SEC. 10. It shall be unlawful to erect, construct, reconstruct, convert, or alter any building or structure or part thereof within the District of Columbia without obtaining a building permit from the inspector of buildings, and said inspector shall not issue any permit for the erection, construction, reconstruction, conversion, or alteration of any building or structure, or any part thereof, unless the plans of and for the proposed erection, construction, reconstruction, conversion, or
Building permits.	
Construction to conform to regulations.	

alteration fully conform to the provisions of this Act and of the regulations adopted under this Act. In the event that said regulations provide for the issuance of certificates of occupancy or other form of permit to use, it shall be unlawful to use any building, structure, or land until such certificate or permit be first obtained. It shall be unlawful to erect, construct, reconstruct, alter, convert, or maintain or to use any building, structure, or part thereof or any land within the District of Columbia in violation of the provisions of this Act or of any of the provisions of the regulations adopted under this Act. The owner or person in charge of or maintaining any such building or land or any other person who erects, constructs, reconstructs, alters, converts, maintains, or uses any building or structure or part thereof or land in violation of this Act or of any regulation adopted under this Act, shall upon conviction for such violation on information filed in the police court of the District of Columbia by the corporation counsel or any of his assistants in the name of said District and which court is hereby authorized to hear and determine such cases, be punished by a fine of not more than \$100 per day for each and every day such violation shall continue. The corporation counsel of the District of Columbia or any neighboring property owner or occupant who would be specially damaged by any such violation may, in addition to all other remedies provided by law, 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 such violation or to prevent the occupancy of such building, structure, or land.

SEC. 11. The Commissioners of the District of Columbia shall enforce the regulations adopted under the authority hereof. Nothing herein contained shall be construed to limit the authority of the Commissioners of the District of Columbia to make municipal regulations which are not inconsistent with the provisions of this Act and the regulations adopted hereunder.

SEC. 12. Wherever the regulations made under the authority of this Act require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute or municipal regulations, the regulations made under authority of this Act shall govern. Wherever the provisions of any other statute or municipal regulations require a greater width or size of yards, courts, or other open spaces or require a lower height of buildings or smaller number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of this Act, the provisions of such other statute or municipal regulation shall govern.

SEC. 13. The word "amend", "amendment", "amendments", or "amended", when used in this Act in relation to the zoning regulations, shall be deemed to include any modification of the text or phraseology of the regulations or of any provision of the regulations or any regulation or any repeal or elimination of any regulation or regulations or part thereof or any addition to the regulations or any new regulation or any change of or in the wording or content of the regulations. The word "amend", "amendment", "amendments", or "amended", when used in this Act in relation to the zoning maps or any map, shall be deemed to include any change in the number, shape, boundary, or area of any district or districts, any repeal or abolition of any such map or any part thereof, any addition to any such map, any new map or maps, or any other change in the maps or any map. The words "administrative decision",

Certificates of occupancy, etc.

Construction, etc., in violation of Act or regulations.

Penalty.

Injunction, etc., proceedings.

Enforcement of regulations.

Effect of regulations on future construction, etc.

Conflicts with other statutes or regulations.

Terms defined.

Appropriations
authorized.
Post, p. 1120.

Employment of per-
sonnel.

5 U. S. C. §§ 661-674;
Supp. III, §§ 673, 673c.
Compensation of
members of Board of
Zoning Adjustment.

Provisos.
Maximum.

No compensation, if
receiving Govern-
ment, etc., pay.

Act repealed; excep-
tion.

41 Stat. 500.

Conflicting laws,
etc., repealed.

Federal public
buildings excepted.
Proviso.
Approval by Na-
tional Capital Park
and Planning Com-
mission.

Separability provi-
sion.

"administrative officer", "administrative officer or body", when used in section 8 of this Act shall not be deemed to include the Zoning Commission.

SEC. 14. Appropriations are hereby authorized to carry out the provisions of this Act for the fiscal year ending June 30, 1938, and thereafter the Commissioners of the District of Columbia are authorized and directed to include in their annual estimates such amounts as may be required for salaries and expenses incident to such purposes. The Commissioners are authorized to employ such personal services as may be necessary to carry out the provisions of this Act, and the salaries of such employees, other than members of the Board of Zoning Adjustment, are to be fixed in accordance with the provisions of the Classification Act of 1923, as amended. The Commissioners shall fix the compensation of the members of the Board of Zoning Adjustment, without reference to the provisions of the Classification Act: *Provided, however*, That the compensation of any member shall not exceed \$1,000 per annum: *And provided further*, That no compensation for service as a member of said Board shall be provided for any member who holds a salaried public office or position in the District of Columbia or the Federal Governments.

SEC. 15. The Act entitled "An Act to regulate the height, area, and use of buildings in the District of Columbia and to create a Zoning Commission, and for other purposes", being the Act of March 1, 1920 (41 Stat. 500), excepting the provisions thereof creating the Zoning Commission, providing for its membership and service without additional compensation, is hereby repealed. All laws or parts of other laws in conflict with the provisions of this Act are hereby repealed.

SEC. 16. The provisions of this Act shall not apply to Federal public buildings: *Provided, however*, That, in order to insure the orderly development of the National Capital, the location, height, bulk, number of stories, and size of Federal public buildings in the District of Columbia and the provision for open space in and around the same will be subject to the approval of the National Capital Park and Planning Commission.

SEC. 17. If any provision contained in this Act be declared invalid, such invalidity shall not be deemed to affect or impair the validity of the remainder or of any other part of this Act.

Approved, June 20, 1938.

[CHAPTER 535]

AN ACT

Authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

June 20, 1938
[H. R. 10298]
[Public, No. 635]

Rivers and harbors,
improvements.
Work authorized.

Federal investiga-
tions and improve-
ments, jurisdiction
and prosecution by
War Department.

Wildlife conserva-
tion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following works of improvement of rivers, harbors, and other waterways are hereby adopted and authorized, to be prosecuted under the direction of the Secretary of War and supervision of the Chief of Engineers, in accordance with the plans recommended in the respective reports hereinafter designated and subject to the conditions set forth in such documents; and that hereafter Federal investigations and improvements of rivers, harbors, and other waterways shall be under the jurisdiction of and shall be prosecuted by the War Department under the direction of the Secretary of War and the supervision of the Chief of Engineers, except as otherwise specifically provided by Act of Congress, which said investigations and improvements shall include a due regard for wildlife conservation: