

Legislation Text

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Authorizing the Council President to initiate appeals by City Council of decisions of the Zoning Board of Adjustment in certain circumstances and to retain legal counsel in connection with such appeals.

WHEREAS, The Philadelphia Zoning Board of Adjustment (“ZBA”) has jurisdiction over a variety of matters arising under Title 14 of The Philadelphia Code (the “Zoning Code”); and

WHEREAS, Decisions of the ZBA directly affect the legislative policy of Council as expressed in the Zoning Code and in other duly enacted ordinances and resolutions; and

WHEREAS, Section 17.1 of the First Class City Home Rule Act provides: “In addition to any aggrieved person, the governing body vested with legislative powers under any charter adopted pursuant to this act shall have standing to appeal any decision of a zoning hearing board or other board or commission created to regulate development within the City”; and

WHEREAS, Philadelphia Code Section 14-303(15(b)(.1) provides: “A final decision made by the Zoning Board or the Commission pursuant to this Zoning Code may be appealed to a Pennsylvania Court of Common Pleas by any aggrieved party or by City Council...within 30 days of the decision or such other time as may be provided by law”; and

WHEREAS, In the ordinary course, if the ZBA issues a ruling that Council believes is contrary to the legislative policy of Council and is wrongly decided, Council will pass a resolution authorizing the filing of an appeal of that decision; and

WHEREAS, There may be times, including when Council is not meeting regularly, when it would be impracticable for Council to pass a resolution to authorize an appeal of a specific ZBA decision prior to expiration of the deadline for filing such an appeal; and

WHEREAS, It is the intention of Council to preserve Council’s ability to exercise its rights under Section 17.1 of the First Class City Home Rule Act and Philadelphia Code Section 14-303(15(b)(.1), even in said circumstances; and

WHEREAS, Section 2-105 of the Philadelphia Home Rule Charter provides that “[i]n the event the Law Department declines to advise or render legal services to the Council in any matter . . . the Council may employ and fix the compensation of counsel of its own selection to handle such matter”; now, therefore, be it

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That, if circumstances do not permit the passage of a resolution authorizing an appeal of a decision by the ZBA prior to expiration of the deadline for filing such appeal, if the Council President, after consultation with the Councilmember representing the district most directly affected by the decision, believes that the decision is contrary to the legislative policy of City Council and wrongly decided, the Council President, or such Councilmember designated by the Council President, may request the City Solicitor to file such appeal on behalf of and in the name of City Council and to

engage in any related litigation as may be necessary.

FURTHER RESOLVED, That, if the City Solicitor declines to provide representation for such a matter as described above, the Council President, or a Councilmember designated by the Council President, shall have full authority to seek and retain legal counsel to file an appeal of the decision of the ZBA and to engage in any related litigation as may be necessary on behalf of and in the name of City Council.