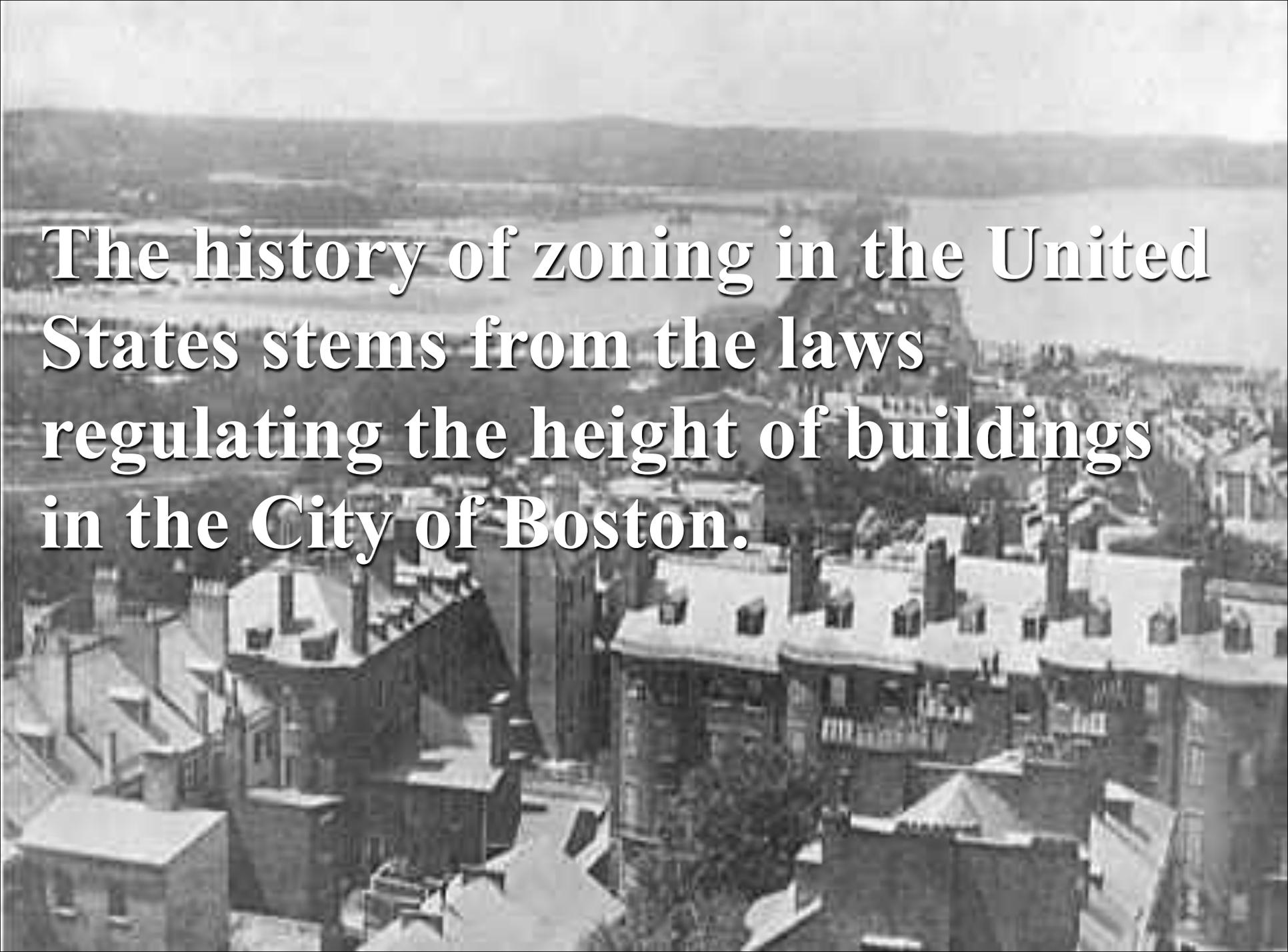
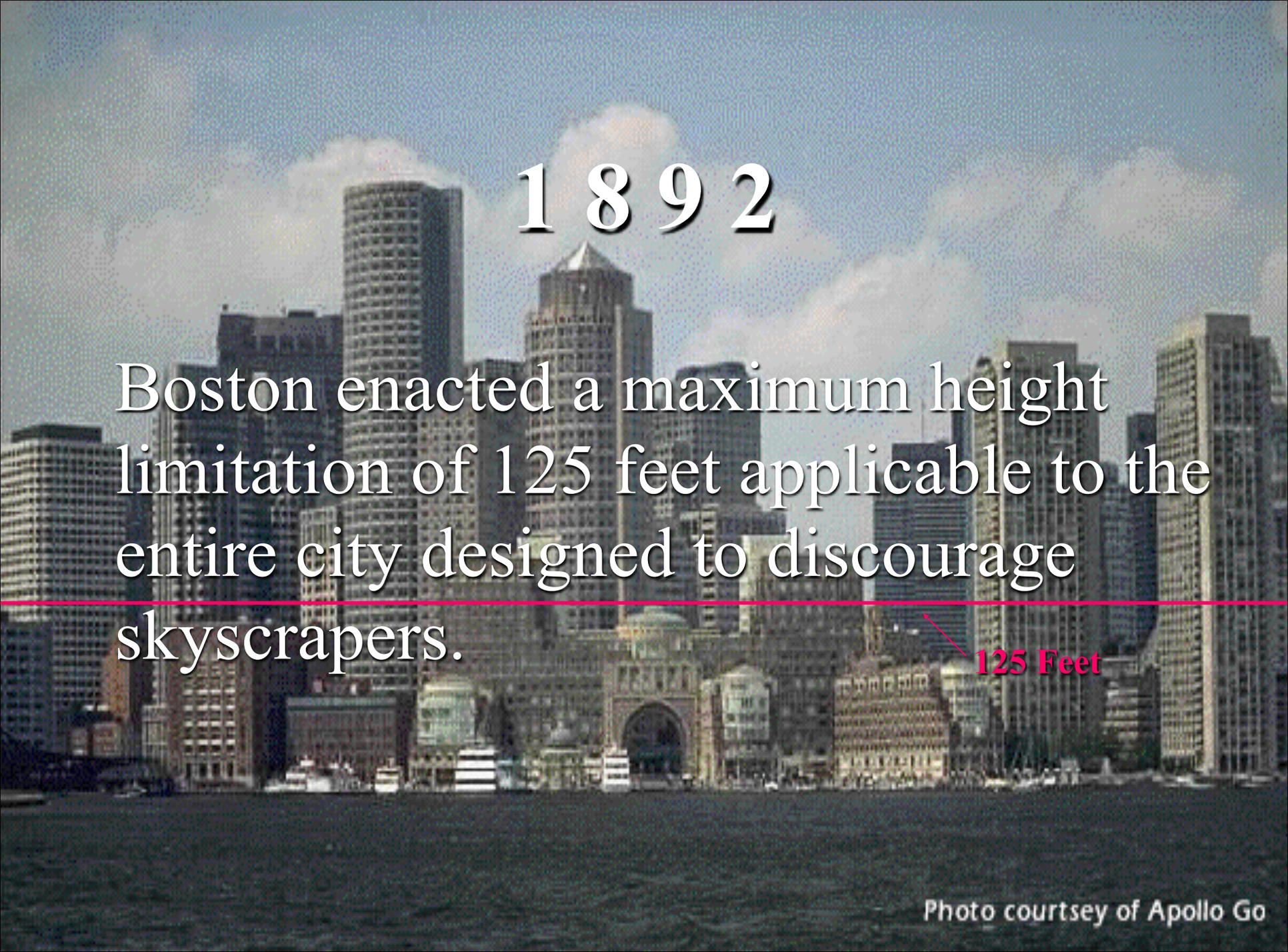
A photograph of a street scene with historic buildings. In the background, a church steeple is visible against a blue sky. The buildings are multi-story and have a classic architectural style. The street is paved and there are some cars parked on the side. The overall tone is slightly dark and moody.

# Introduction to the Zoning Act

Citizen Planner  
Training Collaborative

An aerial, black and white photograph of a dense urban area, likely Boston, showing numerous multi-story buildings with varied rooflines and a body of water in the background. The text is overlaid on the image.

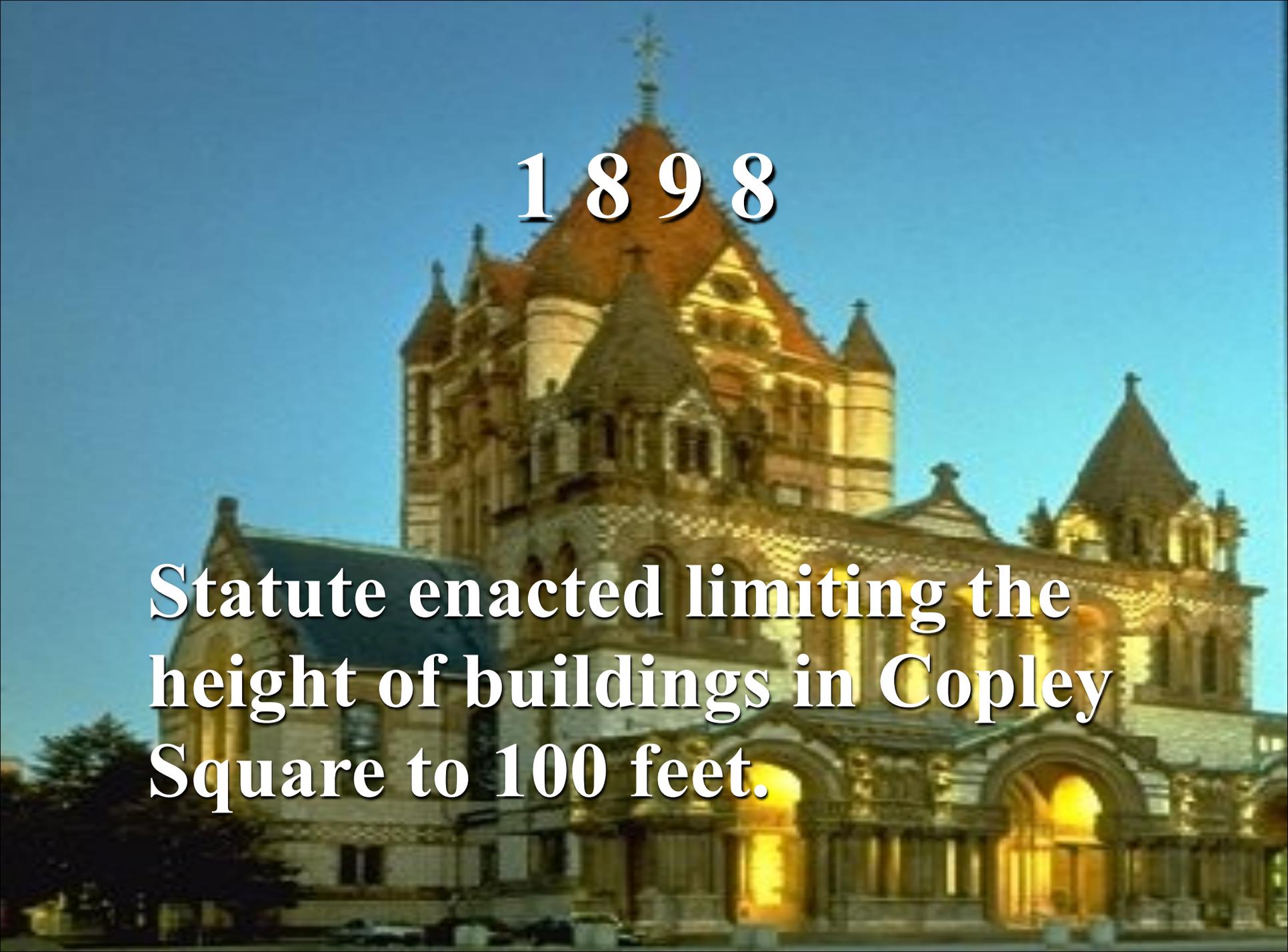
The history of zoning in the United States stems from the laws regulating the height of buildings in the City of Boston.

A photograph of the Boston skyline from across the water. A horizontal red line is drawn across the image at a height of 125 feet. The text '1892' is centered at the top. A large white text block is overlaid on the left side. A red arrow points from the text '125 Feet' to the red line.

1892

Boston enacted a maximum height limitation of 125 feet applicable to the entire city designed to discourage skyscrapers.

125 Feet



1898

Statute enacted limiting the height of buildings in Copley Square to 100 feet.



1899

**Statute enacted limiting height of buildings around the State House and Beacon Hill to 100 feet.**



1904

Boston enacts different height regulations for buildings

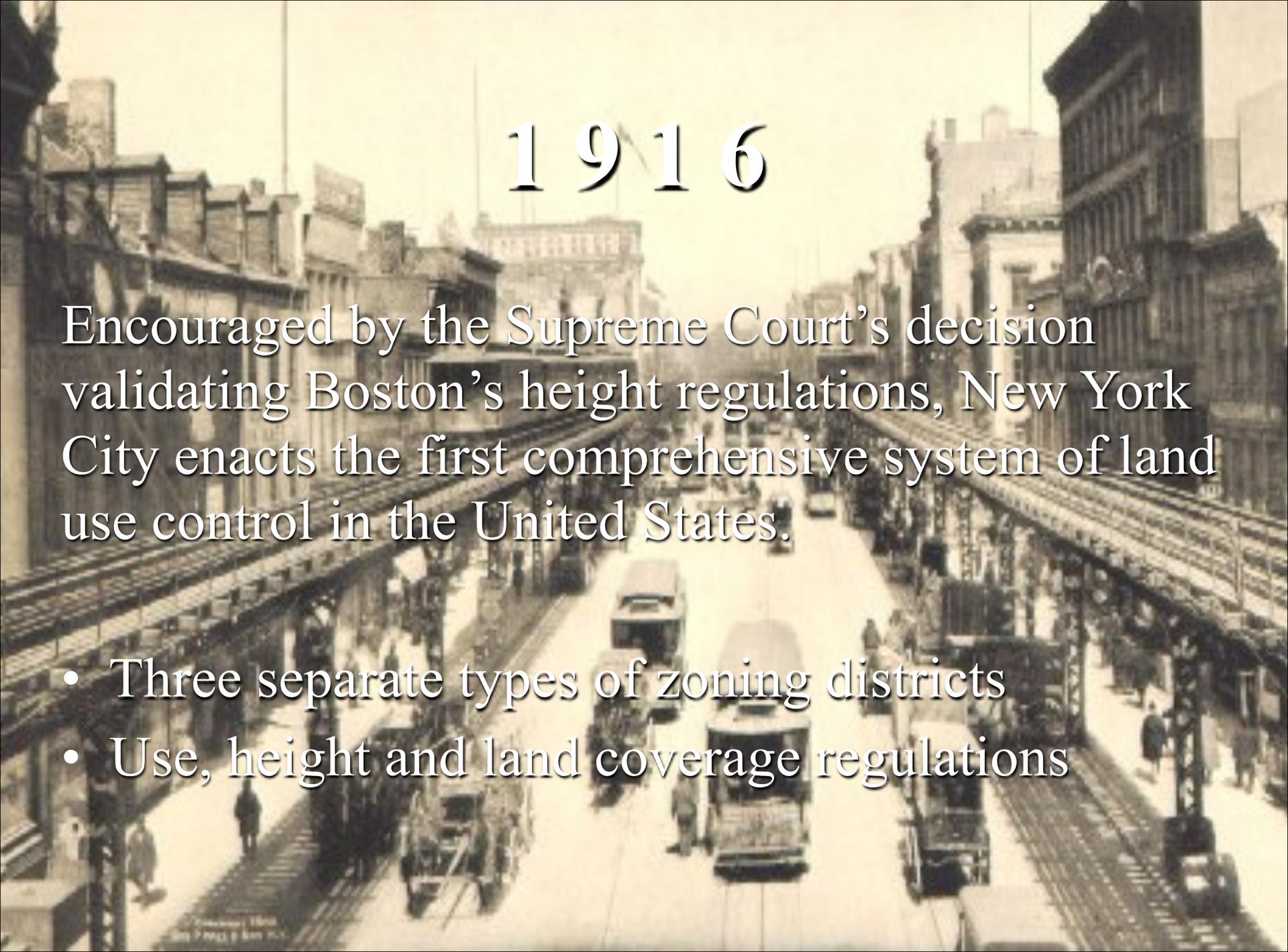
Residential Buildings – 80 feet

Commercial Buildings – 125 feet

The image shows the exterior of the United States Supreme Court building, a neoclassical structure with a prominent portico supported by tall columns. The building is set against a clear blue sky. In the foreground, there are white stone steps leading up to the entrance, flanked by decorative balustrades. The overall scene is brightly lit, suggesting a sunny day.

1909

The United States Supreme  
Court upholds Boston's height  
regulations

A historical black and white photograph of a city street, likely New York City, showing elevated tracks on both sides and vintage cars on the road. The year '1916' is overlaid in large white text at the top center.

# 1916

Encouraged by the Supreme Court's decision validating Boston's height regulations, New York City enacts the first comprehensive system of land use control in the United States.

- Three separate types of zoning districts
- Use, height and land coverage regulations



1920

Massachusetts enacts first  
Zoning Enabling Act

1924

Special Act for Boston

# 1921

Herbert Hoover,  
United States  
Secretary of  
Commerce  
appoints Zoning  
Advisory  
Committee





**1 9 2 6**

**Standard State Zoning Enabling Act**

**This model was the basis for zoning statutes in many states.**

**1 9 3 3**

Massachusetts enacts the Standard State Zoning Enabling Act

**1 9 5 4**

Statute was extensively revised and became a separate chapter of Massachusetts General Laws; Chapter 40A

**1 9 7 5**

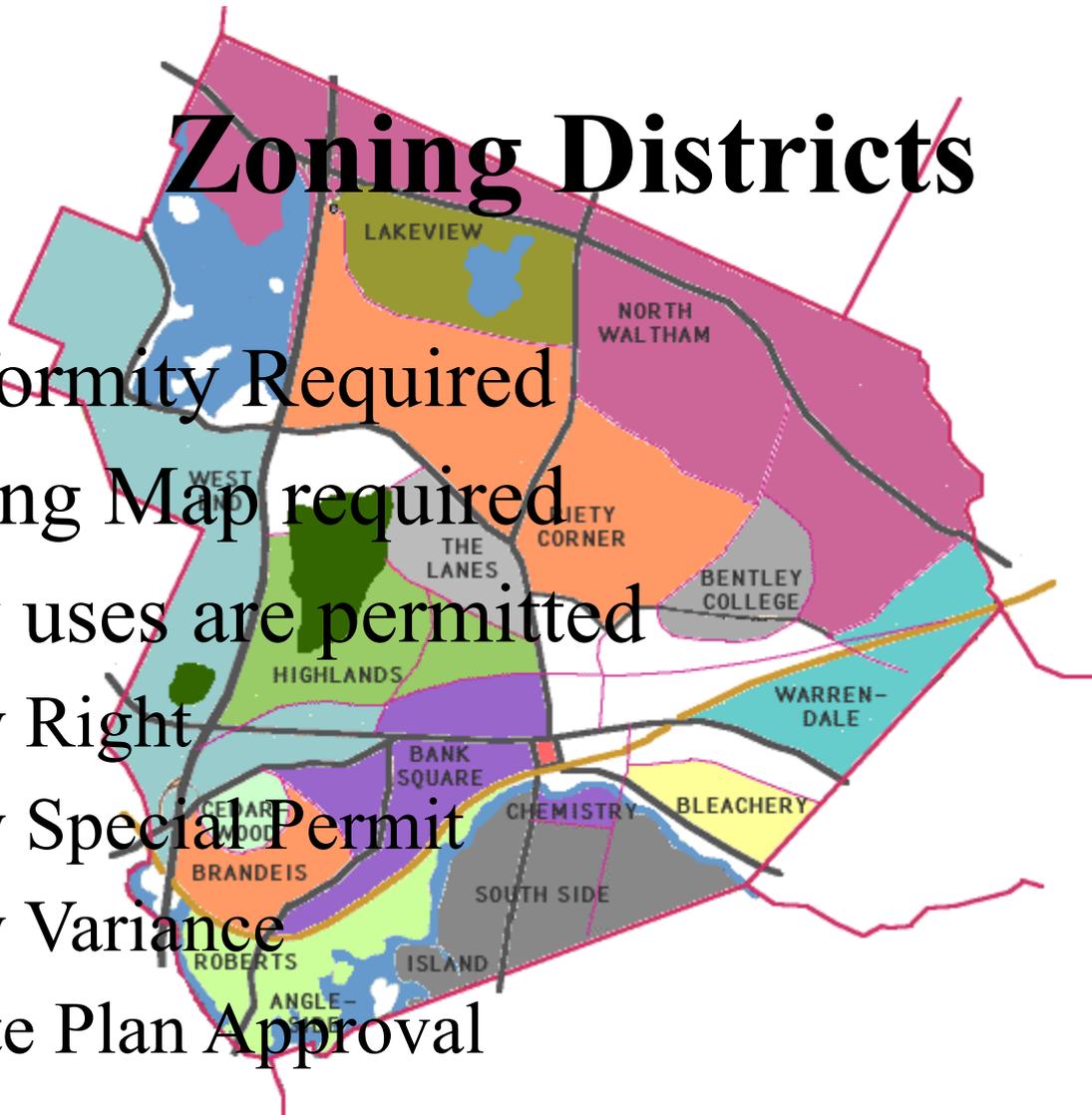
Chapter 808 Acts of 1975

# Purposes of Chapter 808

1. Encourage the adoption and modernization of municipal zoning laws
2. Establish standardized procedures for administration and promulgation of municipal zoning laws
3. Section 2A lists the objectives of The Zoning Act

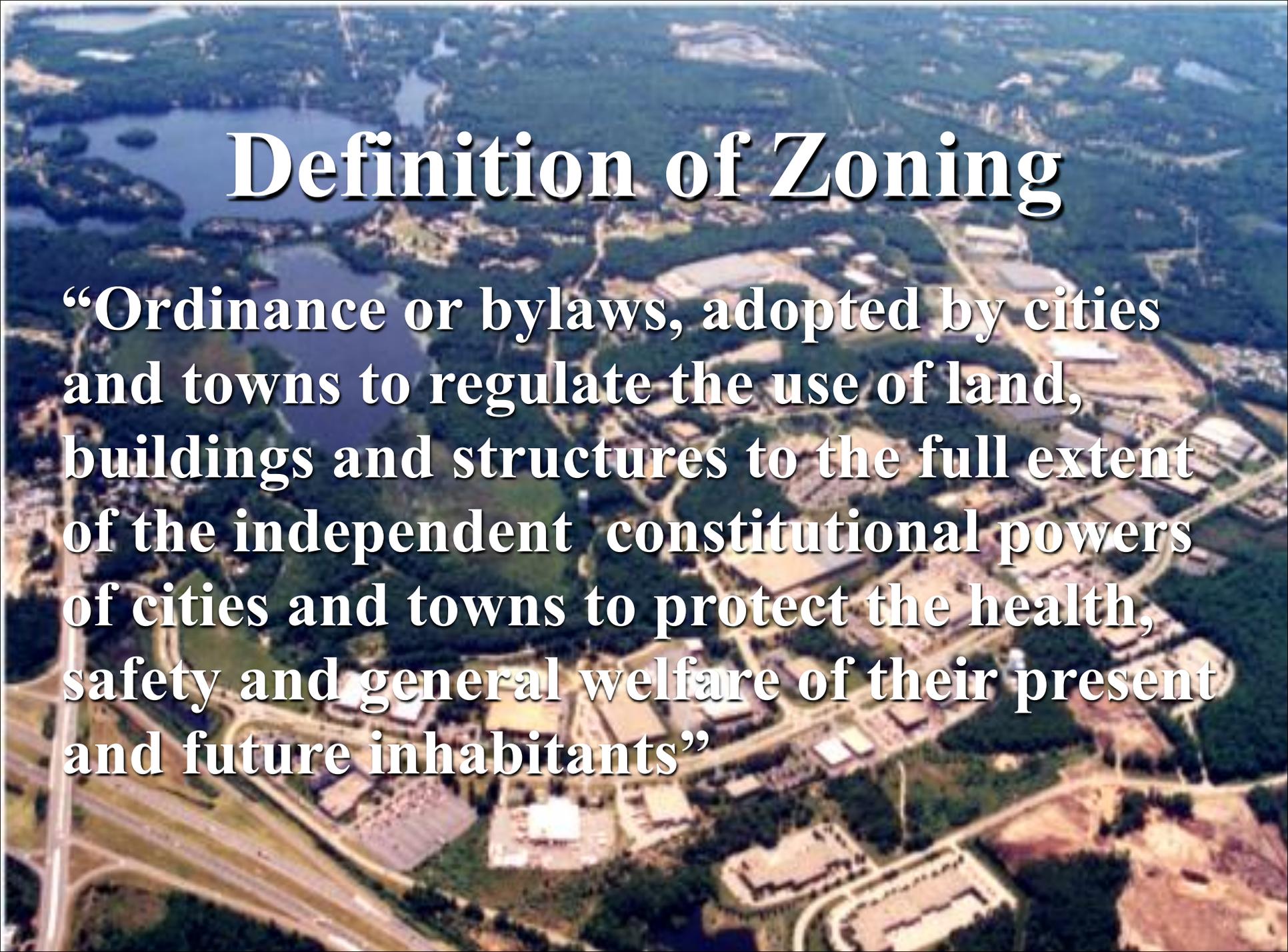
# Zoning Districts

- Uniformity Required
- Zoning Map required
- How uses are permitted
  - By Right
  - By Special Permit
  - By Variance
  - Site Plan Approval



# Definitions

- Permit Granting Authority
  - ZBA or Zoning Administrator
- Special Permit Granting Authority
  - Must be one of the boards specified
- Zoning Administrator
  - Zoning Administrator is not the Zoning Enforcement Officer
  - Zoning Administrator may assume some ZBA functions

An aerial photograph of a suburban town. The image shows a mix of residential buildings, roads, and green spaces. A large body of water, possibly a lake or reservoir, is visible in the upper left quadrant. The overall scene is a typical suburban development with a mix of housing and infrastructure.

# Definition of Zoning

**“Ordinance or bylaws, adopted by cities and towns to regulate the use of land, buildings and structures to the full extent of the independent constitutional powers of cities and towns to protect the health, safety and general welfare of their present and future inhabitants”**

# Zoning Board of Appeals

- Establishment
  - Three to five members
  - Board annually elects chairman and clerk
  - Vacancies



# Zoning Board of Appeals

- Associate Members
  - Establishment by bylaw
  - Role of associate member

# Zoning Board of Appeals

- Rules and Regulations
  - Adoption and content
    - Review Fees
    - Special account for outside consultants; mgl, c.44, s. 53G
- Filing with municipal clerk

# Powers of the Board of Appeals

- Section 8 – To hear Appeals
- Section 9 – To hear requests for Special Permits
- Section 10 – To hear requests for Variances
- Section 13 – To hear appeals from decisions of the Zoning Administrator
- To hear requests for Comprehensive Permits

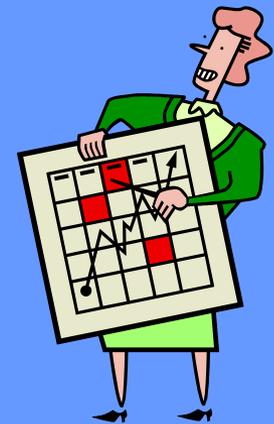
# Variations

What is a Variation?

- Legislative History
- Variation v. Special Permit

# Variances

## Statutory Criteria for Granting a Variance



# Variances

Use Variance v. Dimensional Variance

- Bylaw must expressly authorize use variances

# Variances

## Conditioning Variances

- Cannot be conditioned on ownership

# Special Permits

- Special Use Permits
- Dimensional Special Permits
- Standards for Granting Special Permits

# Special Permits

Associate Members when the Planning Board is the SPGA

- Establishment by bylaw
- Number of Associate Members
- Role of an Associate Member

# Special Permits

## Rules and Regulations

- Adoption and Content
- Filing with the Municipal Clerk

# Quorum

- Definition
- Voting without attending the public hearing
  - Continued public hearing

# Voting Requirements

- Special Permit Granting Authorities
  - 3 of a 3-Member Board
  - 4 of a 5-Member Board
  - 2/3 of a Board of more than 5



# Voting Requirements

- Zoning Board of Appeals
  - 3 of a 3-Member Board
  - 4 of 5-Member Board

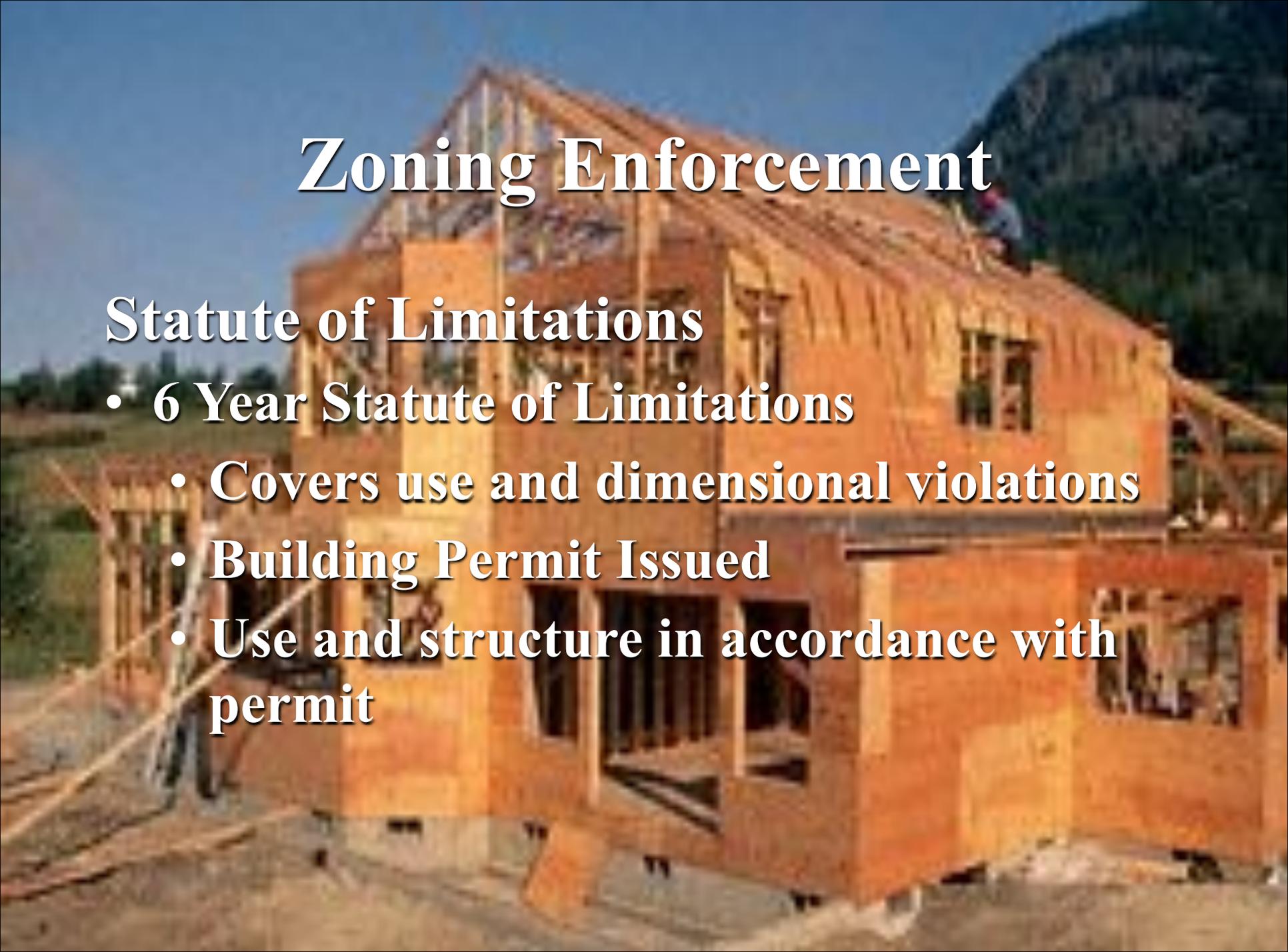


# Zoning Enforcement

## Requests for Enforcement

- Who can request enforcement
- Request must be in writing
- 14 day requirement to respond

# Zoning Enforcement



## Statute of Limitations

- **6 Year Statute of Limitations**
  - **Covers use and dimensional violations**
  - **Building Permit Issued**
  - **Use and structure in accordance with permit**

# Zoning Enforcement

- 10 Year Statute of Limitations
  - Only covers dimensional violations



# Adoption & Amendment of Zoning Bylaws

- Initiation
- Submission to the Planning Board
- Public Hearing
- Public Hearing Notice
  - Posting Requirement
  - Who receives notice by mail
  - Waiver of notice
  - Contents of notice



# Adoption & Amendment of Zoning Bylaws

- Planning Board Report
- Vote
- Unfavorable Action
- Attorney General Approval

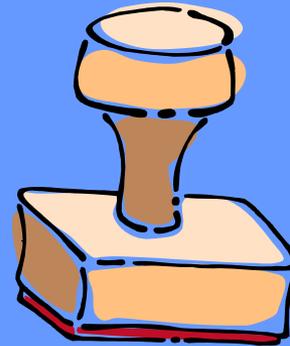


# Special Permit Process

- Filing
- Withdrawal of Application
- Public Hearing Requirements
- Decision
- Recording and Lapse

# Variance and Appeals Process

- Filing
- Public Hearing
- Decision
- Recording and Lapse of a Variance
- Extending Lapse Provision



# Constructive Grant Process

## Special Permits

- Failure to take action within 90 day time period
- Petitioner must inform municipal clerk within 14 days after 90 day period
- Petitioner must inform clerk that parties in interest have been notified of constructive grant and rights of appeal
- If no appeal, clerk certifies constructive approval
- Special Permit application and certification must be recorded

# Constructive Grant Process

## Variations and Appeals

- Failure to make decision within 100 day period results in constructive grant
- Remainder of process is the same as special permit
- Variance petition and certification must be recorded
- Appeal does not have to be recorded

# Repetitive Petitions

## Reapplications

- Unfavorably and finally acted upon
- 2 year prohibition



# Repetitive Petitions

## Process

- Planning Board Consent
  - Notice to parties in interest
  - All but one member of the board must vote in favor
  - What does board consider?

# Repetitive Petitions

## Review Board

- Hears in same manner as original petition
- Public hearing notice requirements
- Required findings
- Voting requirements

# Public Hearing Requirements

- Purpose
- Notice Requirements
  - Publication in newspaper
    - Two successive weeks
  - Posting Requirement
  - Contents of Public Hearing Notice



# Public Hearing Requirements

## Parties In Interest

- Who are parties in interest
- Notice to parties in interest
- Role of Assessors
- Waiver of notice



# Public Hearing Requirements

## Conducting the Public Hearing

- Cannot hold hearing on same day as state or municipal caucus or primary
- Do not close until all information presented
- How board can continue a public hearing
  - Continue to a date certain
  - No new notice required

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