

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

429R0028

## HOUSE BILL NO. 1196

Introduced by: Representatives Feickert, Cronin, and Kirkeby and Senators Maher and Bradford

1 FOR AN ACT ENTITLED, An Act to establish a certain distance from the municipality's  
2 corporate limits in which the municipality has planning and zoning authority.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 11-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Each municipality may exercise planning and zoning authority pursuant to Title 11, but  
7 within a certain distance from its corporate limits as established by this section. The distances  
8 are:

9 (1) Each first class municipality may have planning and zoning authority within three  
10 miles of its corporate limits;

11 (2) Each second class municipality may have planning and zoning authority within one  
12 mile of its corporate limits; and

13 (3) Each third class municipality may have planning and zoning authority within one-half  
14 mile of its corporate limits.

15 Section 2. That § 11-6-10 be amended to read as follows:



1 11-6-10. The legislative body of an incorporated municipality and a board of county  
2 commissioners may jointly exercise the comprehensive planning and zoning powers granted in  
3 this chapter and chapters 11-2 and 11-4 in a joint jurisdictional area beyond the municipal  
4 corporate limits. The joint jurisdictional area, not to exceed ~~six miles~~ the combined distance for  
5 the municipalities as defined in section 1 of this Act, shall be delineated in a comprehensive  
6 plan but in no instance may the area extend beyond a line equidistant from the corporate limits  
7 of any other municipality unless otherwise agreed to by a majority vote of the governing body  
8 of each municipality having a planning commission. Nothing contained in this chapter may be  
9 construed to amend or repeal any provisions of chapter 49-34A.

10 The county and city planning commissions shall meet jointly and hold at least one public  
11 hearing on the comprehensive plan. Notice of the time and place of the hearing shall be given  
12 once by either the city or county at least ten days in advance by publication in a legal newspaper.  
13 Following the public hearing, each planning commission shall submit a recommendation to their  
14 respective governing body.

15 Section 3. That § 11-6-26 be amended to read as follows:

16 11-6-26. After the city council of any municipality has adopted a comprehensive plan that  
17 includes at least a major street plan or has progressed in its comprehensive planning to the stage  
18 of making and adopting a major street plan, and has filed a certified copy of the major street  
19 plan in the office of the register of deeds of the county in which the municipality is located, no  
20 plat of a subdivision of land lying within the municipality, or of land within ~~three miles of its~~  
21 ~~corporate limits~~ the distance of the municipality's corporate limits as defined in section 1 of this  
22 Act and not located in any other municipality, may be filed or recorded unless the plat has the  
23 recommendation of the city planning and zoning commission and the approval of the city  
24 council. As an alternative, the plat may be reviewed and approved in accordance with § 11-3-6.

1 This provision applies to land within ~~three miles of the corporate limits of the municipality~~ the  
2 distance of the municipality's corporate limits as defined in section 1 of this Act and not located  
3 in any other municipality only if the comprehensive plan or major street plan includes such land.  
4 However, if such extra municipal land lies within ~~three miles~~ the planning and zoning authority  
5 of more than one first or second class municipality, the jurisdiction of each municipality  
6 terminates at a boundary line equidistant from the respective corporate limits of the  
7 municipalities, unless otherwise agreed to by a majority vote of the governing body of each such  
8 municipality. The plats shall, after report and recommendations of the commission are made and  
9 filed, be approved or disapproved by the city council or reviewed and approved in accordance  
10 with § 11-3-6. The commission shall make its recommendation to the council within sixty days  
11 of submission.

12 Section 4. That § 11-6-40 be amended to read as follows:

13 11-6-40. Any municipality with a population of fifty thousand or more or any municipality  
14 located in a county with a population of fifty thousand or more, if such municipality has adopted  
15 a comprehensive plan pursuant to this chapter, the municipality may require by ordinance that  
16 any parcel of land of less than forty acres which is located within ~~three miles of its corporate~~  
17 ~~limits~~ the distance of the municipality's corporate limits as defined in section 1 of this Act, be  
18 platted prior to the sale or transfer of the land. The register of deeds may not record any  
19 document of any sale or transfer of unplatted property if a municipality requires platting  
20 pursuant to this section.

21 Section 5. That § 11-8-1 be amended to read as follows:

22 11-8-1. Terms as used in this chapter mean:

- 23 (1) "Agency" or "Urban Renewal Agency," a public agency created by § 11-8-40;
- 24 (2) "Area of operation," the area within the corporate limits of the municipality and the

1 area within ~~three miles of such limits~~ the distance of the municipality's corporate  
2 limits as defined in section 1 of this Act, except that the term does not include any  
3 area which lies within the territorial boundaries of another municipality unless a  
4 resolution has been adopted by the governing body of ~~such~~ the other municipality  
5 declaring a need therefor;

6 (3) "Board" or "commission," a board, commission, department, division, office, body,  
7 or other unit of the municipality;

8 (4) "Bonds," any bonds, including refunding bonds, notes, interim certificates,  
9 certificates of indebtedness, debentures, or other obligations;

10 (5) "Clerk," the clerk or other official of the municipality who is the custodian of the  
11 official records of such municipality;

12 (6) "Federal government," includes the United States of America or any agency or  
13 instrumentality, corporate or otherwise, of the United States of America;

14 (7) "Housing and redevelopment cooperation," as stated in chapter 11-7A;

15 (8) "Local governing body," the council or other legislative body charged with governing  
16 the municipality;

17 (9) "Mayor," the mayor of a municipality or other officer or body having the duties  
18 customarily imposed upon the executive head of a municipality;

19 (10) "Municipality," any incorporated city or town in the state;

20 (11) "Obligee," includes any bondholder, agents or trustees for any bondholders, or lessor  
21 demising to the municipality property used in connection with urban renewal, or any  
22 assignee of such lessor's interest or any part thereof, and the federal government if  
23 it is a party to any contract with the municipality;

24 (12) "Person," any individual, firm, partnership, limited liability company, corporation,

- 1 company, association, joint-stock association, or body politic; and includes any  
2 trustee, receiver, assignee, or other person acting in a similar representative capacity;
- 3 (13) "Public body," the state or any municipality, township, village, board, commission,  
4 authority, district, or any other subdivision or public body of the state;
- 5 (14) "Public officer," any officer who is in charge of any department or branch of the  
6 government of the municipality relating to health, fire, building regulations, or to  
7 other activities concerning dwellings in the municipality;
- 8 (15) "Real property," includes all lands, including improvements and fixtures thereon, and  
9 property of any nature appurtenant thereto, or used in connection therewith, and every  
10 estate, interest, right and use, legal or equitable, therein, including terms for years and  
11 liens by way of judgment, mortgage or otherwise;
- 12 (16) "Related activities," planning work for the preparation of a general neighborhood  
13 renewal plan, or for the preparation or completion of a community-wide plan or  
14 program, and the functions related to the acquisition and disposal of real property  
15 pursuant to § 11-8-25.