



2023 South Dakota Legislature

House Bill 1029

Introduced by: The Committee on Agriculture and Natural Resources at the request of the Department of Agriculture and Natural Resources

1 **An Act to revise certain provisions regarding the county zoning and appeals process.**

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

3 **Section 1. That § 11-2-17.3 be AMENDED:**

4 **11-2-17.3.** A county zoning ordinance adopted under this chapter that authorizes
 5 a conditional use of real property shall specify the approving authority, each category of
 6 conditional use requiring approval, the zoning districts in which a conditional use is
 7 available, the criteria for evaluating each conditional use, and any procedures for certifying
 8 approval of certain conditional uses. The approving authority shall consider the stated
 9 criteria, the objectives of the comprehensive plan, and the purpose of the zoning ordinance
 10 and the relevant zoning districts when making a decision to approve or disapprove a
 11 conditional use request. Approval of a conditional use request requires the affirmative
 12 majority vote of the members of the approving authority who are present and voting.

13 **Section 2. That § 11-2-17.5 be AMENDED:**

14 **11-2-17.5.** A zoning ordinance adopted under this chapter may also establish a
 15 process for certification of ~~certain~~ special permitted uses upon meeting specified criteria
 16 for ~~that the~~ use. A use certified as a special permitted use under the zoning ordinance
 17 shall be approved if the applicant demonstrates that all specified criteria are met.

18 **Section 3. That § 11-2-65.1 be AMENDED:**

19 **11-2-65.1.** ~~Any special permitted use, conditional use, or variance granted under~~
 20 ~~this chapter does not expire for a period of two years following completion of any final~~
 21 ~~appeal of the decision.~~ Any county zoning ordinance provision setting a time limit for
 22 commencement or completion of a special permitted use, conditional use, or variance
 23 granted under this chapter is tolled to allow commencement within a period of two years

1 following completion of any final appeal of the county zoning decision. Any county zoning
2 ordinance provision to the contrary is invalid or unenforceable and the special permitted
3 use, conditional use, or variance shall be allowed if actual construction as approved is
4 commenced within this period and any provision addressing timely completion shall
5 commence only upon such actual construction. The authority constitutes a lawful use, lot,
6 or occupancy of land or premises existing at the time of the adoption of a zoning ordinance
7 amendment or replacement within this period or while an appeal is pending regardless of
8 the commencement of actual construction, so that the approved use shall be allowed if
9 upheld on final appeal.

10 For purposes of this section, the term, actual construction, means that construction
11 materials are being permanently placed and the construction work is proceeding without
12 undue delay.