

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

327Z0829

## HOUSE BILL NO. 1247

Introduced by: Representatives Frye-Mueller, Campbell, DiSanto, Goodwin, Howard, Marty,  
and May and Senators Russell, Monroe, and Nelson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding county zoning and  
2 planning.

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

4 Section 1. That § 11-2-26 be amended to read:

5 11-2-26. Any lawful use, lot, or occupancy of land or premises existing at the time of the  
6 adoption of the zoning ordinance may be continued; ~~even though the use, lot, or occupation does~~  
7 ~~not conform to the provisions of the ordinance. However, if the nonconforming use, lot, or~~  
8 ~~occupancy is discontinued for a period of more than one year, any subsequent use, lot, or~~  
9 ~~occupancy of the land or premises shall conform with the zoning ordinance unless:~~

10 (1) There is clear and convincing evidence that the non-municipal residents of a county  
11 are confronted with an imminent threat to either their health or safety, or both;

12 (2) The existence of an imminent threat as required by subdivision (1) is plainly  
13 specified; and

14 (3) At least two-thirds of the county commissioners vote to discontinue any specific  
15 lawful use or occupancy of land or premises existing at the time of the adoption of



1           the zoning ordinance or amendments to the ordinance.

2           Section 2. That § 11-2-27 be repealed.

3           ~~11-2-27. The board may by resolution as provided in § 11-2-25 prescribe such regulations~~  
4           ~~not contrary to law or § 11-2-26, as it deems desirable or necessary to regulate and control, or~~  
5           ~~reduce the number or extent of or bring about the gradual elimination of nonconforming uses,~~  
6           ~~lots, or occupancies. However, in accordance with the provisions of § 11-2-26, any lawful use,~~  
7           ~~lot, or occupancy of land or premises existing at the time of the adoption of the zoning~~  
8           ~~ordinance may be continued, even though the use, lot, or occupancy does not conform to the~~  
9           ~~provisions of the zoning ordinance. If the use, lot, or occupancy is discontinued for more than~~  
10           ~~one year, the board may adopt, after notice by registered or certified mail to the property owners,~~  
11           ~~an amortization schedule to bring about the gradual elimination of the nonconforming use, lot,~~  
12           ~~or occupancy.~~

13           Section 3. That § 11-6-39 be amended to read:

14           11-6-39. The Any lawful use or occupancy of land or premises existing at the time of the  
15           adoption of the zoning ordinance ~~may be continued, even though the use, lot, or occupancy does~~  
16           ~~not conform to the provisions of the zoning ordinance. If the nonconforming use is discontinued~~  
17           ~~for a period of more than one year, any subsequent use, lot, or occupancy of the land or premises~~  
18           ~~shall be in conformance with such regulation or amendments shall be continued, unless:~~

19           (1) There is clear and convincing evidence that the residents of the municipality are  
20           confronted with an imminent threat to either their health or safety, or both;

21           (2) The existence of an imminent threat as required by subdivision (1) is plainly  
22           specified; and

23           (3) At least two-thirds of the governing body of the municipality elect vote to  
24           discontinue any specific lawful use or occupancy of land or premises existing at the

1 time of adoption of the zoning ordinance or amendments thereto.