



2023 South Dakota Legislature
House Bill 1029
ENROLLED

AN ACT

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

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

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

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

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

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

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

11-2-65.1. Any county zoning ordinance provision setting a time limit for commencement or completion of a special permitted use, conditional use, or variance granted under this chapter is tolled to allow commencement within a period of two years following completion of any final appeal of the county zoning decision. Any county zoning ordinance provision to the contrary is invalid or unenforceable and the special permitted

use, conditional use, or variance shall be allowed if actual construction as approved is commenced within this period and any provision addressing timely completion shall commence only upon such actual construction. The authority constitutes a lawful use, lot, or occupancy of land or premises existing at the time of the adoption of a zoning ordinance amendment or replacement within this period or while an appeal is pending regardless of the commencement of actual construction, so that the approved use shall be allowed if upheld on final appeal.

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

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I certify that the attached Act originated in
the:
House as Bill No. 1029

Received at this Executive Office
this ____ day of _____,
2023 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this ____ day of
_____, A.D., 2023

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2023
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1029
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State