

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

951Y0494

HOUSE LOCAL GOVERNMENT

ENGROSSED NO. **HB 1187** - 2/16/2017

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Kettwig, Chase, Johns, Lake, Mickelson, Otten (Herman), Peterson (Kent), Qualm, Reed, Rhoden, Rozum, Tieszen, Tulson, and Turbiville and Senators Youngberg, Cronin, Curd, Klumb, Kolbeck, Maher, Novstrup, Otten (Ernie), and Partridge

1 FOR AN ACT ENTITLED, An Act to revise the process by which courts consider appeals of
2 decisions regarding conditional use requests.

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

4 Section 1. That chapter 11-2 be amended by adding a NEW SECTION to read:

5 Any appeal of a decision relating to the grant or denial of a conditional use permit shall be
6 brought under a petition, duly verified, for a writ of certiorari directed to the approving authority
7 and, notwithstanding any provision of law to the contrary, shall be determined under a writ of
8 certiorari standard regardless of the form of the approving authority. The court shall give
9 deference to the decision of the approving authority in interpreting its ordinances.

10 Section 2. That chapter 11-4 be amended by adding a NEW SECTION to read:

11 Any appeal of a decision relating to the grant or denial of a conditional use permit shall be
12 brought under a petition, duly verified, for a writ of certiorari directed to the approving authority
13 and, notwithstanding any provision of law to the contrary, shall be determined under a writ of



1 certiorari standard regardless of the form of the approving authority. The court shall give
2 deference to the decision of the approving authority in interpreting its ordinances.

3 Section 3. That § 7-8-30 be amended to read:

4 7-8-30. ~~Such~~ An appeal and transcript, if one exists, shall be filed by the auditor ~~by the first~~
5 ~~day of the next term of circuit court, as soon as practicable~~ and shall stand for trial ~~at such term~~
6 as soon as possible.

7 ~~All appeals thus~~ Each appeal taken to the circuit court shall be docketed as other causes
8 pending ~~therein and the same~~ in circuit court. Each cause shall be heard and determined de
9 novo, except any appeal relating to a conditional use permit determination. An appeal relating
10 to a conditional use permit determination shall be heard and determined pursuant to section 1
11 of this Act.

12 Section 4. That chapter 9-1 be amended by adding a NEW SECTION to read:

13 An appeal and transcript, if one exists, shall be filed by the finance officer as soon as
14 practicable and shall stand for trial as soon as possible.

15 Each appeal taken to the circuit court shall be docketed as other causes pending in circuit
16 court. Each cause shall be heard and determined de novo, except any appeal relating to a
17 conditional use permit determination. An appeal relating to a conditional use permit
18 determination shall be heard and determined pursuant to section 2 of this Act.