

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

366Z0714

## HOUSE BILL NO. 1292

Introduced by: Representatives Kettwig, Johns, Lust, and Reed and Senators Rusch and Cammack

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 the authority's 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  
14 certiorari standard regardless of the form of the approving authority. The court shall give  
15 deference to the decision of the approving authority in interpreting the authority's ordinances.



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

2 7-8-30. ~~Such~~ An appeal and transcript, if a transcript exists, shall be filed by the auditor ~~by~~  
3 ~~the first day of the next term of circuit court~~, as soon as practicable and shall stand for trial at  
4 ~~such term~~ as soon as possible.

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

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

11 An appeal and transcript, if a transcript exists, shall be filed by the finance officer as soon  
12 as practicable and shall stand for trial as soon as possible.

13 Each appeal taken to the circuit court shall be docketed as other causes pending in circuit  
14 court. An appeal relating to a conditional use permit determination shall be heard and  
15 determined pursuant to section 2 of this Act.