

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

276C0422

## HOUSE BILL NO. 1141

Introduced by: Representatives McNenny, Brown (Jarvis), Burg, Chicoine, Duenwald, Juhnke, Klaudt, Koehn, Koskan, McCoy, Napoli, and Pummel and Senators Kleven, Benson, Bogue, Frederick, Lange, and Vitter

1 FOR AN ACT ENTITLED, An Act to establish a certain distance from a municipality's  
2 corporate limits in which the municipality has planning and zoning authority.

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

4 Section 1. Each municipality may exercise planning and zoning authority within a certain  
5 distance from its corporate limits. The distances are:

6 (1) Each municipality with a population of twenty thousand or more over shall have  
7 planning and zoning authority within three miles of the corporate limits;

8 (2) Each municipality with a population of ten thousand or more but less twenty thousand  
9 shall have planning and zoning authority within two and one-half miles of the  
10 corporate limits;

11 (3) Each municipality with a population of five thousand or more but less than ten  
12 thousand shall have planning and zoning authority within two miles of the corporate  
13 limits;

14 (4) Each municipality with a population of five hundred or more but less five thousand  
15 shall have planning and zoning authority within one mile of the corporate limits; and

16 (5) Each municipality with a population less than five hundred shall have planning and

1 zoning authority within one-half mile of the corporate limits.

2 Section 2. That § 11-2-32 be amended to read as follows:

3 11-2-32. Nothing in this chapter ~~shall be construed to prevent or modify the powers of~~  
4 prevents an incorporated municipality, with a duly authorized planning commission, from  
5 exercising planning and zoning jurisdiction within the corporate limits and from exercising jointly  
6 with the county planning commission the planning and zoning authority within ~~three miles of the~~  
7 corporate limits, as provided in §§ 11-6-11 and 11-6-12, and in chapter 11-4.

8 Section 3. That § 11-6-4.2 be amended to read as follows:

9 11-6-4.2. Notwithstanding the provisions of §§ 11-6-10 to 11-6-12, inclusive, the city  
10 council and the board of county commissioners may by resolution adopted by a majority vote of  
11 the full membership of both governing bodies establish a joint planning and zoning commission  
12 to consider and make recommendations to the two governing bodies for zoning within the area  
13 ~~within three miles in all directions of the municipality's corporate limits~~ distance of the corporate  
14 limits defined in section 1 of this Act. The joint commission shall have such powers and follow  
15 such procedures as may be agreed to in the resolution creating the commission; ~~provided,~~  
16 ~~however, that such, if the~~ powers and procedures ~~shall be~~ are within the scope of powers and  
17 procedures provided in chapters 11-2, 11-4, and this chapter.

18 Section 4. That § 11-6-10 be amended to read as follows:

19 11-6-10. The legislative body of any incorporated municipality may exercise the  
20 comprehensive planning and zoning powers granted in this chapter and chapter 11-4 not only  
21 within its corporate limits, but also, subject to the provisions of § 11-6-12, within ~~three miles in~~  
22 ~~all directions of its corporate limits~~ the distance of the corporate limits defined in section 1 of this  
23 Act and not located in any other municipality; provided, that nothing contained in this chapter  
24 ~~shall~~ may be construed to amend or repeal any provisions of chapter 49-34A.

25 Section 5. That § 11-6-11 be amended to read as follows:

1 11-6-11. The legislative body of any incorporated municipality may exercise all zoning  
2 powers granted in chapter 11-4, in the zoning of all land not only within its corporate limits, but  
3 also, subject to the provisions of § 11-6-12, may zone all property within ~~three miles in all~~  
4 ~~directions of its corporate limits~~ the distance of the corporate limits defined in section 1 of this  
5 Act not located in any other municipality; ~~provided, however. However,~~ any ordinance intended  
6 to have application beyond the corporate limits of the municipality shall be expressly ~~so provide~~  
7 ~~stated~~ and ~~any such~~ the ordinance shall be adopted in accordance with the provisions of chapter  
8 11-4; ~~however, in. In~~ the case of ~~such extra municipal~~ land lying within ~~three miles~~ the corporate  
9 limits of more than one first or second class municipality having a planning commission, the  
10 jurisdiction of each municipality; ~~shall terminate~~ terminates at a boundary line equidistant from  
11 the respective corporate limits of ~~such municipalities~~ each municipality, unless otherwise agreed  
12 to by a majority vote of the governing body of each ~~such~~ municipality.

13 Section 6. That § 11-6-26 be amended to read as follows:

14 11-6-26. ~~From and after the time when~~ If the city council of any municipality ~~shall have~~ has  
15 adopted a comprehensive plan which includes at least a major street plan or ~~shall have~~ has  
16 progressed in its comprehensive planning to the stage of making and adoption of a major street  
17 plan; and ~~shall have~~ has filed a certified copy of ~~such~~ the major street plan in the office of the  
18 register of deeds of the county in which the municipality is located, no plat of a subdivision of  
19 land lying within the municipality, or of land within ~~three miles of its corporate limits~~ the distance  
20 of the corporate limits defined in section 1 of this Act and not located in any other municipality,  
21 ~~shall~~ may be filed or recorded until it ~~shall have~~ the plat has been submitted to and a report and  
22 recommendations ~~thereon~~ made by the planning and zoning commission to the city council and  
23 the council has approved the plat. This provision shall be applicable to land within ~~three miles~~  
24 ~~of the corporate limits~~ the planning and zoning authority of the municipality and not located in  
25 any other municipality only if the comprehensive plan or major street plan includes ~~such~~ the land.

1 However, in the case of ~~such extra~~ municipal land lying within ~~three miles~~ the planning and  
2 zoning authority of more than one first or second class municipality, the jurisdiction of each  
3 municipality ~~shall terminate~~ terminates at a boundary line equidistant from the respective  
4 corporate limits of ~~such municipalities~~ each municipality, unless otherwise agreed to by a  
5 majority vote of the governing body of each ~~such~~ municipality. ~~Such~~ The plats shall, after report  
6 and recommendations of the commission are made and filed, be approved or disapproved by the  
7 city council. The commission shall make ~~its recommendation~~ recommendations to the council  
8 within sixty days of submission.

9 Section 7. That § 11-8-1 be amended to read as follows:

10 11-8-1. Terms as used in this chapter mean:

- 11 (1) "Agency" or "Urban Renewal Agency," a public agency created by § 11-8-40;
- 12 (2) "Area of operation," the area within the corporate limits of the municipality and the  
13 area within ~~three miles of such limits~~ the distance of the corporate limits defined in  
14 section 1 of this Act, except that the term does not include any area which lies within  
15 the territorial boundaries of another municipality unless a resolution has been adopted  
16 by the governing body of ~~such~~ the other municipality declaring a need ~~therefor~~;
- 17 (3) "Board" or "commission," a board, commission, department, division, office, body,  
18 or other unit of the municipality;
- 19 (4) "Bonds," any bonds, including refunding bonds, notes, interim certificates, certificates  
20 of indebtedness, debentures, or other obligations;
- 21 (5) "Clerk," the clerk or other official of the municipality who is the custodian of the  
22 official records of ~~such~~ the municipality;
- 23 (6) "Federal government," includes the United States of America or any agency or  
24 instrumentality, corporate or otherwise, of the United States of America;
- 25 (7) "Housing and redevelopment cooperation," as stated in chapter 11-7A;

- 1 (8) "Local governing body," the council or other legislative body charged with governing  
2 the municipality;
- 3 (9) "Mayor," the mayor of a municipality or other officer or body having the duties  
4 customarily imposed upon the executive head of a municipality;
- 5 (10) "Municipality," any incorporated city or town in the state;
- 6 (11) "Obligee," includes any bondholder, agents, or trustees for any bondholders, or lessor  
7 demising to the municipality property used in connection with urban renewal, or any  
8 assignee of such lessor's interest or any part thereof, and the federal government if it  
9 is a party to any contract with the municipality;
- 10 (12) "Person," any individual, firm, partnership, limited liability company, corporation,  
11 company, association, joint-stock association, or body politic; and includes any  
12 trustee, receiver, assignee, or other person acting in a similar representative capacity;
- 13 (13) "Public body," the state or any municipality, township, village, board, commission,  
14 authority, district, or any other subdivision or public body of the state;
- 15 (14) "Public officer," any officer who is in charge of any department or branch of the  
16 government of the municipality relating to health, fire, building regulations, or to  
17 other activities concerning dwellings in the municipality;
- 18 (15) "Real property," includes all lands, including improvements and fixtures ~~thereon~~, and  
19 property of any nature appurtenant ~~thereto~~, to or used in connection ~~therewith~~ with  
20 the land, and ~~every~~ each estate, interest, right and use, legal or equitable, ~~therein~~,  
21 including terms for years and liens by way of judgment, mortgage, or otherwise;
- 22 (16) "Related activities," planning work for the preparation of a general neighborhood  
23 renewal plan, or for the preparation or completion of a community-wide plan or  
24 program, and the functions related to the acquisition and disposal of real property  
25 pursuant to § 11-8-25.