

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

95110193

## CONFERENCE COMMITTEE ENGROSSED NO. **SB** **125** - 03/06/2003

Introduced by: Senators Dempster and Symens and Representatives Hunhoff, Gillespie,  
Murschel, and Weems

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

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

4 Section 1. That § 11-2-32 be amended to read as follows:

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

11 Section 2. That § 11-6-4.2 be repealed.

12 ~~11-6-4.2. Notwithstanding the provisions of §§ 11-6-10 to 11-6-12, inclusive, the city~~  
13 ~~council and the board of county commissioners may by resolution adopted by a majority vote of~~  
14 ~~the full membership of both governing bodies establish a joint planning and zoning commission~~



1 to consider and make recommendations to the two governing bodies for zoning within the area  
2 within three miles in all directions of the municipality's corporate limits. The joint commission  
3 shall have such powers and follow such procedures as may be agreed to in the resolution creating  
4 the commission; provided, however, that such powers and procedures shall be within the scope  
5 of powers and procedures provided in chapters 11-2, 11-4, and this chapter.

6 Section 3. That § 11-6-10 be amended to read as follows:

7 11-6-10. The legislative body of ~~any~~ an incorporated municipality and a board of county  
8 commissioners may jointly exercise the comprehensive planning and zoning powers granted in  
9 this chapter and ~~chapter~~ chapters 11-2 and 11-4 ~~not only within its corporate limits, but also,~~  
10 ~~subject to the provisions of § 11-6-12, within three miles in all directions of its~~ in a joint  
11 jurisdictional area beyond the municipal corporate limits ~~and not located in any other~~  
12 ~~municipality; provided, that nothing.~~ The joint jurisdictional area, not to exceed six miles, shall  
13 be delineated in a comprehensive plan but in no instance may the area extend beyond a line  
14 equidistant from the corporate limits of any other municipality unless otherwise agreed to by a  
15 majority vote of the governing body of each municipality having a planning commission. Nothing  
16 contained in this chapter ~~shall~~ may be construed to amend or repeal any provisions of chapter  
17 49-34A.

18 The county and city planning commissions shall meet jointly and hold at least one public  
19 hearing on the comprehensive plan. Notice of the time and place of the hearing shall be given  
20 once by either the city or county at least ten days in advance by publication in a legal newspaper.  
21 Following the public hearing, each planning commission shall submit a recommendation to their  
22 respective governing body.

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

24 11-6-11. ~~The legislative body of any incorporated municipality may exercise all zoning~~

1 powers granted in chapter 11-4, in the zoning of all land not only within its corporate limits, but  
2 also, subject to the provisions of § 11-6-12, may zone all property within three miles in all  
3 directions of its corporate limits not located in any other municipality; provided, however, any  
4 ordinance intended to have application beyond the corporate limits of the municipality shall  
5 expressly so provide and any such ordinance shall be adopted in accordance with the provisions  
6 of chapter 11-4; however, in the case of such extra municipal land lying within three miles of  
7 more than one first or second class municipality having a planning commission, the jurisdiction  
8 of each municipality, shall terminate at a boundary line equidistant from the respective corporate  
9 limits of such municipalities, unless otherwise agreed to by a majority vote of the governing  
10 body of each such municipality. The governing bodies shall meet jointly and hold at least one  
11 public hearing to consider the recommendations of the planning commissions on the  
12 comprehensive plan for the joint jurisdictional area. Notice of the time and place of the hearing  
13 shall be given once by either the city or county at least ten days in advance by publication in a  
14 legal newspaper. Adoption of the comprehensive plan shall be by resolution of each governing  
15 body. Such action is subject to §§ 11-6-18.2 and 11-2-21.

16 Section 5. That § 11-6-12 be amended to read as follows:

17 11-6-12. ~~Whenever a municipality assumes zoning jurisdiction in any area outside the limits~~  
18 ~~of such municipality the county zoning commission of the county in which such area lies, shall~~  
19 ~~sit with the city planning commission on all matters pertaining to the planning and regulation of~~  
20 ~~such area and no zoning powers provided by this chapter or chapter 11-4 shall be effective in any~~  
21 ~~such area until each of the commissions makes a recommendation to the city council and the~~  
22 ~~board of county commissioners. Each planning commission shall make such recommendation to~~  
23 ~~the council and commissioners within ninety days of a request by the city planning commission~~  
24 ~~that the county planning commission sit with them for purposes of zoning in the area outside the~~

1 ~~corporate limits of the municipality. Following adoption of a comprehensive plan by the~~  
2 ~~governing bodies, the city and county planning commissions may prepare zoning regulations for~~  
3 ~~all property in the joint jurisdictional area consistent with the comprehensive plan. The~~  
4 ~~regulations shall delineate the authority of the governing bodies over all zoning matters~~  
5 ~~pertaining to the joint jurisdictional area. Such regulations may include relinquishment by the~~  
6 ~~county of some or all of its zoning authority within the joint jurisdictional area. In those instances~~  
7 ~~where a county has granted to a municipality sole zoning authority beyond said municipality's~~  
8 ~~existing corporate limits, the notice and public hearing requirements of chapter 11-4 shall apply.~~

9 The county and city planning commissions shall meet jointly and hold at least one public  
10 hearing on the zoning regulations. Notice of the time and place of the hearing shall be given once  
11 by either the city or county at least ten days in advance by publication in a legal newspaper.  
12 Following the public hearing, each planning commission shall submit a recommendation to each  
13 respective governing body.

14 Section 6. That § 11-6-12.1 be amended to read as follows:

15 11-6-12.1. Following notice and public hearing as required by §§ 11-2-19 and 11-4-4, the  
16 board of county commissioners and the municipal governing body shall meet jointly and take  
17 action upon the recommendations from the two planning commissions. ~~No zoning powers may~~  
18 ~~be exercised by a municipality within the three-mile area outside of its corporate limits unless the~~  
19 ~~board of county commissioners relinquishes zoning jurisdiction in such area to the municipality,~~  
20 ~~or unless the municipal governing body and the board of county commissioners, by majority vote~~  
21 ~~of the full membership of each, approve a substantially identical zoning ordinance for zoning of~~  
22 ~~such area. If the municipal governing body adopts a comprehensive plan, defined by a boundary~~  
23 ~~map, for areas outside the corporate limits, but not for areas more than one mile beyond the~~  
24 ~~corporate limits, the municipal governing body may petition the board of county commissioners~~

1 to relinquish zoning jurisdiction within the area included in the comprehensive plan. The board  
2 of county commissioners may relinquish zoning jurisdiction within such area upon such petition.  
3 If a petition has been filed, the county planning and zoning commission shall notify the municipal  
4 planning and zoning commission of all requests for building permits within the one-mile area. The  
5 county may not approve such building permit requests until the municipal planning and zoning  
6 commission acknowledges receipt of such notification or until the municipal planning and zoning  
7 commission has had thirty days within which to acknowledge receipt of such notification. The  
8 zoning regulations that apply in the joint jurisdictional area shall be adopted by ordinance of each  
9 governing body. The notice and public hearing requirements of this section apply to any  
10 proposed amendments to the zoning regulations. Any change in the zoning of property is subject  
11 to the requirements of §§ 11-2-19 and 11-2-28.1.

12 Section 7. That § 11-6-13.1 be repealed.

13 ~~11-6-13.1. Following notice and public hearing as required by § 11-2-19 and 11-4-4, the~~  
14 ~~board of county commissioners and the city council shall meet together and take action upon the~~  
15 ~~recommendations from the joint planning and zoning commission. Action shall be taken upon~~  
16 ~~such zoning recommendations only by both governing bodies adopting by a majority vote of the~~  
17 ~~full membership of each, a substantially identical zoning ordinance for the zoning of such area.~~

18 Section 8. That § 11-6-40 be amended to read as follows:

19 11-6-40. Any municipality with a population of fifty thousand or more or any municipality  
20 located in a county with a population of fifty thousand or more ~~that, if such municipality has~~  
21 ~~adopted a comprehensive plan pursuant to this chapter, the municipality may require by~~  
22 ~~ordinance that any parcel of land of less than forty acres or less which is located within the~~  
23 ~~extraterritorial limits of the municipality, as defined by §§ 11-6-10 and 11-6-11 three miles of its~~  
24 ~~corporate limits, be platted prior to the sale or transfer of such the land. The register of deeds~~

- 1 may not record any document of any sale or transfer of unplatted property if a municipality
- 2 requires platting pursuant to this section.