

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**Senate Bill 242**

BY SENATOR SYPOLT

[Passed March 11, 2022; in effect 90 days from passage]



1 AN ACT to amend and reenact §8A-7-10 of the Code of West Virginia, 1931, as amended, relating  
2 to municipal and county ordinances generally; prohibiting ordinances that prevent or limit  
3 a landowner's complete use of natural resources or real property for farm or agricultural  
4 operations outside of municipalities or urban areas.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 7. ZONING ORDINANCE.**

**§8A-7-10. Effect of enacted zoning ordinance.**

1 (a) After enactment of a zoning ordinance by a municipality or county, all subsequent land  
2 development shall be done in accordance with the provisions of the zoning ordinance.

3 (b) All zoning ordinances, and all amendments, supplements and changes thereto, legally  
4 adopted under any prior enabling acts, and all actions taken under the authority of any such  
5 ordinances, are hereby validated and continued in effect until amended or repealed by action of  
6 the governing body of the municipality or the county taken under authority of this article. These  
7 ordinances shall have the same effect as though previously adopted as a comprehensive plan of  
8 land use or parts thereof.

9 (c) Land, buildings or structures in use when a zoning ordinance is enacted may continue  
10 the same use and that use may not be prohibited by the zoning ordinance so long as the use of  
11 the land, buildings or structures is maintained, and no zoning ordinance may prohibit alterations  
12 or additions to or replacement of buildings or structures owned by any farm, industry or  
13 manufacturer, or the use of land presently owned by any farm, industry or manufacturer but not  
14 used for agricultural, industrial or manufacturing purposes, or the use or acquisition of additional  
15 land which may be required for the protection, continuing development or expansion of any  
16 agricultural, industrial or manufacturing operation of any present or future satellite agricultural,  
17 industrial or manufacturing use. A zoning ordinance may provide for the enlargement or extension  
18 of a nonconforming use, or the change from one nonconforming use to another.

19           (d) If a use of a property that does not conform to the zoning ordinance has ceased and  
20 the property has been vacant for one-year, abandonment will be presumed unless the owner of  
21 the property can show that the property has not been abandoned: *Provided*, That neither the  
22 absence of natural resources extraction or harvesting nor the absence of any particular  
23 agricultural, industrial or manufacturing process may be construed as abandonment of the use. If  
24 the property is shown to be abandoned, then any future use of the land, buildings or structures  
25 shall conform with the provisions of the zoning ordinance regulating the use where the land,  
26 buildings or structures are located, unless the property is a duly designated historic landmark,  
27 historic site or historic district.

28           (e) Nothing in this chapter authorizes an ordinance, rule or regulation preventing or  
29 limiting, outside of municipalities or urban areas, the complete use (i) of natural resources by the  
30 owner; or (ii) of a tract or contiguous tracts of land of any size for a farm or agricultural operation  
31 as defined in §19-19-2 by the owner. For purposes of this article, agritourism includes, but is not  
32 limited to, the definition set forth in §19-36-2.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2022.

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*Governor*