

HOUSE BILL NO. 1222

Introduced by

Representatives Vetter, Dockter, Ertelt, Hatlestad, M. Johnson, K. Koppelman, Marschall,
Sanford

Senators O. Larsen, Meyer, Vedaa

1 A BILL for an Act to create and enact sections 11-33-17.1, 40-47-05.1, and 58-03-14.1 of the
2 North Dakota Century Code, relating to nonconforming structures.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Section 11-33-17.1 of the North Dakota Century Code is created and enacted
5 as follows:

6 **11-33-17.1. Zoning - Nonconforming structure.**

7 1. Notwithstanding any other provision of law or local zoning ordinance, a structure
8 devoted to residential use may be repaired, replaced, improved, maintained, restored,
9 or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its
10 value if:

11 a. AAn application for a building permit is ~~obtained~~submitted within six months of
12 the date the damage occurs;

13 b. Restoration begins within one year of the date the damage occurred; and

14 c. The new structure will not:

15 (1) Occupy a portion of the lot which was not occupied by the damaged
16 structure;

17 (2) Have more square footage than the damaged structure;

18 (3) Exceed the height or number of stories of the damaged structure; ~~or~~

19 (4) Diminish the number of off-street parking spaces located on the property
20 from the number of spaces before the damage; or

21 (5) Violate existing building and fire codes.

- 1 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
2 expansion is in compliance with applicable state and local zoning regulations. The
3 local zoning authority shall determine whether a proposed expansion is in compliance.
- 4 3. Under subsection 1, a nonconforming structure may not be moved unless the
5 movement or relocation will bring the structure into compliance with all applicable
6 zoning regulations.
- 7 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
8 replacement, ~~maintenance~~, improvement, ~~maintenance~~, restoration, rebuilding, or
9 expansion of nonconforming uses and structures in floodplain areas to the extent
10 necessary to maintain eligibility in the national flood insurance program and adhere
11 fully to all applicable floodplain management ordinances without increasing flood
12 damage potential or increasing the degree of obstruction to floodflows in the floodway.
- 13 5. Notwithstanding subsections 1, 2, and 3, the local zoning authority may create a less
14 restrictive ordinance or regulation.
- 15 6. ~~If a property owner is not authorized to repair, replace, improve, maintain, restore, or~~
16 ~~rebuild a structure under subsection 1, the county shall compensate the owner for the~~
17 ~~fair market value of the property before the damage occurred.~~Unless the county
18 determines the repair, replacement, improvement, maintenance, rebuilding, or
19 restoration of a structure will violate subdivision c of subsection 1, the county shall
20 issue a building permit to a property owner that meets the qualifications under
21 subsection 1.

22 **SECTION 2.** Section 40-47-05.1 of the North Dakota Century Code is created and enacted
23 as follows:

24 **40-47-05.1. Zoning - Nonconforming structure.**

- 25 1. Notwithstanding any other provision of law or local zoning ordinance, a structure
26 devoted to residential use may be repaired, replaced, improved, maintained, restored,
27 or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its
28 value if:
 - 29 a. ~~An application for a building permit is obtained~~submitted within six months of
30 the date the damage occurs;
 - 31 b. Restoration begins within one year of the date the damage occurred; and

- 1 c. The new structure will not:
- 2 (1) Occupy a portion of the lot which was not occupied by the damaged
- 3 structure;
- 4 (2) Have more square footage than the damaged structure;
- 5 (3) Exceed the height or number of stories of the damaged structure; ~~or~~
- 6 (4) Diminish the number of off-street parking spaces located on the property
- 7 from the number of spaces before the damage; or
- 8 (5) Violate existing building and fire codes.
- 9 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
- 10 expansion is in compliance with applicable state and local zoning regulations. The
- 11 local zoning authority shall determine whether a proposed expansion is in compliance.
- 12 3. Under subsection 1, a nonconforming structure may not be moved unless the
- 13 movement or relocation will bring the structure into compliance with all applicable
- 14 zoning regulations.
- 15 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
- 16 replacement, ~~maintenance,~~ improvement, ~~maintenance,~~ restoration, rebuilding, or
- 17 expansion of nonconforming uses and structures in floodplain areas to the extent
- 18 necessary to maintain eligibility in the national flood insurance program and adhere
- 19 fully to all applicable floodplain management ordinances without increasing flood
- 20 damage potential or increasing the degree of obstruction to floodflows in the floodway.
- 21 5. Notwithstanding section 40-47-13 and subsections 1, 2, and 3, the local zoning
- 22 authority may create a less restrictive ordinance or regulation.
- 23 6. ~~If a property owner is not authorized to repair, replace, improve, maintain, restore, or~~
- 24 ~~rebuild a structure under subsection 1, the city shall compensate the owner for the fair~~
- 25 ~~market value of the property before the damage occurred.~~Unless the city determines
- 26 that the repair, replacement, improvement, maintenance, rebuilding, or restoration of a
- 27 structure will violate subdivision c of subsection 1, the city shall issue a building permit
- 28 to a property owner that meets the qualifications under subsection 1.

29 **SECTION 3.** Section 58-03-14.1 of the North Dakota Century Code is created and enacted
30 as follows:

1 **58-03-14.1. Zoning - Nonconforming structure.**

2 1. Notwithstanding any other provision of law or local zoning ordinance, a structure
3 devoted to residential use may be repaired, replaced, improved, maintained, restored,
4 or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its
5 value if:

6 a. ~~A~~An application for a building permit is ~~obtained~~submitted within six months of
7 the date the damage occurs;

8 b. Restoration begins within one year of the date the damage occurred; and

9 c. The new structure will not:

10 (1) Occupy a portion of the lot which was not occupied by the damaged
11 structure;

12 (2) Have more square footage than the damaged structure;

13 (3) Exceed the height or number of stories of the damaged structure; ~~or~~

14 (4) Diminish the number of off-street parking spaces located on the property
15 from the number of spaces before the damage; or

16 (5) ~~Violate existing building and fire codes.~~

17 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
18 expansion is in compliance with applicable state and local zoning regulations. The
19 local zoning authority shall determine whether a proposed expansion is in compliance.

20 3. Under subsection 1, a nonconforming structure may not be moved unless the
21 movement or relocation will bring the structure into compliance with all applicable
22 zoning regulations.

23 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
24 replacement, ~~maintenance,~~ improvement, ~~maintenance,~~ restoration, rebuilding, or
25 expansion of nonconforming uses and structures in floodplain areas to the extent
26 necessary to maintain eligibility in the national flood insurance program and adhere
27 fully to all applicable floodplain management ordinances without increasing flood
28 damage potential or increasing the degree of obstruction to floodflows in the floodway.

29 5. Notwithstanding subsections 1, 2, and 3, the local zoning authority may create a less
30 restrictive ordinance or regulation.

- 1 6. ~~If a property owner is not authorized to repair, replace, improve, maintain, restore, or~~
2 ~~rebuild a structure under subsection 1, the township shall compensate the owner for~~
3 ~~the fair market value of the property before the damage occurred.~~Unless the township
4 determines that the repair, replacement, improvement, maintenance, rebuilding, or
5 restoration of a structure will violate subdivision c of subsection 1, the township shall
6 issue a building permit to a property owner that meets the qualifications under
7 subsection 1.