

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1422

Introduced by

Representatives Vetter, Klemin, Koppelman, Motschenbacher, Sanford, Toman

Senators Barta, Cleary, Clemens, 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 in counties, cities, and
3 townships.

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

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

7 **11-33-17.1. Zoning - Nonconforming structure.**

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

12 a. An application for a building permit is submitted within six months of the date the
13 damage occurs;

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

15 c. The new structure will not:

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

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

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

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

22 (5) Violate existing building and fire codes;

23 (6) Violate existing sanitary or health standards imposed by the local health
24 district; or

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

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

22 **40-47-05.1. Zoning - Nonconforming structure.**

- 23 1. Notwithstanding any other provision of law or local zoning ordinance, a structure
- 24 devoted to residential use may be repaired, replaced, improved, maintained, restored,
- 25 or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its
- 26 value if:
- 27 a. An application for a building permit is submitted within six months of the date the
- 28 damage occurs;
- 29 b. Restoration begins within one year of the date the damage occurred; and
- 30 c. The new structure will not:

- 1 (1) Occupy a portion of the lot which was not occupied by the damaged
- 2 structure;
- 3 (2) Have more square footage than the damaged structure;
- 4 (3) Exceed the height or number of stories of the damaged structure;
- 5 (4) Diminish the number of off-street parking spaces located on the property
- 6 from the number of spaces before the damage;
- 7 (5) Violate existing building and fire codes;
- 8 (6) Violate existing sanitary or health standards imposed by the local health
- 9 district; or
- 10 (7) Pose a risk to public health or safety.

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

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

17 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
18 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
19 nonconforming uses and structures in floodplain areas to the extent necessary to
20 maintain eligibility in the national flood insurance program and adhere fully to all
21 applicable floodplain management ordinances without increasing flood damage
22 potential or increasing the degree of obstruction to floodflows in the floodway.

23 5. Notwithstanding section 40-47-13 and subsections 1, 2, and 3, the local zoning
24 authority may create a less restrictive ordinance or regulation.

25 6. Unless the city determines that the repair, replacement, improvement, maintenance,
26 rebuilding, or restoration of a structure will violate subdivision c of subsection 1, the
27 city shall issue a building permit to a property owner that meets the qualifications
28 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. An application for a building permit is submitted within six months of the date the
7 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;
- 14 (4) Diminish the number of off-street parking spaces located on the property
15 from the number of spaces before the damage;
- 16 (5) Violate existing building and fire codes;
- 17 (6) Violate existing sanitary or health standards imposed by the local health
18 district; or
- 19 (7) Pose a risk to public health or safety.
- 20 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
21 expansion is in compliance with applicable state and local zoning regulations. The
22 local zoning authority shall determine whether a proposed expansion is in compliance.
- 23 3. Under subsection 1, a nonconforming structure may not be moved unless the
24 movement or relocation will bring the structure into compliance with all applicable
25 zoning regulations.
- 26 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
27 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
28 nonconforming uses and structures in floodplain areas to the extent necessary to
29 maintain eligibility in the national flood insurance program and adhere fully to all
30 applicable floodplain management ordinances without increasing flood damage
31 potential or increasing the degree of obstruction to floodflows in the floodway.

- 1 5. Notwithstanding subsections 1, 2, and 3, the local zoning authority may create a less
2 restrictive ordinance or regulation.
- 3 6. Unless the township determines that the repair, replacement, improvement,
4 maintenance, rebuilding, or restoration of a structure will violate subdivision c of
5 subsection 1, the township shall issue a building permit to a property owner that meets
6 the qualifications under subsection 1.