

HOUSE BILL NO. 1500

Introduced by

Representatives Koppelman, J. Johnson, Louser, D. Ruby, Steiner, Vetter

Senators Clemens, Cory, Dwyer, Kessel, Meyer

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 zoning ordinance, a nonconforming
9 structure devoted to residential use and located in a residential zoning district may be
10 repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even
11 though the structure is damaged beyond fifty percent of its 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;

15 c. The lot or parcel upon which the structure dedicated to residential use is located
16 abuts a public right of way; and

17 d. The new structure will not:

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

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

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

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

24 (5) Violate existing building and fire codes;

1 (6) Violate existing sanitary or health standards imposed by the local health
2 district;

3 (7) Pose a risk to public health or safety;

4 (8) Encroach upon a public right of way; or

5 (9) Encroach upon any neighboring property.

6 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
7 expansion is in compliance with applicable zoning regulations and state laws and
8 rules. The zoning authority shall determine whether a proposed expansion is in
9 compliance.

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

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

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

21 6. Unless the county determines the repair, replacement, improvement, maintenance,
22 restoration, rebuilding, of a nonconforming structure will violate subdivision c of
23 subsection 1, the county shall issue a building permit to a property owner that meets
24 the qualifications under subsection 1.

25 7. For purposes of this section, "nonconforming structure" means a structure that was
26 legal before a change in law made the structure nonconforming.

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

29 **40-47-05.1. Zoning - Nonconforming structure.**

30 1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming
31 structure devoted to residential use and located in a residential zoning district may be

- 1 repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even
2 though the structure is damaged beyond fifty percent of its value if:
- 3 a. An application for a building permit is submitted within six months of the date the
4 damage occurs;
- 5 b. Restoration begins within one year of the date the damage occurred;
- 6 c. The lot or parcel upon which the structure dedicated to residential use is located
7 abuts a public right of way; and
- 8 d. The new structure will not:
- 9 (1) Occupy a portion of the lot which was not occupied by the damaged
10 structure;
- 11 (2) Have more square footage than the damaged structure;
- 12 (3) Exceed the height or number of stories of the damaged structure;
- 13 (4) Diminish the number of off-street parking spaces located on the property
14 from the number of spaces before the damage;
- 15 (5) Violate existing building and fire codes;
- 16 (6) Violate existing sanitary or health standards imposed by the local health
17 district;
- 18 (7) Pose a risk to public health or safety;
- 19 (8) Encroach upon a public right of way; or
- 20 (9) Encroach upon any neighboring property.
- 21 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
22 expansion is in compliance with applicable zoning regulations and state laws and
23 rules. The zoning authority shall determine whether a proposed expansion is in
24 compliance.
- 25 3. Under subsection 1, a nonconforming structure may not be moved unless the
26 movement or relocation will bring the structure into compliance with all applicable
27 zoning regulations.
- 28 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
29 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
30 nonconforming uses and structures in floodplain areas to the extent necessary to
31 maintain eligibility in the national flood insurance program and adhere fully to all

1 applicable floodplain management ordinances without increasing flood damage
2 potential or increasing the degree of obstruction to floodflows in the floodway.

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

5 6. Unless the city determines that the repair, replacement, improvement, maintenance,
6 restoration, rebuilding, of a nonconforming structure will violate subdivision c of
7 subsection 1, the city shall issue a building permit to a property owner that meets the
8 qualifications under subsection 1.

9 7. For purposes of this section, "nonconforming structure" means a structure that was
10 legal before a change in law made the structure nonconforming.

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

13 **58-03-14.1. Zoning - Nonconforming structure.**

14 1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming
15 structure devoted to residential use and located in a residential zoning district may be
16 repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even
17 though the structure is damaged beyond fifty percent of its value if:

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

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

21 c. The lot or parcel upon which the structure dedicated to residential use is located
22 abuts a public right of way; and

23 d. The new structure will not:

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

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

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

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

30 (5) Violate existing building and fire codes;

1 (6) Violate existing sanitary or health standards imposed by the local health
2 district;

3 (7) Pose a risk to public health or safety;

4 (8) Encroach upon a public right way; or

5 (9) Encroach upon any neighboring property.

6 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
7 expansion is in compliance with applicable zoning regulations and state laws and
8 rules. The zoning authority shall determine whether a proposed expansion is in
9 compliance.

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

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

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

21 6. Unless the township determines that the repair, replacement, improvement,
22 maintenance, restoration, rebuilding, of a nonconforming structure will violate
23 subdivision c of subsection 1, the township shall issue a building permit to a property
24 owner that meets the qualifications under subsection 1.

25 7. For purposes of this section, "nonconforming structure" means a structure that was
26 legal before a change in law made the structure nonconforming.