

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1245

Introduced by

Representative Maragos

Senator Watne

1 A BILL for an Act to amend and reenact sections 40-47-01.1 and 40-48-18 of the North Dakota
2 Century Code, relating to extraterritorial zoning and planning authority of cities.

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

4 **SECTION 1. AMENDMENT.** Section 40-47-01.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **40-47-01.1. ~~Territorial authority of~~ Extraterritorial zoning regulations.**

7 1. ~~Based upon the population of the A city as determined by the last official regular or~~
8 ~~special federal census or, in case of a city incorporated subsequent to such~~
9 ~~census, a census taken in accordance with chapter 40-02, the governing body of a~~
10 ~~city may, by ordinance, may extend the application of a city's zoning regulations to~~
11 ~~any quarter quarter section or portion thereof of unincorporated territory if a~~
12 ~~majority of the quarter quarter section is located within the following distance of the~~
13 ~~corporate limits of the city:~~

14 ~~1. a. To each quarter quarter section of unincorporated territory the majority of~~
15 ~~which is located within one half One-half mile [.80 kilometer] of its limits in any~~
16 ~~direction if it is a the city having has a population of less than five thousand.~~

17 ~~2. b. To each quarter quarter section of unincorporated territory the majority of~~
18 ~~which is located within one One mile [1.61 kilometers] of its limits in any~~
19 ~~direction if it is a the city having has a population of five thousand or more, but~~
20 ~~less than twenty-five thousand.~~

21 ~~3. c. To each quarter quarter section of unincorporated territory the majority of~~
22 ~~which is located within two Two miles [3.22 kilometers] of its limits in any~~
23 ~~direction if it is a city having a population of twenty-five thousand or more.~~

- 1 2. ~~Provided, that where~~ If the extraterritorial zoning of two or more noncontiguous
2 cities ~~have boundaries at a distance where there would be an overlap of zoning~~
3 ~~authority under this section, each city is authorized to control the zoning of land on~~
4 ~~its side of a line established~~ overlaps and the affected cities are unable to reach an
5 agreement regarding the exercise of zoning jurisdiction, the zoning authority of
6 each city must be determined by dividing the overlapping territory in proportion to
7 the authority each city has to zone land outside its limits in accordance with ~~this~~
8 ~~section or pursuant to mutual agreement. The governing body may thereafter~~
9 ~~enforce such regulation in the area to the same extent as if such property were~~
10 ~~situated within the city's corporate limits. This territorial authority shall not~~
11 ~~authorize the application of zoning regulations to territory outside the corporate~~
12 ~~limits of land attached to a city by a strip of land not more than one hundred feet~~
13 ~~[30.48 meters] wide, nor shall this territorial authority authorize application of~~
14 ~~zoning regulations to territory outside the corporate limits of land included within~~
15 ~~such a strip of land~~ subsection 1.
- 16 3. For purposes of this section, the population of a city must be determined by the last
17 official regular or special federal census. If a city has incorporated after a census,
18 the population of the city must be determined by a census taken in accordance
19 with chapter 40-02.
- 20 4. In determining the corporate limits of a city under this section, all points on every
21 straight line one hundred feet [30.48 meters] long and which intersects the city
22 limits of the city more than once must be disregarded. However, if the city is
23 divided into two or more noncontiguous parts, the corporate limits of the city must
24 coincide with the most populous of the portions.
- 25 5. For the purposes of this section, a quarter quarter section shall must be
26 determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752], and when
27 appropriate, the phrase "quarter quarter section" refers to the equivalent
28 government lot.

29 **SECTION 2. AMENDMENT.** Section 40-48-18 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **40-48-18. Jurisdiction of Extraterritorial subdivision regulation authority.** The
2 territorial jurisdiction of any city planning commission over the subdivision or platting of land
3 shall include all land located within the corporate limits of the city. Based upon the population
4 of the city as determined by the last official regular or special federal census or, in case of a city
5 incorporated subsequent to such census, a census taken in accordance with chapter 40-02, the
6 governing body of a city may, by ordinance, extend the application of the city's subdivision
7 regulations:

- 8 1. To unincorporated territory located within one half mile [.80 kilometer] of its limits in
9 any direction if it is a city having a population of less than five thousand.
- 10 2. To unincorporated territory located within one mile [1.61 kilometers] of its limits in
11 any direction if it is a city having a population of five thousand or more, but less
12 than twenty-five thousand.
- 13 3. To unincorporated territory located within two miles [3.22 kilometers] of its limits in
14 any direction if it is a city having a population of twenty-five thousand or more.

15 Provided, that where two or more noncontiguous cities have boundaries at a distance where
16 there would be an overlap of subdivision regulation authority under this section, each city is
17 authorized to control the subdivision of land on its side of a line established in proportion to the
18 authority each city has to control the subdivision of land outside its limits in accordance with this
19 section or pursuant to mutual agreement. The governing body may thereafter enforce such
20 regulations in the area to the same extent as if such property were situated within the city's
21 corporate limits. A city may regulate subdivisions beyond its corporate limits to the same
22 extent, in the same manner, and subject to the same limitations as it is authorized to extend its
23 zoning authority under section 40-47-01.1.