

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1491

Introduced by

Representatives S. Kelsh, Ekstrom, Grosz

Senators Polovitz, Syverson

1 A BILL for an Act to amend and reenact sections 11-33-02, 40-47-02, and 58-03-11 of the
2 North Dakota Century Code, relating to zoning of transitional living centers.

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

4 **SECTION 1. AMENDMENT.** Section 11-33-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **11-33-02. Board of county commissioners to designate districts.**

- 7 1. For any or all of the purposes designated in section 11-33-01, the board of county
8 commissioners may divide by resolution all or any parts of the county, subject to
9 section 11-33-20, into districts of such number, shape, and area as may be
10 determined necessary, and likewise may enact suitable regulations to carry out the
11 purposes of this chapter. These regulations must be uniform in each district, but
12 the regulations in one district may differ from those in other districts. A regulation
13 or restriction may not prohibit or prevent the use of land or buildings for farming or
14 ranching or any of the normal incidents of farming or ranching. For purposes of
15 this section, "farming or ranching" means cultivating land for production of
16 agricultural crops or livestock, or raising, feeding, or producing livestock, poultry,
17 milk, or fruit. The term does not include producing timber or forest products, nor
18 does the term include a contract whereby a processor or distributor of farm
19 products or supplies provides grain, harvesting, or other farm services.
- 20 2. A board of county commissioners may regulate the nature and scope of
21 concentrated feeding operations permissible in the county; however, if a regulation
22 would impose a substantial economic burden on a concentrated feeding operation
23 in existence before the effective date of the regulation, the board of county
24 commissioners shall declare that the regulation is ineffective with respect to any

concentrated feeding operation in existence before the effective date of the regulation.

3. A regulation may not preclude the development of a concentrated feeding operation in the county. A regulation addressing the development of a concentrated feeding operation in the county may set reasonable standards, based on the size of the operation, to govern its location.
4. For purposes of this section, "concentrated feeding operation" means any livestock feeding, handling, or holding operation, or feed yard, where animals are concentrated in an area that is not normally used for pasture or for growing crops and in which animal wastes may accumulate, or in an area where the space per animal unit is less than six hundred square feet [55.74 square meters]. The term does not include normal wintering operations for cattle. For purposes of this section, "livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, and fur animals raised for their pelts.
5. A board of county commissioners may not prohibit, through regulation, the reasonable diversification or expansion of a farming or ranching operation.
6. A transitional living center may not be located within one thousand feet [300.48 meters] of any public or private elementary or secondary school.
7. A board of county commissioners may regulate the location of a transitional living center if the regulation does not conflict with subsection 6. For purposes of this section, a "transitional living center" includes a facility that offers or provides temporary residential accommodations, meals, supervision at all times residents are in the facility or on facility premises, and services including counseling, short-term supportive care, case management, and mental health services. The term includes such a facility that is under the supervision of the department of corrections and rehabilitation. The term does not include a facility that provides accommodations for individuals with developmental disabilities.
8. This chapter does not include any power relating to the establishment, repair, and maintenance of highways or roads.

SECTION 2. AMENDMENT. Section 40-47-02 of the North Dakota Century Code is amended and reenacted as follows:

40-47-02. Division of city into districts to carry out regulations - Limitations.

1. The governing body may divide the city into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this chapter, and may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land within such districts. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.
2. A transitional living center may not be located within one thousand feet [300.48 meters] of any public or private elementary or secondary school.
3. The governing body may regulate the location of a transitional living center if the regulation does not conflict with subsection 2. For purposes of this section, a "transitional living center" includes a facility that offers or provides temporary residential accommodations, meals, supervision at all times residents are in the facility or on facility premises, and services including counseling, short-term supportive care, case management, and mental health services. The term includes such a facility that is under the supervision of the department of corrections and rehabilitation. The term does not include a facility that provides accommodations for individuals with developmental disabilities.

SECTION 3. AMENDMENT. Section 58-03-11 of the North Dakota Century Code is amended and reenacted as follows:

58-03-11. Establishment of zoning districts - Limitation - Scope of zoning regulations and restrictions.

1. For the purpose of promoting the health, safety, morals, or the general welfare, or to secure the orderly development of approaches to municipalities, the board of township supervisors may establish one or more zoning districts and within such districts may, subject to the provisions of chapter 54-21.3, regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, the height, number of stories, and size of buildings and structures, the percentage of lot that may be occupied, the size of courts, yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. All such regulations and

1 restrictions must be uniform throughout each district, but the regulations and
2 restrictions in one district may differ from those in other districts.

3 2. A regulation or restriction may not prohibit or prevent the use of land or buildings
4 for farming or ranching or any of the normal incidents of farming or ranching. For
5 purposes of this section, "farming or ranching" means cultivating land for
6 production of agricultural crops or livestock, or raising, feeding, or producing
7 livestock, poultry, milk, or fruit. The term does not include producing timber or
8 forest products, nor does the term include a contract whereby a processor or
9 distributor of farm products or supplies provides grain, harvesting, or other farm
10 services.

11 3. A board of township supervisors may regulate the nature and scope of
12 concentrated feeding operations permissible in the township; however, if a
13 regulation would impose a substantial economic burden on a concentrated feeding
14 operation in existence before the effective date of the regulation, the board of
15 township supervisors shall declare that the regulation is ineffective with respect to
16 any concentrated feeding operation in existence before the effective date of the
17 regulation.

18 4. A regulation may not preclude the development of a concentrated feeding
19 operation in the township. A regulation addressing the development of a
20 concentrated feeding operation in the township may set reasonable standards,
21 based on the size of the operation, to govern its location.

22 5. For purposes of this section, "concentrated feeding operation" means any livestock
23 feeding, handling, or holding operation, or feed yard, where animals are
24 concentrated in an area that is not normally used for pasture or for growing crops
25 and in which animal wastes may accumulate, or in an area where the space per
26 animal unit is less than six hundred square feet [55.74 square meters]. The term
27 does not include normal wintering operations for cattle. For purposes of this
28 section, "livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses,
29 and fur animals raised for their pelts.

30 6. A board of township supervisors may not prohibit, through regulation, the
31 reasonable diversification or expansion of a farming or ranching operation.

- 1 7. A transitional living center may not be located within one thousand feet [300.48
2 meters] of any public or private elementary or secondary school.
- 3 8. A board of township supervisors may regulate the location of a transitional living
4 center if the regulation does not conflict with subsection 7. For purposes of this
5 section, a "transitional living center" includes a facility that offers or provides
6 temporary residential accommodations, meals, supervision at all times residents
7 are in the facility or on facility premises, and services including counseling,
8 short-term supportive care, case management, and mental health services. The
9 term includes such a facility that is under the supervision of the department of
10 corrections and rehabilitation. The term does not include a facility that provides
11 accommodations for individuals with developmental disabilities.
- 12 9. Sections 58-03-11 through 58-03-15 do not include any power relating to the
13 establishment, repair, and maintenance of highways or roads.