

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Holmberg, Klein, Wardner

Representatives Boehning, Carlson, Martinson

1 A BILL for an Act to amend and reenact sections 11-33-01, 11-33.2-11, 40-47-04, 40-48-21,
2 and 58-03-13 of the North Dakota Century Code, relating to requiring findings or statements
3 upon which zoning requests and subdivision plat requests are disapproved.

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

5 **SECTION 1. AMENDMENT.** Section 11-33-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **11-33-01. County power to regulate property.** For the purpose of promoting health,
8 safety, morals, public convenience, general prosperity, and public welfare, the board of county
9 commissioners of any county may regulate and restrict within the county, subject to section
10 11-33-20 and chapter 54-21.3, the location and the use of buildings and structures and the use,
11 condition of use, or occupancy of lands for residence, recreation, and other purposes. The
12 board of county commissioners and a county zoning commission shall state the grounds upon
13 which any request for a zoning amendment or variance is approved or disapproved, and written
14 findings upon which the decision is based must be included within the records of the board or
15 commission. The board of county commissioners shall establish zoning requirements for solid
16 waste disposal and incineration facilities before July 1, 1994. The board of county
17 commissioners may impose tipping or other fees on solid waste management and incineration
18 facilities. The board of county commissioners may not impose any fee under this section on an
19 energy conversion facility or coal mining operation that disposes of its waste onsite. The board
20 of county commissioners may establish institutional controls that address environmental
21 concerns with the state department of health as provided in section 23-20.3-03.1.

22 **SECTION 2. AMENDMENT.** Section 11-33.2-11 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **11-33.2-11. Board ~~authorized to~~ may approve plats - Appropriate money.** The
2 board of county commissioners ~~is empowered to authorize and provide for the approval of~~ may
3 approve plats as a prerequisite to the subdivision of land subject to the provisions of this
4 chapter and may establish and collect reasonable fees therefor. The fees ~~so~~ collected ~~shall~~
5 must be credited to the general fund of the county. The board of county commissioners ~~is~~
6 ~~further empowered to~~ may appropriate, out of the general funds of the county, ~~such~~ moneys as
7 ~~may be~~ necessary for the purposes of this chapter. The board of county commissioners shall
8 state the grounds upon which any request for approval of plats is approved or disapproved, and
9 written findings upon which the decision is based must be included within the records of the
10 board.

11 **SECTION 3. AMENDMENT.** Section 40-47-04 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **40-47-04. Determining and enforcing regulations - Public hearing and notice**
14 **thereof - Publication of regulations, restrictions, and boundaries.**

15 1. The governing body of a city which ~~shall use~~ uses zoning regulations shall provide
16 for the manner in which the regulations and restrictions ~~shall~~ must be established,
17 enforced, or supplemented, and for the manner in which the boundaries of the
18 districts ~~shall~~ must be established and from time to time changed. A copy of each
19 proposed regulation, restriction, or boundary ~~shall~~ must be filed with the city
20 auditor. No regulation, restriction, or boundary ~~shall~~ may become effective until
21 after a public hearing ~~thereon~~ at which parties in interest and citizens shall have an
22 opportunity to be heard. Notice of ~~said the~~ hearing ~~shall~~ must be published once a
23 week for two successive weeks ~~prior to~~ before the time set for ~~said the~~ hearing in
24 the official newspaper of the city. ~~Such~~ The notice ~~shall~~ must contain the following
25 items:

- 26 ~~1-~~ a. The time and place of the hearing.
27 ~~2-~~ b. A description of any property involved in any zoning change, by street
28 address if streets have been platted or designated in the area affected.
29 ~~3-~~ c. A description of the nature, scope, and purpose of the proposed regulation,
30 restriction, or boundary.

4. d. A statement of the times at which it will be available to the public for inspection and copying at the office of the city auditor.

2. Upon establishment of any regulation, restriction, or boundary hereunder, the governing body of a city shall file a certified copy thereof with the city auditor and shall cause notice of the same to be published in the official newspaper of the city. ~~Said~~ The notice ~~shall~~ must describe the nature, scope, and purpose of the regulation, restriction, or boundary and ~~shall~~ must state the times at which it will be available to the public for inspection and copying at the office of the city auditor.

3. The governing body of a city, a city zoning commission, and a board of adjustment shall state the grounds upon which any request for a zoning amendment or variance is approved or disapproved, and written findings upon which the decision is based must be included within the records of the governing body, commission, or board.

SECTION 4. AMENDMENT. Section 40-48-21 of the North Dakota Century Code is amended and reenacted as follows:

40-48-21. Approval of plats by commission - Hearings - Notice - Effect. Within thirty days after the submission of a plat, the planning commission shall approve or disapprove ~~it the plat~~. If the plat is not approved or disapproved within ~~such that~~ time, ~~it shall be~~ the plat is deemed to have been approved, and a certificate to that effect ~~shall~~ must be issued by the commission on demand. The applicant, however, may waive the requirement that the commission ~~shall~~ act within thirty days and may consent to an extension of ~~such the~~ period. ~~The ground~~ commission shall state the grounds upon which any plat is approved or disapproved shall be stated upon, and written findings upon which the decision is based must be included within the records of the commission. Any plat submitted to the commission ~~shall~~ must contain the name and address of ~~a person~~ an individual to whom notice of a hearing ~~shall~~ must be sent. No action ~~shall~~ may be taken by the commission upon any plat until ~~it the~~ commission has afforded a hearing thereon. At least five days before the date fixed for ~~such the~~ hearing, a notice of the time and place of ~~such the~~ hearing ~~shall~~ must be sent by registered ~~or certified~~ mail to the address shown on the plat. Public notice of all ~~such~~ hearings also ~~shall~~ must be given. Every plat approved by the commission may be adopted by the commission as an amendment of or addition to the master plan without further hearing.

1 **SECTION 5. AMENDMENT.** Section 58-03-13 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **58-03-13. Township zoning commissions - Membership - Reports and**
4 **recommendations - District boundaries - Hearings - Notice.** The board of township
5 supervisors of a township desiring to avail itself of the powers conferred by sections 58-03-11
6 through 58-03-15 shall establish, by resolution, a township zoning commission to recommend
7 the boundaries of the various township zoning districts and appropriate regulations and
8 restrictions to be established therein. Membership of ~~such~~ the commission must consist of
9 three township supervisors and two members appointed from the municipalities concerned in
10 relation to which ~~such~~ the zoning is contemplated. Where the area to be regulated and
11 restricted is situated in two or more townships, a joint zoning commission may be established.
12 Membership of a joint zoning commission must consist of two township supervisors from each
13 township and two members from the municipality in relation to which ~~such~~ the zoning is
14 contemplated. ~~Each such~~ A zoning commission shall make a preliminary report and hold public
15 hearings ~~thereon~~ before submitting its final report and recommendations to the board or boards
16 of township supervisors. The board or boards of township supervisors may ~~thereupon~~
17 establish, and from time to time change, the boundaries of township zoning districts and
18 establish, amend, supplement, and enforce regulations and restrictions in ~~such~~ the districts.
19 No regulation, restriction, or boundaries become effective until after a public hearing ~~thereon~~ at
20 which parties in interest and citizens have an opportunity to be heard. At least fifteen days'
21 notice of the time and place of ~~such~~ the hearing must be published in the official newspaper of
22 the county and also in the official newspaper of the municipality in relation to which ~~such~~ the
23 zoning action is taken, if in ~~such~~ the municipality an official newspaper other than the official
24 newspaper of the county is published. The description of any land within any zoning district
25 established by a zoning commission together with any regulations and restrictions established
26 ~~therein~~ must be filed with the governing bodies of the township and municipalities concerned,
27 and ~~in the event~~ if amendments are made to the boundaries of the zoning district or the
28 regulations or restrictions ~~established therein~~, ~~such~~ the amendments must be filed in the same
29 manner. A zoning commission established under this section and a board of township
30 supervisors shall state the grounds upon which any request for a zoning amendment or

- 1 variance is approved or disapproved, and written findings upon which the decision is based
- 2 must be included within the records of the commission or board.