

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1420

Introduced by

Representatives Brandenburg, Aarsvold, Froelich

Senator Erbele

1 A BILL for an Act to amend and reenact sections 11-33-02 and 58-03-11 of the North Dakota
2 Century Code, relating to zoning by counties and townships.

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. A regulation may not give to the county any duties or responsibilities regarding health or environmental issues associated with a concentrated feeding operation or with any other farming or ranching operation if the duties and responsibilities are placed on the state department of health in accordance with chapters 23-20.3, 23-25, 23-29, and 61-28.

5. 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.~~ 6. A board of county commissioners may not prohibit, through regulation, the reasonable diversification or expansion of a farming or ranching operation.

~~6.~~ 7. This chapter does not include any power relating to the establishment, repair, and maintenance of highways or roads.

SECTION 2. 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 restrictions must be uniform throughout each district, but the regulations and restrictions in one district may differ from those in other districts. The board of township supervisors may establish institutional controls that address environmental concerns with the state department of health as provided in section 23-20.3-03.1.

2. A regulation or restriction may not prohibit or prevent the use of land or buildings for farming or ranching or any of the normal incidents of farming or ranching. For purposes of this section, "farming or ranching" means cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include producing timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.
3. A board of township supervisors may regulate the nature and scope of concentrated feeding operations permissible in the township; however, if a regulation would impose a substantial economic burden on a concentrated feeding operation in existence before the effective date of the regulation, the board of township supervisors shall declare that the regulation is ineffective with respect to any concentrated feeding operation in existence before the effective date of the regulation.
4. A regulation may not preclude the development of a concentrated feeding operation in the township. A regulation addressing the development of a concentrated feeding operation in the township may set reasonable standards, based on the size of the operation, to govern its location.
5. A regulation may not give to the township any duties or responsibilities regarding health or environmental issues associated with a concentrated feeding operation or

1 with any other farming or ranching operation if the duties and responsibilities are
2 placed on the state department of health in accordance with chapters 23-20.3,
3 23-25, 23-29, and 62-28.

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

12 ~~6.~~ 7. A board of township supervisors may not prohibit, through regulation, the
13 reasonable diversification or expansion of a farming or ranching operation.

14 ~~7.~~ 8. Sections 58-03-11 through 58-03-15 do not include any power relating to the
15 establishment, repair, and maintenance of highways or roads.