

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1165

Introduced by

Representatives Vetter, Becker, Ertelt, Kading, Klemin, B. Koppelman, Louser, O'Brien,
Sanford

Senators O. Larsen, 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.

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

4 **SECTION 1.** Section 11-33-17.1 of the North Dakota Century Code is created and enacted
5 as follows:

6 **11-33-17.1. Zoning - Nonconforming structure.**

- 7 1. Notwithstanding any other provision of law or local zoning ordinance, a structure
8 devoted to residential use may be repaired, replaced, improved, maintained, restored,
9 or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its
10 value if:
- 11 a. A building permit is obtained within six months of the date the damage occurs;
12 b. Restoration begins within one year of the date the damage occurred; and
13 c. The new structure will not:
- 14 (1) Occupy a portion of the lot that was not occupied by the damaged structure;
15 (2) Have more square footage than the damaged structure;
16 (3) Exceed the height or number of stories than the damaged structure; or
17 (4) Diminish the number of off-street parking spaces located on the property
18 from the number of existing spaces before the damage.
- 19 2. Expansion of a nonconforming structure is prohibited unless the expansion is in
20 compliance with applicable state and local zoning regulations. The local zoning
21 authority shall determine whether a proposed expansion is in compliance.
- 22 3. A nonconforming structure may not be moved unless the movement or relocation will
23 bring the structure into compliance with all applicable zoning regulations.

- 1 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
2 replacement, maintenance, improvement, or expansion of nonconforming uses and
3 structures in floodplain areas to the extent necessary to maintain eligibility in the
4 national flood insurance program and not increase flood damage potential or increase
5 the degree of obstruction to flood flows in the floodway.
- 6 5. Notwithstanding any other provision of law, the local zoning authority may create an
7 ordinance or regulation that is less restrictive than this section.

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

10 **40-47-05.1. Zoning - Nonconforming structure.**

- 11 1. Notwithstanding any other provision of law or local zoning ordinance, a structure that
12 is devoted to residential use may be repaired, replaced, improved, maintained,
13 restored, or rebuilt in its entirety even though the structure is damaged beyond fifty
14 percent of its value if:
- 15 a. A building permit is obtained within six months of the date the damage occurs;
16 b. Restoration begins within one year of the date the damage occurred; and
17 c. The new structure will not:
- 18 (1) Occupy a portion of the lot that was not occupied by the damaged structure;
19 (2) Have more square footage than the damaged structure;
20 (3) Exceed the height or number of stories than the damaged structure; or
21 (4) Diminish the number of off-street parking spaces located on the property
22 from the number of existing spaces before the damage.
- 23 2. Expansion of a nonconforming structure is prohibited unless the expansion is in
24 compliance with applicable state and local zoning regulations. The local zoning
25 authority shall determine whether a proposed expansion is in compliance.
- 26 3. A nonconforming structure may not be moved unless the movement or relocation will
27 bring the structure into compliance with all applicable zoning regulations.
- 28 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
29 replacement, maintenance, improvement, or expansion of nonconforming uses and
30 structures in floodplain areas to the extent necessary to maintain eligibility in the

national flood insurance program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

5. Notwithstanding section 40-47-13, the local zoning authority may create an ordinance or regulation that is less restrictive than this section.

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

58-03-14.1. Zoning - Nonconforming structure.

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

a. A building permit is obtained within six months of the date the damage occurs;

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

c. The new structure will not:

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

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

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

(4) Diminish the number of off-street parking spaces located on the property from the number of existing spaces before the damage.

2. Expansion of a nonconforming structure is prohibited unless the expansion is in compliance with applicable state and local zoning regulations. The local zoning authority shall determine whether a proposed expansion is in compliance.

3. A nonconforming structure may not be moved unless the movement or relocation will bring the structure into compliance with all applicable zoning regulations.

4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the national flood insurance program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

5. Notwithstanding any other provision of law, the local zoning authority may create an ordinance or regulation that is less restrictive than this section.