

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1481

Introduced by

Representatives Koppelman, Drovdal, DeKrey

Senators Christmann, Lee

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 zoning and planning by contiguous 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 zoning regulations.**

- 7 1. Based upon the population of the 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, extend the application of a city's zoning regulations:
- 11 ~~4.~~ a. To ~~each quarter-quarter section of~~ unincorporated territory ~~the majority of~~
12 ~~which is~~ located within one-half mile [.80 kilometer] of its limits in any direction
13 if it is a city having a population of less than five thousand.
- 14 ~~2.~~ b. To ~~each quarter-quarter section of~~ unincorporated territory ~~the majority of~~
15 ~~which is~~ located within one mile [1.61 kilometers] of its limits in any direction if
16 it is a city having a population of five thousand or more, but less than
17 twenty-five thousand.
- 18 ~~3.~~ c. To ~~each quarter-quarter section of~~ unincorporated territory ~~the majority of~~
19 ~~which is~~ located within two miles [3.22 kilometers] of its limits in any direction
20 if it is a city having a population of twenty-five thousand or more.

21 ~~Provided, that where~~

- 22 2. Where two or more noncontiguous cities have boundaries at a distance where
23 there would be an overlap of zoning authority under this section, each city ~~is~~
24 ~~authorized to~~ may control the zoning of land on its side of a line established in

proportion to the authority each city has to zone land outside its limits in accordance with this section or pursuant to mutual agreement. The governing body may thereafter enforce ~~such~~ the zoning regulation in the area to the same extent as if ~~such~~ the property were situated within the city's corporate limits.

3. Where two or more contiguous cities with populations of five thousand or more have boundaries at a distance where there would be an overlap of zoning authority under this section, the cities' zoning authority is divided along a line equidistant between or among the cities.

4. Where two or more contiguous cities have boundaries at a distance where there would be an overlap of zoning authority under this section, and one city is larger than the other, based upon the classification in subsection 1, the smaller city may exercise the same authority as the larger city.

5. Where two or more cities have boundaries at a distance where the zoning authority is established pursuant to subsection 2 or 3, an annexation of property by one of the cities does not affect the zoning authority previously established under subsection 2 or 3.

6. This territorial authority ~~shall~~ does not authorize the application of zoning regulations to territory outside the corporate limits of land attached to a city by a strip of land not more than one hundred feet [30.48 meters] wide, nor ~~shall~~ does this territorial authority authorize application of zoning regulations to territory outside the corporate limits of land included within such a strip of land. ~~For the purposes of this section, a quarter quarter section shall be determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752].~~

7. Any existing extraterritorial zoning area is considered a future growth area for that city and may not be annexed by any other city unless the first city to zone the area approves of the annexation by the other city in writing.

8. If two or more cities have boundaries at a distance where there would be an overlap of zoning authority under this section, and the governing bodies of the cities fail to reach a mutual agreement concerning any dispute between the two cities, a board composed of one member of the governing body from each city, one member from the planning commission of each city, and one member appointed by

the governor must be appointed to to mediate the dispute. The determination of
the mediation board is final.

9. Any existing orderly annexation agreement is binding on the future governing
bodies of the cities that have entered the agreement.

SECTION 2. AMENDMENT. A new section to chapter 40-47 of the North Dakota
Century Code is created and acted as follows:

Annexation agreements. Any current or existing orderly annexation agreement
between or among cities is binding on subsequent governing bodies of the cities.

SECTION 3. AMENDMENT. Section 40-48-18 of the North Dakota Century Code is
amended and reenacted as follows:

40-48-18. Jurisdiction of subdivision regulation authority.

1. The territorial jurisdiction of any city planning commission over the subdivision or
platting of land ~~shall include~~ includes all land located within the corporate limits of
the city. ~~Based~~ Except as otherwise provided in this section, based upon the
population of the city as determined by the last official regular or special federal
census or, in case of a city incorporated subsequent to such census, a census
taken in accordance with chapter 40-02, the governing body of a city may, by
ordinance, extend the application of the city's subdivision regulations:

- 4- a. To unincorporated territory located within one-half mile [.80 kilometer] of its
limits in any direction if it is a city having a population of less than five
thousand.
- 2- b. To unincorporated territory located within one mile [1.61 kilometers] of its
limits in any direction if it is a city having a population of five thousand or
more, but less than twenty-five thousand.
- 3- c. To unincorporated territory located within two miles [3.22 kilometers] of its
limits in any direction if it is a city having a population of twenty-five thousand
or more.

~~Provided, that where~~

2. Where two or more noncontiguous cities have boundaries at a distance where
there would be an overlap of subdivision regulation authority under this section,
each city ~~is authorized to~~ may control the subdivision of land on its side of a line

established in proportion to the authority each city has to control the subdivision of land outside its limits in accordance with this section or pursuant to mutual agreement.

3. Where two or more contiguous cities with populations of five thousand or more have boundaries at a distance where there would be an overlap of subdivision regulation authority under this section, the cities' authority is divided along a line equidistant between or among the cities.
4. Where two or more contiguous cities have boundaries at a distance where there would be an overlap of subdivision regulation authority under this section, and one city is larger than the other based upon the classification in subsection 1 the smaller city may exercise the same authority as the larger city.
5. Where two or more cities have boundaries at a distance where the subdivision regulation authority is established pursuant to subsection 2 or 3, an annexation of property by one of the cities does not affect the subdivision regulation authority previously established under subsection 2 or 3.
6. If two or more cities have boundaries at a distance where there would be an overlap of subdivision regulation under this section, and the governing bodies of the cities fail to reach a mutual agreement concerning any dispute between the two cities, a board composed of one member of the governing body from each city, one member from the planning commission of each city, and one member appointed by the governor must be appointed to mediate the dispute. The determination of the mediation board is final.
7. The governing body may thereafter enforce ~~such~~ the regulations in the specified area outside the corporate limits of the city to the same extent as if ~~such~~ the property were situated within the city's corporate limits.