

**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 North  
2 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

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

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

31 **40-47-02. Division of city into districts to carry out regulations - Limitations.**

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

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

19           **58-03-11. Establishment of zoning districts - Limitation - Scope of zoning**  
20 **regulations and restrictions.**

- 21           1. For the purpose of promoting the health, safety, morals, or the general welfare, or  
22           to secure the orderly development of approaches to municipalities, the board of  
23           township supervisors may establish one or more zoning districts and within such  
24           districts may, subject to the provisions of chapter 54-21.3, regulate and restrict the  
25           erection, construction, reconstruction, alteration, repair, or use of buildings and  
26           structures, the height, number of stories, and size of buildings and structures, the  
27           percentage of lot that may be occupied, the size of courts, yards, and other open  
28           spaces, the density of population, and the location and use of buildings, structures,  
29           and land for trade, industry, residence, or other purposes. All such regulations and  
30           restrictions must be uniform throughout each district, but the regulations and  
31           restrictions in one district may differ from those in other districts.

- 1           2. A regulation or restriction may not prohibit or prevent the use of land or buildings  
2           for farming or ranching or any of the normal incidents of farming or ranching. For  
3           purposes of this section, "farming or ranching" means cultivating land for  
4           production of agricultural crops or livestock, or raising, feeding, or producing  
5           livestock, poultry, milk, or fruit. The term does not include producing timber or  
6           forest products, nor does the term include a contract whereby a processor or  
7           distributor of farm products or supplies provides grain, harvesting, or other farm  
8           services.
- 9           3. A board of township supervisors may regulate the nature and scope of  
10          concentrated feeding operations permissible in the township; however, if a  
11          regulation would impose a substantial economic burden on a concentrated feeding  
12          operation in existence before the effective date of the regulation, the board of  
13          township supervisors shall declare that the regulation is ineffective with respect to  
14          any concentrated feeding operation in existence before the effective date of the  
15          regulation.
- 16          4. A regulation may not preclude the development of a concentrated feeding  
17          operation in the township. A regulation addressing the development of a  
18          concentrated feeding operation in the township may set reasonable standards,  
19          based on the size of the operation, to govern its location.
- 20          5. For purposes of this section, "concentrated feeding operation" means any livestock  
21          feeding, handling, or holding operation, or feed yard, where animals are  
22          concentrated in an area that is not normally used for pasture or for growing crops  
23          and in which animal wastes may accumulate, or in an area where the space per  
24          animal unit is less than six hundred square feet [55.74 square meters]. The term  
25          does not include normal wintering operations for cattle. For purposes of this  
26          section, "livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses,  
27          and fur animals raised for their pelts.
- 28          6. A board of township supervisors may not prohibit, through regulation, the  
29          reasonable diversification or expansion of a farming or ranching operation.
- 30          7. A transitional living center may not be located within one thousand feet [300.48  
31          meters] of any public or private elementary or secondary school.

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