

Introduced by

Representatives Vetter, Klemin, Koppelman, Motschenbacher, Sanford, Toman

Senators Barta, Cleary, Clemens, Larsen, Meyer, Vedaa

1 A BILL for an Act to amend and reenact ~~subsection 3 of section 11-10.1-05~~, section 11-33-04,
 2 subsection 1 of section 11-33-18, subsection 6 of section 40-05-02, sections 40-47-06, ~~40-19-01~~
 3 ~~47-10-02.1~~, and 58-03-13, and subsection 2 of section 58-03-19, ~~and section 58-09-03~~ of the
 4 North Dakota Century Code, relating to notices triggering zoning inspections ~~when~~
 5 ~~assessments are conducted~~ before residential real property is sold and when building permits
 6 are issued.

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

8 **~~SECTION 1. AMENDMENT.~~** ~~Subsection 3 of section 11-10.1-05 of the North Dakota~~
 9 ~~Century Code is amended and reenacted as follows:~~

10 ~~3. The county director of tax equalization shall supervise all individuals performing~~
 11 ~~assessor services in the county and arrange for the assessment of property within the~~
 12 ~~county, except within the jurisdiction of a city or township in which the governing body~~
 13 ~~retains a certified class I or class II assessor. When an assessment is performed, the~~
 14 ~~county director of tax equalization immediately shall notify the planning commission of~~
 15 ~~the assessment for purposes of section 11-33-04.~~

16 **SECTION 1. AMENDMENT.** Section 11-33-04 of the North Dakota Century Code is
 17 amended and reenacted as follows:

18 **11-33-04. County planning commissions authorized - Membership.**

19 1. The board of county commissioners of any county desiring to ~~avail itself of~~ exercise the
 20 powers ~~conferred by~~ under this chapter shall establish, by resolution, a county planning
 21 commission to recommend the boundaries of the various county zoning districts and
 22 appropriate regulations and restrictions to be established ~~therein~~ in the districts. In
 23 counties with three-member boards of county commissioners, the planning
 24 commission consists of seven members, of whom at least one must be appointed from

1 the governing body of the city that is the county seat, and of whom at most one may
2 be appointed from the board of county commissioners. In counties with five-member
3 boards of county commissioners, the planning commission consists of nine members,
4 of whom at least two must be appointed from the governing body of the city that is the
5 county seat, and of whom at most two may be appointed from the board of county
6 commissioners. The term of an ex officio member is coterminous with the member's
7 term in the underlying office. The remaining members ~~shall~~must be appointed from the
8 county at large. In counties that elect county commissioners from districts, at least one
9 at large member of the planning commission must be appointed from each district.
10 When appointments to ~~said~~the commission are first made, three members at large
11 ~~shall~~must be appointed for a two-year term and two members at large for a four-year
12 term, after which all subsequent appointments for members at large ~~shall~~must be for a
13 four-year term. Appointments to fill vacancies ~~shall~~must be for the unexpired portion of
14 the term. All appointments to the county planning commission ~~shall~~must be made by
15 the board of county commissioners.

16 2. Within six months of receiving a notice, from the board of county commissioners that a
17 building permit has been issued to a landowner under section 11-33-18 or an-
18 assessment of real property under section 11-10.1-05 has occurred a seller of real
19 property has ordered a zoning inspection under section 47-10-02.1, the county
20 planning commission or its appointed agent or designee shall inspect the affected
21 property to determine if the property complies with the applicable county zoning
22 ordinances affecting a landowner's ability to repair or rebuild a structure if that
23 structure is more than fifty percent damaged or destroyed. After the inspection, the
24 county zoning commission or its appointed agent or designee shall furnish a written
25 report to the affected property owner. The report must address whether the affected
26 property complies with the applicable county zoning ordinances. A zoning inspection
27 under this subsection is not required if the county has adopted a zoning ordinance that
28 permits a property owner to repair or rebuild a nonconforming structure if that structure
29 is more than fifty percent damaged or destroyed. An inspection under this subsection
30 applies to residential property only and may occur only once every five years on the

1 same parcel of property, unless an additional inspection is deemed necessary by a
2 majority of the county planning commission.

3 **SECTION 2. AMENDMENT.** Subsection 1 of section 11-33-18 of the North Dakota Century
4 Code is amended and reenacted as follows:

5 1. The board of county commissioners may authorize and provide for the issuance of
6 permits as a prerequisite to construction, erection, reconstruction, alteration, repair, or
7 enlargement of any building or structure otherwise subject to this chapter. When a
8 permit is issued under this section, the board of county commissioners immediately
9 shall notify the county planning commission of the issuance of a permit for purposes of
10 section 11-33-04.

11 **SECTION 3. AMENDMENT.** Subsection 6 of section 40-05-02 of the North Dakota Century
12 Code is amended and reenacted as follows:

13 6. Building permits. To provide by ordinance and to fix the fees for the issuance of
14 building permits. When a permit is issued under this section, the city council or city
15 commission immediately shall notify the zoning commission of the issuance of a
16 permit for purposes of section 40-47-06.

17 **SECTION 4. AMENDMENT.** Section 40-47-06 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **40-47-06. Zoning commission - Appointment - Duties - Preliminary and final report.**

20 1. The governing body of a city desiring to ~~avail itself of~~exercise the powers conferred
21 ~~by~~under this chapter shall appoint a zoning commission, ~~to be known as the zoning~~
22 ~~commission~~, to recommend the boundaries of the various original districts and
23 appropriate regulations to be enforced ~~therein~~in the districts. In addition to the
24 members appointed by the city, the zoning commission ~~shall~~must include at least one
25 person residing outside of the corporate limits of a city having a population of less than
26 five thousand, two persons residing outside the corporate limits of a city having a
27 population of five thousand or more, but less than twenty-five thousand, or three
28 persons residing outside the corporate limits of a city having a population of
29 twenty-five thousand or more if zoning authority is exercised pursuant to section
30 40-47-01.1. Such persons ~~shall~~must be appointed by the board or boards of county
31 commissioners of the county or counties within which ~~such~~ zoning authority is to be

1 exercised and ~~shall~~must reside within the territorial limits of the zoning regulation
2 authority exercised by the city, if such persons are available and will serve on the
3 zoning commission. Of the members of the commission appointed by a board or
4 boards of county commissioners pursuant to this section, the first member appointed
5 shall hold office for five years, the second member appointed shall hold office for three
6 years, and the third member appointed shall hold office for one year. Thereafter, the
7 members ~~shall~~must be appointed for terms of five years. ~~Such~~The commission shall
8 make a preliminary report and hold public hearings ~~thereon~~on the report before
9 submitting ~~its~~the final report. The governing body ~~shall~~may not hold ~~its~~ public hearings
10 or take action until ~~it~~the governing body has received the final report of the zoning
11 commission. If a city has a planning commission, ~~it~~the planning commission may be
12 appointed as the zoning commission.

13 2. Within six months of receiving a notice, from the city council or city commission that a
14 building permit has been issued to a landowner under section 40-05-02, or an
15 assessment of real property under section 40-19-01 has occurred a seller of real
16 property has ordered a zoning inspection under section 47-10-02.1, the city zoning
17 commission or its appointed agent or designee shall inspect the affected property to
18 determine if the property complies with the applicable city zoning ordinances affecting
19 a landowner's ability to repair or rebuild a structure if that structure is more than fifty
20 percent damaged or destroyed. After the inspection, the city zoning commission or its
21 appointed agent or designee shall furnish a written report to the affected property
22 owner. The report must address whether the affected property complies with the
23 applicable city zoning ordinances. A zoning inspection under this subsection is not
24 required if the city has adopted a zoning ordinance that permits a property owner to
25 repair or rebuild a nonconforming structure if that structure is more than fifty percent
26 damaged or destroyed. An inspection under this subsection applies to residential
27 property only and may occur only once every five years on the same parcel of
28 property, unless an additional inspection is deemed necessary by a majority of the city
29 zoning commission.

30 **~~SECTION 6. AMENDMENT. Section 40-19-01 of the North Dakota Century Code is~~**
31 **~~amended and reenacted as follows:~~**

~~40-19-01. Duties of city assessor.~~

~~The city assessor within the city shall perform all the duties necessary in assessing the property within the city for the purpose of levying the municipal, county, school, and state taxes. Such assessors shall be governed by and shall make assessments and returns as is provided in title 57 and in this chapter. When an assessment is performed, the city assessor immediately shall notify the planning commission of the assessment for purposes of section 40-47-06.~~

SECTION 5. AMENDMENT. Section 47-10-02.1 of the North Dakota Century Code is amended and reenacted as follows:

47-10-02.1. Property disclosure - Requirements - Exceptions.

1. Unless the transaction is exempted under subsection 7, this section applies to a transaction for the sale, exchange, or purchase of real property if:
 - a. A real estate broker, real estate broker associate, or real estate salesperson who is associated with a real estate brokerage firm represents or assists a party to the transaction; and
 - b. The real property is a residential dwelling with no more than four units located in this state being sold or exchanged by the owner.
2. Except as otherwise provided in an offer to purchase agreement, before the parties sign the final acceptance of the purchase agreement for the sale, exchange, or purchase of the real property, the seller in a transaction subject to subsection 1 shall prepare a written disclosure form and shall make the written disclosure form available to the prospective buyer. The written disclosure form must include all material facts the seller is aware could adversely and significantly affect an ordinary buyer's use and enjoyment of the property or any intended use of the property of which the seller is aware. The written disclosure form must disclose whether a zoning inspection under section 11-33-04, 40-47-06, or 58-03-13 has occurred within the last five years before the date of disclosure. If a zoning inspection has occurred, the seller shall disclose to the buyer the date of the last zoning inspection on the disclosure form. If a zoning inspection has not occurred, the seller shall order a zoning inspection to be conducted on the property from the appropriate zoning authority before the seller executes and delivers a conveyance instrument to the buyer which is in sufficient form to pass the title to the property. The written disclosure form must be in the form of the written

- 1 disclosure form established by the North Dakota real estate commission under
2 subsection 4 or in a substantially similar form and must include latent defects, general
3 condition, environmental issues, structural systems, and mechanical issues regarding
4 the property. The seller shall complete the written disclosure in good faith and based
5 upon the best of the seller's knowledge at the time of the disclosure.
- 6 3. If a real estate broker, real estate broker associate, or real estate salesperson who is
7 associated with a real estate brokerage firm represents or assists a party to the
8 transaction, following the sale, exchange, or purchase of real property, the brokerage
9 firm shall retain a copy of the written disclosure completed and signed by the seller
10 and signed by the prospective buyer. The brokerage firm's duties under this section do
11 not supersede any other common law or statutory duties.
- 12 4. The North Dakota real estate commission shall establish and make available a written
13 disclosure form meeting the requirements of this section. In establishing the form, the
14 commission shall consult with stakeholders, such as professional organizations.
- 15 5. If a real estate broker, real estate broker associate, or real estate salesperson who is
16 associated with a real estate brokerage firm violates this section, the state real estate
17 commission may investigate and take disciplinary action under section 43-23-11.1.
- 18 6. Unless the transaction is subject to subsection 1 or exempted under subsection 7, the
19 seller of real property that is a residential dwelling with no more than four units located
20 in this state being sold or exchanged by the owner shall comply with the provisions of
21 this subsection. Except as otherwise provided in an offer to purchase agreement,
22 before the parties sign the final acceptance of the purchase agreement for the sale,
23 exchange, or purchase of the real property, the seller in a transaction subject to this
24 subsection shall disclose to the buyer, in writing, all material facts the seller is aware
25 could adversely and significantly affect an ordinary buyer's use and enjoyment of the
26 property or any intended use of the property of which the seller is aware. The written
27 disclosure may be in the form of a written property disclosure form.
- 28 7. This section does not apply to transactions for the sale, exchange, or purchase of real
29 property made:
- 30 a. Pursuant to a court order;
- 31 b. Between government agencies;

- 1 c. By a mortgagor in default to a mortgagee;
- 2 d. Pursuant to a foreclosure sale;
- 3 e. By a mortgagee or a beneficiary of a deed of trust who acquired the real property
- 4 by a:
- 5 (1) Foreclosure;
- 6 (2) Deed in lieu of foreclosure; or
- 7 (3) Collateral assignment of beneficial interest;
- 8 f. By a fiduciary administering a decedent's estate, guardianship, conservatorship,
- 9 or trust;
- 10 g. Between co-owners of the real property;
- 11 h. To a spouse, child, parent, sibling, grandchild, or grandparent; or
- 12 i. If the real property is newly constructed residential real property with no previous
- 13 occupancy.

14 **SECTION 6. AMENDMENT.** Section 58-03-13 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **58-03-13. Township zoning commissions - Membership - Reports and**
17 **recommendations - District boundaries - Hearings - Notice.**

- 18 1. The board of township supervisors of a township desiring to ~~avail itself of~~exercise the
19 powers ~~conferred by~~under sections 58-03-11 through 58-03-15 shall establish, by
20 resolution, a township zoning commission to recommend the boundaries of the various
21 township zoning districts and appropriate regulations and restrictions to be established
22 ~~therein in the districts~~. Membership of the commission must consist of three township
23 supervisors and two members appointed from the municipalities concerned in relation
24 to which the zoning is contemplated. ~~Where~~If the area to be regulated and restricted is
25 situated in two or more townships, a joint zoning commission may be established.
26 Membership of a joint zoning commission must consist of two township supervisors
27 from each township and two members from the municipality in relation to which the
28 zoning is contemplated. A zoning commission shall make a preliminary report and hold
29 public hearings before submitting its final report and recommendations to the board or
30 boards of township supervisors. The board or boards of township supervisors may
31 establish, and from time to time change, the boundaries of township zoning districts

1 and establish, amend, supplement, and enforce regulations and restrictions in the
2 districts. ~~No~~A regulation, restriction, or boundaries may not become effective until after
3 a public hearing at which parties in interest and citizens have an opportunity to be
4 heard. At least fifteen days' notice of the time and place of the hearing must be
5 published in the official newspaper of the county and ~~also in~~ the official newspaper of
6 the municipality in relation to which the zoning action is taken, if in the municipality an
7 official newspaper other than the official newspaper of the county is published. The
8 description of ~~any~~ land within ~~any~~ a zoning district established by a zoning commission
9 together with any regulations and restrictions established must be filed with the
10 governing bodies of the township and municipalities concerned, and if amendments
11 are made to the boundaries of the zoning district or the regulations or restrictions, the
12 amendments must be filed in the same manner. A zoning commission established
13 under this section and a board of township supervisors shall state the grounds upon
14 which any request for a zoning amendment or variance is approved or disapproved,
15 and written findings upon which the decision is based must be included within the
16 records of the commission or board.

17 2. Within six months of receiving a notice, from the township that a building permit has
18 been issued to a landowner under section 58-03-19 or ~~an assessment of real property~~
19 ~~under section 58-09-03 has occurred~~ a seller of real property has ordered a zoning
20 inspection under section 47-10-02.1, the township zoning commission or its appointed
21 agent or designee shall inspect the affected property to determine if the property
22 complies with the applicable township zoning ordinances affecting a landowner's
23 ability to repair or rebuild a structure if that structure is more than fifty percent
24 damaged or destroyed. After the inspection, the township zoning commission or its
25 appointed agent or designee shall furnish a written report to the affected property
26 owner. The report must address whether the affected property complies with the
27 applicable township zoning ordinances. A zoning inspection under this subsection is
28 not required if the township has adopted a zoning ordinance that permits a property
29 owner to repair or rebuild a nonconforming structure if that structure is more than fifty
30 percent damaged or destroyed. An inspection under this subsection applies to
31 residential property only and may occur only once every five years on the same parcel

1 of property, unless an additional inspection is deemed necessary by a majority of the
2 township zoning commission.

3 **SECTION 7. AMENDMENT.** Subsection 2 of section 58-03-19 of the North Dakota Century
4 Code is amended and reenacted as follows:

- 5 2. If the building or structure for which a permit is requested meets all applicable zoning
6 regulations and the board of township supervisors or other appropriate official fails to
7 respond as required under subsection 1, the application is deemed to be approved
8 and the applicant may proceed with the construction, erection, reconstruction, repair,
9 or alteration of the building or structure and the township shall return any permit fee
10 submitted with the application. When a permit is issued under this section, the
11 township immediately shall notify the zoning commission of the issuance of a permit
12 for purposes of section 58-03-13.

13 ~~**SECTION 9. AMENDMENT.** Section 58-09-03 of the North Dakota Century Code is~~
14 ~~amended and reenacted as follows:~~

15 ~~— **58-09-03. Assessors -- How governed.**~~

16 ~~— The township assessor must be governed by, and shall make assessments and returns as~~
17 ~~provided in, title 57. When an assessment is performed, the township assessor immediately~~
18 ~~shall notify the township zoning commission of the assessment for purposes of section~~
19 ~~58-03-13.~~

