

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1500

Introduced by

Representatives Koppelman, J. Johnson, Louser, D. Ruby, Steiner, Vetter

Senators Clemens, Cory, Dwyer, Kessel, 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 in counties, cities, and
3 townships.

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

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

7 **11-33-17.1. Zoning - Nonconforming structure.**

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

12 a. An application for a building permit is submitted within six months of the date the
13 damage occurs;

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

15 c. The lot or parcel upon which the structure dedicated to residential use is located
16 abuts a public right of way; and

17 d. The new structure will not:

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

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

- 1 (3) Exceed the height or number of stories of the damaged structure;
- 2 (4) Diminish the number of off-street parking spaces located on the property
- 3 from the number of spaces before the damage;
- 4 (5) Violate existing building and fire codes;
- 5 (6) Violate existing sanitary or health standards imposed by the local health
- 6 district;
- 7 (7) Pose a risk to public health or safety;
- 8 (8) Encroach upon a public right of way; or
- 9 (9) Encroach upon any neighboring property.
- 10 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
- 11 expansion is in compliance with applicable zoning ordinances and state laws and
- 12 rules. The zoning authority shall determine whether a proposed expansion is in
- 13 compliance.
- 14 3. Under subsection 1, a nonconforming structure may not be moved unless the
- 15 movement or relocation will bring the structure into compliance with all applicable
- 16 zoning ordinances.
- 17 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
- 18 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
- 19 nonconforming uses and structures in floodplain areas to the extent necessary to
- 20 maintain eligibility in the national flood insurance program and adhere fully to all
- 21 applicable floodplain management ordinances without increasing flood damage
- 22 potential or increasing the degree of obstruction to floodflows in the floodway.
- 23 5. Notwithstanding subsections 1, 2, and 3, the zoning authority may create a less
- 24 restrictive ordinance or regulation.
- 25 6. Unless the county determines the repair, replacement, improvement, maintenance,
- 26 restoration, rebuilding, of a nonconforming structure will violate subdivision ed of
- 27 subsection 1, the county shall issue a building permit to a property owner that meets
- 28 the qualifications under subsection 1.
- 29 7. For purposes of this section, "nonconforming structure" means a structure that was
- 30 legal before a change in law ordinance made the structure nonconforming.

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

3 **40-47-05.1. Zoning - Nonconforming structure.**

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

8 a. An application for a building permit is submitted within six months of the date the
9 damage occurs;

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

11 c. The lot or parcel upon which the structure dedicated to residential use is located
12 abuts a public right of way; and

13 d. The new structure will not:

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

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

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

18 (4) Diminish the number of off-street parking spaces located on the property
19 from the number of spaces before the damage;

20 (5) Violate existing building and fire codes;

21 (6) Violate existing sanitary or health standards imposed by the local health
22 district;

23 (7) Pose a risk to public health or safety;

24 (8) Encroach upon a public right of way; or

25 (9) Encroach upon any neighboring property.

26 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
27 expansion is in compliance with applicable zoning ordinances and state laws and
28 rules. The zoning authority shall determine whether a proposed expansion is in
29 compliance.

- 1 3. Under subsection 1, a nonconforming structure may not be moved unless the
2 movement or relocation will bring the structure into compliance with all applicable
3 zoning ordinances.
- 4 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
5 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
6 nonconforming uses and structures in floodplain areas to the extent necessary to
7 maintain eligibility in the national flood insurance program and adhere fully to all
8 applicable floodplain management ordinances without increasing flood damage
9 potential or increasing the degree of obstruction to floodflows in the floodway.
- 10 5. Notwithstanding section 40-47-13 and subsections 1, 2, and 3, the zoning authority
11 may create a less restrictive ordinance or regulation.
- 12 6. Unless the city determines that the repair, replacement, improvement, maintenance,
13 restoration, rebuilding, of a nonconforming structure will violate subdivision ed of
14 subsection 1, the city shall issue a building permit to a property owner that meets the
15 qualifications under subsection 1.
- 16 7. For purposes of this section, "nonconforming structure" means a structure that was
17 legal before a change in law ordinance made the structure nonconforming.

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

20 **58-03-14.1. Zoning - Nonconforming structure.**

- 21 1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming
22 structure devoted to residential use and located in a residential zoning district may be
23 repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even
24 though the structure is damaged beyond fifty percent of its value if:
 - 25 a. An application for a building permit is submitted within six months of the date the
26 damage occurs;
 - 27 b. Restoration begins within one year of the date the damage occurred;
 - 28 c. The lot or parcel upon which the structure dedicated to residential use is located
29 abuts a public right of way; and
 - 30 d. The new structure will not:

- 1 (1) Occupy a portion of the lot which was not occupied by the damaged
- 2 structure;
- 3 (2) Have more square footage than the damaged structure;
- 4 (3) Exceed the height or number of stories of the damaged structure;
- 5 (4) Diminish the number of off-street parking spaces located on the property
- 6 from the number of spaces before the damage;
- 7 (5) Violate existing building and fire codes;
- 8 (6) Violate existing sanitary or health standards imposed by the local health
- 9 district;
- 10 (7) Pose a risk to public health or safety;
- 11 (8) Encroach upon a public right way; or
- 12 (9) Encroach upon any neighboring property.
- 13 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
- 14 expansion is in compliance with applicable zoning ordinances and state laws and
- 15 rules. The zoning authority shall determine whether a proposed expansion is in
- 16 compliance.
- 17 3. Under subsection 1, a nonconforming structure may not be moved unless the
- 18 movement or relocation will bring the structure into compliance with all applicable
- 19 zoning ordinances.
- 20 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
- 21 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
- 22 nonconforming uses and structures in floodplain areas to the extent necessary to
- 23 maintain eligibility in the national flood insurance program and adhere fully to all
- 24 applicable floodplain management ordinances without increasing flood damage
- 25 potential or increasing the degree of obstruction to floodflows in the floodway.
- 26 5. Notwithstanding subsections 1, 2, and 3, the zoning authority may create a less
- 27 restrictive ordinance or regulation.
- 28 6. Unless the township determines that the repair, replacement, improvement,
- 29 maintenance, restoration, rebuilding, of a nonconforming structure will violate
- 30 subdivision ed of subsection 1, the township shall issue a building permit to a property
- 31 owner that meets the qualifications under subsection 1.

- 1 7. For purposes of this section, "nonconforming structure" means a structure that was
2 | legal before a change in ~~law~~ordinance made the structure nonconforming.