

**FIRST ENGROSSMENT
with Senate Amendments**

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;

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

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

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

1 **40-47-05.1. Zoning - Nonconforming structure.**

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

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

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

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

11 d. The new structure will not:

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

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

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

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

18 (5) Violate existing building and fire codes;

19 (6) Violate existing sanitary or health standards imposed by the local health
20 district;

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

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

23 (9) Encroach upon any neighboring property.

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

28 3. Under subsection 1, a nonconforming structure may not be moved unless the
29 movement or relocation will bring the structure into compliance with all applicable
30 zoning ordinances.

- 1 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
2 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
3 nonconforming uses and structures in floodplain areas to the extent necessary to
4 maintain eligibility in the national flood insurance program and adhere fully to all
5 applicable floodplain management ordinances without increasing flood damage
6 potential or increasing the degree of obstruction to floodflows in the floodway.
- 7 5. Notwithstanding section 40-47-13 and subsections 1, 2, and 3, the zoning authority
8 may create a less restrictive ordinance or regulation.
- 9 6. Unless the city determines that the repair, replacement, improvement, maintenance,
10 restoration, rebuilding, of a nonconforming structure will violate subdivision d of
11 subsection 1, the city shall issue a building permit to a property owner that meets the
12 qualifications under subsection 1.
- 13 7. For purposes of this section, "nonconforming structure" means a structure that was
14 legal before a change in ordinance made the structure nonconforming.

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

17 **58-03-14.1. Zoning - Nonconforming structure.**

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

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