

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

HOUSE BILL NO. 1500
(Representatives Koppelman, J. Johnson, Louser, D. Ruby, Steiner, Vetter)
(Senators Clemens, Cory, Dwyer, Kessel, Meyer)

AN ACT to create and enact sections 11-33-17.1, 40-47-05.1, and 58-03-14.1 of the North Dakota Century Code, relating to nonconforming structures in counties, cities, and townships.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

11-33-17.1. Zoning - Nonconforming structure.

1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming structure devoted to residential use and located in a residential zoning district may be repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its value if:
 - a. An application for a building permit is submitted within six months of the date the damage occurs;
 - b. Restoration begins within one year of the date the damage occurred;
 - c. The lot or parcel upon which the structure dedicated to residential use is located abuts a public right of way; and
 - d. The new structure will not:
 - (1) Occupy a portion of the lot which was not occupied by the damaged structure;
 - (2) Have more square footage than the damaged structure;
 - (3) Exceed the height or number of stories of the damaged structure;
 - (4) Diminish the number of off-street parking spaces located on the property from the number of spaces before the damage;
 - (5) Violate existing building and fire codes;
 - (6) Violate existing sanitary or health standards imposed by the local health district;
 - (7) Pose a risk to public health or safety;
 - (8) Encroach upon a public right of way; or
 - (9) Encroach upon any neighboring property.
2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the expansion is in compliance with applicable zoning ordinances and state laws and rules. The zoning authority shall determine whether a proposed expansion is in compliance.
3. Under subsection 1, a nonconforming structure may not be moved unless the movement or relocation will bring the structure into compliance with all applicable zoning ordinances.

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

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

40-47-05.1. Zoning - Nonconforming structure.

1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming structure devoted to residential use and located in a residential zoning district may be repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its value if:
 - a. An application for a building permit is submitted within six months of the date the damage occurs;
 - b. Restoration begins within one year of the date the damage occurred;
 - c. The lot or parcel upon which the structure dedicated to residential use is located abuts a public right of way; and
 - d. The new structure will not:
 - (1) Occupy a portion of the lot which was not occupied by the damaged structure;
 - (2) Have more square footage than the damaged structure;
 - (3) Exceed the height or number of stories of the damaged structure;
 - (4) Diminish the number of off-street parking spaces located on the property from the number of spaces before the damage;
 - (5) Violate existing building and fire codes;
 - (6) Violate existing sanitary or health standards imposed by the local health district;
 - (7) Pose a risk to public health or safety;
 - (8) Encroach upon a public right of way; or
 - (9) Encroach upon any neighboring property.
2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the expansion is in compliance with applicable zoning ordinances and state laws and rules. The zoning authority shall determine whether a proposed expansion is in compliance.

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

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

58-03-14.1. Zoning - Nonconforming structure.

1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming structure devoted to residential use and located in a residential zoning district may be repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its value if:
 - a. An application for a building permit is submitted within six months of the date the damage occurs;
 - b. Restoration begins within one year of the date the damage occurred;
 - c. The lot or parcel upon which the structure dedicated to residential use is located abuts a public right of way; and
 - d. The new structure will not:
 - (1) Occupy a portion of the lot which was not occupied by the damaged structure;
 - (2) Have more square footage than the damaged structure;
 - (3) Exceed the height or number of stories of the damaged structure;
 - (4) Diminish the number of off-street parking spaces located on the property from the number of spaces before the damage;
 - (5) Violate existing building and fire codes;
 - (6) Violate existing sanitary or health standards imposed by the local health district;
 - (7) Pose a risk to public health or safety;
 - (8) Encroach upon a public right of way; or
 - (9) Encroach upon any neighboring property.

2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the expansion is in compliance with applicable zoning ordinances and state laws and rules. The zoning authority shall determine whether a proposed expansion is in compliance.
3. Under subsection 1, a nonconforming structure may not be moved unless the movement or relocation will bring the structure into compliance with all applicable zoning ordinances.
4. Notwithstanding subsection 1, the zoning authority shall regulate the repair, replacement, improvement, maintenance, restoration, rebuilding, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the national flood insurance program and adhere fully to all applicable floodplain management ordinances without increasing flood damage potential or increasing the degree of obstruction to floodflows in the floodway.
5. Notwithstanding subsections 1, 2, and 3, the zoning authority may create a less restrictive ordinance or regulation.
6. Unless the township determines that the repair, replacement, improvement, maintenance, restoration, rebuilding, of a nonconforming structure will violate subdivision d of subsection 1, the township shall issue a building permit to a property owner that meets the qualifications under subsection 1.
7. For purposes of this section, "nonconforming structure" means a structure that was legal before a change in ordinance made the structure nonconforming.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1500.

House Vote: Yeas 87 Nays 3 Absent 4

Senate Vote: Yeas 31 Nays 16 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2025.

Approved at _____ M. on _____, 2025.

Governor

Filed in this office this _____ day of _____, 2025,

at _____ o'clock _____ M.

Secretary of State