

COUNTIES

CHAPTER 104

HOUSE BILL NO. 1307

(Representatives Kasper, Headland, Kempenich, Koppelman, Louser, D. Ruby,
Steiner, Motschenbacher)
(Senators Hogue, Myrdal, Paulson)

AN ACT to amend and reenact sections 11-09.1-04, 11-09.1-05, 40-05.1-05, 40-05.1-06, and 40-49-07 of the North Dakota Century Code, relating to election laws in home rule counties and cities and nominating petition signature thresholds in park districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-09.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11-09.1-04. Ratification by majority vote - Supersession of existing charter and conflicting state laws - Exception - Filing of copies of new charter.

If a majority of the qualified electors voting on the charter at the election vote in favor of the home rule charter, it is ratified and becomes the organic law of the county on the first day of January or July next following the election, and extends to all its county matters, unless limited by law. The charter and the ordinances made pursuant to the charter in county matters, except for matters pertaining to county elections, must be liberally construed to supersede within the territorial limits and jurisdiction of the county any conflicting state law except for any state law as it applies to cities or any power of a city to govern its own affairs, without the consent of the governing body of the city. Any ordinance enacted or adopted by a county pertaining to county elections under a home rule charter in conflict with state law is void. The charter may not authorize the enactment of ordinances to diminish the authority of a board of supervisors of a township or to change the structure of township government in any organized civil township, without the consent of the board of supervisors of the township. ~~No~~An ordinance of a home rule county ~~shall may not~~ supersede sections 49-22-16 and 49-22.1-13. One copy of the charter as ratified and approved must be filed with the secretary of state; one with the recorder for the county, unless the board of county commissioners designates a different official; and one with the auditor of the county to remain as a part of its permanent records. Courts shall take judicial notice of the charter.

³⁰ **SECTION 2. AMENDMENT.** Section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

³⁰ Section 11-09.1-05 was also amended by section 1 of House Bill No. 1297, chapter 201.

11-09.1-05. Powers.

After the filing with the secretary of state of a charter approved in reasonable conformity with this chapter, the county and its citizens may, if included in the charter and implemented through ordinances:

1. Acquire, hold, operate, and dispose of property within or without the county limits, and, subject to chapter 32-15, exercise the right of eminent domain for those purposes.
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law; and establish debt limitations.
3. Levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects.
4. Levy and collect an infrastructure fee. The fee must replace a general special assessment on all property for payment of infrastructure maintenance costs through a utility bill issued by the county. The money collected under this subsection may not be used for any purpose other than infrastructure maintenance costs. If a home rule county levies an infrastructure fee, the home rule county also may levy and collect green field special assessments. As used in this subsection:
 - a. "General special assessments" means special assessments levied for the purpose of maintaining existing roads and infrastructure and special assessments levied for the construction or repair of arterial roads and infrastructure that provide a benefit to the entire community.
 - b. "Green field special assessments" means special assessments levied for infrastructure costs associated with the development of agricultural or undeveloped property.
5. Levy and collect sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a county lodging tax, and a county restaurant tax. Sales and use taxes and gross receipts taxes levied under this chapter:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.

- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a county lodging or county restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section.

- 6. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.
- ~~7. Provide for all matters pertaining to county elections, except as to qualifications of electors.~~
- ~~8.~~ Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. This subsection does not confer any authority to regulate any industry or activity regulated by state law or by rules adopted by a state agency. This subsection is subject to the provisions of section 62.1-01-03.

- ~~9-8.~~ Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a county road system.
- ~~40-9.~~ Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township. This subsection is subject to the provisions of section 62.1-01-03.
- ~~44-10.~~ Exercise in the conduct of its affairs all powers usually exercised by a corporation.
- ~~42-11.~~ Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

The people of all counties coming within this chapter have the full right of self-government in all matters within the powers enumerated in this chapter. The statutes of this state, so far as applicable, continue to apply to counties, except as superseded by the charters of the counties or by ordinances passed pursuant to the charters.

SECTION 3. AMENDMENT. Section 40-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-05. Ratification by majority vote - Supersession of existing charter and state laws in conflict therewith - Exception - Filing of copies of new charter.

If a majority of the qualified voters voting on the charter at the election vote in favor of the home rule charter, the charter is ratified and is the organic law of the city, and extends to all its local and city matters, unless limited by law. The charter and the ordinances made pursuant to the charter in such matters, except for matters pertaining to city elections, supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict with the charter and ordinances and must be liberally construed for such purposes. Except as provided under subsection 9 of section 40-05.1-06, any ordinance enacted or adopted by a city pertaining to city elections under a home rule charter in conflict with state law is void. One copy of the charter ratified and approved must be filed with the secretary of state and one with the auditor of the city to remain as a part of its permanent records. ~~Thereupon the~~ The courts shall take judicial notice of the new charter upon its filing.

³¹ **SECTION 4. AMENDMENT.** Section 40-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-06. Powers.

From and after the filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this chapter, such city, and the citizens thereof, shall, if included in the charter and implemented through ordinances, have the following powers set out in this chapter:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and, subject to chapter 32-15, exercise the right of eminent domain for such purposes.

³¹ Section 40-05.1-06 was also amended by section 3 of House Bill No. 1297, chapter 201.

2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; to establish charges for any city or other services; and to establish debt limitations.
3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the city at the same rate unless otherwise provided by law.
4. To levy and collect an infrastructure fee. The fee must replace a general special assessment on all property for payment of infrastructure maintenance costs through a utility bill issued by a municipality. The money collected under this subsection may not be used for any purpose other than infrastructure maintenance costs. If a home rule city levies an infrastructure fee, the home rule city also may levy and collect green field special assessments. As used in this subsection:
 - a. "General special assessments" means special assessments levied for the purpose of maintaining existing roads and infrastructure and special assessments levied for the construction or repair of arterial roads and infrastructure that provide a benefit to the entire community.
 - b. "Green field special assessments" means special assessments levied for infrastructure costs associated with the development of agricultural or undeveloped property.
5. To levy and collect excises, fees, charges, franchise and license taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a city lodging tax, and a city restaurant tax. For purposes of this section, any taxes imposed under this section on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of this section is invalid to the extent it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform with this subsection does not affect the validity of any other portion of the charter or ordinance or the eligibility for a refund under section 57-01-02.1. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section. Sales and use taxes and gross receipts taxes levied under this section:
 - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
 - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to

the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.

- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
 - d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a city lodging or city restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.
6. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
 7. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government, including its governing body, executive officer, and city officers.
 8. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
 9. ~~To Notwithstanding section 40-21-07, to provide for all matters pertaining to city elections, except as to qualifications of electors~~signature thresholds for nominating petitions for candidates for city offices.
 10. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
 - 11.~~10.~~ To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
 - 12.~~11.~~ To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof. This subsection is subject to the provisions of section 62.1-01-03.
 - 13.~~12.~~ To engage in any utility, business, or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, corporation, or limited liability company.
 - 14.~~13.~~ To provide for zoning, planning, and subdivision of public or private property within the city limits. To provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law. This subsection is subject to the provisions of section 62.1-01-03.
 - 15.~~14.~~ To exercise in the conduct of its affairs all powers usually exercised by a corporation.

- ~~16.15.~~ To fix the boundary limits of said city and the annexation and deannexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.
- 17.~~16.~~ To contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

It is the intention of this chapter to grant and confirm to the people of all cities coming within its provisions the full right of self-government in both local and city matters within the powers enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar as superseded by the charters of such cities or by ordinance passed pursuant to such charters.

SECTION 5. AMENDMENT. Section 40-49-07 of the North Dakota Century Code is amended and reenacted as follows:

40-49-07. Election and qualification of members of board of park commissioners.

1. The members of the board of park commissioners shall possess the qualifications of electors of the city and must be elected by the qualified electors of the park district. The members of the first board may be elected at any regular city election or at a special election called for that purpose by the governing body of the city. ~~Thereafter,~~ After the first board is elected, the members of the board must be elected at the regular city elections. ~~Such~~
2. The elected members shall qualify by the first day of July following their election by taking and filing with the city auditor the oath prescribed for civil officers. The board of park commissioners may enter into an agreement with the governing body of the city concerning sharing of election personnel, printing of election materials, and apportioning of election expenses.
3. The board of park commissioners may adopt the same signature threshold for nominating petitions for candidates to the board of park commissioners when a city governing board has exercised its authority under subsection 9 of section 40-05.1-06 to change the signature threshold for nominating petitions for city candidates.

Approved April 28, 2025

Filed April 28, 2025

CHAPTER 105

SENATE BILL NO. 2324

(Senators Bekkedahl, Davison, Lee, Patten)
(Representatives Bosch, Grindberg)

AN ACT to create and enact a new section to chapter 11-09.1 and a new section to chapter 40-05.1 of the North Dakota Century Code, relating to a county home rule charter and city home rule charter conforming with statute or court order; and to amend and reenact sections 11-09.1-06 and 40-05.1-07 of the North Dakota Century Code, relating to the amendment or repeal of a county and city home rule charter.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-09.1-06 of the North Dakota Century Code is amended and reenacted as follows:

11-09.1-06. Amendment or repeal.

~~The~~ Except as provided in section 2 of this Act, the home rule charter adopted by ~~any~~ a county may be amended or repealed by a proposal by the governing body of the county or by petition of the number of electors provided in section 11-09.1-01, submitted to and ratified by the qualified electors of the county. A petition to amend or repeal a home rule charter must be submitted to the governing body of the county. Within thirty days of receipt of a valid petition or approval of a proposal to amend or repeal a home rule charter, the governing body of the county shall publish any proposed amendment or repeal of a home rule charter once in the official newspaper of the county. At least sixty days after publication, the proposed amendment or repeal must be submitted to a vote of the qualified electors of the county at the next primary or general election. The electors may accept or reject any amendment or a repeal by a majority vote of qualified electors voting on the question at the election.

SECTION 2. A new section to chapter 11-09.1 of the North Dakota Century Code is created and enacted as follows:

Conformance with statute or court order - Amendment.

1. When a portion of a home rule charter is preempted, superseded, or invalidated by a legislative act or a court order, the county may amend portions of the home rule charter by a resolution adopted by the governing body of the county. The resolution must reference the authority supporting the amendment.
2. A resolution passed under subsection 1 is effective after adoption by the governing body of the county. A petition, approval, or vote by the electors of the county is not required to amend a county's home rule charter under this section. Within thirty days after adoption of the resolution, the county shall publish the resolution once in the official newspaper of the county or on the official county website.

3. An amendment to a charter of a home rule county intended to add any power enumerated in section 11-09.1-05, which was not included in the county's original home rule charter, may not be amended under this section and must be amended under section 11-09.1-06. The county auditor shall file a copy of an amendment to a charter of a home rule county with the secretary of state.

SECTION 3. AMENDMENT. Section 40-05.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-05.1-07. Amendment or repeal.

~~The~~Except as provided in section 4 of this Act, the home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in the same general manner provided in sections 40-05.1-02 and 40-05.1-04 for the adoption of the charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 40-05.1-02 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of the amendments by a majority vote of qualified electors voting on the question at the election. A proposal to repeal a home rule charter that has been adopted must likewise be submitted to the electors of the city as set forth in this section. One copy of a ratified amendment or a repeal of a home rule charter must be filed with the secretary of state and one with the city auditor. Upon proper filing of the amendment or repeal, the courts shall take judicial notice of the amendment or repeal.

SECTION 4. A new section to chapter 40-05.1 of the North Dakota Century Code is created and enacted as follows:

Conformance with statute or court order - Amendment.

1. When a portion of a home rule charter is preempted, superseded, or invalidated by a legislative act or a court order, the city may amend portions of the home rule charter by a resolution adopted by the governing body of the city. The resolution must reference the authority supporting the amendment.
2. A resolution passed under subsection 1 is effective after adoption by the governing body of the city. A petition, approval, or vote by the electors of the city is not required to amend a city's home rule charter under this section. Within thirty days after adoption of the resolution, the city shall publish the resolution once in the official newspaper of the city or on the website of the city.
3. An amendment to a charter of a home rule city intended to add any power enumerated in section 40-05.1-06, which was not included in the city's original home rule charter, may not be amended under this section and must be amended under section 40-05.1-07. The city auditor shall file a copy of an amendment to a charter of a home rule city with the secretary of state.

Approved March 24, 2025

Filed March 25, 2025

CHAPTER 106

SENATE BILL NO. 2329

(Senators Lee, Bekkedahl, Erbele)
(Representative Fegley)

AN ACT to create and enact a new section to chapter 11-10 and a new section to chapter 58-03 of the North Dakota Century Code, relating to the maintenance or vacating of streets and alleys in a dissolved city and the care of property in a dissolved city; and to amend and reenact section 40-53.1-07 of the North Dakota Century Code, relating to dissolution, care of property, management, and disposition of funds in a dissolved city.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-10 of the North Dakota Century Code is created and enacted as follows:

When a county may maintain or vacate streets in a dissolved city.

If a dissolved city is located in an unorganized township, the county may choose to maintain or vacate, under chapter 40-39, the streets and alleys in the dissolved city.

SECTION 2. AMENDMENT. Section 40-53.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-53.1-07. Dissolution - Care of property - Manager - Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and, except for streets and alleys if an organized township chooses to maintain or vacate streets or alleys in the dissolved city under section 3 of this Act. The county shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds.

SECTION 3. A new section to chapter 58-03 of the North Dakota Century Code is created and enacted as follows:

When a township may maintain or vacate streets in a dissolved city.

If a dissolved city is located in an organized township, the township may choose to maintain or vacate, under chapter 40-39, the streets and alleys in the dissolved city.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 107

SENATE BILL NO. 2027

(Legislative Management)
(Agriculture and Natural Resources Committee)

AN ACT to create and enact a new section to chapter 11-11, a new subsection to section 11-11-14, a new section to chapter 40-05, a new section to chapter 58-06, a new subsection to section 58-06-01, and a new section to chapter 61-16.2 of the North Dakota Century Code, relating to floodplain management powers and ordinances for counties, cities, and townships; and to amend and reenact subsection 2 of section 11-33-03, subsection 67 of section 40-05-01, subsection 2 of section 40-47-03, and sections 58-03-12 and 61-16.2-02 of the North Dakota Century Code, relating to county, city, and township floodplain management ordinances and to provide definitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-11 of the North Dakota Century Code is created and enacted as follows:

Floodplain management ordinances - Requirements - Limitations - Definitions - Enforcement.

1. As used in this chapter:
 - a. "Floodplain management" has the same meaning as in section 61-16.2-02.
 - b. "Floodplain management ordinance" has the same meaning as in section 61-16.2-02.
 - c. "Indian country" means all:
 - (1) Land within the limits of any Indian reservation that is under the jurisdiction of the United States government and located within this state, notwithstanding the issuance of any patent, and, including rights of way running through the reservation;
 - (2) Dependent Indian communities within this state whether within the original or subsequently acquired territory of the state; and
 - (3) Indian allotments within this state, the Indian titles to which have not been extinguished, including rights of way running through the allotted lands.
2. A board of county commissioners may undertake floodplain management as provided in chapter 61-16.2. If a board of county commissioners undertakes floodplain management under this section, the board of county commissioners shall enact a floodplain management ordinance applying to all persons and property within the boundaries of the county, except for persons and property within a city's zoning jurisdiction as provided under chapter 40-47 or within the exterior boundaries of Indian country.

3. Notwithstanding subsection 2, if a board of township supervisors approves by a written resolution that the township desires to undertake floodplain management under chapter 61-16.2, the board of township supervisors shall avail itself the authority to regulate floodplain management. Upon the adoption of the resolution, the board of township supervisors has exclusive authority to regulate floodplain management under chapter 61-16.2. If a board of township supervisors undertakes floodplain management under this section, the board of township supervisors shall enact a floodplain management ordinance applying to all persons and property within the boundaries of the township, except for persons and property within a city's zoning jurisdiction as provided under chapter 40-47 or within the exterior boundaries of Indian country. The township clerk shall forward a copy of the written resolution to the county auditor of the county in which the township is located and the department of water resources for inclusion in the central repository established under section 10 of this Act.
4. After acquiring floodplain management authority from the county under subsection 3, the township may relinquish its floodplain management authority back to the county upon execution of a written agreement signed by the board of county commissioners and the board of township supervisors. The county may not require the township to convey an additional authority legally afforded to the township in exchange for the written agreement. The relinquishment of authority may not become effective sooner than sixty days after the board of township supervisors delivers a written notice of proposed relinquishment to the appropriate board of county commissioners.
5. If a township previously exercised floodplain management authority and becomes subject to county floodplain management authority under this section, the township shall defend, indemnify, and hold harmless the county and its agents, officers, and employees from and against a claim for damages arising from a township's noncompliance with chapter 61-16.2 and the national flood insurance program [42 U.S.C. 4001 et seq.].
6. Upon enactment of a floodplain management ordinance by a county under this section, the county auditor shall forward the ordinance to the department of water resources for inclusion in the central repository established under section 10 of this Act.
7. The county auditor of a county exercising floodplain management authority shall certify to the department of water resources by March thirty-first of each year a list of the jurisdictions over which the county is exercising floodplain management authority under chapter 61-16.2.
8. A county exercising floodplain management authority is not required to activate its zoning authority under chapter 11-33 before enacting a floodplain management ordinance.
9. In a county exercising floodplain management, the board of county commissioners shall enforce an ordinance or regulation enacted under this section. The board of county commissioners may impose enforcement duties on an officer, department, agency, or employee of the county.

SECTION 2. A new subsection to section 11-11-14 of the North Dakota Century Code is created and enacted as follows:

To undertake floodplain management activities in the manner provided under section 1 of this Act.

SECTION 3. AMENDMENT. Subsection 2 of section 11-33-03 of the North Dakota Century Code is amended and reenacted as follows:

2. To provide for emergency management, including floodplain management as provided under section 1 of this Act. "Emergency management" means a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment.

SECTION 4. AMENDMENT. Subsection 67 of section 40-05-01 of the North Dakota Century Code is amended and reenacted as follows:

67. Flood control projects, including floodplain management as provided under section 5 of this Act. To acquire, construct, maintain, operate, finance, and control flood control projects, both within and adjacent to such municipality, and for such purpose to acquire the necessary real property and easements therefor by purchase and eminent domain, in accordance with chapter 32-15, and to adopt such ordinances as may reasonably be required to regulate the same.

SECTION 5. A new section to chapter 40-05 of the North Dakota Century Code is created and enacted as follows:

Floodplain management ordinances - Requirements - Limitations - Definitions - Enforcement.

1. As used in this chapter:
 - a. "Floodplain management" has the same meaning as in section 61-16.2-02.
 - b. "Floodplain management ordinance" has the same meaning as in section 61-16.2-02.
 - c. "Indian country" means:
 - (1) Land within the limits of any Indian reservation that is under the jurisdiction of the United States government and located within this state, notwithstanding the issuance of any patent, and, including rights of way running through the reservation;
 - (2) Dependent Indian communities within this state whether within the original or subsequently acquired territory of the state; and
 - (3) Indian allotments within this state, the Indian titles to which have not been extinguished, including rights of way running through the allotted land.
2. The governing body of a city may exercise floodplain management authority under chapter 61-16.2. If a governing body of a city undertakes floodplain management, the governing body of a city shall enact a floodplain

management ordinance over all persons and property within the boundaries of the city's zoning jurisdiction as provided under chapter 40-47 or within the exterior boundaries of Indian country.

3. Upon enactment of a floodplain management ordinance by a city under this section, the city auditor shall forward the ordinance to the department of water resources for inclusion in the central repository established under section 10 of this Act.
4. The city auditor of a city exercising floodplain management authority shall certify to the department of water resources by March thirty-first of each year that the city is undertaking floodplain management activities under chapter 61-16.2.
5. A city exercising floodplain management authority is not required to activate its zoning authority under chapter 40-47 before enacting a floodplain management ordinance.
6. In a city exercising floodplain management, the governing body of the city shall enforce an ordinance or regulation enacted under this section. The governing body of the city may impose enforcement duties on an officer, department, agency, or employee of the city.

SECTION 6. AMENDMENT. Subsection 2 of section 40-47-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Provide for emergency management, including floodplain management as provided under section 5 of this Act. "Emergency management" means a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment;

SECTION 7. AMENDMENT. Section 58-03-12 of the North Dakota Century Code is amended and reenacted as follows:

58-03-12. Basis for township zoning regulations and restrictions.

1. The regulations and restrictions established in any township zoning district must be made in accordance with a comprehensive plan with reasonable consideration as to the character of such district, its peculiar suitability for particular uses, the normal growth of the municipality, and the various types of occupations, industries, and land uses within the area, and must be designed to facilitate traffic movement, encourage orderly growth and development of the municipality and adjacent areas, promote health, safety, and general welfare, and provide for emergency management, including and subject to floodplain management as provided under section 8 of this Act.
2. "Emergency management" means a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment. The comprehensive plan must be

a statement in documented text setting forth explicit goals, objectives, policies, and standards of the jurisdiction to guide public and private development within its control.

SECTION 8. A new section to chapter 58-06 of the North Dakota Century Code is created and enacted as follows:

Floodplain management ordinances - Requirements - Limitations - Definitions - Enforcement.

1. As used in this chapter:
 - a. "Floodplain management" has the same meaning as in section 61-16.2-02.
 - b. "Floodplain management ordinance" has the same meaning as in section 61-16.2-02.
 - c. "Indian country" means:
 - (1) Land within the limits of any Indian reservation that is under the jurisdiction of the United States government and located within this state, notwithstanding the issuance of any patent, and, including rights of way running through the reservation;
 - (2) Dependent Indian communities within this state whether within the original or subsequently acquired territory of the state; and
 - (3) Indian allotments within this state, the Indian titles to which have not been extinguished, including rights of way running through the allotted land.
2. A board of township supervisors by written resolution may exercise floodplain management under chapter 61-16.2. Upon the adoption of the resolution, the board of township supervisors has exclusive authority to regulate floodplain management and shall enact a floodplain management ordinance applying to all persons and property within the boundaries of the township, except for persons and property within a city's zoning jurisdiction as provided under chapter 40-47 or within the exterior boundaries of Indian country. The township clerk shall forward a copy of the written resolution to the county auditor of the county where the township is located and the department of water resources for inclusion in the central repository established under section 10 of this Act.
3. A township not exercising its floodplain management authority under this section is subject to the floodplain management authority of the county under section 1 of this Act.
4. After acquiring floodplain management authority from the county under subsection 2, the township may relinquish its floodplain management authority back to the county upon execution of a written agreement signed by the board of county commissioners and the board of township supervisors. The county may not require the township to convey an additional authority legally afforded to the township in exchange for the written agreement. The relinquishment of authority may not become effective sooner than sixty days after the board of township supervisors delivers a written notice of proposed relinquishment to the appropriate board of county commissioners.

5. If a township previously exercised floodplain management authority and becomes subject to county floodplain management authority under this section, the township shall defend, indemnify, and hold harmless the county and its agents, officers, and employees from and against a claim for damages arising from a township's noncompliance with chapter 61-16.2 and the national flood insurance program [42 U.S.C. 4001 et seq.].
6. Upon enactment of a floodplain management ordinance by a township under this section, the township clerk shall forward the ordinance to the department of water resources for inclusion in the central repository established under section 10 of this Act.
7. The township clerk of a township exercising floodplain management authority shall certify to the department of water resources by April thirtieth of each year the names of the township supervisors and officers and that the township is undertaking floodplain management activities under chapter 61-16.2.
8. A township exercising floodplain management authority is not required to activate its zoning authority under chapter 58-03 before enacting a floodplain management ordinance.
9. In a township exercising floodplain management, the board of township supervisors shall enforce an ordinance or regulation enacted under this section. The board of township supervisors may impose enforcement duties on an officer, department, agency, or employee of the township.

SECTION 9. A new subsection to section 58-06-01 of the North Dakota Century Code is created and enacted as follows:

If the township activates its floodplain management authority under section 8 of this Act, to exercise floodplain management authority by enacting a floodplain management ordinance.

SECTION 10. A new section to chapter 61-16.2 of the North Dakota Century Code is created and enacted as follows:

Central repository - Floodplain management authority - Accessible to the public.

The department shall establish, operate, and maintain a publicly accessible electronic central repository for local floodplain management ordinances, local floodplain management agreements, and all annual certifications received by the department. The repository must reflect which cities, townships, and counties have reported undertaking floodplain management within the state. The department shall update the central repository by May thirty-first of each year.

SECTION 11. AMENDMENT. Section 61-16.2-02 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-02. Definitions.

1. In this chapter, unless the context or subject matter otherwise provides:
 - a. "Commission" means state water commission.

- b. "Community" means any political subdivision that has the authority to zone.
 - c. "Conveyance" or "hydraulic conveyance" means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.
 - d. "Department" means the department of water resources.
 - e. "District" means a water resource district, as defined in chapter 61-16.1.
 - f. "Flood fringe" means that portion of a floodplain outside of the floodway.
 - g. "Floodplain management" means a community-based effort to prevent or reduce the risk of flooding. Floodplain management may be associated generally with the national flood insurance program [42 U.S.C. 4001 et seq.].
 - h. "Floodplain management ordinance" means a building code, zoning, subdivision, health, or special purpose ordinance, and any other use of police power, which provide standards for communities to manage known flood hazards in all official actions relating to land management and use. A floodplain management ordinance may be associated with the national flood insurance program [42 U.S.C. 4001 et seq.] to ensure participating communities meet state and federal minimum standards.
 - i. "Floodway" or "regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot [30.48 centimeters].
 - ~~h.~~j. "Person" means any person, firm, partnership, association, corporation, limited liability company, agency, or any other private or governmental organization, which includes any agency of the United States, a state agency, or any political subdivision of the state.
2. For the purposes of this chapter, the department shall follow the definitions in this section and the definitions under the national flood insurance program [42 U.S.C. 4001 et seq.] and implementing regulations.

Approved March 28, 2025

Filed March 31, 2025

CHAPTER 108

SENATE BILL NO. 2152

(Senators Rummel, Cory)
(Representative Vetter)

AN ACT to amend and reenact subsection 6 of section 11-18-02.2 of the North Dakota Century Code, relating to statements of full consideration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 11-18-02.2 of the North Dakota Century Code is amended and reenacted as follows:

6. This section does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
 - a. Property owned or used by public utilities.
 - b. Property classified as personal property.
 - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
 - d. A sale that resulted as a settlement of an estate.
 - e. All forced sales, mortgage foreclosures, and tax sales.
 - f. All sales to or from religious, charitable, or nonprofit organizations.
 - g. All sales when there is an indicated change of use by the new owners.
 - h. All transfer of ownership of property for which is given a quitclaim deed.
 - i. Sales of property not assessable by law.
 - j. ~~Agricultural lands of less than eighty acres [32.37 hectares].~~

Approved March 18, 2025

Filed March 18, 2025

CHAPTER 109

HOUSE BILL NO. 1246

(Representatives Christianson, Bahl, Hendrix, Vetter, Dockter)
(Senators Barta, Cory)

AN ACT to amend and reenact section 11-19.1-06 of the North Dakota Century Code, relating to individuals authorized to act in the absence of a coroner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-19.1-06 of the North Dakota Century Code is amended and reenacted as follows:

11-19.1-06. Individuals authorized to act in absence of coroner.

In those counties in which a coroner does not reside or is not available, the duties of a coroner must be performed by the sheriff, ~~the~~ state highway patrol, or any special agent of the bureau of criminal investigation. The sheriff, ~~the~~ state highway patrol, or special agent shall call upon ~~the nearest~~ a coroner or deputy coroner from ~~an adjacent~~ another county to investigate the medical cause of death of all coroner cases within ~~said the~~ county. In those situations in which, because of distance or adverse conditions, a coroner is not available, the sheriff, ~~the~~ state highway patrol, or special agent shall request the state forensic examiner or the forensic examiner's designee to investigate and certify as to the medical cause of death.

Approved March 21, 2025

Filed March 24, 2025

CHAPTER 110

SENATE BILL NO. 2358

(Senators Dever, Cleary, Roers)
(Representative Weisz)

AN ACT to amend and reenact section 11-28.3-06 of the North Dakota Century Code, relating to rural ambulance board compensation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-28.3-06 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-06. Organization - Board of directors.

1. At the time and place fixed by the county auditor for the public meeting as provided in section 11-28.3-05, the qualified electors present who reside within the boundaries of the district shall proceed to organize the district. Permanent organization must be effected by the election of a board of directors consisting of not less than five nor more than ten residents of the district. The board of directors shall meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer.
2. All directors and officers must be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president must be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon the total number of directors, of the directors elected at the first election after July 1, 1977, must be selected by lot in the presence of a majority of such directors to serve one-year terms.
3. A district may specify in its bylaws a specified number of directors within the limitations in this section, provided each township or group of townships receives equal representation on the board with respect to the regions. The bylaws also may allow for a combination of regional directors and at-large directors.
4. If a vacancy occurs in a board position due to a resignation, a special meeting must be called and held within sixty days of the resignation for the purpose of electing a director to serve the remainder of the term. ~~All officers and directors shall serve without pay, except the secretary treasurer, who may be paid a salary determined by the board of directors.~~ Board members may receive compensation at a rate set by the board of directors. No more than two elected members of the board may be members of the licensed ambulance service serving the district territory and those board members must meet the definition of volunteer in section 23-27-04.1.

Approved March 18, 2025

Filed March 18, 2025

CHAPTER 111

SENATE BILL NO. 2174

(Senators Thomas, Conley, Lemm, Weston)
(Representatives Beltz, Hauck)

AN ACT to amend and reenact sections 11-33-02.1 and 58-03-11.1 of the North Dakota Century Code, relating to the regulation of odors in an animal feeding operation and zoning authority over animal feeding operations in counties and townships; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-33-02.1 of the North Dakota Century Code is amended and reenacted as follows:

11-33-02.1. Farming and ranching regulations - Requirements - Limitations - Definitions.

1. For purposes of this section:

- a. "Animal feeding operation" means a lot or facility, other than normal wintering operations for cattle and an aquatic animal production facility, where the following conditions are met:
 - (1) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for at least forty-five days in a twelve-month period; and
 - (2) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- b. "Farming or ranching" means cultivating land for the production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include:
 - (1) The production of timber or forest products; or
 - (2) The provision of grain harvesting or other farm services by a processor or distributor of farm products or supplies in accordance with the terms of a contract.
- c. "Livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, bison, elk, fur animals raised for their pelts, and any other animals that are raised, fed, or produced as a part of farming or ranching activities.
- d. "Location" means the setback distance between a structure, fence, or other boundary enclosing an animal feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest buildings used for nonfarm or nonranch purposes, or the nearest land zoned for residential, recreational, or commercial purposes. The term does

not include the setback distance for the application of manure or for the application of other recycled agricultural material under a nutrient management plan approved by the department of environmental quality.

2. For purposes of this section, animal units are determined as provided in subdivision c of subsection 7 of section 23.1-06-15.
3. A board of county commissioners may not prohibit or prevent the use of land or buildings for farming or ranching and may not prohibit or prevent any of the normal incidents of farming or ranching.
4. Except as provided in this section, a board of county commissioners may not preclude the development of an animal feeding operation in the county.
5. A board of county commissioners may not prohibit the reasonable diversification or expansion of a farming or ranching operation.
6. A board of county commissioners may adopt regulations that establish different standards for the location of animal feeding operations based on the size of the operation and the species and type being fed.
7. If a regulation would impose a substantial economic burden on an animal feeding operation in existence before the effective date of the regulation, the board of county commissioners shall declare ~~that~~ the regulation is ineffective with respect to any animal feeding operation in existence before the effective date of the regulation.
8.
 - a. A board of county commissioners may establish high-density agricultural production districts in which setback distances for animal feeding operations and related agricultural operations are less than those in other districts.
 - b. A board of county commissioners may establish, around areas zoned for residential, recreational, or nonagricultural commercial uses, low-density agricultural production districts in which setback distances for animal feeding operations and related agricultural operations are greater than those in other districts; provided, the low-density agricultural production districts may not extend more than one and one-half miles [2.40 kilometers] from the edge of the area zoned for residential, recreational, or nonagricultural commercial uses.
 - c. A board of county commissioners may not adopt or enforce setbacks applicable to animal feeding operations that exceed the setback distances provided in subsection 7 of section 23.1-06-15, except setback distances may be reduced or extended based on the results of the odor footprint tool developed by the agriculture commissioner. A county may not use an odor annoyance free percentage exceeding ninety-four percent.
 - d. For purposes of this subsection, a "related agricultural operation" means a facility that produces a product or byproduct used by an animal feeding operation.
9. a. A person intending to construct an animal feeding operation may petition the board of county commissioners for a determination whether the animal feeding operation would comply with zoning regulations adopted under this section and filed with the department of environmental quality under section 11-33-22 before the date the petition was received by the county.

- b. The petition must contain a description of the nature, scope, and location of the proposed animal feeding operation and a site map showing road access, the location of any structure, and the distance from each structure to the nearest section line.
- c. If the board of county commissioners does not validly object to the petition within sixty days of receipt, the animal feeding operation is deemed in compliance with the county zoning regulations. If the county allows animal feeding operations as a conditional use, the conditional use regulations must be limited to the board's authority under this section, and the approval process must comply with this section. The county shall make a valid determination on the application within sixty days of the receipt of a complete conditional use permit application.
- d. If the board of county commissioners determines the animal feeding operation would comply with zoning regulations or fails to object under this section, the county may not impose additional zoning regulations relating to the nature, scope, or location of the animal feeding operation later, provided an application is submitted promptly to the department of environmental equality, the department issues a final permit, and construction of the animal feeding operation commences within three years from the date the department issues its final permit and any permit appeals are exhausted. Any objection or determination that subsequently is reversed, set aside, or invalidated by a court of this state, is not a valid objection or decision for the purpose of calculating a procedural timeline under this section.
- e. A procedural timeline imposed by this section continues to be in effect during the pendency of any appeal of a county action or determination.
- f. A board of county commissioners may not:

 - a- (1) Regulate or impose zoning restrictions or requirements on animal feeding operations or other agricultural operations except as expressly permitted under this section;
 - b- (2) Impose water quality, closure, site security, lagoon, or nutrient plan regulations or requirements on animal feeding operations;
 - c- (3) Charge fees or expenses of any kind totaling, in the aggregate, more than five hundred dollars in connection with any permit, petition, application, or other request relating to animal feeding operations; or
 - d- (4) Require an existing animal feeding operation to have a permit for improvements or other modifications of an operation that is in current compliance with state and federal regulations or require an existing operation to have a permit for improvements or other modifications that bring the operation into compliance with state or federal regulations, if the modifications or improvements do not cause the operation to exceed animal numbers of the setback requirement.
10. If a party challenges the validity of a county ordinance, determination, decision, or objection related to animal feeding operations, the court shall award the prevailing party actual attorney's fees, costs, and expenses.

SECTION 2. AMENDMENT. Section 58-03-11.1 of the North Dakota Century Code is amended and reenacted as follows:

58-03-11.1. Farming and ranching regulations - Requirements - Limitations - Definitions.

1. For purposes of this section:

a. "Animal feeding operation" means a lot or facility, other than normal wintering operations for cattle and an aquatic animal production facility, where the following conditions are met:

(1) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and

(2) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.

b. "Farming or ranching" means cultivating land for the production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include:

(1) The production of timber or forest products; or

(2) The provision of grain harvesting or other farm services by a processor or distributor of farm products or supplies in accordance with the terms of a contract.

c. "Livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, bison, elk, fur animals raised for their pelts, and any other animals that are raised, fed, or produced as a part of farming or ranching activities.

d. "Location" means the setback distance between a structure, fence, or other boundary enclosing an animal feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest buildings used for nonfarm or nonranch purposes, or the nearest land zoned as a residential, recreational, or commercial zoning district. The term does not include the setback distance for the application of manure or for the application of other recycled agricultural material under a nutrient management plan approved by the department of environmental quality.

2. For purposes of this section, animal units are determined as provided under subdivision c of subsection 7 of section 23.1-06-15.

3. A board of township supervisors may not prohibit or prevent the use of land or buildings for farming or ranching or any of the normal incidents of farming or ranching.

4. AExcept as provided in this section, a regulation may not preclude the development of an animal feeding operation in the township.

5. A board of township supervisors may not prohibit the reasonable diversification or expansion of a farming or ranching operation.

6. A board of township supervisors may adopt regulations that establish different standards for the location of animal feeding operations based on the size of the operation and the species and type being fed.
7. If a regulation would impose a substantial economic burden on an animal feeding operation in existence before the effective date of the regulation, the board of township supervisors shall declare that the regulation is ineffective with respect to any animal feeding operation in existence before the effective date of the regulation.
8.
 - a. A board of township supervisors may establish high-density agricultural production districts in which setback distances for animal feeding operations and related agricultural operations are less than those in other districts.
 - b. A board of township supervisors may establish, around areas zoned for residential, recreational, or nonagricultural commercial uses, low-density agricultural production districts in which setback distances for animal feeding operations and related agricultural operations are greater than those in other districts; provided, the low-density agricultural production districts may not extend more than one-half mile [0.80 kilometer] from the edge of the area zoned for residential, recreational, or nonagricultural commercial uses.
 - c. A board of township supervisors may not adopt or enforce setbacks applicable to animal feeding operations that exceed the setback distances provided in subsection 7 of section 23.1-06-15, except setback distances may be reduced or extended based on the results of the odor footprint tool developed by the agriculture commissioner. A township may not use an odor annoyance free percentage exceeding ninety-four percent.
 - d. For purposes of this subsection, a "related agricultural operation" means a facility that produces a product or byproduct used by an animal feeding operation.
9.
 - a. A person intending to construct an animal feeding operation may petition the board of township supervisors for a determination whether the animal feeding operation would comply with zoning regulations adopted under this section and filed with the department of environmental quality under section 58-03-17 before the date the petition was received by the township.
 - b. The petition must contain a description of the nature, scope, and location of the proposed animal feeding operation and a site map showing road access, the location of any structure, and the distance from each structure to the nearest section line.
 - c. If the board of township supervisors does not validly object to the petition within sixty days of receipt, the animal feeding operation is deemed in compliance with the township zoning regulations. If the township allows animal feeding operations as a conditional use, the conditional use regulations must be limited to the board's authority under this section, and the approval process must comply with this section. The township shall make a valid determination on the application within sixty days of the receipt of a complete conditional use permit application.

- d. If the board of township supervisors determines the animal feeding operation would comply with zoning regulations or fails to object under this section, the township may not impose additional zoning regulations relating to the nature, scope, or location of the animal feeding operation later, provided an application is submitted promptly to the department of environmental quality, the department issues a final permit, and construction of the animal feeding operation commences within three years from the date the department issues its final permit and any permit appeals are exhausted. Any objection or determination that subsequently is reversed, set aside, or invalidated by a court of this state, is not a valid objection or decision for the purpose of calculating a procedural timeline under this section.
- e. A procedural timeline imposed by this section continues to be in effect during the pendency of any appeal of a township action or determination.
- f. A board of township supervisors may not:

 - a. (1) Regulate or impose zoning restrictions or requirements on animal feeding operations or other agricultural operations except as expressly permitted under this section;
 - b. (2) Impose water quality, closure, site security, lagoon, or nutrient plan regulations or requirements on animal feeding operations;
 - c. (3) Charge fees or expenses of any kind totaling, in the aggregate, more than five hundred dollars in connection with any permit, petition, application, or other request relating to animal feeding operations; or
 - d. (4) Require an existing animal feeding operation to have a permit for improvements or other modifications of an operation that is in current compliance with state and federal regulations or require an existing operation to have a permit for improvements or other modifications that bring the operation into compliance with state or federal regulations, if the modifications or improvements do not cause the operation to exceed animal numbers of the setback requirement.
- 10. If a party challenges the validity of a township ordinance, determination, decision, or objection related to animal feeding operations, the court shall award the prevailing party actual attorney's fees, costs, and expenses.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on August 1, 2026.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 112

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.

Approved April 15, 2025

Filed April 17, 2025