

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1165

Introduced by

Representatives Vetter, Becker, Ertelt, Kading, Klemin, B. Koppelman, Louser, O'Brien,  
Sanford

Senators O. Larsen, 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.

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

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

6 **11-33-17.1. Zoning - Nonconforming structure.**

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

11 a. A building permit is obtained within six months of the date the damage occurs;

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

13 c. The new structure will not:

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

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

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

17 (4) Diminish the number of off-street parking spaces located on the property  
18 from the number of existing spaces before the damage.

19 2. Expansion of a nonconforming structure is prohibited unless the expansion is in  
20 compliance with applicable state and local zoning regulations. The local zoning  
21 authority shall determine whether a proposed expansion is in compliance.

22 3. A nonconforming structure may not be moved unless the movement or relocation will  
23 bring the structure into compliance with all applicable zoning regulations.

- 1       4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,  
2       replacement, maintenance, improvement, or expansion of nonconforming uses and  
3       structures in floodplain areas to the extent necessary to maintain eligibility in the  
4       national flood insurance program and adhere fully to all applicable floodplain  
5       management ordinances; not increase flood damage potential or increase the degree  
6       of obstruction to flood flows in the floodway.  
7       5. Notwithstanding subsections 1 through 3 of this section, the local zoning authority may  
8       create an ordinance or regulation that is less restrictive.

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

11       **40-47-05.1. Zoning - Nonconforming structure.**

- 12       1. Notwithstanding any other provision of law or local zoning ordinance, a structure that  
13       is devoted to residential use may be repaired, replaced, improved, maintained,  
14       restored, or rebuilt in its entirety even though the structure is damaged beyond fifty  
15       percent of its value if:  
16       a. A building permit is obtained within six months of the date the damage occurs;  
17       b. Restoration begins within one year of the date the damage occurred; and  
18       c. The new structure will not:  
19           (1) Occupy a portion of the lot that was not occupied by the damaged structure;  
20           (2) Have more square footage than the damaged structure;  
21           (3) Exceed the height or number of stories than the damaged structure; or  
22           (4) Diminish the number of off-street parking spaces located on the property  
23           from the number of existing spaces before the damage.  
24       2. Expansion of a nonconforming structure is prohibited unless the expansion is in  
25       compliance with applicable state and local zoning regulations. The local zoning  
26       authority shall determine whether a proposed expansion is in compliance.  
27       3. A nonconforming structure may not be moved unless the movement or relocation will  
28       bring the structure into compliance with all applicable zoning regulations.  
29       4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,  
30       replacement, maintenance, improvement, or expansion of nonconforming uses and  
31       structures in floodplain areas to the extent necessary to maintain eligibility in the

1           national flood insurance program and adhere fully to all applicable floodplain  
2           management ordinances; not increase flood damage potential or increase the degree  
3           of obstruction to flood flows in the floodway.

4           5. Notwithstanding section 40-47-13 and subsections 1 through 3 of this section, the  
5           local zoning authority may create an ordinance or regulation that is less restrictive.

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

8           **58-03-14.1. Zoning - Nonconforming structure.**

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

13           a. A building permit is obtained within six months of the date the damage occurs;

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

15           c. The new structure will not:

16                   (1) Occupy a portion of the lot that was not occupied by the damaged structure;

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

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

19                   (4) Diminish the number of off-street parking spaces located on the property  
20                   from the number of existing spaces before the damage.

21           2. Expansion of a nonconforming structure is prohibited unless the expansion is in  
22           compliance with applicable state and local zoning regulations. The local zoning  
23           authority shall determine whether a proposed expansion is in compliance.

24           3. A nonconforming structure may not be moved unless the movement or relocation will  
25           bring the structure into compliance with all applicable zoning regulations.

26           4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,  
27           replacement, maintenance, improvement, or expansion of nonconforming uses and  
28           structures in floodplain areas to the extent necessary to maintain eligibility in the  
29           national flood insurance program and adhere fully to all applicable floodplain  
30           management ordinances; not increase flood damage potential or increase the degree  
31           of obstruction to flood flows in the floodway.

- 1        5. Notwithstanding subsections 1 through 3 of this section, the local zoning authority may  
2        create an ordinance or regulation that is less restrictive.