Sixty-seventh Legislative Assembly of North Dakota

HOUSE BILL NO. 1222

Introduced by

Representatives Vetter, Dockter, Ertelt, Hatlestad, M. Johnson, K. Koppelman, Marschall, Sanford

Senators O. Larsen, Meyer, Vedaa

- 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:

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- 6 <u>11-33-17.1. Zoning Nonconforming structure.</u>
- 7 <u>1.</u> 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 <u>or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its</u>
- 10 <u>value if:</u>
- 11 <u>a.</u> <u>A building permit is obtained within six months of the date the damage occurs;</u>
- 12 b. Restoration begins within one year of the date the damage occurred; and
- 13 <u>c.</u> <u>The new structure will not:</u>
- 14(1)Occupy a portion of the lot which was not occupied by the damaged15structure;
 - (2) Have more square footage than the damaged structure;
 - (3) Exceed the height or number of stories of the damaged structure; or
- 18 (4) Diminish the number of off-street parking spaces located on the property
 19 from the number of spaces before the damage.
- 20 2. <u>Under subsection 1, expansion of a nonconforming structure is prohibited unless the</u>
- 21 expansion is in compliance with applicable state and local zoning regulations. The
- 22 local zoning authority shall determine whether a proposed expansion is in compliance.

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1	<u>3.</u>	<u>Unde</u>	er su	bsection 1, a nonconforming structure may not be moved unless the				
2		move	emer	nt or relocation will bring the structure into compliance with all applicable				
3		<u>zonir</u>	ng re	gulations.				
4	<u>4.</u>	<u>Notw</u>	vithst	anding subsection 1, the local zoning authority shall regulate the repair,				
5		<u>repla</u>	acem	ent, maintenance, improvement, or expansion of nonconforming uses and				
6		<u>struc</u>	tures	s in floodplain areas to the extent necessary to maintain eligibility in the				
7		<u>natio</u>	onal f	lood insurance program and adhere fully to all applicable floodplain				
8		mana	agen	nent ordinances without increasing flood damage potential or increasing the				
9		<u>degr</u>	ee of	obstruction to floodflows in the floodway.				
10	<u>5.</u>	<u>Notw</u>	vithst	anding subsections 1, 2, and 3, the local zoning authority may create a less				
11	<u>re</u>		estrictive ordinance or regulation.					
12	<u>6.</u>	<u>lf a p</u>	orope	rty owner is not authorized to repair, replace, improve, maintain, restore, or				
13		<u>rebu</u>	ild a	structure under subsection 1, the county shall compensate the owner for the				
14		<u>fair r</u>	narke	et value of the property before the damage occurred.				
15	5 SECTION 2. Section 40-47-05.1 of the North Dakota Century Code is created and enacted							
	_			······, ······				
16	as follow							
	as follow	/S:		oning - Nonconforming structure.				
16	as follow	/s: 7-05.	<u>1. Zo</u>					
16 17	as follow <u>40-4</u>	/s: 7-05. <u>Notw</u>	<u>1. Zo</u> <u>vithst</u>	ning - Nonconforming structure.				
16 17 18	as follow <u>40-4</u>	/s: - 7-05. <u>Notw</u> devo	1. Zo vithst	oning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure				
16 17 18 19	as follow <u>40-4</u>	/s: - 7-05. <u>Notw</u> devo	1. Zo <u>vithst</u> <u>oted t</u> <u>built</u>	oning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored,				
16 17 18 19 20	as follow <u>40-4</u>	/s: 7-05 . <u>Notw</u> <u>devc</u> <u>or re</u>	1. Zo vithst oted t built e if:	oning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored,				
16 17 18 19 20 21	as follow <u>40-4</u>	vs: 7-05. <u>Notw</u> <u>devc</u> <u>or re</u> <u>value</u>	1. Zo vithst oted t built e if: A bu	oning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored, in its entirety even though the structure is damaged beyond fifty percent of its				
16 17 18 19 20 21 22	as follow <u>40-4</u>	vs: Notw <u>devc</u> <u>or re</u> <u>value</u> <u>a.</u>	1. Zo vithst oted t built <u>e if:</u> A bu Resi	oning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored, in its entirety even though the structure is damaged beyond fifty percent of its ilding permit is obtained within six months of the date the damage occurs;				
16 17 18 19 20 21 22 23	as follow <u>40-4</u>	/s: <u>7-05.</u> <u>Notw</u> <u>devc</u> <u>or re</u> <u>value</u> <u>a.</u> <u>b.</u> <u>c.</u>	1. Zo vithst oted t built <u>e if:</u> A bu Resi	oning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored, in its entirety even though the structure is damaged beyond fifty percent of its ilding permit is obtained within six months of the date the damage occurs; toration begins within one year of the date the damage occurred; and				
16 17 18 19 20 21 22 23 23 24	as follow <u>40-4</u>	/s: <u>7-05.</u> <u>Notw</u> <u>devc</u> <u>or re</u> <u>value</u> <u>a.</u> <u>b.</u> <u>c.</u>	1. Zo vithst oted t built e if: A bu Rest The	anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored, in its entirety even though the structure is damaged beyond fifty percent of its ilding permit is obtained within six months of the date the damage occurs; toration begins within one year of the date the damage occurred; and new structure will not:				
16 17 18 19 20 21 22 23 24 25	as follow <u>40-4</u>	/s: <u>7-05.</u> <u>Notw</u> <u>devo</u> <u>or re</u> <u>value</u> <u>a.</u> <u>b.</u> <u>c.</u>	1. Zo vithst oted t built e if: A bu Rest The	Aning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored, in its entirety even though the structure is damaged beyond fifty percent of its illding permit is obtained within six months of the date the damage occurs; toration begins within one year of the date the damage occurred; and new structure will not: Occupy a portion of the lot which was not occupied by the damaged.				
 16 17 18 19 20 21 22 23 24 25 26 	as follow <u>40-4</u>	/s: <u>7-05.</u> <u>Notw</u> <u>devc</u> <u>or re</u> <u>value</u> <u>a.</u> <u>b.</u> <u>c.</u>	1. Zo vithst oted t built <u>e if:</u> A bu Rest The (1)	Aning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored, in its entirety even though the structure is damaged beyond fifty percent of its illding permit is obtained within six months of the date the damage occurs; toration begins within one year of the date the damage occurred; and new structure will not: Occupy a portion of the lot which was not occupied by the damaged structure;				
 16 17 18 19 20 21 22 23 24 25 26 27 	as follow <u>40-4</u>	/s: <u>Notw</u> <u>devc</u> <u>or re</u> <u>value</u> <u>a.</u> <u>b.</u> <u>c.</u>	1. Zo vithst oted t built e if: A bu Resi (1) (2)	Aning - Nonconforming structure. anding any other provision of law or local zoning ordinance, a structure o residential use may be repaired, replaced, improved, maintained, restored, in its entirety even though the structure is damaged beyond fifty percent of its wilding permit is obtained within six months of the date the damage occurs; toration begins within one year of the date the damage occurred; and new structure will not: Occupy a portion of the lot which was not occupied by the damaged. structure: Have more square footage than the damaged structure;				

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1	<u>2.</u>	Under subsection 1, expansion of a nonconforming structure is prohibite	ed unless the				
2		expansion is in compliance with applicable state and local zoning regula	ations. The				
3		local zoning authority shall determine whether a proposed expansion is	in compliance.				
4	<u>3.</u>	Under subsection 1, a nonconforming structure may not be moved unle	<u>ss the</u>				
5		movement or relocation will bring the structure into compliance with all a	applicable				
6		zoning regulations.					
7	<u>4.</u>	Notwithstanding subsection 1, the local zoning authority shall regulate t	<u>he repair,</u>				
8		replacement, maintenance, improvement, or expansion of nonconforming	ng uses and				
9		structures in floodplain areas to the extent necessary to maintain eligibi	lity in the				
10		national flood insurance program and adhere fully to all applicable flood	plain_				
11		management ordinances without increasing flood damage potential or increasing the					
12		degree of obstruction to floodflows in the floodway.					
13	<u>5.</u>	Notwithstanding section 40-47-13 and subsections 1, 2, and 3, the loca	zoning				
14		authority may create a less restrictive ordinance or regulation.					
15	<u>6.</u>	If a property owner is not authorized to repair, replace, improve, maintain	n, restore, or				
16		rebuild a structure under subsection 1, the city shall compensate the ow	vner for the fair				
17		market value of the property before the damage occurred.					
18	8 SECTION 3. Section 58-03-14.1 of the North Dakota Century Code is created and enacted						
19	19 as follows:						
20	20 <u>58-03-14.1. Zoning - Nonconforming structure.</u>						
21	<u>1.</u>	Notwithstanding any other provision of law or local zoning ordinance, a	<u>structure</u>				
22		devoted to residential use may be repaired, replaced, improved, maintained, restored,					
23		or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its					
24		value if:					
25		a. A building permit is obtained within six months of the date the dam	age occurs;				
26		b. Restoration begins within one year of the date the damage occurre	ed; and				
27		<u>c.</u> <u>The new structure will not:</u>					
28		(1) Occupy a portion of the lot which was not occupied by the da	maged_				
29		structure:					
30		(2) Have more square footage than the damaged structure;					
31		(3) Exceed the height or number of stories of the damaged struc	<u>ture; or</u>				

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1		(4) Diminish the number of off-street parking spaces located on the property
2		from the number of spaces before the damage.
3	<u>2.</u>	Under subsection 1, expansion of a nonconforming structure is prohibited unless the
4		expansion is in compliance with applicable state and local zoning regulations. The
5		local zoning authority shall determine whether a proposed expansion is in compliance.
6	<u>3.</u>	Under subsection 1, a nonconforming structure may not be moved unless the
7		movement or relocation will bring the structure into compliance with all applicable
8		zoning regulations.
9	<u>4.</u>	Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
10		replacement, maintenance, improvement, or expansion of nonconforming uses and
11		structures in floodplain areas to the extent necessary to maintain eligibility in the
12		national flood insurance program and adhere fully to all applicable floodplain
13		management ordinances without increasing flood damage potential or increasing the
14		degree of obstruction to floodflows in the floodway.
15	<u>5.</u>	Notwithstanding subsections 1, 2, and 3, the local zoning authority may create a less
16		restrictive ordinance or regulation.
17	<u>6.</u>	If a property owner is not authorized to repair, replace, improve, maintain, restore, or
18		rebuild a structure under subsection 1, the township shall compensate the owner for
19		the fair market value of the property before the damage occurred.