

HOUSE BILL NO. 1422

Introduced by

Representatives Vetter, Klemin, Koppelman, Motschenbacher, Sanford, Toman

Senators Barta, Cleary, Clemens, Larsen, Meyer, Vedaa

1 A BILL for an Act to amend and reenact subsection 3 of section 11-10.1-05, section 11-33-04,
2 subsection 1 of section 11-33-18, subsection 6 of section 40-05-02, sections 40-47-06,
3 40-19-01, and 58-03-13, subsection 2 of section 58-03-19, and section 58-09-03 of the North
4 Dakota Century Code, relating to notices triggering zoning inspections when assessments are
5 conducted and building permits are issued.

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

7 **SECTION 1. AMENDMENT.** Subsection 3 of section 11-10.1-05 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 3. The county director of tax equalization shall supervise all individuals performing
10 assessor services in the county and arrange for the assessment of property within the
11 county, except within the jurisdiction of a city or township in which the governing body
12 retains a certified class I or class II assessor. When an assessment is performed, the
13 county director of tax equalization immediately shall notify the planning commission of
14 the assessment for purposes of section 11-33-04.

15 **SECTION 2. AMENDMENT.** Section 11-33-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **11-33-04. County planning commissions authorized - Membership.**

18 1. The board of county commissioners of any county desiring to ~~avail itself of~~exercise the
19 powers ~~conferred by~~under this chapter shall establish, by resolution, a county planning
20 commission to recommend the boundaries of the various county zoning districts and
21 appropriate regulations and restrictions to be established ~~therein~~in the districts. In
22 counties with three-member boards of county commissioners, the planning
23 commission consists of seven members, of whom at least one must be appointed from
24 the governing body of the city that is the county seat, and of whom at most one may

1 be appointed from the board of county commissioners. In counties with five-member
2 boards of county commissioners, the planning commission consists of nine members,
3 of whom at least two must be appointed from the governing body of the city that is the
4 county seat, and of whom at most two may be appointed from the board of county
5 commissioners. The term of an ex officio member is coterminous with the member's
6 term in the underlying office. The remaining members ~~shall~~must be appointed from the
7 county at large. In counties that elect county commissioners from districts, at least one
8 at large member of the planning commission must be appointed from each district.
9 When appointments to ~~said~~the commission are first made, three members at large
10 ~~shall~~must be appointed for a two-year term and two members at large for a four-year
11 term, after which all subsequent appointments for members at large ~~shall~~must be for a
12 four-year term. Appointments to fill vacancies ~~shall~~must be for the unexpired portion of
13 the term. All appointments to the county planning commission ~~shall~~must be made by
14 the board of county commissioners.

15 2. Within six months of receiving a notice, from the board of county commissioners that a
16 building permit has been issued to a landowner under section 11-33-18 or an
17 assessment of real property under section 11-10.1-05 has occurred, the county
18 planning commission or its appointed agent or designee shall inspect the affected
19 property to determine if the property complies with the applicable county zoning
20 ordinances affecting a landowner's ability to repair or rebuild a structure if that
21 structure is more than fifty percent damaged or destroyed. After the inspection, the
22 county zoning commission or its appointed agent or designee shall furnish a written
23 report to the affected property owner. The report must address whether the affected
24 property complies with the applicable county zoning ordinances. A zoning inspection
25 under this subsection is not required if the county has adopted a zoning ordinance that
26 permits a property owner to repair or rebuild a nonconforming structure if that structure
27 is more than fifty percent damaged or destroyed. An inspection under this subsection
28 may occur only once every five years, unless an additional inspection is deemed
29 necessary by a majority of the county planning commission.

30 **SECTION 3. AMENDMENT.** Subsection 1 of section 11-33-18 of the North Dakota Century
31 Code is amended and reenacted as follows:

1 1. The board of county commissioners may authorize and provide for the issuance of
2 permits as a prerequisite to construction, erection, reconstruction, alteration, repair, or
3 enlargement of any building or structure otherwise subject to this chapter. When a
4 permit is issued under this section, the board of county commissioners immediately
5 shall notify the county planning commission of the issuance of a permit for purposes of
6 section 11-33-04.

7 **SECTION 4. AMENDMENT.** Subsection 6 of section 40-05-02 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 6. Building permits. To provide by ordinance and to fix the fees for the issuance of
10 building permits. When a permit is issued under this section, the city council or city
11 commission immediately shall notify the zoning commission of the issuance of a
12 permit for purposes of section 40-47-06.

13 **SECTION 5. AMENDMENT.** Section 40-47-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **40-47-06. Zoning commission - Appointment - Duties - Preliminary and final report.**

16 1. The governing body of a city desiring to ~~avail itself of~~exercise the powers ~~conferred~~
17 ~~by~~under this chapter shall appoint a zoning commission, ~~to be known as the zoning~~
18 ~~commission,~~ to recommend the boundaries of the various original districts and
19 appropriate regulations to be enforced ~~therein~~in the districts. In addition to the
20 members appointed by the city, the zoning commission ~~shall~~must include at least one
21 person residing outside of the corporate limits of a city having a population of less than
22 five thousand, two persons residing outside the corporate limits of a city having a
23 population of five thousand or more, but less than twenty-five thousand, or three
24 persons residing outside the corporate limits of a city having a population of
25 twenty-five thousand or more if zoning authority is exercised pursuant to section
26 40-47-01.1. Such persons ~~shall~~must be appointed by the board or boards of county
27 commissioners of the county or counties within which ~~such~~ zoning authority is to be
28 exercised and ~~shall~~must reside within the territorial limits of the zoning regulation
29 authority exercised by the city, if such persons are available and will serve on the
30 zoning commission. Of the members of the commission appointed by a board or
31 boards of county commissioners pursuant to this section, the first member appointed

1 shall hold office for five years, the second member appointed shall hold office for three
2 years, and the third member appointed shall hold office for one year. Thereafter, the
3 members shall ~~shall~~must be appointed for terms of five years. ~~Such~~The commission shall
4 make a preliminary report and hold public hearings ~~thereon~~on the report before
5 submitting ~~its~~the final report. The governing body shall ~~shall~~may not hold its public hearings
6 or take action until ~~it~~the governing body has received the final report of the zoning
7 commission. If a city has a planning commission, ~~it~~the planning commission may be
8 appointed as the zoning commission.

9 2. Within six months of receiving a notice, from the city council or city commission that a
10 building permit has been issued to a landowner under section 40-05-02, or an
11 assessment of real property under section 40-19-01 has occurred, the city zoning
12 commission or its appointed agent or designee shall inspect the affected property to
13 determine if the property complies with the applicable city zoning ordinances affecting
14 a landowner's ability to repair or rebuild a structure if that structure is more than fifty
15 percent damaged or destroyed. After the inspection, the city zoning commission or its
16 appointed agent or designee shall furnish a written report to the affected property
17 owner. The report must address whether the affected property complies with the
18 applicable city zoning ordinances. A zoning inspection under this subsection is not
19 required if the city has adopted a zoning ordinance that permits a property owner to
20 repair or rebuild a nonconforming structure if that structure is more than fifty percent
21 damaged or destroyed. An inspection under this subsection may occur only once
22 every five years, unless an additional inspection is deemed necessary by a majority of
23 the city zoning commission.

24 **SECTION 6. AMENDMENT.** Section 40-19-01 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **40-19-01. Duties of city assessor.**

27 The city assessor within the city shall perform all the duties necessary in assessing the
28 property within the city for the purpose of levying the municipal, county, school, and state taxes.
29 Such assessors shall be governed by and shall make assessments and returns as is provided
30 in title 57 and in this chapter. When an assessment is performed, the city assessor immediately
31 shall notify the planning commission of the assessment for purposes of section 40-47-06.

1 **SECTION 7. AMENDMENT.** Section 58-03-13 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **58-03-13. Township zoning commissions - Membership - Reports and**
4 **recommendations - District boundaries - Hearings - Notice.**

5 1. The board of township supervisors of a township desiring to ~~avail itself of~~exercise the
6 powers ~~conferred by~~under sections 58-03-11 through 58-03-15 shall establish, by
7 resolution, a township zoning commission to recommend the boundaries of the various
8 township zoning districts and appropriate regulations and restrictions to be established
9 ~~therein in the districts~~. Membership of the commission must consist of three township
10 supervisors and two members appointed from the municipalities concerned in relation
11 to which the zoning is contemplated. ~~Where~~if the area to be regulated and restricted is
12 situated in two or more townships, a joint zoning commission may be established.
13 Membership of a joint zoning commission must consist of two township supervisors
14 from each township and two members from the municipality in relation to which the
15 zoning is contemplated. A zoning commission shall make a preliminary report and hold
16 public hearings before submitting its final report and recommendations to the board or
17 boards of township supervisors. The board or boards of township supervisors may
18 establish, and from time to time change, the boundaries of township zoning districts
19 and establish, amend, supplement, and enforce regulations and restrictions in the
20 districts. ~~No~~A regulation, restriction, or boundaries may not become effective until after
21 a public hearing at which parties in interest and citizens have an opportunity to be
22 heard. At least fifteen days' notice of the time and place of the hearing must be
23 published in the official newspaper of the county and ~~also in~~ the official newspaper of
24 the municipality in relation to which the zoning action is taken, if in the municipality an
25 official newspaper other than the official newspaper of the county is published. The
26 description of ~~any~~ any land within ~~any~~ any zoning district established by a zoning commission
27 together with any regulations and restrictions established must be filed with the
28 governing bodies of the township and municipalities concerned, and if amendments
29 are made to the boundaries of the zoning district or the regulations or restrictions, the
30 amendments must be filed in the same manner. A zoning commission established
31 under this section and a board of township supervisors shall state the grounds upon

1 which any request for a zoning amendment or variance is approved or disapproved,
2 and written findings upon which the decision is based must be included within the
3 records of the commission or board.

4 2. Within six months of receiving a notice, from the township that a building permit has
5 been issued to a landowner under section 58-03-19 or an assessment of real property
6 under section 58-09-03 has occurred, the township zoning commission or its
7 appointed agent or designee shall inspect the affected property to determine if the
8 property complies with the applicable township zoning ordinances affecting a
9 landowner's ability to repair or rebuild a structure if that structure is more than fifty
10 percent damaged or destroyed. After the inspection, the township zoning commission
11 or its appointed agent or designee shall furnish a written report to the affected property
12 owner. The report must address whether the affected property complies with the
13 applicable township zoning ordinances. A zoning inspection under this subsection is
14 not required if the township has adopted a zoning ordinance that permits a property
15 owner to repair or rebuild a nonconforming structure if that structure is more than fifty
16 percent damaged or destroyed. An inspection under this subsection may occur only
17 once every five years, unless an additional inspection is deemed necessary by a
18 majority of the township zoning commission.

19 **SECTION 8. AMENDMENT.** Subsection 2 of section 58-03-19 of the North Dakota Century
20 Code is amended and reenacted as follows:

21 2. If the building or structure for which a permit is requested meets all applicable zoning
22 regulations and the board of township supervisors or other appropriate official fails to
23 respond as required under subsection 1, the application is deemed to be approved
24 and the applicant may proceed with the construction, erection, reconstruction, repair,
25 or alteration of the building or structure and the township shall return any permit fee
26 submitted with the application. When a permit is issued under this section, the
27 township immediately shall notify the zoning commission of the issuance of a permit
28 for purposes of section 58-03-13.

29 **SECTION 9. AMENDMENT.** Section 58-09-03 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **58-09-03. Assessors - How governed.**

2 The township assessor must be governed by, and shall make assessments and returns as
3 provided in, title 57. When an assessment is performed, the township assessor immediately
4 shall notify the township zoning commission of the assessment for purposes of section
5 58-03-13.