

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:

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 which was not occupied by the damaged
15 structure;

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

17 (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. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
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.

- 1 3. Under subsection 1, a nonconforming structure may not be moved unless the
2 movement or relocation will bring the structure into compliance with all applicable
3 zoning regulations.
- 4 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
5 replacement, maintenance, improvement, or expansion of nonconforming uses and
6 structures in floodplain areas to the extent necessary to maintain eligibility in the
7 national flood insurance program and adhere fully to all applicable floodplain
8 management ordinances without increasing flood damage potential or increasing the
9 degree of obstruction to floodflows in the floodway.
- 10 5. Notwithstanding subsections 1, 2, and 3, the local zoning authority may create a less
11 restrictive ordinance or regulation.
- 12 6. If a property owner is not authorized to repair, replace, improve, maintain, restore, or
13 rebuild a structure under subsection 1, the county shall compensate the owner for the
14 fair market value of the property before the damage occurred.

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

17 **40-47-05.1. Zoning - Nonconforming structure.**

- 18 1. Notwithstanding any other provision of law or local zoning ordinance, a structure
19 devoted to residential use may be repaired, replaced, improved, maintained, restored,
20 or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its
21 value if:
 - 22 a. A building permit is obtained within six months of the date the damage occurs;
 - 23 b. Restoration begins within one year of the date the damage occurred; and
 - 24 c. The new structure will not:
 - 25 (1) Occupy a portion of the lot which was not occupied by the damaged
26 structure;
 - 27 (2) Have more square footage than the damaged structure;
 - 28 (3) Exceed the height or number of stories of the damaged structure; or
 - 29 (4) Diminish the number of off-street parking spaces located on the property
30 from the number of spaces before the damage.

- 1 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
2 expansion is in compliance with applicable state and local zoning regulations. The
3 local zoning authority shall determine whether a proposed expansion is in compliance.
- 4 3. Under subsection 1, a nonconforming structure may not be moved unless the
5 movement or relocation will bring the structure into compliance with all applicable
6 zoning regulations.
- 7 4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
8 replacement, maintenance, improvement, or expansion of nonconforming uses and
9 structures in floodplain areas to the extent necessary to maintain eligibility in the
10 national flood insurance program and adhere fully to all applicable floodplain
11 management ordinances without increasing flood damage potential or increasing the
12 degree of obstruction to floodflows in the floodway.
- 13 5. Notwithstanding section 40-47-13 and subsections 1, 2, and 3, the local zoning
14 authority may create a less restrictive ordinance or regulation.
- 15 6. If a property owner is not authorized to repair, replace, improve, maintain, restore, or
16 rebuild a structure under subsection 1, the city shall compensate the owner for the fair
17 market value of the property before the damage occurred.

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

20 **58-03-14.1. Zoning - Nonconforming structure.**

- 21 1. Notwithstanding any other provision of law or local zoning ordinance, a structure
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 damage occurs;
 - 26 b. Restoration begins within one year of the date the damage occurred; and
 - 27 c. The new structure will not:
 - 28 (1) Occupy a portion of the lot which was not occupied by the damaged
29 structure;
 - 30 (2) Have more square footage than the damaged structure;
 - 31 (3) Exceed the height or number of stories of the damaged structure; or

- 1 (4) Diminish the number of off-street parking spaces located on the property
2 from the number of spaces before the damage.
- 3 2. 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 3. 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 4. 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 5. Notwithstanding subsections 1, 2, and 3, the local zoning authority may create a less
16 restrictive ordinance or regulation.
- 17 6. 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.