

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. An application for a building permit is submitted within six months of the date the  
12 damage occurs;

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

14 c. The new structure will not:

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

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

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

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

21 (5) Violate existing building and fire codes.

- 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, improvement, maintenance, restoration, rebuilding, or expansion of  
9       nonconforming uses and structures in floodplain areas to the extent necessary to  
10      maintain eligibility in the national flood insurance program and adhere fully to all  
11      applicable floodplain management ordinances without increasing flood damage  
12      potential or increasing the degree of obstruction to floodflows in the floodway.
- 13      5. Notwithstanding subsections 1, 2, and 3, the local zoning authority may create a less  
14      restrictive ordinance or regulation.
- 15      6. Unless the county determines the repair, replacement, improvement, maintenance,  
16      rebuilding, or restoration of a structure will violate subdivision c of subsection 1, the  
17      county shall issue a building permit to a property owner that meets the qualifications  
18      under subsection 1.

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

21       **40-47-05.1. Zoning - Nonconforming structure.**

- 22      1. Notwithstanding any other provision of law or local zoning ordinance, a structure  
23      devoted to residential use may be repaired, replaced, improved, maintained, restored,  
24      or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its  
25      value if:
  - 26      a. An application for a building permit is submitted within six months of the date the  
27      damage occurs;
  - 28      b. Restoration begins within one year of the date the damage occurred; and
  - 29      c. The new structure will not:
    - 30      (1) Occupy a portion of the lot which was not occupied by the damaged  
31      structure;

- 1           (2) Have more square footage than the damaged structure;
- 2           (3) Exceed the height or number of stories of the damaged structure;
- 3           (4) Diminish the number of off-street parking spaces located on the property
- 4                 from the number of spaces before the damage; or
- 5           (5) Violate existing building and fire codes.
- 6        2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
- 7           expansion is in compliance with applicable state and local zoning regulations. The
- 8           local zoning authority shall determine whether a proposed expansion is in compliance.
- 9        3. Under subsection 1, a nonconforming structure may not be moved unless the
- 10           movement or relocation will bring the structure into compliance with all applicable
- 11           zoning regulations.
- 12        4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,
- 13           replacement, improvement, maintenance, restoration, rebuilding, or expansion of
- 14           nonconforming uses and structures in floodplain areas to the extent necessary to
- 15           maintain eligibility in the national flood insurance program and adhere fully to all
- 16           applicable floodplain management ordinances without increasing flood damage
- 17           potential or increasing the degree of obstruction to floodflows in the floodway.
- 18        5. Notwithstanding section 40-47-13 and subsections 1, 2, and 3, the local zoning
- 19           authority may create a less restrictive ordinance or regulation.
- 20        6. Unless the city determines that the repair, replacement, improvement, maintenance,
- 21           rebuilding, or restoration of a structure will violate subdivision c of subsection 1, the
- 22           city shall issue a building permit to a property owner that meets the qualifications
- 23           under subsection 1.

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

26        **58-03-14.1. Zoning - Nonconforming structure.**

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

- 1           a. An application for a building permit is submitted within six months of the date the  
2           damage occurs;
- 3           b. Restoration begins within one year of the date the damage occurred; and
- 4           c. The new structure will not:
- 5                 (1) Occupy a portion of the lot which was not occupied by the damaged  
6                 structure;
- 7                 (2) Have more square footage than the damaged structure;
- 8                 (3) Exceed the height or number of stories of the damaged structure;
- 9                 (4) Diminish the number of off-street parking spaces located on the property  
10                from the number of spaces before the damage; or
- 11                (5) Violate existing building and fire codes.
- 12         2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the  
13         expansion is in compliance with applicable state and local zoning regulations. The  
14         local zoning authority shall determine whether a proposed expansion is in compliance.
- 15         3. Under subsection 1, a nonconforming structure may not be moved unless the  
16         movement or relocation will bring the structure into compliance with all applicable  
17         zoning regulations.
- 18         4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,  
19         replacement, improvement, maintenance, restoration, rebuilding, or expansion of  
20         nonconforming uses and structures in floodplain areas to the extent necessary to  
21         maintain eligibility in the national flood insurance program and adhere fully to all  
22         applicable floodplain management ordinances without increasing flood damage  
23         potential or increasing the degree of obstruction to floodflows in the floodway.
- 24         5. Notwithstanding subsections 1, 2, and 3, the local zoning authority may create a less  
25         restrictive ordinance or regulation.
- 26         6. Unless the township determines that the repair, replacement, improvement,  
27         maintenance, rebuilding, or restoration of a structure will violate subdivision c of  
28         subsection 1, the township shall issue a building permit to a property owner that meets  
29         the qualifications under subsection 1.