

Sixty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED 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 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 legal nonconforming structures in counties, cities, and  
3 townships.

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

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

7 **11-33-17.1. Zoning - ~~Nonconforming~~Legal nonconforming structure.**

- 8 1. Notwithstanding any other provision of law or local zoning ordinance, a legal  
9 nonconforming structure devoted to residential use, situated in a residential zoning  
10 district, may be repaired, replaced, improved, maintained, restored, or rebuilt in its  
11 entirety even though the structure is damaged beyond fifty percent of its value if:
- 12 a. An application for a building permit is submitted within six months of the date the  
13 damage occurs;
- 14 b. Restoration begins within one year of the date the damage occurred; ~~and~~  
15 The lot or parcel upon which the structure dedicated to residential use is located  
16 abuts a public right of way; and
- 17 d. The new structure will not:
- 18 (1) Occupy a portion of the lot which was not occupied by the damaged  
19 structure;
- 20 (2) Have more square footage than the damaged structure;
- 21 (3) Exceed the height or number of stories of the damaged structure;
- 22 (4) Diminish the number of off-street parking spaces located on the property  
23 from the number of spaces before the damage;
- 24 (5) Violate existing building and fire codes;

1                   (6) Violate existing sanitary or health standards imposed by the local health  
2                   district;~~or~~

3                   (7) Pose a risk to public health or safety;

4 (8) Encroach upon a public right of way; or

5 (9) Encroach upon any neighboring property.

6           2. Under subsection 1, expansion of a legal nonconforming structure is prohibited unless  
7           the 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 legal 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 legal  
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 subsections 1, 2, and 3, the local zoning authority may create a less  
19           restrictive ordinance or regulation.

20           6. Unless the county determines the repair, replacement, improvement, maintenance,  
21           rebuilding, or restoration of a legal nonconforming structure will violate subdivision c of  
22           subsection 1, the county shall issue a building permit to a property owner that meets  
23           the qualifications under subsection 1.

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

26           **40-47-05.1. Zoning - ~~Nonconforming~~Legal nonconforming structure.**

27           1. Notwithstanding any other provision of law or local zoning ordinance, a legal  
28           nonconforming structure devoted to residential use, situated in a residential zoning  
29           district, may be repaired, replaced, improved, maintained, restored, or rebuilt in its  
30           entirety even though the structure is damaged beyond fifty percent of its 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 lot or parcel upon which the structure dedicated to residential use is located  
5           abuts a public right of way; and
- 6           d. The new structure will not:
- 7                 (1) Occupy a portion of the lot which was not occupied by the damaged  
8                 structure;
- 9                 (2) Have more square footage than the damaged structure;
- 10                (3) Exceed the height or number of stories of the damaged structure;
- 11                (4) Diminish the number of off-street parking spaces located on the property  
12                from the number of spaces before the damage;
- 13                (5) Violate existing building and fire codes;
- 14                (6) Violate existing sanitary or health standards imposed by the local health  
15                district; ~~or~~
- 16                (7) Pose a risk to public health or safety;
- 17                (8) Encroach upon a public right of way; or  
18                (9) Encroach upon any neighboring property.
- 19           2. Under subsection 1, expansion of a legal nonconforming structure is prohibited unless  
20           the expansion is in compliance with applicable state and local zoning regulations. The  
21           local zoning authority shall determine whether a proposed expansion is in compliance.
- 22           3. Under subsection 1, a legal nonconforming structure may not be moved unless the  
23           movement or relocation will bring the structure into compliance with all applicable  
24           zoning regulations.
- 25           4. Notwithstanding subsection 1, the local zoning authority shall regulate the repair,  
26           replacement, improvement, maintenance, restoration, rebuilding, or expansion of legal  
27           nonconforming uses and structures in floodplain areas to the extent necessary to  
28           maintain eligibility in the national flood insurance program and adhere fully to all  
29           applicable floodplain management ordinances without increasing flood damage  
30           potential or increasing the degree of obstruction to floodflows in the floodway.

1       5. Notwithstanding section 40-47-13 and subsections 1, 2, and 3, the local zoning  
2       authority may create a less restrictive ordinance or regulation.

3       6. Unless the city determines that the repair, replacement, improvement, maintenance,  
4       rebuilding, or restoration of a legal nonconforming structure will violate subdivision c of  
5       subsection 1, the city shall issue a building permit to a property owner that meets the  
6       qualifications under subsection 1.

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

9       **58-03-14.1. Zoning - ~~Nonconforming~~Legal nonconforming structure.**

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

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

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

17      c. The lot or parcel upon which the structure dedicated to residential use is located  
18      abuts a public right of way; and

19      d. The new structure will not:

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

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

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

24           (4) Diminish the number of off-street parking spaces located on the property  
25           from the number of spaces before the damage;

26           (5) Violate existing building and fire codes;

27           (6) Violate existing sanitary or health standards imposed by the local health  
28           district; ~~or~~

29           (7) Pose a risk to public health or safety;

30           (8) Encroach upon a public right of way; or

31           (9) Encroach upon any neighboring property.

- 1 | 2. Under subsection 1, expansion of a legal nonconforming structure is prohibited unless  
2 | the 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 legal 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 legal  
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 township determines that the repair, replacement, improvement,  
16 | maintenance, rebuilding, or restoration of a legal nonconforming structure will violate  
17 | subdivision c of subsection 1, the township shall issue a building permit to a property  
18 | owner that meets the qualifications under subsection 1.