

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2271
(Senators Holmberg, Klein, Wardner)
(Representatives Boehning, Carlson, Martinson)

AN ACT to amend and reenact sections 11-33-01, 11-33.2-11, 40-47-04, 40-48-21, and 58-03-13 of the North Dakota Century Code, relating to requiring findings or statements upon which zoning requests and subdivision plat requests are disapproved.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-33-01 of the North Dakota Century Code is amended and reenacted as follows:

11-33-01. County power to regulate property. For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county may regulate and restrict within the county, subject to section 11-33-20 and chapter 54-21.3, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes. The board of county commissioners and a county zoning commission shall state the grounds upon which any request for a zoning amendment or variance is approved or disapproved, and written findings upon which the decision is based must be included within the records of the board or commission. The board of county commissioners shall establish zoning requirements for solid waste disposal and incineration facilities before July 1, 1994. The board of county commissioners may impose tipping or other fees on solid waste management and incineration facilities. The board of county commissioners may not impose any fee under this section on an energy conversion facility or coal mining operation that disposes of its waste onsite. The board of county commissioners may establish institutional controls that address environmental concerns with the state department of health as provided in section 23-20.3-03.1.

SECTION 2. AMENDMENT. Section 11-33.2-11 of the North Dakota Century Code is amended and reenacted as follows:

11-33.2-11. Board ~~authorized to~~ may approve plats - Appropriate money. The board of county commissioners ~~is empowered to authorize and provide for the approval of~~ may approve plats as a prerequisite to the subdivision of land subject to the provisions of this chapter and may establish and collect reasonable fees therefor. The fees ~~so collected shall~~ must be credited to the general fund of the county. The board of county commissioners ~~is further empowered to~~ may appropriate, out of the general funds of the county, ~~such moneys as may be~~ necessary for the purposes of this chapter. The board of county commissioners shall state the grounds upon which any request for approval of plats is approved or disapproved, and written findings upon which the decision is based must be included within the records of the board.

SECTION 3. AMENDMENT. Section 40-47-04 of the North Dakota Century Code is amended and reenacted as follows:

40-47-04. Determining and enforcing regulations - Public hearing and notice thereof - Publication of regulations, restrictions, and boundaries.

1. The governing body of a city which ~~shall use~~ uses zoning regulations shall provide for the manner in which the regulations and restrictions ~~shall~~ must be established, enforced, or supplemented, and for the manner in which the boundaries of the districts ~~shall~~ must be established and from time to time changed. A copy of each proposed regulation, restriction, or boundary ~~shall~~ must be filed with the city auditor. No regulation, restriction, or boundary ~~shall~~ may become effective until after a public hearing ~~thereon~~ at which

parties in interest and citizens shall have an opportunity to be heard. Notice of ~~said the~~ hearing ~~shall must~~ be published once a week for two successive weeks ~~prior to before~~ the time set for ~~said the~~ hearing in the official newspaper of the city. ~~Such The~~ notice ~~shall must~~ contain the following items:

- 1- a. The time and place of the hearing.
 - 2- b. A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.
 - 3- c. A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary.
 - 4- d. A statement of the times at which it will be available to the public for inspection and copying at the office of the city auditor.
2. Upon establishment of any regulation, restriction, or boundary hereunder, the governing body of a city shall file a certified copy thereof with the city auditor and shall cause notice of the same to be published in the official newspaper of the city. ~~Said The~~ notice ~~shall must~~ describe the nature, scope, and purpose of the regulation, restriction, or boundary and ~~shall must~~ state the times at which it will be available to the public for inspection and copying at the office of the city auditor.
3. The governing body of a city, a city zoning commission, and a board of adjustment shall state the grounds upon which any request for a zoning amendment or variance is approved or disapproved, and written findings upon which the decision is based must be included within the records of the governing body, commission, or board.

SECTION 4. AMENDMENT. Section 40-48-21 of the North Dakota Century Code is amended and reenacted as follows:

40-48-21. Approval of plats by commission - Hearings - Notice - Effect. Within thirty days after the submission of a plat, the planning commission shall approve or disapprove ~~it the~~ plat. If the plat is not approved or disapproved within ~~such that~~ time, ~~it shall be the~~ plat is deemed to have been approved, and a certificate to that effect ~~shall must~~ be issued by the commission on demand. The applicant, however, may waive the requirement that the commission ~~shall~~ act within thirty days and may consent to an extension of ~~such the~~ period. ~~The ground commission shall state the grounds upon which any plat is approved or disapproved shall be stated upon, and written findings upon which the decision is based must be included within the records of the commission.~~ Any plat submitted to the commission ~~shall must~~ contain the name and address of ~~a person~~ an individual to whom notice of a hearing ~~shall must~~ be sent. No action ~~shall may~~ be taken by the commission upon any plat until ~~it the~~ commission has afforded a hearing thereon. At least five days before the date fixed for ~~such the~~ hearing, a notice of the time and place of ~~such the~~ hearing ~~shall must~~ be sent by registered ~~or certified~~ mail to the address shown on the plat. Public notice of all ~~such~~ hearings also ~~shall must~~ be given. Every plat approved by the commission may be adopted by the commission as an amendment of or addition to the master plan without further hearing.

SECTION 5. AMENDMENT. Section 58-03-13 of the North Dakota Century Code is amended and reenacted as follows:

58-03-13. Township zoning commissions - Membership - Reports and recommendations - District boundaries - Hearings - Notice. The board of township supervisors of a township desiring to avail itself of the powers conferred by sections 58-03-11 through 58-03-15 shall establish, by resolution, a township zoning commission to recommend the boundaries of the various township zoning districts and appropriate regulations and restrictions to be established therein. Membership of ~~such the~~ commission must consist of three township supervisors and two members appointed from the municipalities concerned in relation to which ~~such the~~ zoning is contemplated. Where the area to be regulated and restricted is situated in two or more townships, a joint zoning commission may be

established. Membership of a joint zoning commission must consist of two township supervisors from each township and two members from the municipality in relation to which ~~such~~ the zoning is contemplated. ~~Each such~~ A zoning commission shall make a preliminary report and hold public hearings ~~thereon~~ before submitting its final report and recommendations to the board or boards of township supervisors. The board or boards of township supervisors may ~~thereupon~~ establish, and from time to time change, the boundaries of township zoning districts and establish, amend, supplement, and enforce regulations and restrictions in ~~such the~~ such the districts. No regulation, restriction, or boundaries become effective until after a public hearing ~~thereon~~ at which parties in interest and citizens have an opportunity to be heard. At least fifteen days' notice of the time and place of ~~such the~~ the hearing must be published in the official newspaper of the county and also in the official newspaper of the municipality in relation to which ~~such the~~ the zoning action is taken, if in ~~such the~~ the municipality an official newspaper other than the official newspaper of the county is published. The description of any land within any zoning district established by a zoning commission together with any regulations and restrictions established ~~therein~~ must be filed with the governing bodies of the township and municipalities concerned, and ~~in the event~~ if amendments are made to the boundaries of the zoning district or the regulations or restrictions ~~established therein, such the~~ established therein, such the amendments must be filed in the same manner. A zoning commission established under this section and a board of township supervisors shall state the grounds upon which any request for a zoning amendment or variance is approved or disapproved, and written findings upon which the decision is based must be included within the records of the commission or board.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2271.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State