

2025 HOUSE POLITICAL SUBDIVISIONS

HB 1500

2025 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1500
2/7/2025

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 North Dakota Century Code, relating to nonconforming structures in counties, cities, and townships.

9:15 a.m. Chairman Longmuir called the meeting to order.

Members Present: Chairman Longmuir, Vice-Chairman Fegley, Vice-Chairman Jonas, Representatives Bolinske, Davis, Hager, Hatlestad, Heilman, Klemin, Motschenbacher, Ostlie, Toman, Warrey

Discussion Topics:

- Cleanliness of North Dakota towns
- Controlling fires

9:16 a.m. Representative Koppelman, North Dakota Representative for District 16, introduced the Bill.

9:34 a.m. Representative Steven Vetter, North Dakota Representative for District 18, testified in favor.

9:45 a.m. Bill Wocken, North Dakota League of Cities, testified in opposition and submitted testimony #36193

Additional written testimony:

Brian Billingsley, Community and Economic Development Director for City of Minot, submitted testimony in opposition #35723

Natalie Pierce, Legislative Liaison for North Dakota Planning Association, submitted testimony in opposition #35969

9:48 a.m. Chairman Longmuir closed the hearing.

Sierra Schartz Committee Clerk for Wyatt Armstrong, Committee Clerk



North Dakota House Political Subdivisions Committee

Chairman – Donald W. Longmuir

February 5, 2025

Testimony: Brian K. Billingsley, AICP
Community & Economic Development Director
Email: brian.billingsley@minotnd.gov
Phone: 701-857-4147

House Bill 1500
Urging a “Do Not Pass” Recommendation

In my capacity as the Director of the City of Minot Community Development Department, I am writing to express my **opposition** to HB 1500 (Non-Conforming Structures). HB 1500 attempts to permit the reconstruction of non-conforming residential buildings in zones where residences can be negatively impacted by nearby commercial and industrial land uses. There are several properties in Minot containing a non-conforming residential building that should be built to comply with the City’s current zoning code after the non-conforming building has been razed. I believe this legislation is vaguely written and could be subjected to misinterpretation by planners, property owners, elected officials, attorneys, and judges.

North Dakota’s cities, counties, and townships are unique and have different needs. Unfortunately, this legislation promotes a “one-size fits all” approach for the zoning of our political subdivisions. Local governments should have the ability to determine how to handle non-conforming buildings, structures, and uses within their jurisdiction without interference from the State government. Constituents can and should take their concerns to their local government officials if they do not agree with local rules.

For these reasons, I strongly urge your committee to recommend a “**do not pass**” on HB 1500 and I thank you for your consideration and for your service to our State.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. B.", with a horizontal line extending to the right.

Brian K. Billingsley, AICP
Community & Economic Development Director

Cc: Harold Stewart, City Manager
Shane Goettle, Special Assistant City Attorney
Matt Gardner, North Dakota League of Cities
Racheal Laqua, North Dakota Planning Association



**NORTH DAKOTA
PLANNING ASSOCIATION**
Serving North Dakota since 1973

NDPA Board

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David Sweeney – At Large*

HB1500 Recommend “Do Not Pass”

February 6, 2025
Committee Hearing: HB1500
Political Subdivisions

Chairman Longmuir and Committee Members:

There have been many drafts of this bill, since it was first introduced in 2017. Many of the concerns that the North Dakota Planning Association has brought up across multiple legislative sessions, have been addressed in the current version of the bill. However, the bill is still unnecessary and would erode local zoning authority.

Each community should be able to determine the approach to non-conforming structures that best supports the community’s work toward achieving its stated long-range goals. Some communities have adopted language similar to what is contained in this bill. Many have not. Where a property owner may experience a hardship, due to local zoning regulations, a property owner may apply for a zoning variance and for the particular details of their case to be considered thoughtfully by their local elected officials. This is not an issue that requires state involvement.

While we are not advocating for the bill to be passed, if the bill is to be passed, we are advocating for the current language to be preserved with minor proofreading changes, attached.

Thank you,

North Dakota Planning Association Board
Rachel Laqua, President

- 1 (6) Violate existing sanitary or health standards imposed by the local health
- 2 district;
- 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 nonconforming structure is prohibited unless the
- 7 expansion is in compliance with applicable zoning regulations and state laws and
- 8 rules. The zoning authority shall determine whether a proposed expansion is in
- 9 compliance.
- 10 3. Under subsection 1, a nonconforming structure may not be moved unless the
- 11 movement or relocation will bring the structure into compliance with all applicable
- 12 zoning regulations.
- 13 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
- 14 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
- 15 nonconforming uses and structures in floodplain areas to the extent necessary to
- 16 maintain eligibility in the national flood insurance program and adhere fully to all
- 17 applicable floodplain management ordinances without increasing flood damage
- 18 potential or increasing the degree of obstruction to floodflows in the floodway.
- 19 5. Notwithstanding subsections 1, 2, and 3, the zoning authority may create a less
- 20 restrictive ordinance or regulation.
- 21 6. Unless the county determines the repair, replacement, improvement, maintenance,
- 22 restoration, rebuilding, of a nonconforming structure will violate subdivision ^d of
- 23 subsection 1, the county shall issue a building permit to a property owner that meets
- 24 the qualifications under subsection 1.
- 25 7. For purposes of this section, "nonconforming structure" means a structure that was
- 26 legal before a change in law made the structure nonconforming.

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

29 **40-47-05.1. Zoning - Nonconforming structure.**

- 30 1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming
- 31 structure devoted to residential use and located in a residential zoning district may be

Repeat these same changes for cities (47) and townships (58)

Testimony in Opposition to House Bill 1500
February 7, 2021
House Political Subdivisions Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good morning, Mr. Chairman and members of the House Political Subdivisions Committee. For the record, my name is Bill Wocken and I am testifying in opposition to House Bill 1500 on behalf of the North Dakota League of Cities.

House Bill 1500 deals with legal non-conforming uses. This concept comes from the zoning ordinance. It describes an improved lot that does not comply with all the provisions of the current zoning ordinance for that lot. Over time zoning designations and building regulations change. The structures and land uses that exist at the time the changes become effective are not required to be changed but instead are "grandfathered in" and are called non-conforming uses.

The North Dakota League of Cities is opposed to this bill. We are not going to discuss the concept of nonconforming uses in detail. Our professional planner partners can do that. The League of Cities is opposed to any mandate from the state or federal government that restricts decisions and options available to local government and its citizens.

There are very few times in a year when the mechanism mandated in this bill might be needed. Most of these situations are resolved satisfactorily by local government with the use of variances, ordinance changes, meetings with financial institutions and developer agreements. These are local issues being handled by local personnel on an individual basis. We do not feel there is a need for this bill.

We respectfully request a Do Not Pass recommendation on House Bill 1500. Let local government handle these situations.

2025 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1500
2/13/2025

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 North Dakota Century Code, relating to nonconforming structures in counties, cities, and townships.

9:50 a.m. Chairman Longmuir opened the hearing.

Members Present: Chairman Longmuir, Vice-Chairman Fegley, Vice-Chairman Jonas, Representatives Bolinske, Hager, Hatlestad, Heilman, Klemin, Motschenbacher, Ostlie

Members Absent: Representatives Davis, Toman, Warrey

Discussion Topics:

- Local control over nonconforming structures
- Time frame for repairing nonconforming structures

9:50 a.m. Representative Heilman moved to Amend and replace "law" with "zoning Ordinance" on page 2 line 36, page 4 line 10, and page 5 line 26.

9:51 a.m. Representative Bolinske seconded the motion.

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jim Jonas	Y
Representative Macy Bolinske	Y
Representative Jayme Davis	A
Representative LaurieBeth Hager	Y
Representative Patrick R. Hatlestad	Y
Representative Matthew Heilman	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	Y
Representative Nathan Toman	A
Representative Jonathan Warrey	A

9:54 a.m. Motion passed 10-0-3

9:55 a.m. Representative Klemin moved a Do Not Pass as Amended.

9:55 a.m. Representative Ostlie seconded the motion.

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jim Jonas	Y
Representative Macy Bolinske	N
Representative Jayme Davis	A
Representative LaurieBeth Hager	Y
Representative Patrick R. Hatlestad	Y
Representative Matthew Heilman	N
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	N
Representative Mitch Ostlie	Y
Representative Nathan Toman	A
Representative Jonathan Warrey	A

9:57 a.m. Motion passed 7-3-3

9:58 a.m. Representative Fegley will carry the bill.

9:58 a.m. Chairman Longmuir closed the hearing.

Wyatt Armstrong, Committee Clerk

February 13, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

MB
2/13/25
1 of 6

HOUSE BILL NO. 1500

Introduced by

Representatives Koppelman, J. Johnson, Louser, D. Ruby, Steiner, Vetter

Senators Clemens, Cory, Dwyer, Kessel, Meyer

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 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 structure.**

- 8 1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming
9 structure devoted to residential use and located in a residential zoning district may be
10 repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even
11 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;
 - 15 c. 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;

- 1 (3) Exceed the height or number of stories of the damaged structure;
- 2 (4) Diminish the number of off-street parking spaces located on the property
- 3 from the number of spaces before the damage;
- 4 (5) Violate existing building and fire codes;
- 5 (6) Violate existing sanitary or health standards imposed by the local health
- 6 district;
- 7 (7) Pose a risk to public health or safety;
- 8 (8) Encroach upon a public right of way; or
- 9 (9) Encroach upon any neighboring property.
- 10 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
- 11 expansion is in compliance with applicable zoning ~~regulations~~ordinances and state
- 12 laws and rules. The zoning authority shall determine whether a proposed expansion is
- 13 in compliance.
- 14 3. Under subsection 1, a nonconforming structure may not be moved unless the
- 15 movement or relocation will bring the structure into compliance with all applicable
- 16 zoning ~~regulations~~ordinances.
- 17 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
- 18 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
- 19 nonconforming uses and structures in floodplain areas to the extent necessary to
- 20 maintain eligibility in the national flood insurance program and adhere fully to all
- 21 applicable floodplain management ordinances without increasing flood damage
- 22 potential or increasing the degree of obstruction to floodflows in the floodway.
- 23 5. Notwithstanding subsections 1, 2, and 3, the zoning authority may create a less
- 24 restrictive ordinance or regulation.
- 25 6. Unless the county determines the repair, replacement, improvement, maintenance,
- 26 restoration, rebuilding, of a nonconforming structure will violate subdivision c of
- 27 subsection 1, the county shall issue a building permit to a property owner that meets
- 28 the qualifications under subsection 1.
- 29 7. For purposes of this section, "nonconforming structure" means a structure that was
- 30 legal before a change in law made the structure nonconforming.

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

40-47-05.1. Zoning - Nonconforming structure.

1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming structure devoted to residential use and located in a residential zoning district may be repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its value if:
 - a. An application for a building permit is submitted within six months of the date the damage occurs;
 - b. Restoration begins within one year of the date the damage occurred;
 - c. The lot or parcel upon which the structure dedicated to residential use is located abuts a public right of way; and
 - d. The new structure will not:
 - (1) Occupy a portion of the lot which was not occupied by the damaged structure;
 - (2) Have more square footage than the damaged structure;
 - (3) Exceed the height or number of stories of the damaged structure;
 - (4) Diminish the number of off-street parking spaces located on the property from the number of spaces before the damage;
 - (5) Violate existing building and fire codes;
 - (6) Violate existing sanitary or health standards imposed by the local health district;
 - (7) Pose a risk to public health or safety;
 - (8) Encroach upon a public right of way; or
 - (9) Encroach upon any neighboring property.
2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the expansion is in compliance with applicable zoning ~~regulations~~ ordinances and state laws and rules. The zoning authority shall determine whether a proposed expansion is in compliance.

3. Under subsection 1, a nonconforming structure may not be moved unless the movement or relocation will bring the structure into compliance with all applicable zoning ~~regulations~~ordinances.

4. Notwithstanding subsection 1, the zoning authority shall regulate the repair, replacement, improvement, maintenance, restoration, rebuilding, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the national flood insurance program and adhere fully to all applicable floodplain management ordinances without increasing flood damage potential or increasing the degree of obstruction to floodflows in the floodway.

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

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

7. For purposes of this section, "nonconforming structure" means a structure that was legal before a change in law made the structure nonconforming.

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

58-03-14.1. Zoning - Nonconforming structure.

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

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

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

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

d. The new structure will not:

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

- 1 7. For purposes of this section, "nonconforming structure" means a structure that was
- 2 legal before a change in law made the structure nonconforming.

**REPORT OF STANDING COMMITTEE
HB 1500**

Political Subdivisions Committee (Rep. Longmuir, Chairman) recommends **AMENDMENTS** ([25.1213.01002](#)) and when so amended, recommends **DO NOT PASS** (7 YEAS, 3 NAYS, 3 ABSENT OR EXCUSED AND NOT VOTING). HB 1500 was placed on the Sixth order on the calendar.

2025 SENATE INDUSTRY AND BUSINESS

HB 1500

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1500
3/11/2025

A bill relating to nonconforming structures in counties, cities, and townships.

2:30 p.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chief Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Residential property loss or damage and homelessness
- Rebuilding and permits
- Building permits and changes in policy
- Timeframe of restoration
- New build requirements
- Zoning ordinances and state laws and rules
- Rebuilding expansion
- Public buyout and eminent domain
- Number of non-conforming properties
- County zoning board authority
- Local control and property rights
- Flood zones and flood insurance
- Non-conforming use definition
- Federal funding and municipalities
- Financial cost of pursuing a variance
- Flood plain management authority concerns

2:30 p.m. Representative Ben Koppelman, District 16, testified in favor and introduced the bill.

2:55 p.m. Representative Vetter, District 18, testified in favor and submitted testimony #40669 and #40670.

3:16 p.m. Representative Ben Koppelman, District 16, testified in favor.

3:21 p.m. Jessica Cassady, Owner/Appraisal, The Appraisal Office, testified in favor and submitted testimony #40521.

3:29 p.m. Bill Wocken, ND League of Cities, testified in opposition and submitted testimony #40673

3:34 p.m. Natalie Pierce, Legislative Liaison, ND Planning Association and certified flood plain manager, testified in favor and submitted testimony #40503.

Senate Industry and Business Committee

HB 1500

3/11/25

Page 2

3:46 p.m. Chairman Barta adjourned the meeting.

Audrey Oswald, Committee Clerk



**NORTH DAKOTA
PLANNING ASSOCIATION**
Serving North Dakota since 1973

NDPA Board

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Andrea Edwardson – Vice President
John Van Dyke – Past President
Daniel Nairn – Treasurer
Will Hutchings – Secretary
Maegin Elshaug – At Large
David Sweeney – At Large*

Engrossed HB1500 Recommend “Do Not Pass”

March 11, 2025

Committee Hearing: Engrossed HB1500
Senate Industry and Business

Chairman Barta and Committee Members:

There have been many drafts of this bill, since it was first introduced in 2017. Many of the concerns that the North Dakota Planning Association has brought up across multiple legislative sessions, have been addressed in the current version of the bill. However, the bill is still unnecessary and would erode local zoning authority.

Each community should be able to determine the approach to non-conforming structures that best supports the community’s work toward achieving its stated long-range goals. Some communities have adopted language similar to what is contained in this bill. Many have not.

Where a property owner may experience a hardship, due to local zoning regulations, a property owner may apply for a zoning variance and for the particular details of their case to be considered thoughtfully by their local elected officials. This is not an issue that requires state involvement.

While we are not advocating for the bill to be passed, if the bill is to be passed, please note the change in section 6 to be amended as attached. A subsection was added last session which re-numbered section 1. However the reference to 1(c) in Section 6 was not updated to reflect the re-numbering.

Thank you,

North Dakota Planning Association Board
Rachel Laqua, President

- 1 (6) Violate existing sanitary or health standards imposed by the local health
- 2 district;
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- 4 (8) Encroach upon a public right of way; or
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- 7 expansion is in compliance with applicable zoning regulations and state laws and
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- 9 compliance.
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- 11 movement or relocation will bring the structure into compliance with all applicable
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- 16 maintain eligibility in the national flood insurance program and adhere fully to all
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28 as follows:

29 **40-47-05.1. Zoning - Nonconforming structure.**

- 30 1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming
- 31 structure devoted to residential use and located in a residential zoning district may be

Repeat this change for cities (47) and townships (58)



The Appraisal Office

Certified & Licensed Real Estate Appraisers
3105 Broadway N, Suite 10, Fargo, ND 58102
701.280.1400

www.eappraisaloffice.com

March 09, 2025
HB1500

House Bill 1500 Urging a "Do Pass" Recommendation

I am a Certified Residential Appraiser with 18 years' experience, and I am writing to urge you to provide a "Do Pass" recommendation for HB 1500, which will allow non-conforming residential structures to be rebuilt if destroyed by more than 50%. Passing this bill will give hundreds of North Dakota property owners the right to rebuild their home if it were destroyed and would allow those with non-conforming properties to obtain financing.

Often, it is not a structure that makes a property non-conforming, it is typically the lot size or changes to local ordinances that were changed after the property was built that causes a property to be classified as non-conforming. Amendments to existing ordinances cause properties that were once conforming to now be considered non-conforming, often without property owner's realizing it. The amendments are often to site size requirements and not due to zoning class, such as from Residential to Commercial and vice versa. These amendments often go unnoticed by the public, as many don't fully understand how the proposed changes affect their property until their house has been destroyed or they can't obtain financing. Financing requirements for any home loan require that a property that is legal, non-conforming, be able to be rebuilt if destroyed by more than 50%. If it is not, the property is not financeable. Many times, receiving a Variance is time consuming and delays transactions. There have also been times when a Zoning Authority won't issue a Variance until something happens to the property, which is not acceptable for property owners.

I strongly encourage you to provide a "Do Pass" recommendation for this bill, as it helps property owners throughout the entire state. Local zoning boards will still have control over what is built on a site, this bill just allows a property owner the right to rebuild.

Thank you for your time,

Jessica Cassidy
Certified Residential Appraiser/Owner



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Steve Vetter

District 18
804 South 17th Street
Grand Forks, ND 58201-4241
smvetter@ndlegis.gov

COMMITTEES:

Judiciary (Vice Chair)
Government and Veterans Affairs

Chairman Barta and Senators of the Industry & Business Committee,

-Property rights bill for most people's most valuable asset they own

-In every city, county or state that this law has been enacted, no has over turned or changed back. If it actually caused a problem for counties or cities then they take the power back, right? This is because this law works and it is fair.

-Does not affect flood zones or flood insurance. See Subsection 4. House must be built up out the flood zone or it can't be rebuilt.

-This bill deals with Nonconforming structures not nonconforming uses. This was the opposition argument on the House side from the League of Cities.

-This bill deals with zoning only. Houses rebuilt under this bill would need to comply to all applicable building codes. There is a difference between zoning code and building code. This bill in no way affects building code. Building code always comes into effect whenever repairs or replacement takes place. This law does not change any of that. It does not impact safety issues, building inspections, or other State Laws.

- Counties are not immune. Use example: 2.5 acre country lot, Fannie Mae
- Less restrictive. Fargo & Bismarck.
- Fargo already has this ordinance so does Bismarck &

-If any structure is proven to be unsafe then the city can condemn a structure for safety reasons. This bill deals only with zoning not safety issues as all building and fire codes need to be followed with this bill.

-An illegal structure is not a nonconforming structure. Building on someone else's property is illegal, it is not nonconforming.

Vetter, Steve M.

From: Louser, Scott C.
Sent: Tuesday, March 11, 2025 8:26 AM
To: Vetter, Steve M.
Subject: HB 1500

Representative Vetter,
Please include my remarks in your testimony today before the Senate Industry and Business Committee.

As a co-sponsor of HB1500, I support the concept in this bill as it relates to private property rights, in particular to residential use of an individual's private property. While it is rare to find non-conforming residential property, it occurs where a local political subdivision changes zoning but allows property owners to continue to use and occupy their homes. In some cases, a natural disaster or accident occurs where the property is substantially damaged that requires a rebuild to occupy.

Removing or eliminating a property owner's property rights resulting from a devastating loss should not be a consideration in a state that values private property rights. To a lesser degree of intensity, but a more likely occurrence is the inability for a property owner refinance their property with a required appraisal exposing a "non conforming" use.

Passage of HB 1500 ensures for a limited group of property owners that may have experienced a devastating loss that their opportunity to maintain their property continues if they wish for that to be the case.

Rep Scott Louser
District 5 - Minot
Appropriations Committee

Testimony in Opposition to House Bill 1500
March 11, 2025
Senate Industry and Business Committee
Bill Wocken on behalf of the North Dakota League of Cities

Good afternoon, Mr. Chairman and members of the Senate Industry and Business Committee. For the record, my name is Bill Wocken and I am testifying in opposition to House Bill 1500 on behalf of the North Dakota League of Cities.

House Bill 1500 deals with legal non-conforming uses. This concept comes from the zoning ordinance. It describes a built structure that does not comply with all the provisions of the current zoning ordinance for that structure. Over time zoning designations and building regulations change. The structures and land uses that exist at the time the changes become effective are not required to be changed but instead are “grandfathered in” and are called non-conforming uses.

The North Dakota League of Cities is opposed to this bill. We are not going to discuss the concept of nonconforming structures in detail. Our professional planner partners can do that. The League of Cities is opposed to any mandate from the state or federal government that restricts decisions and options available to local government and its citizens.

There are very few times in a year when the mechanism mandated in this bill might be needed. Most of these situations are resolved satisfactorily by local government with the use of variances, ordinance changes, meetings with financial institutions and developer agreements. These are local issues being handled by local personnel on an individual basis. We do not feel there is a need for this bill.

We respectfully request a Do Not Pass recommendation on House Bill 1500. Let local government continue to handle these situations.

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1500
3/12/2025

A bill relating to nonconforming structures in counties, cities, and townships.

3:19 p.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Stricken law language
- Eastern ND, flooding, lot sizes and flood plains
- Zoning ordinances and ordinances
- ND Realtors Association
- State statute and local variances
- Political subdivisions and local control

3:24 p.m. Chairman Barta led committee discussion on the history of HB 1500 by explaining the issue from the perspective of Eastern North Dakota.

3:32 p.m. Chairman Barta closed the hearing.

Audrey Oswald, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1500
3/19/2025

A bill relating to nonconforming structures in counties, cities, and townships.

10:42 a.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Local newspapers and local control
- West Fargo and Grand Forks
- Committee action

10:42 a.m. Chairman Barta led the discussion on nonconforming properties.

10:50 a.m. Senator Barta moved to adopt the amendment changing subdivisions technicality and the word "law" to "ordinance".

10:50 a.m. Senator Kessel seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

10:52 a.m. Senator Klein moved a Do Not Pass as Amended.

10:52 a.m. Senator Enget seconded the motion.

Senators	Vote
Senator Jeff Barta	N
Senator Keith Boehm	N
Senator Mark Enget	Y
Senator Greg Kessel	N
Senator Jerry Klein	Y

Motion failed 2-3-0.

10:53 a.m. Senator Barta moved a Do Pass.

10:53 a.m. Senator Boehm seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	N
Senator Greg Kessel	Y
Senator Jerry Klein	N

Motion passed 3-2-0.

Senator Barta will carry the bill.

10:56 a.m. Senator Barta adjourned the meeting.

Audrey Oswald, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

VC 3/19/25
1 of 6

ENGROSSED HOUSE BILL NO. 1500

Introduced by

Representatives Koppelman, J. Johnson, Louser, D. Ruby, Steiner, Vetter

Senators Clemens, Cory, Dwyer, Kessel, Meyer

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 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 structure.**

- 8 1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming
9 structure devoted to residential use and located in a residential zoning district may be
10 repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even
11 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;
- 15 c. 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;

- 1 (3) Exceed the height or number of stories of the damaged structure;
- 2 (4) Diminish the number of off-street parking spaces located on the property
- 3 from the number of spaces before the damage;
- 4 (5) Violate existing building and fire codes;
- 5 (6) Violate existing sanitary or health standards imposed by the local health
- 6 district;
- 7 (7) Pose a risk to public health or safety;
- 8 (8) Encroach upon a public right of way; or
- 9 (9) Encroach upon any neighboring property.
- 10 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
- 11 expansion is in compliance with applicable zoning ordinances and state laws and
- 12 rules. The zoning authority shall determine whether a proposed expansion is in
- 13 compliance.
- 14 3. Under subsection 1, a nonconforming structure may not be moved unless the
- 15 movement or relocation will bring the structure into compliance with all applicable
- 16 zoning ordinances.
- 17 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
- 18 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
- 19 nonconforming uses and structures in floodplain areas to the extent necessary to
- 20 maintain eligibility in the national flood insurance program and adhere fully to all
- 21 applicable floodplain management ordinances without increasing flood damage
- 22 potential or increasing the degree of obstruction to floodflows in the floodway.
- 23 5. Notwithstanding subsections 1, 2, and 3, the zoning authority may create a less
- 24 restrictive ordinance or regulation.
- 25 6. Unless the county determines the repair, replacement, improvement, maintenance,
- 26 restoration, rebuilding, of a nonconforming structure will violate subdivision ed of
- 27 subsection 1, the county shall issue a building permit to a property owner that meets
- 28 the qualifications under subsection 1.
- 29 7. For purposes of this section, "nonconforming structure" means a structure that was
- 30 legal before a change in law ordinance made the structure nonconforming.

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

40-47-05.1. Zoning - Nonconforming structure.

1. Notwithstanding any other provision of law or zoning ordinance, a nonconforming structure devoted to residential use and located in a residential zoning district may be repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even though the structure is damaged beyond fifty percent of its value if:
 - a. An application for a building permit is submitted within six months of the date the damage occurs;
 - b. Restoration begins within one year of the date the damage occurred;
 - c. The lot or parcel upon which the structure dedicated to residential use is located abuts a public right of way; and
 - d. The new structure will not:
 - (1) Occupy a portion of the lot which was not occupied by the damaged structure;
 - (2) Have more square footage than the damaged structure;
 - (3) Exceed the height or number of stories of the damaged structure;
 - (4) Diminish the number of off-street parking spaces located on the property from the number of spaces before the damage;
 - (5) Violate existing building and fire codes;
 - (6) Violate existing sanitary or health standards imposed by the local health district;
 - (7) Pose a risk to public health or safety;
 - (8) Encroach upon a public right of way; or
 - (9) Encroach upon any neighboring property.
2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the expansion is in compliance with applicable zoning ordinances and state laws and rules. The 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 ordinances.

4 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
5 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
6 nonconforming uses and structures in floodplain areas to the extent necessary to
7 maintain eligibility in the national flood insurance program and adhere fully to all
8 applicable floodplain management ordinances without increasing flood damage
9 potential or increasing the degree of obstruction to floodflows in the floodway.

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

12 6. Unless the city determines that the repair, replacement, improvement, maintenance,
13 restoration, rebuilding, of a nonconforming structure will violate subdivision ed of
14 subsection 1, the city shall issue a building permit to a property owner that meets the
15 qualifications under subsection 1.

16 7. For purposes of this section, "nonconforming structure" means a structure that was
17 legal before a change in law ordinance made the structure nonconforming.

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 zoning ordinance, a nonconforming
22 structure devoted to residential use and located in a residential zoning district may be
23 repaired, replaced, improved, maintained, restored, or rebuilt in its entirety even
24 though the structure is damaged beyond fifty percent of its value if:

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

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

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

30 d. The new structure will not;

- 1 (1) Occupy a portion of the lot which was not occupied by the damaged
- 2 structure;
- 3 (2) Have more square footage than the damaged structure;
- 4 (3) Exceed the height or number of stories of the damaged structure;
- 5 (4) Diminish the number of off-street parking spaces located on the property
- 6 from the number of spaces before the damage;
- 7 (5) Violate existing building and fire codes;
- 8 (6) Violate existing sanitary or health standards imposed by the local health
- 9 district;
- 10 (7) Pose a risk to public health or safety;
- 11 (8) Encroach upon a public right way; or
- 12 (9) Encroach upon any neighboring property.

- 13 2. Under subsection 1, expansion of a nonconforming structure is prohibited unless the
- 14 expansion is in compliance with applicable zoning ordinances and state laws and
- 15 rules. The zoning authority shall determine whether a proposed expansion is in
- 16 compliance.
- 17 3. Under subsection 1, a nonconforming structure may not be moved unless the
- 18 movement or relocation will bring the structure into compliance with all applicable
- 19 zoning ordinances.
- 20 4. Notwithstanding subsection 1, the zoning authority shall regulate the repair,
- 21 replacement, improvement, maintenance, restoration, rebuilding, or expansion of
- 22 nonconforming uses and structures in floodplain areas to the extent necessary to
- 23 maintain eligibility in the national flood insurance program and adhere fully to all
- 24 applicable floodplain management ordinances without increasing flood damage
- 25 potential or increasing the degree of obstruction to floodflows in the floodway.
- 26 5. Notwithstanding subsections 1, 2, and 3, the zoning authority may create a less
- 27 restrictive ordinance or regulation.
- 28 6. Unless the township determines that the repair, replacement, improvement,
- 29 maintenance, restoration, rebuilding, of a nonconforming structure will violate
- 30 subdivision ed of subsection 1, the township shall issue a building permit to a property
- 31 owner that meets the qualifications under subsection 1.

- 1 7. For purposes of this section, "nonconforming structure" means a structure that was
2 legal before a change in law~~ordinance~~ made the structure nonconforming.

**REPORT OF STANDING COMMITTEE
ENGROSSED HB 1500**

Industry and Business Committee (Sen. Barta, Chairman) recommends **AMENDMENTS** ([25.1213.02001](#)) and when so amended, recommends **DO PASS** (3 YEAS, 2 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1500 was placed on the Sixth order on the calendar. This bill does not affect workforce development.