

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2081
(Energy and Natural Resources Committee)
(At the request of the State Water Commission)

AN ACT to amend and reenact sections 61-16.2-06 and 61-16.2-08 of the North Dakota Century Code, relating to permissible uses in the floodway and flood fringe under the national flood insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.2-06 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-06. Permissible floodway uses.

Upon delineation of the floodway under the national flood insurance program [42 U.S.C. 4001 et seq.], uses shall be permitted within the floodway to the extent that they do not ~~cause any measurable decrease in the hydraulic conveyance in the affected areas~~ result in any increase in flood levels during the occurrence of the base flood discharge. Any exception to the national flood insurance program [42 U.S.C. 4001 et seq.] in implementing regulations granted by the appropriate federal agency to a community participating in the national flood insurance program is an approved exception pursuant to this section.

SECTION 2. AMENDMENT. Section 61-16.2-08 of the North Dakota Century Code is amended and reenacted as follows:

61-16.2-08. Community standards - Permissible uses within flood fringe.

1. Upon delineation of the floodplain or floodway under the national flood insurance program [42 U.S.C. 4001 et seq.], the following uses ~~shall~~ must be permitted within the flood fringe to the extent ~~that they~~ the uses are not prohibited by any other ordinance, regulation, or statute:
 1. a. Any use permitted in the regulatory floodway pursuant to section 61-16.2-06.
 2. b. Structures, including residential and nonresidential structures; provided, ~~that~~:
 - a. (1) Residential structures are constructed ~~such that~~ so the lowest floor, including basements, is elevated to at least one foot [30.48 centimeters] above the base flood elevation unless granted a residential basement floodproof exception under the national flood insurance program.
 - b. (2) Nonresidential structures ~~are either~~ are constructed as specified in subdivision a and elevated to at least one foot [30.48 centimeters] above the base flood elevation or are ~~adequately~~ adequately floodproofed adequately up to an elevation no lower than two feet [.61 meter] above the base flood elevation. ~~Such~~ The floodproofing ~~shall~~ must be in accordance with the standards either adopted by the community under the national flood insurance program [42 U.S.C. 4001 et seq.] or under this chapter, whichever are more restrictive.
2. Any exception to this section must be approved by the regulatory authority as a variance, established in local floodplain development ordinances.
3. Any exception to the national flood insurance program [42 U.S.C. 4001 et seq.] in implementing regulations granted by the appropriate federal agency to a community

participating in the national flood insurance program is an approved exception under this section.

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 Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2081.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 92 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State