

Introduced by

Energy and Natural Resources Committee

(At the request of the State Water Commission)

1 A BILL for an Act to amend and reenact sections 61-16.2-06 and 61-16.2-08 of the North
2 Dakota Century Code, relating to permissible uses in the floodway and flood fringe under the
3 national flood insurance program.

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

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

7 **61-16.2-06. Permissible floodway uses.**

8 Upon delineation of the floodway under the national flood insurance program [42 U.S.C.
9 4001 et seq.], uses shall be permitted within the floodway to the extent that they do not cause
10 ~~any measurable decrease in the hydraulic conveyance in the affected area~~ result in any increase
11 in flood levels during the occurrence of the base flood discharge. Any exception to the national
12 flood insurance program [42 U.S.C. 4001 et seq.] in implementing regulations granted by the
13 appropriate federal agency to a community participating in the national flood insurance program
14 is an approved exception pursuant to this section.

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

17 **61-16.2-08. Community standards - Permissible uses within flood fringe.**

18 1. Upon delineation of the floodplain or floodway under the national flood insurance
19 program [42 U.S.C. 4001 et seq.], the following uses ~~shall~~ must be permitted within the
20 flood fringe to the extent ~~that they~~ the uses are not prohibited by any other ordinance,
21 regulation, or statute:

22 ~~1.~~ a. Any use permitted in the regulatory floodway pursuant to section 61-16.2-06.

23 ~~2.~~ b. Structures, including residential and nonresidential structures; provided, ~~that:~~

- 1 a- (1) Residential structures are constructed ~~such that~~so the lowest floor, including
2 basements, is elevated to at least one foot [30.48 centimeters] above the
3 base flood elevation unless granted a residential basement floodproof
4 exception under the national flood insurance program.
- 5 b- (2) Nonresidential structures are either are constructed as specified in
6 subdivision a and elevated to at least one foot [30.48 centimeters] above
7 the base flood elevation or are ~~adequately~~ floodproofed adequately up to an
8 elevation no lower than two feet [.61 meter] above the base flood elevation.
9 ~~Such~~The floodproofing ~~shall~~must be in accordance with the standards either
10 adopted by the community under the national flood insurance program
11 [42 U.S.C. 4001 et seq.] or under this chapter, whichever are more
12 restrictive.
- 13 2. Any exception to this section must be approved by the regulatory authority as a
14 variance, established in local floodplain development ordinances.
- 15 3. Any exception to the national flood insurance program [42 U.S.C. 4001 et seq.] in
16 implementing regulations granted by the appropriate federal agency to a community
17 participating in the national flood insurance program is an approved exception under
18 this section.