

**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