Sixty-seventh Legislative Assembly of North Dakota

## **SENATE BILL NO. 2081**

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 arearesult in any increase
- 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
- 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 <u>1.</u> Upon delineation of the floodplain or floodway under the national flood insurance
- program [42 U.S.C. 4001 et seq.], the following uses shallmust be permitted within the
- flood fringe to the extent that theythe 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:

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this section.

1 Residential structures are constructed such that so the lowest floor, including <u>(1)</u> 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 <u>(2)</u> Nonresidential structures are either are constructed as specified in <del>b.</del> 6 subdivision a <u>and</u> 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 <u>3.</u> 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