

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1064
(Government and Veterans Affairs Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact subsection 7 of section 49-23-01 of the North Dakota Century Code, relating to the definition of excavation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 49-23-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Excavation" means any operation in which earth, rock, or other materials in or below the ground is moved or otherwise displaced by means of hand or power tools, power equipment, or explosives and includes grading, trenching, digging, ditching, dredging, drilling, augering, tunneling, boring, scraping, and cable or pipe plowing and driving. The term does not include:
 - a. Opening a grave in a cemetery.
 - b. Plowing, cultivating, planting, harvesting, and similar operations in connection with agricultural activities, unless any of these activities disturbs the soil to a depth of eighteen inches [45.72 centimeters] or more.
 - c. Gardening and landscaping unless it disturbs the soil to a depth of twelve inches [30.48 centimeters] or more.
 - d. Normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch.
 - e. Normal repair and maintenance of track and track bed by a railroad on its own right of way.

Dennis E. Johnson
Speaker of the House

Tammy Miller
President of the Senate

Bruce J. Reick
Chief Clerk of the House

Alvin Morgan
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1064.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 47 Nays 0 Absent 0

Bruce J. Reick
Chief Clerk of the House

Received by the Governor at 10:55 AM on March 14, 2023.

Approved at 7:23 PM on March 14, 2023.

Doug Burgum
Governor

Filed in this office this 15th day of March, 2023,
at 2:58 o'clock P. M.

Michael Howe
Secretary of State