

Development Checklist

Reclamation Bond Waiver for Ponds / Reservoirs

McKenzie County, ND Planning & Zoning Department
(701) 444-2420, pandz@co.mckenzie.nd.us



All items listed below need to be submitted to the McKenzie County Planning and Zoning Department in 1 packet in order to begin the Application process.

1. Completed Application (attached)
2. Initialed Zoning Ordinance Conditions of Approval (attached)
3. Title/Ownership Acknowledgement/Lease or Purchase Agreement
4. Signed and **Notarized** Property Owner Acknowledgement (attached) – **THIS MUST BE SIGNED BY THE PROPERTY OWNER ON RECORD, not the owner of the pond.**
5. Signed and **Notarized** Hold Harmless Agreement to indemnify and hold harmless the County of McKenzie and all its agents, departments, successors and assigns for all claims, liabilities, costs and attorneys fees arising from or related to the pond. **This must be signed by BOTH the applicant and owners of the land. Owners signature must be Notarized.**
6. Specifications on pond/reservoir liner and life span.
7. Fee Payment - **\$ 375.00**

*** All applications/required materials need to be submitted prior to 12 noon on the 15th of each month (for the next month's meeting) No late or incomplete applications will be allowed on the next month's meeting agenda. If the 15th of the month is on a weekend or we are closed, applications will need to be submitted the work day before.**

Reclamation Bond Waiver Application for Ponds / Reservoirs



Fee \$ 375.00

Application Date: _____

Original McKenzie County Permit #: _____ (office use only)

Bond #: _____

Name of Applicant: _____ Phone # _____

Address: _____ Email: _____

Local Agent: _____ Phone# _____

Address: _____ Email: _____

Property Owner: _____ Phone # _____

Address: _____ Email: _____

Reservoir Name: _____

Reservoir Address: _____

Parcel Number(s): _____

Legal Description of Property:

Quarter Section _____ Section _____ Township _____ Range _____

Liner Type: _____ Life Span: _____

Reclamation Bond Waiver Application for Ponds / Reservoirs

A Signed and **Notarized** Hold Harmless Agreement to indemnify and hold harmless the County of McKenzie and all its agents, departments, successors and assigns for all claims, liabilities, costs and attorney's fees arising from or related to the pond. **Owners signature must be Notarized.**

This application is NOT valid without the attached Property Owner Acknowledgement signed and Notarized.

This application is to amend an existing Conditional Use Permit to release the applicant of the reclamation bond requirement as required by the McKenzie County Planning and Zoning Ordinance 2.13.2. Please read the attached Zoning Ordinance Amendment 4.10 section 11 related to reclamation bond waiver requirements. Also include initialed, signed and notarized Property Owner Acknowledgement.

Applicant Signature: _____ Date: _____

McKenzie County Zoning Ordinance

4.10 REGULATION OF FRESHWATER DEPOTS, PIPELINES, AND PONDS

The conditions of approval of a Freshwater Storage Pond Reclamation Bond Waiver, must meet at a minimum the following:

- (11)** For Freshwater Storage Ponds, the requirements of subsections (8), (9), and (10) may be waived if, along with the application, the applicant submits written consents of all persons with a record interest in the ownership of the surface of the land where the project is located. Such written consents shall include acknowledgement from the Planning and Zoning Department that they understand the implications of the waiver to them. The Board of County Commissioners shall consider each request for a waiver individually and determine whether a waiver is appropriate in the circumstances. No waiver may be granted unless:
- A.** The applicant demonstrates that all landowners entitled to notice of the application have been specifically notified of the waiver request. _____ initial
 - B.** The liner of the pond, if any, will have a service life of no less than 20 years. _____ initial
 - C.** The applicant and owners of the land sign an agreement to indemnify and hold harmless the County of McKenzie and all of its agents, departments, successor and assigns for all claims, liabilities, costs, and attorney fees arising from or related to the pond. _____ initial

[SIGNATURES APPEAR ON NEXT PAGE]

Reclamation Bond Waiver Property Owner Acknowledgement

Property Owner understands that they will be solely responsible for the following items:

- A sign as required by the Original Conditional Use Permit shall be maintained. _____ initial
- Fence maintenance per the conditions listed on the Original Conditional Use Permit. _____ initial
- Water Permits may or may not continue based on approval by the North Dakota State Water Commission and existing and/or future water rights. This could affect the availability of water to supply the pond. _____ initial
- Maintenance of weed and garbage control. _____ initial
- Maintenance of sediment and erosion control measures to limit site erosion and sediment runoff from the property. _____ initial
- Maintenance of either earth lined or artificially lined pond water containment system. _____ initial

IN WITNESS WHEREOF, the parties have caused this Acknowledgement to be effective as of the Amended Conditional Use Permit Approval Date.

By: _____

Print Name: _____

Its: Owner

Date: _____

Property Owner Acknowledgement

State of _____)

)ss:

County of _____)

On the _____ day of _____, 20____, before me, personally appeared _____, and acknowledged under oath that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Owner for the purposes therein contained.

Notary Public: _____

INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("Agreement") is made and entered into by and between the applicant, _____ and landowner, _____ (hereinafter referred to as "_____") and McKenzie County, North Dakota (hereinafter referred to as "McKenzie County").

Recitals

WHEREAS, _____ obtained McKenzie County CUP # _____ ("CUP") for the construction of the _____ on Parcel #(s) _____; Legal description _____

WHEREAS, _____ has submitted an application for waiver of the Reclamation Bond required by the CUP; and

WHEREAS, _____ and McKenzie County desire to enter into this Agreement to ensure that McKenzie County will not be subject to any actions, which may arise arising from or related to the _____.

Agreement and Release

NOW, THEREFORE, based on the foregoing recitals, _____ and McKenzie County hereby agree as follows:

1. _____ hereby releases and agrees to protect, defend, indemnify and hold McKenzie County and all of its agents, departments, successors and assigns harmless from and against any and all claims, liabilities, demands, causes of action, damages, costs and attorney fees arising from or related to the _____.

2. _____ further covenants and agrees that it, its employees, agents, representatives, successors or assigns will not make any claim or institute any suit or action at law or in equity against McKenzie County arising from or related to the _____.

Dated this _____ day of _____, 20_____

[SIGNATURES APPEAR ON NEXT PAGE]

INDEMNIFICATION AGREEMENT SIGNATURE PAGE

(Applicant Name)

(Owner Name)

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

State of _____)

)ss:

County of _____)

On the _____ day of _____, 20____, before me, personally appeared _____, and acknowledged under oath that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of the Owner for the purposes therein contained.

Notary Public: _____

McKenzie County

By: _____

Its: _____

Date: _____