

ARTICLE III: ZONING DISTRICTS

3.1 ZONING DISTRICT DESIGNATION

McKenzie County is hereby divided into zoning districts for purposes of controlling the use of lands and structures as authorized in N.D.C.C. Ch. 11-33-02. Said districts shall be known as:

- 1) Agricultural District.
- 2) Recreational District.
- 3) Residential District.
- 4) Commercial District.
- 5) Industrial District.
- 6) Planned Unit Development District.
- 7) Floodplain Overlay District.
- 8) Highway Corridor Overlay District.
- 9) Firearms Facility Overlay District
- 10) Airport Overlay District

3.2 ALLOWED USES IN ALL DISTRICTS

The following uses shall be allowed in all zoning districts and shall require no other zoning permit. Building permits are still required, where applicable:

- 1) Public Water Utilities.
- 2) Fire stations.
- 3) Sheriff's office.
- 4) Post Office.
- 5) Waterlines used solely for agricultural purposes.

3.3 ZONING MAP AND DISTRICT BOUNDARIES

3.3.1 Zoning Map

The zoning districts as described in this Ordinance shall be mapped. Said map shall be known as the County Zoning Map, shall have attached or be filed with all materials necessary for the interpretation of the map, shall have the date of adoption and date of each amendment to the map printed on the map, and shall be on file in the office of the County Auditor.

3.3.2 Boundary Definition

Zoning district boundary lines shall follow lot lines, parcel lines, subdivision lines, section lines, center lines of streets, roads, highways, alleys, railroad right of ways, or such lines extended.

3.3.3 Boundary Interpretation

Where, due to map scale or lack of clarity, there is any uncertainty as to the intended location of a boundary line shown thereon, the Planning Director shall interpret and delineate the boundary line in question.

3.3.4 Exceptions

Land uses specifically exempt from County jurisdiction, by the North Dakota Century Code, N.D.C.C. Ch. 38-08. 38-08.1. 38-12. 38-12.1. 38-19. 38-22. 54-17.3. and 54-17.4, shall be exempted from this Ordinance.

3.4 AGRICULTURAL DISTRICT

3.4.1 Intent

It is the purpose of this district to encourage first and foremost the use of this land for agricultural activities, and to discourage any use which would be detrimental to carrying out agricultural practices. Further, the provisions of this district are set forth to regulate scattered non-farm development and to promote the orderly and economic development of public service utilities and schools.

3.4.2 Allowed Uses

- 1) Single-family detached dwelling located on a lot no smaller than forty (40) contiguous acres or quarter section.
 - a) Previously platted subdivisions in an agricultural district that were approved by the Board of County Commissioners or can be determined to have been subdivided for residential subdivisions may have single-family detached dwellings built on

the lots less than forty (40) acres provided all other agricultural district requirements are met.

- b) Accessory structures necessary to the operation of farms or ranches to include the farm residence, septic systems, feedlots and storage facilities.
 - c) Recreational vehicles occupied on agricultural land associated with farm and ranch activity for the exclusive use of providing housing for workers of the farm or ranch. Recreational vehicles may not be used as a primary residence.
- 2) All types of farming and ranching operations including dairying, livestock, poultry, apiaries and fur farming.
 - 3) Truck gardening, nurseries, greenhouse and roadside stands offering for sale only those farm products which have been grown on the premises.
 - 4) Animal hospitals and clinics not nearer than five hundred (500') feet from any residence, except the residence of the owner-operator.
 - 5) Cemeteries.
 - 6) Churches and related facilities.
 - 7) Farm related business.
 - a) Limited agricultural-related commercial activity ancillary to the farm operation shall be allowed without necessity of obtaining a Conditional Use Permit.
 - b) The following agricultural related activities shall be allowed without permit (subject to above):
 - i) Feed, grain, and agricultural supplies sales.
 - ii) Trailer sales.
 - iii) Welding services.
 - iv) Fence construction.
 - v) Riding stables.
 - vi) Water well drilling service.

- vii) Septic cleaning service.
- 8) Public parks, recreational facilities, and wildlife and game management areas and refuges.
- 9) Public, private and parochial schools.
- 10) Storage of oil drilling rigs and related equipment for a period not to exceed one (1) year.
- 11) Competitive equine events.
- 12) Agri-tourism.
- 13) Recreational vehicle storage
 - a) Two (2) recreational vehicles may be stored on a parcel zoned agricultural that is 5 acres or less but may not be connected to utility services.
 - b) Four (4) recreational vehicles may be stored on a parcel zoned agricultural that is more than 5 acres but may not be connected to utility services.
 - c) Five (5) or more recreational vehicles stored on a parcel zoned agricultural, shall be required to obtain a conditional use permit.
 - d) Recreational vehicles may be temporarily occupied for non-farm and ranch activities for a maximum of sixty (60) days in a calendar year and not more than thirty (30) consecutive days.
- 14) Licensed Family Child Care:
 - a) Self-Declared Provider
 - b) Approved Relatives
 - c) Registered Providers – as following provisions of N.D.C.C. 50-11.1
- 15) Residential Truck Parking.

3.4.3 Conditional Uses

- 1) Single-family dwellings and accessory structures on a lot greater than Five (5) acres per the provisions of section 4.17.
- 2) Commercial grain elevators and accessory structures.
- 3) Commercial feedlots subject to the provisions of section 4.3.
- 4) Livestock auction yards.
- 5) Waste management facilities, sanitary landfills and hazardous waste sites.
- 6) Facilities for the manufacturing and/or processing of agricultural products.
- 7) Railroad tracks and spurs.
- 8) Airport.
- 9) Radio, television and telephone transmission, receiving or relay towers and/or facilities.
- 10) Governmental administrative, maintenance, and research facilities.
- 11) Electric transmission facilities and powerlines.
- 12) Associated above ground facilities for transmission pipelines.
- 13) Excavation of sand, gravel, rock, stone, scoria, and clay not excepted from application of this Ordinance (reclamation bond required see section 2.13 of this Ordinance, for conditions see section 4.18 of this Ordinance.)
 - a) The Planning Commission may impose conditions and fees relating road maintenance and construction.
 - b) All sand, gravel, rock, stone, scoria, and clay operations shall be required to tarp all trucks.
- 14) Work force housing subject to the provisions of section 4.8. (reclamation bond required, see section 2.13 of this Ordinance)
- 15) Hunting lodges.

- 16) Freshwater Depots, Freshwater Pipelines, and Freshwater Storage Ponds. (See Section 4.10 of this Ordinance for reclamation bond requirements.)
- 17) Commercial truck parking and truck garages and all associated structures to service the same. (reclamation bond required, see section 2.13 of this Ordinance)
- 18) Service stations and convenience stores.
- 19) Concrete and asphalt plants. (reclamation bond required, see section 2.13 of this Ordinance)
- 20) Energy conversion facilities.
- 21) Wind energy facility. (towers and turbines require a reclamation bond, see section 2.13 of this Ordinance)
- 22) Exterior non-agricultural storage. (reclamation bond required, see section 2.13 of this Ordinance)
- 23) Storage of oil drilling rigs and related equipment for a period exceeding one (1) year. (reclamation bond required, see section 2.13 of this Ordinance)
- 24) Licensed child care facilities.
 - a) Licensed family child care
 - b) Licensed group child care
 - c) Licensed child care center
 - d) Licensed preschools
 - e) Licensed school-age programs
 - f) Multiple licensed facility – as following N.D.C.C. 50-11.1
- 25) Signs and Billboards as outlined in section 4.2 of this Ordinance.
- 26) Medical Marijuana Manufacturing Center
- 27) Oil and gas bulk storage, explosives and other hazardous material storage, sales and distribution. (reclamation bond required, see section 2.13 of this Ordinance)

3.4.4 Variances

- 1) A homestead parcel that is a minimum of forty (40) acres may be divided into (3) additional parcels to build homes for direct family members. This may be approved by the Planning Director.

3.4.5 Conditional Uses with Administrative Permit

- 1) Temporary water facilities.
- 2) Communication facilities.
- 3) Electrical substations.
- 4) Temporarily permitted use (reclamation bond required, see section 2.13 of this Ordinance)
- 5) Excavation of sand, gravel, rock, stone, scoria, and clay for public projects.
- 6) Permanent single-family dwellings for which all criteria specified in section 4.17 of this ordinance are met.

3.4.6 Setbacks

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered in section 2.10 shall be at least twenty-five (25') feet from all property lines.

3.4.7 Minimum Subdivision Area

Minimum subdivision area for any use other than for agricultural purposes shall be forty (40) acres.

3.5 RECREATIONAL DISTRICT

3.5.1 Intent

It is the purpose of this district to make provisions to protect sensitive, unique or vulnerable lands, structures, prehistoric, historic sites and monuments, vegetation or wildlife. It is further the intent of this district to

promote the wise use of lands for recreational activity and residency around rivers, lakes and other water courses in order to maintain the quality of the environment.

3.5.2 Allowed Uses

- 1) Agriculture.
- 2) Hunting, fishing and trapping.
- 3) Raising of game animals, fowl, and fish.
- 4) Harvesting of any natural crops.
- 5) Cropping and grazing activities that do not require the construction of any permanent structures.
- 6) Public parks, including golf courses and outdoor recreational facilities.
- 7) Historical monuments and structures.
- 8) Accessory to any allowed uses.
- 9) Restaurants, including all types of eating and drinking establishments.
- 10) Equestrian arenas.
- 11) Pipelines for agricultural use.
- 12) Recreational vehicle park – Must follow that standards described in in section 4.16 of this Ordinance.

3.5.3 Conditional Uses

- 1) Single-family dwellings, cabins, and summer residences.
- 2) Public buildings, facilities or structures.
- 3) Communication facilities.
- 4) Electrical substations and transmission lines.
- 5) Fresh water pipelines.

3.5.4 Lot Area

Recreation District lots shall be a minimum of one (1) acre.

3.5.5 Setbacks

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a. Front yard – twenty-five (25') feet.
 - b. Side yard – ten (10') feet.
 - c. Back yard - Ten (10') feet.

3.5.6 Parking

Parking requirements and standard – section 2.11 of this Ordinance

3.6 RESIDENTIAL DISTRICT

3.6.1 Intent

It is the purpose of this Ordinance and this district to provide for orderly residential development; to protect the quiet and tranquility of residential neighborhoods and to protect the value of property.

Accessory buildings shall be limited to thirty-five (35') feet in height and not be located within the setback of the district. Separation of accessory buildings shall be a minimum of fifteen (15') feet or a one (1) hour fire wall separation shall be provided in each of the buildings.

3.6.2 Residential, Low Density District (R-1)

It is the purpose of this district to provide for low density residential use with a maximum density of 1 dwelling unit per acre and only a single dwelling per parcel.

3.6.2.1 Allowed Uses

- 1) Single family dwellings including modular and HUD manufactured homes.

- a) Only one (1) dwelling unit per lot.
 - b) All dwelling units shall have access to a road dedicated for public use or have a recorded easement for access to a public road.
- 2) Churches and related facilities.
 - 3) Public parks and playgrounds.
 - 4) Public libraries, museums, and community centers.
 - 5) Fire and police stations.
 - 6) Home occupations.
 - 7) Agriculture.
 - 8) One (1) animal unit per full acre as described in the N.D.C.C Ch. 11-33-02.1 are allowed unless prohibited by the Homeowners Association.
 - a) One mature dairy cow, whether milking or dry, equals 1.33 animal units;
 - b) One dairy cow, heifer, or bull, other than an animal described in paragraph a) equals 1.0 animal unit;
 - c) One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
 - d) One cow-calf pair equals 1.0 animal unit;
 - e) One swine weighing fifty-five pounds or more equals 0.4 animal unit;
 - f) One swine weighing less than fifty-five pounds equals 0.1 animal unit;
 - g) One horse equal 2.0 animal units;
 - h) One sheep or lamb equals 0.1 animal unit;
 - i) One turkey equals 0.0182 animal unit;

- j) One chicken, other than a laying hen, equals 0.008 animal unit;
 - k) One laying hen equals 0.012 animal unit;
 - l) One duck equals 0.033 animal unit; and
 - m) Any livestock not listed in subdivisions a through l equals 1.0 animal unit per each one thousand pounds whether single or combined animal weight.
- 9) One (1) recreational vehicle is allowed to be stored in conjunction with a single-family home but is not allowed to be lived in or connected to sewer or water except for maintenance purposes.
- 10) Licensed Family Child Care:
- a) Self-declared provider
 - b) Approved Relatives
 - c) Registered Providers – as following provisions of N.D.C.C. 50-11.1
- 11) Residential Truck Parking.

3.6.2.2 Conditional Uses

- 1) Long-term care and group home facilities.
- 2) Hospitals and clinics.
- 3) Licensed child care facilities.
 - a) Licensed family child care
 - b) Licensed group child care
 - c) Licensed child care center
 - d) Licensed preschools
 - e) Licensed school-age programs

- f) Multiple licensed facility – as following N.D.C.C. 50-11.1
- 4) Public, private, and parochial schools.
- 5) Freshwater pipelines for industrial use.

3.6.2.3 Lot Area

The minimum lot area for a single-family dwelling shall be forty-three thousand five hundred sixty (43,560) square feet provided that the site meets the minimum standards for on-site sewage disposal by North Dakota Department of Health or the Upper Missouri Health District as required. The minimum lot width shall be one hundred (100') feet and minimum lot depth shall be two hundred (200') feet.

3.6.2.4 Minimum Subdivision Area

Minimum subdivision area shall be twenty (20) acres.

3.6.2.5 Setbacks and Guidelines

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – thirty (30') feet.
 - b) Side yard – ten (10') feet.
 - c) Back yard – Twenty-five (25)' feet.
- 3) No less that fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.
- 4) A landscape plan shall be submitted with any new proposed development or subdivision as outlined in section 2.12.6 of this Ordinance.

3.6.2.6 Home Owner Association

A home owners association or other mechanism shall be created by the developer through covenants to insure the financial responsibility of the following:

- 1) Maintenance of roads.
- 2) Maintenance of parks and open space.

The developer shall be responsible for all maintenance until one half (1/2) plus one of the lots in the subdivision are sold.

3.6.3 Residential Urban Density District (RU)

It is the purpose of this district to provide for urban density residential use. minimum lot size is twelve thousand (12,000) sq. ft. and must meet all of the following criteria with a maximum density of three and one half (3.5) dwelling units per gross acre.

- 1) The project must be within one half (1/2) mile of existing paved roads and public water facilities.
- 2) The project must be connected to a public water system.
- 3) The project must be connected to a state approved sewer system.

3.6.3.1 Allowed Uses

- 2) All uses allowed in R-1 with the exception that Residential Truck Parking is not allowed.
- 3) Duplexes.
 - a) A duplex may not be divided by a property or lot line.
 - b) Only one duplex structure per lot.
 - c) All dwelling units shall have access to a road dedicated for public use or have a recorded easement for access to a public road.

3.6.3.2 Conditionally Allowed Uses

All conditional uses allowed in R-1

3.6.3.3 Lot Area

- 1) The minimum lot area for a RU single family dwelling, in areas where the homes are connected to both public water and public sewer systems, shall be twelve thousand (12,000) square feet.
- 2) The minimum lot width shall be seventy-five (75') feet and minimum lot depth shall be one hundred (100') feet.

3.6.3.4 Minimum Subdivision Area

Minimum subdivision area shall be ten (10) acres.

3.6.3.5 Setbacks and Guidelines

- 1) Setbacks from county roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – thirty (30') feet.
 - b) Side yard – ten (10') feet.
 - c) Back yard – Twenty-five (25') feet.
- 3) No less than fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.
- 4) A landscape plan shall be submitted with any new proposed development or subdivision.
- 5) Parking requirements and standard – section 2.11 of this Ordinance.

3.6.3.6 Home Owner Association

A home owners association shall be created by the developer through covenants to insure the financial responsibility of the following:

- 1) Maintenance of roads.
- 2) Maintenance of parks and open space.

The developer shall be responsible for all maintenance until one half (1/2) plus one of the lots in the subdivision are sold.

3.6.4 Five (5) Acre Minimum Residential Lot District (R-5A)

It is the purpose of this district to provide for rural density residential living.

3.6.4.1 Allowed Uses

- 1) All uses allowed in R-1, except duplexes are not allowed in this district.
- 2) One (1) animal unit per full acre as described in the N.D.C.C Ch. 11-33-02.1 are allowed in the R-5A district. For purposes of this section, animal units are determined as follows:
 - a) One mature dairy cow, whether milking or dry, equals 1.33 animal units;
 - b) One dairy cow, heifer, or bull, other than an animal described in paragraph a) equals 1.0 animal unit;
 - c) One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
 - d) One cow-calf pair equals 1.0 animal unit;
 - e) One swine weighing fifty-five pounds or more equals 0.4 animal unit;
 - f) One swine weighing less than fifty-five pounds equals 0.1 animal unit;
 - g) One horse equal 2.0 animal units;
 - h) One sheep or lamb equals 0.1 animal unit;
 - i) One turkey equals 0.0182 animal unit;
 - j) One chicken, other than a laying hen, equals 0.008 animal unit;
 - k) One laying hen equals 0.012 animal unit;
 - l) One duck equals 0.033 animal unit; and

- m) Any livestock not listed in subdivisions a through l equals 1.0 animal unit per each one thousand pounds whether single or combined animal weight.

- 3) Accessory structures

3.6.4.2 Conditional Uses

All conditional uses allow in R-1

3.6.4.3 Lot Area

- 1) The minimum lot area for a single-family dwelling shall be five (5) acres and meets the minimum standards for on-site sewage disposal by North Dakota Department of Health.
- 2) The minimum lot width shall be one hundred (100') feet and lot depth two hundred (200') feet.

3.6.4.4 Minimum Subdivision Area

Minimum subdivision area shall be forty (40) acres.

3.6.4.5 Setbacks and Guidelines

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – one hundred (100') feet.
 - b) Side yard – Twenty-five (25') feet.
 - c) Back yard – Fifty (50') feet.
- 3) No less than fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.
- 4) Parking requirements and standard – section 2.11 of this Ordinance.

3.6.5 Ten (10) Acre Minimum Residential Lot District (R-10A)

It is the purpose of this district to provide for rural low-density residential use. Minimum lot size is ten (10) gross acres.

3.6.5.1 Allowed Uses

- 1) All uses allowed in R-5A.
- 2) One (1) animal unit per full acre as described in the N.D.C.C Ch. 11-33-02.1 are allowed in the R-10A district. For purposes of this section, animal units are determined as follows:
 - a) One mature dairy cow, whether milking or dry, equals 1.33 animal units;
 - b) One dairy cow, heifer, or bull, other than an animal described in paragraph a) equals 1.0 animal unit;
 - c) One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
 - d) One cow-calf pair equals 1.0 animal unit;
 - e) One swine weighing fifty-five pounds or more equals 0.4 animal unit;
 - f) One swine weighing less than fifty-five pounds equals 0.1 animal unit;
 - g) One horse equal 2.0 animal units;
 - h) One sheep or lamb equals 0.1 animal unit;
 - i) One turkey equals 0.0182 animal unit;
 - j) One chicken, other than a laying hen, equals 0.008 animal unit;
 - k) One laying hen equals 0.012 animal unit;
 - l) One duck equals 0.033 animal unit; and
 - m) Any livestock not listed in subdivisions a through l equals 1.0 animal unit per each one thousand pounds whether single or combined animal weight.

3.6.5.2 Conditional Uses

All conditional uses allow in R-5A.

3.6.5.3 Lot Area

- 1) The minimum lot area for a single-family dwelling shall be ten (10) acres and meets the minimum standards for on-site sewage disposal by North Dakota Department of Health.
- 2) The minimum lot width shall be three hundred (300') feet and lot depth five hundred (500') feet.

3.6.5.4 Minimum Subdivision Area

Minimum subdivision area shall be forty (40) acres.

3.6.5.5 Setbacks and Guidelines

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – one hundred (100') feet.
 - b) Side yard – twenty-five (25') feet.
 - c) Back yard – fifty (50') feet.
- 3) No less than fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.

3.6.6 Residential, Medium Density, District (R-2)

The purpose of this district is to provide for medium density residential uses, however, housing types must match on a parcel. This district must be served by a state approved water system and sewer system.

3.6.6.1 Allowed Uses

- 1) Multiple-family dwellings, townhouses, condominiums, and apartments.

- 2) Hospitals, clinics, nursing homes.
- 3) Parks, playgrounds, recreational areas.
- 4) Single-family dwellings.
- 5) Schools, colleges and associated buildings.
- 6) Mobile home parks must comply with the standard as outlined in section 4.14 of this Ordinance. (reclamation bond required, see section 2.13 of this Ordinance)

3.6.6.2 Conditional Uses

- 1) All conditional uses of R-1.
- 2) Recreational vehicle park. Must comply with the standards as outlined in section 4.15 of this Ordinance. (reclamation bond required, see section 2.13 of this Ordinance)

3.6.6.3 Setbacks and Guidelines

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – thirty (30') feet.
 - b) Side yard – ten (10') feet.
 - c) Back yard – twenty-five (25') feet.
- 3) No less than fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.
- 4) Landscape shall be required as outlined in section 2.12.6 of this Ordinance.
- 5) Parking requirements and standard – section 2.11 of this Ordinance.

3.6.6.4 Minimum Subdivision Area

Minimum subdivision area shall be five (5) acres.

3.6.6.5 Area and Density Requirements

Any structure built in this district shall be placed on a lot which meets the following area and density maximums:

- 1) Single-family and duplexes: minimum lot size of seven thousand (7,000) square feet.
- 2) Multiple-family, condominiums and townhouses may have a maximum of ten (10) dwelling units per acres.

3.6.7 Residential, High Density, District (R-3)

The purpose of this district is to provide high density residential uses, however, housing types must match on a parcel. This district must be served by a state approved water system and sewer systems.

3.6.7.1 Allowed Uses

- 1) All uses allowed in R-2.
- 2) Mobile home parks-must comply with the standard as outlined in section 4.14 of this Ordinance.

3.6.7.2 Conditionally Allowed Uses

- 1) All conditional uses provided in R-2.
- 2) Recreational vehicle park. Must comply with the standards as outlined in section 4.15 of this Ordinance. (reclamation bond required, see section 2.13 of this Ordinance)

3.6.7.3 Minimum Subdivision Area

Minimum subdivision area shall be five (5) acres.

3.6.7.4 Area and Density Requirements

Maximum density allowed is twenty (20) dwelling units per acre. Mobile home parks shall follow density requirements as outlined in section 4.14 of this Ordinance.

Minimum area required for R-3 district shall be 5 acres.

3.6.7.5 Setbacks and Guidelines

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – thirty (30') feet.
 - b) Side yard – ten (10') feet.
 - c) Back yard – twenty-five (25') feet.
- 3) No less than fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.
- 4) A landscape plan shall be submitted with any proposed development. Landscape shall be required as outlined in section 2.12.6 of this Ordinance.
- 5) Parking requirements and standard – section 2.11 of this Ordinance.

3.7 COMMERCIAL DISTRICT (C-1)

3.7.1 Intent

It is the purpose of this district to provide for the grouping of retail merchandise sales, manufacturing, wholesale and service activities into a defined area to minimize the costs of utility and other related services to commercial enterprises.

3.7.2 Allowed Uses

- 1) Agriculture.
- 2) Laundromats and dry-cleaning shops.
- 3) Service station and convenience stores.
- 4) Professional offices including but not limited to, banks, insurance, real estate, medical clinics, newspaper and lawyers.
- 5) Retail and service uses, including but not limited to, grocery, pharmacy hardware, clothing, furniture stores, bakeries, restaurants, taverns, automobile service stations, used and new car lots, print

shops, barber and beauty shops, and sale and service of appliances, car washes, animal shelter.

- 6) Wholesale activities not requiring yard storage.
- 7) Hotels and motels.
- 8) Theaters.
- 9) Bowling alleys and billiards parlors.
- 10) Governmental facilities.
- 11) Clubs and lodges.
- 12) Bus stations and taxi shelters.
- 13) Restaurants and fast food establishments.
- 14) Manufacturing activities that do not require outdoor yard storage.
- 15) Construction equipment sales.
- 16) Commercial garages and indoor storage.
- 17) Parking lots and/or facilities.
- 18) Lumber yard.
- 19) Farm implements sales and service.

3.7.3 Conditional Uses

- 1) One (1) accessory residential quarters for managerial, custodial, or security personnel who must be on-site on a 24-hour basis.
- 2) Warehouses and wholesale dealerships.
- 3) Commercial grain bins or related activities.
- 4) Recreational vehicle parks that comply with the standards as set forth in section 4.15 of this Ordinance. (reclamation bond required, see section 2.13 of this Ordinance)
- 5) Outdoor retail sales.

- 6) Freshwater depots and pipelines. (requires reclamation bond for the depots but not the pipelines, see section 2.13 of this Ordinance)
- 7) Work force housing may be allowed inside a commercial structure.
 - a) A maximum of twenty-five (25%) percent of the structure or a maximum of one thousand five hundred (1,500) square feet, whichever is less, may be used for living quarters which would include all sleeping areas, halls, restroom, exercise room, or recreational areas or similar uses.
 - b) Fire prevention standards including but not limited to fire sprinklers and fire walls as required by the Building and Fire codes.
- 8) Signs and Billboards as outlined in section 4.2 of this Ordinance.

3.7.4 Setbacks

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – thirty (30') feet.
 - b) Side yard – ten (10') feet.
 - c) Back yard – twenty-five (25') feet.
- 3) No less than fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.

3.7.5 Standards

- 1) Any commercial development within five hundred (500') feet of the centerline of any federal, state or paved county road shall additionally be subject to the requirements of section 3.11 the Highway Corridor Overlay District of this ordinance.
- 2) Site plans, architectural elevations, and proposed materials must be submitted to the Planning Department for design review for allowed and conditional uses.
- 3) Building design shall incorporate materials to convey

permanence, substance, timelessness, and restraint. Each building shall be constructed with one or more of the following material(s) comprising at least fifty (50%) percent of the exterior materials:

- a) Clay or masonry brick.
 - b) Customized concrete masonry.
 - c) Architectural flat metal panels or glass.
 - d) Stucco or Exterior Finish Insulation.
 - e) Natural or cultured stone.
 - f) Residential grade permanent siding with brick decorative masonry.
 - g) Metal siding systems, provided that metal is limited to fifty (50%) percent of the face of the structure with the main entry. In addition, the structure must be enhanced by the application of brick, decorative masonry, or decorative stucco surfaces in combination with decorative fascia, overhangs, and trim.
 - h) Log façade or post and beam construction at entries.
- 4) Multi-building or Mixed-Use Projects.
- a) Prior to issuance of a building permit on a multi-structure development, the applicant shall submit plans that demonstrate the use of consistent design elements throughout the project. Subsequent building permits shall conform to the design elements presented.
 - b) Multi-structure developments shall include prominent focal points, which shall include, but not be limited to architectural structures, art, historical and/or landscape features. These features shall be located at or visible from vehicular and pedestrian entrances to the site.
 - c) Free-standing garage clusters of multiple family residential sites shall not be placed unless the overall appearance is similar to the primary residential structures.

3.7.6 Minimum Lot Area

Minimum area shall be one (1) acre.

3.7.7 Parking

See parking requirements and standard – section 2.11 of this Ordinance.

3.8 INDUSTRIAL DISTRICTS

3.8.1 Light Industrial District (I-1)

The intent of the Light Industrial District is to designate areas for wholesale commercial, storage, trucking, and manufacturing, other similar industrial uses, and limited retail sales and service. Processing or fabrication will be limited to activities conducted within a building that does not emit fumes, odor, dust, smoke, or gas beyond the confines of the building within which the activities occur or produce levels of noise or vibration that may impact adjacent property.

3.8.1.1 Allowed Uses

- 1) All uses allowed in C-1.
- 2) Animal hospitals and clinics.
- 3) Warehouse.
- 4) Building and trade contractor shops.
- 5) Dry bulk storage (non-hazardous).
- 6) Electrical and plumbing service and sales.
- 7) Farm related businesses.
- 8) State and county maintenance yard and facilities.
- 9) Grain mills/elevators.
- 10) Motor vehicle repair and services.
- 11) Motor vehicle tire and auto part sales.

- 12) Motor vehicle sales.
- 13) Motor vehicle wash.
- 14) Storage yard.
- 15) Radio and television stations.
- 16) Self-service storage facilities.
- 17) Commercial truck parking and truck garages and all associated structures to service the same. (reclamation bond required, see section 2.13 of this Ordinance)
- 18) Service stations and convenience stores.
- 19) Concrete and asphalt plants. (reclamation bond required, see section 2.13 of this Ordinance)
- 20) Governmental administrative, maintenance, and research facilities.
- 21) Electric transmission facilities.
- 22) Transmission pipelines and associated facilities.
- 23) Freshwater depots and pipelines. (depots require reclamation bond, pipeline do not, see section 2.13 of this Ordinance)
- 24) Exterior non-agricultural storage. (reclamation bond required, see section 2.13 of this Ordinance)

3.8.1.2 Conditional Uses

- 1) All conditional uses in C-1.
- 2) Adult entertainment centers. (reclamation bond required, see section 2.13 of this Ordinance)
- 3) Heavy vehicle and equipment repair. (reclamation bond required, see section 2.13 of this Ordinance)
- 4) Railroad tracks and spurs.
- 5) Truck or rail freight terminal. (reclamation bond required, see section 2.13 of this Ordinance)

- 6) Work force housing subject to the provisions of section 4.8. (reclamation bond required, see section 2.13 of this Ordinance)
- 7) Excavation of sand, gravel, rock, stone, scoria, and clay not excepted from application of this ordinance (reclamation bond required, see section 2.13 of this Ordinance). Any excavation area not used for a period of one (1) year or not renewed shall be considered no long in use and shall be required to reclaim the land.
 - a) The Planning Commission may impose conditions and fees relating road maintenance.
 - b) All sand, gravel, rock, stone, scoria, and clay operations shall require to tarp all trucks.
- 8) Radio, television and telephone transmission, receiving or relay towers and/or facilities.
- 14) Storage of oil drilling rigs and related equipment for a period exceeding one (1) year. (reclamation bond required, see section 2.13 of this Ordinance)
- 15) Medical Marijuana Manufacturing Center(s) or Distribution Center(s)

3.8.1.3 Conditional Uses with Administrative Permit

- 1) Temporary water facilities.
- 2) Communication facilities.
- 3) Electrical substations.
- 4) Temporarily permitted use. (reclamation bond required, see section 2.13 of this Ordinance)
- 5) Excavation of sand, gravel, rock, stone, scoria, and clay for public projects.

3.8.1.4 Performance Standards

- 1) Any commercial or industrial development within five hundred (500') feet of the centerline of any federal, state or

paved county road shall additionally be subject to the requirements of section 3.11 the Highway Corridor Overlay District of this ordinance.

- 2) The open storage of material, including waste products or salvage shall not be permitted closer than five hundred (500') feet from any residential dwelling.
- 3) The entire site shall be free of trash at all times.

3.8.1.5 Lot Area and Width

- 1) The minimum lot area shall be two (2) acres.
- 2) The minimum lot width shall be two hundred (200') feet.

3.8.1.6 Setbacks

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – fifty (50') feet.
 - b) Side yard – twenty-five (25') feet.
 - c) Back yard – fifty (50') feet.
- 3) No less than fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.

3.8.1.7 Height Requirements

Buildings and structures shall not exceed seventy-five (75') feet.

3.8.1.8 Parking

Parking requirements and standard – section 2.11 of this Ordinance

3.8.2 Heavy Industrial Districts (I-2)

It is the purpose of this district to provide for the development of the mineral and agricultural resources of McKenzie County; to provide for the

refining and processing of unfinished and partially finished resources and products; and to isolate industrial activities in locations where conflicts with other uses will be minimized.

3.8.2.1 Allowed Uses

- 1) All allowed uses I-1.
- 2) Manufacturing requiring yard storage.
- 3) Heavy equipment storage and repair.
- 4) Truck and freight terminals.
- 5) Concrete and asphalt plants, concrete products and clay product plants.
- 6) Industrial or manufacturing operation.
- 7) Energy conversion facilities.

3.8.2.2 Conditional Uses

- 1) All conditional uses allowed in I-1 districts.
- 2) Oil and gas bulk storage, explosives and other hazardous material storage, sales and distribution not excepted from application of this ordinance. (reclamation bond required, see section 2.13 of this Ordinance)
- 3) Sewage lagoons and sediment ponds in compliance with North Dakota Department of Health standards. (reclamation bond required, see section 2.13 of this Ordinance)
- 4) Waste management facilities, sanitary landfills and hazardous waste sites in compliance with State Health standards and the provisions of section 4.4.
- 5) Salvage yards. (reclamation bond required, see section 2.13 of this Ordinance)
- 6) Stockyards and commercial livestock feedlots and slaughterhouses. (reclamation bond required, see section 2.13 of this Ordinance)

- 7) Electric transmission facilities, water, gas, oil and coal slurry transmission pipelines.
- 8) Excavation, crushing and handling sand, gravel, rock, stone, scoria, and clay. (requires reclamation bond, see section 2.13 of this Ordinance)
- 9) Electric power plants, coal gasification plants, coal liquefaction plants, oil refineries and petrochemical plants. The applicant shall provide upon request the following:
 - a) The applicant shall provide the summary portion of the application for an Energy Conversion Facility permit submitted to the North Dakota Public Service Commission for said Energy Conversion Facility as required under N.D.C.C. Ch. 49-22.
 - b) The applicant shall submit all materials which constitute a ruling by the North Dakota Public Service Commission on said Energy Conversion Facility including appropriate scale maps of the site.
- 10) Wind energy facilities. (reclamation bond required, see section 2.13 of this Ordinance)
- 11) Radio, television and telephone and communication transmitting and/or receiving towers and facilities.

3.8.2.3 Performance Standard

- 4) Any commercial or industrial development within five hundred (500') feet of the centerline of any federal, state or paved county road shall additionally be subject to the requirements of section 3.11 the Highway Corridor Overlay District of this ordinance.
- 5) The open storage of material, including waste products or salvage shall not be permitted closer than five hundred (500') feet from any residence. All combustible material shall be stored in such a way to permit free access to firefighting equipment. Dust, fumes, odors, smoke, vapor, noise, lights, and vibrations shall be confined within the industrial district.

- 6) Outdoor storage, equipment and refuse areas shall be concealed from view of abutting rights-of way.

3.8.2.4 Lot Area and Width

- 1) The minimum lot area shall be two (2) acres.
- 2) The minimum lot width shall be two hundred (200') feet.
- 3) No building or structure shall be located within one thousand two hundred fifty (1,250') feet from the boundary of a residential district or five hundred (500') feet from any dwelling unit.
- 4) Design standards shall include fencing, lighting, and landscaping per the landscape and buffering section 2.12 of this Ordinance.

3.8.2.5 Setbacks

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) There shall be at least a fifty (50') foot structure setback from the front lot line.
- 3) Side yard setbacks shall be a minimum of twenty-five (25') feet and no less than twenty (20') feet between buildings.
- 4) The minimum rear building line, measured from the rear lot line, shall be fifty (50') feet.

3.8.2.6 Parking

Parking requirements and standard – section 2.11 of this Ordinance.

3.9 PLANNED UNIT DEVELOPMENT DISTRICT

3.9.1 Intent

The purpose of the Planned Unit Development (PUD) district is to serve as an alternative to conventional zoning and development approaches and processes.

The PUD is a design and development technique which allows flexibility to create a development or project which may not be required to adhere to standards set elsewhere in this Ordinance, provided the overall development unit fits the general nature of the district and reflects creative and efficient use of structures and open space.

A PUD may be used as an instrument to allow flexibility in areas of the county where existing structures and developments, as well as non-conforming uses exist in an attempt to clean up areas and bring such developments into compliance.

A PUD is to provide enhancements to the project that could not be achieved through standard zoning. This could include greater open space, amenities or other features.

The following are goal and objectives of the PUD district:

- 1) Encourage innovations and flexibility in residential, commercial, and industrial development so that greater opportunities for better housing of all types and design, recreation, shopping, and employment may extend to all citizens and residents;
- 2) Provide for necessary commercial and industrial facilities to be conveniently located near housing;
- 3) Reflect changes in the technology of land development so that resulting economies may be made available to those who need homes and to encourage more efficient use of land and public and private services;
- 4) Encourage a more creative and flexible approach in the utilization of land in order to accomplish a more efficient, aesthetic, and desirable development that may be characterized by special features of the geography, topography, size, or shape of a particular property;
- 5) Provide a compatible, stable, developed environment in harmony with that of the surrounding area; and

- 6) Insure that increased flexibility of substantive regulations be administered in such a way as to encourage the disposition of proposals for land development without undue delay.

The preceding purposes shall be balanced so that each PUD shall consist of a harmonious selection of uses and groupings of buildings, parking areas, circulation and open spaces, and shall be designed as an integrated unit, in such manner as to constitute a safe, efficient, and convenient urban area development.

3.9.2 PUD Design Principles

- 1) Residential Layout – Dwelling units in a PUD often include access to a large shared open space surrounding the house as well as a smaller private yard. These large protected open spaces are created by the layout of the buildings and are intended for use by all residents of the developments. Different housing types including single family, duplex, and multiple-family dwellings are often mixed rather than separated as is done in standard zoning.
- 2) Street Patterns - Street patterns are one of the most important elements in establishing the neighborhood character of a residential community. Most non-PUD developments focus on obtaining maximum frontage for lot sizes and maximum flow of traffic on all streets. However, in order to dispel the monotony of the typical grid plan street pattern, a PUD often employ a hierarchy of street types based on usage. Local streets serve only residences and have a low traffic volume, while collector streets connect local streets to arterials, which are the major routes of travel throughout a PUD.
- 3) Combining Design Features - It is in the ability to design each of these components simultaneously that makes a PUD unique and effective. Each of the elements work together to enhance the whole. This represents a major advantage over traditional zoning practices that force lots to be planned in accordance with broad rules that may allow for some incompatibility.

3.9.3 PUD Application and Plan

The submittal of a PUD application requires a physical plan, images and narrative explaining and showing the location of each of the underlying zoning areas and outlining the standards and requirements that will apply to each of those zones. The PUD allows deviation from standard

zoning the plan should state the underlying zoning and what standards will be followed in each of the zones and where it will deviate.

One of the purposes of a PUD is to set out parameters so that the resulting development is more desirable to the County than if the standard zoning were to be applied. The PUD provides flexibility in the design to be creative in preserving the natural environment and enhancing and unifying design elements throughout the development.

The PUD plan shall include a narrative, maps, and images to show the character, intent and standards of the PUD.

The narrative and plans shall show, explain and outline the following:

- 1) The physical characteristics of the site and surrounding land uses.
- 2) The proposed land uses.
 - a) Allowed uses and prohibited uses.
 - b) Setbacks and heights.
 - c) Densities.
- 3) Open space quantity and amenities provided.
- 4) Design standards.
 - a) Architectural standards.
 - b) Street widths.
 - c) Site furniture (manufactures' cut sheets showing proposed street furniture, lighting, playground equipment and other amenities).
 - d) Signage.
 - e) A statement addressing compatibility and impacts of the proposed development on adjacent properties.
- 5) Land use site plan.
 - a) Location and size of each land uses.
 - b) Open space, parks, trails and pedestrian access.

- c) Street layout and design.
- 6) Infrastructure.
 - a) Roads, drives and access.
 - i) Internal road network.
 - ii) Road access points.
 - iii) Road construction on and off of the site.
 - iv) Road maintenance.
 - v) Paving or dust control frequency and method.
 - b) Water supply.
 - c) Sewage system.
 - d) Storm water management plan.
 - e) Utility provisions for electrical, natural gas, telephone, internet, and cable services.
- 5) Phasing.
 - a) Phasing plan showing each stage of development.
 - b) Timeframe for construction and installation of infrastructure and structures.
 - c) Phasing triggers for the commencement and completion of each phase.
- 6) Maintenance.
 - a) A home owners association or other mechanism shall be created by the developer through covenants to insure the continued financial responsibility of the maintenance.
 - b) The developer shall prepare a budget for the annual maintenance cost of roads, open space, and other amenities provided in the PUD. Each parcel or lot owner shall pay an equitable share.

- c) The developer shall be responsible for all maintenance until one half (1/2) plus one of the parcels or lots in the PUD are sold.

The Planning Director may require additional information and as deemed necessary. A PUD or sections of the PUD may be subject to a reclamation bond if deemed necessary by the Planning Commission.

3.9.4 PUD as Mechanism to Legitimize and Improve Existing Developments

The PUD may be used to address areas in the County that were developed prior to zoning or areas where work force housing was approved adjacent to shops and other incompatible uses. The intent of using the PUD in these cases is to clean-up, improve and enhance the quality of existing developments. The resulting development needs to demonstrate how the improvements are more desirable than just eliminating the incompatible and undesirable uses. The PUD is to provide enhancements to the project that could not be achieved through standard zoning. This could include greater open space, amenities or other features.

In addition to the requirements as outlined above a PUD to legitimize and improve existing developments shall give details to the following:

- 1) Site clean-up.
- 2) Fencing and screening of equipment and storage yards.
- 3) Method of separation of housing from other uses.
- 4) Safety procedures and methods as they relate to housing location.
- 5) Site improvements.
- 6) Additional amenities provided in work force housing areas.

3.9.5 Minimum PUD Area

Minimum PUD area shall be five (5) acres.

3.10 FLOODPLAIN OVERLAY DISTRICT

The purpose of this district is to minimize private and public losses due to flood conditions.

The floodplain shall use maps as delineated or defined by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program or other maps and information provided by the State of North Dakota. The areas delineated as floodplain shall be an overlay for all zoning districts.

An applicant that has land that is in a floodplain as delineated by FEMA or land that is known to periodically flood or contains marshes, standing water for more than thirty (30) days per year or has the presence of cattails or other aquatic vegetation shall have a certified North Dakota licensed civil engineer provide a plan to remediate the hazard. No building permit shall be issued without a remediation plan.

3.11 HIGHWAY CORRIDOR OVERLAY DISTRICT

3.11.1 Intent

The purpose of the Highway Corridor Overlay District is to have higher standards adjacent to highways and to promote and protect the public health, safety, and welfare by providing for the aesthetic and coordinated treatment of properties bordering and within identified transportation corridors in McKenzie County. These transportation corridors are expected to carry significant volumes of traffic, making development along these corridors highly visible to the traveling public. Therefore, it is the purpose of this district to ensure high aesthetic quality of development along these important transportation corridors through:

- 1) The establishment of enhanced standards for buildings, landscaping, and other improvements constructed on the properties bordering and within the transportation corridors; and
- 2) The establishment of development requirements which will encourage high quality of design of development of those properties and promote the quality, scale, and character of development consistent with existing and planned uses bordering and within the transportation corridors.

- 3) These standards and requirements shall apply to any parcels that are within five hundred (500') feet of the centerline of any federal, state or paved county road.

3.11.2 Exemptions

Agricultural structures are exempt from these requirements provided they meet the base zoning district requirements.

3.11.3 Standards

- 1) Any PUD within five hundred (500') feet of the centerline of any federal, state or paved county road shall additionally be subject to the requirements of section 3.11 the Highway Corridor Overlay District of this ordinance.
- 2) Any and all site plans, architectural elevations, and proposed materials must to be submitted to the Planning Department for design review prior to a building permit being issued.
- 3) Building design shall incorporate materials to convey permanence, substance, timelessness, and restraint. Each building shall be constructed with one or more of the following material(s) consisting of at least fifty percent (50%) of the exterior materials:
 - a) Clay or masonry brick.
 - b) Customized concrete masonry.
 - c) Architectural flat metal panels or glass.
 - d) Stucco or Exterior Finish Insulation.
 - e) Natural stone.
 - f) Residential grade permanent siding with brick decorative masonry.
 - g) Metal siding systems may be used along the corridor provided that metal is limited to fifty percent (50%) of the building face. In addition, the building must be enhanced by the application of brick, decorative masonry, or decorative stucco surfaces in combination with decorative fascia, overhangs, and trim.

- h) Post and Beam - Log structures and/or entries.
- 3) Multi-building or Mixed-Use projects
- a) Prior to issuance of a building permit on a multi-building development, the applicant shall submit plans that demonstrate the use of consistent design elements throughout the project. Subsequent building permits shall conform to the design elements presented.
 - b) Multi-building developments shall include prominent focal points, which shall include, but not be limited to architectural structures, art, historical and/or landscape features. These features shall be located at or visible from vehicular and pedestrian entrances to the site.
 - c) Free-standing garage clusters of multiple family residential sites shall not be placed along the corridor overlay districts unless the overall appearance is similar to the primary building.
- 4) Site Design
- a) Trash enclosures and trash compactors shall be located such that they are not visible from the identified corridor.
 - b) Outdoor storage that does not consist of display of merchandise shall be located such that it is not visible from the identified corridor, by placing the outdoor storage on the opposite side of the building from the identified corridor, or by placing outdoor storage in an enclosure that has the appearance of being integral to the building. All outdoor storage shall be fully screened from view through the use of an opaque decorative fencing material or architectural screen walls.
 - c) Loading and delivery areas shall not be located along the front side of the building that fronts on the identified corridor.
 - d) Contractor yards, service yards, heavy equipment, salvage, and items of a similar nature shall be located away from public street frontages and shall be screened with opaque fencing.
 - e) Pedestrian walkways shall be provided between building entrances/exits and parking areas. On multi-building sites

and mixed-use sites, the site design shall provide functional pedestrian spaces, plazas, and seating areas between or in front of buildings. Designs shall include with weather protection, such as overhangs, awnings, and canopies to increase usefulness in a variety of weather conditions.

3.12 FIREARMS FACILITY OVERLAY DISTRICT

3.12.1 Purpose

The purpose of this district is to minimize the risk of safety hazards attendant with a facility at which firearms or other weapons are regularly discharged.

3.12.2 Land to Which Ordinance Applies

A firearms facility overlay district consists of lands designated by McKenzie County as being affected by the safety hazards attendant with a facility at which firearms are regularly discharged. This district is an overlay for other zoning districts. Each firearms facility overlay district is independent from all other firearms facility overlay districts.

3.12.3 Warning and Disclaimer of Liability

The degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on the discretion of McKenzie County. This ordinance does not imply that lands outside of the district are not subject to safety hazards attendant with a facility at which firearms are regularly discharged, nor does it imply that lands within the district are not subject to such safety hazards when used for the allowed and conditional uses therein. McKenzie County and its officers and employees disclaim all liability arising from such hazards or otherwise from a facility permitted within the district.

3.12.4 Permitted Uses

Within a firearms facility overlay district, the firearms facility for which the district was created is a permitted use to the extent it is constructed and operated in the manner described in the application to create the district. No other use of land within the firearms facility overlay district shall be considered a permitted use, except for uses outside the jurisdiction of this ordinance.

3.12.5 Conditional Uses

All uses that are, in the underlying district, either permitted uses or conditional uses shall be conditional uses within the firearms facility overlay district. A firearms facility other than the original firearms facility for which the overlay district was created shall also be a conditional use therein.

3.12.6 Application Requirements

All applications to create a firearms facility overlay district must include the following:

- 1) A description of the type of firearms facility that will be operated, including whether it will be an archery range, munitions range, shooting range, or specific combination thereof
- 2) The legal description of the parcel of land upon which the firearms facility will be operated
- 3) A detailed, to-scale site plan of the parcel that shows all buildings, earthworks, and other features relating to the use and safety of the facility
- 4) Detailed, to-scale plans of all buildings within which the facility will operate
- 5) The legal description of each parcel of land that will be included within the district along with the name and address of the record owner of each such parcel and proof that the record owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail, which notice must clearly and expressly state that that person's land will, if the application is approved, be included within the district and will be subject to restrictions on its use
- 6) The legal description of each parcel of land that is, in whole or in part, less than one mile from any parcel of land that will be included within the district along with the name and address of the record owner of each such parcel and proof that the record owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail
- 7) All regulations for the use of the facility
- 8) Evidence that the facility is capable of being operated according to its regulations
- 9) Evidence that the facility, if operated according to its regulations, does not pose any direct risk to any person or property upon any parcel of land that will not be included within the district
- 10) Evidence that the facility, if operated according to its regulations, does not pose an unreasonable risk to any person or property upon any parcel of land that will be included within the district

- 11) An agreement that the applicant and its heirs and assigns will indemnify and hold harmless McKenzie County and its officers and employees for all claims and liabilities arising from any safety hazards attendant with the facility for which the district was created
- 12) Emergency contact information to report legitimate safety concerns that the caller has reason to believe arise from activities at the firearms facility for which the district was created

3.12.7 Conditional Use Permit Application Requirements for Additional Firearms Facilities

All applications for conditional use permits for a firearms facility must include the following:

- 1) A description of the type of firearms facility that will be operated, including whether it will be an archery range, munitions range, shooting range, or specific combination thereof
- 2) The legal description of the parcel of land upon which the firearms facility will be operated
- 3) A detailed, to-scale site plan of the parcel that shows all buildings, earthworks, and other features relating to the use and safety of the facility
- 4) Detailed, to-scale plans of all buildings within which the facility will operate
- 5) The legal description of each parcel of land that will be added to the district along with the name and address of the record owner of each such parcel and proof that the record owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail, which notice must clearly and expressly state that that person's land will, if the application is approved, be included within the district and will be subject to restrictions on its use
- 6) The legal description of each parcel of land that is, in whole or in part, less than one mile from any parcel of land that is already included within or will be added to the district along with the name and address of the record owner of each such parcel and proof that the record owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail
- 7) All regulations for the use of the facility
- 8) Evidence that the facility is capable of being operated according to its regulations
- 9) Evidence that the facility, if operated according to its regulations, does not pose any direct risk to any person or property upon any parcel of land that is not already included within and will not be added to the district

- 10) Evidence that the facility, if operated according to its regulations, does not pose an unreasonable risk to any person or property upon any parcel of land that is already included within or will be added to the district
- 11) An agreement that the applicant and its heirs and assigns will indemnify and hold harmless McKenzie County and its officers and employees for all claims and liabilities arising from any safety hazards attendant with firearms facility
- 12) Emergency contact information to report legitimate safety concerns that the caller has reason to believe arise from activities at the facility

3.12.8 Conditional Use Permit Application Requirements Other Than for Additional Firearms Facilities

All applications for conditional use permits other than for a firearms facility within the firearms facility overlay district must include the following:

- 1) Proof that all record owners of parcels within the district where there are existing or approved firearms facilities have been notified of the application and the date it will come up for public hearing by certified mail
- 2) Evidence that the proposed use will, if all currently existing or approved firearms facilities within the district are operated according to their regulations, result in an unreasonable risk to any person or property upon the parcel of land where the proposed use will occur
- 3) An agreement that the applicant and its heirs and assigns will indemnify and hold harmless McKenzie County and its officers and employees for all claims and liabilities arising from any safety hazards attendant with any firearms facility within the district

3.12.9 Performance Standards

All firearms facilities must, at all times, be operated according to the following minimum standards:

- 1) Compliance with all applicable federal, state, and local laws
- 2) Compliance with all specifications, standards, and procedures specified in the application to create a firearms facility overlay district or for a conditional use permit for a firearms facility
- 3) Strict enforcement of all regulations that were proposed with the application to create a firearms facility overlay district or for a conditional use permit for a firearms facility
- 4) Adequate security measures reasonably to ensure compliance with all federal, state, and local laws by all persons entering the facility, lawfully or unlawfully, and reasonably to ensure the apprehension of any person

who violates federal, state, or local law while at the facility, lawfully or unlawfully

- 5) Taking reasonable measures to ensure that the emergency contact information provided to McKenzie County is kept up-to-date and will reach a live person twenty-four hours per day, three hundred sixty-five days per year, to respond to legitimate safety concerns that arise from activities at the facility
- 6) Notifying, as soon as is practicable, the McKenzie County Sheriff of each call placed to the emergency contact telephone number
- 7) Preparing a detailed incident report each time the owner or operator of the facility has reason to believe that an injury or damage to person or property has occurred as a result of activities at the facility, as soon as practicable after the owner or operator of the facility learns of or reasonably should have learned of the injury or damage
- 8) Preparing a detailed incident report each time the McKenzie County Sheriff requests that one be prepared, as soon as is practicable after the request
- 9) Providing, as soon as is practicable, the McKenzie County Sheriff a copy of each incident report
- 10) Ensuring that there is, at all times, a person designated to speak with law enforcement on behalf of the facility and that the McKenzie County Sheriff is, as soon as is practicable, notified of all changes in this designation

3.12.10 Amendments

The operator of the firearms facility for which the district was created may apply to amend the district, including making changes to the firearms facility for which the district was created and adding or removing parcels of land from the district. An application to amend a firearms facility overlay district must include the following:

- 1) A description of the proposed changes in the firearms facility
- 2) A description of the proposed changes to the site plan
- 3) A description of the proposed changes to the buildings within which the facility will operate
- 4) Proof that the record owner of each parcel of land currently within the district has been notified of the application and the date it will come up for public hearing for certified mail
- 5) The legal description of each parcel of land that will be added to the district along with the name and address of the record owner of each such parcel and proof that the record owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail, which notice must clearly and expressly state

- that that person's land will, if the application is approved, be included within the district and will be subject to restrictions on its use
- 6) The legal description of each parcel of land that is not within the district and will not be added to the district and that is, in whole or in part, less than one mile from any parcel of land that will be added to the district along with the name and address of the record owner of each such parcel and proof that the record owner of each such parcel has been notified of the application and the date it will come up for public hearing by certified mail
 - 7) All proposed changes to the regulations for the use of the facility and, if any such changes are proposed:
 - a. Evidence that the facility is capable of being operated according to its regulations
 - b. Evidence that the facility, if operated according to its regulations, does not pose any direct risk to any person or property upon any parcel of land that will not be included within the district
 - c. Evidence that the facility, if operated according to its regulations, does not pose an unreasonable risk to any person or property upon any parcel of land that will be included within the district
 - 8) An agreement that the applicant and its heirs and assigns will indemnify and hold harmless McKenzie County and its officers and employees for all claims and liabilities arising from any safety hazards attendant with the facility for which the district was created

The following definitions are added to the McKenzie County Zoning Ordinance:

Archery Range: Any building, parcel of land, or other site at which persons regularly engage in archery activities, including but not limited to training, practice, and competition in the use of bow and arrow, crossbow, or spear.

Firearm: Any firearm as defined by N.D.C.C. § 62.1-01-01(3), any rifles and shotguns expressly excluded by N.D.C.C. § 62.1-01-01(3)(a) through (c), any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun, or any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.

Firearms Facility: An Archery Range, Munitions Range, Shooting Range, or any combination of them that is operated by a single operator upon one contiguous parcel of land that the operator owns or leases for the facility.

Munitions Range: Any building, parcel of land, or other site at which persons regularly engage in the use of munitions of any sort, including but not limited to explosives, emitters of noxious substances, and inert munitions, for the purposes of training, practice, or competition.

Shooting Range: Any building, parcel of land, or other site at which firearms of any sort are regularly discharged, whether indoors or outdoors, including but not limited to target ranges, skeet ranges, training sites, and testing sites.

3.13 PUBLIC-USE AIRPORT OVERLAY DISTRICT

3.13.1 Purpose

The purpose of this district is to restrict the height of structures and objects of natural growth and otherwise regulate the use of property in the vicinity of public-use airports.

3.13.2 Definitions

For the purposes of Section 3.13 of this ordinance, the following definitions apply:

Airport: A public-use airport for which a Public-Use Airport Overlay District is established by McKenzie County.

Airport Elevation: The highest point of an Airport's usable landing area measured in feet from mean sea level.

Approach End of Runway: The first portion of the Runway available for landing. If the Runway threshold is displaced, the displaced threshold serves as the Approach End of Runway.

Approach Surface: A surface longitudinally centered on the extended centerline of each Instrument Runway, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope. The approach surface is five hundred (500) feet wide at the edge adjacent to the Primary Surface and expands outward uniformly to a width of three thousand five hundred (3,500) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface.