

McKenzie County

ZONING ORDINANCE

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Amended and Re-Adopted: July 21, 2020

Adoption and Amendments

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Amended and Re-Adopted: Sept. 20, 2016

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ARTICLE I: INTRODUCTION

1.1 TITLE AND SCOPE

The McKenzie County Zoning Ordinance, its codes, regulations, and the County Zoning Map shall collectively be known and may be cited as the Ordinance.

The McKenzie County Zoning Ordinance includes zoning codes and districts, the North Dakota Building Code, International Fire Code, Subdivision Regulations, Special Provision and other codes and regulations and modifications as directed by the McKenzie County Board of County Commissioners.

1.2 PURPOSE AND INTENT

These zoning regulations and zoning districts are herein set forth to direct and guide the development of McKenzie County; to promote the health, safety, and well-being of the citizens of McKenzie County; and to promote the sound and desirable use of the lands of McKenzie County.

1.3 AUTHORIZATION

This Ordinance is developed and enacted under authority granted in N.D.C.C. Ch. 11-33. which states: *“For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county may regulate and restrict within the county, subject to section 11-33-20 and chapter 54-21.3, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes.”*

Many oil and gas activities and uses have been restricted from county zoning authority; typically, activities and land uses regulated by the North Dakota Industrial Commission (N.D.I.C.) are exempt from this ordinance.

To the extent allowable by the N.D.C.C, N.D.A.C and other state and federal laws, the County shall exercise its rights to promote the health, safety, and well-being of the citizens of McKenzie County by regulating land uses, development, construction and building code through this Ordinance.

1.4 DEFINITIONS

The words herein defined shall have the meaning provided in this Ordinance. Words and phrases not defined in this or any other section will be applied as they are in common usage.

1.4.1 General Terms

The word shall, is taken to mean mandatory; may is taken as permissive.

Words used in the present tense shall also be applied in the future; words used in the singular shall also be applied in the plural.

1.4.2 Specific Terms

Accessory Use or Structure: A subordinate structure or portion of the main structure the use of which is clearly incidental to and serves exclusively to the principal building or principal use and shall be located on the same lot.

Administrative Permit: A permit issued by the Planning Director for a specific use authorized by the Board of County Commissioners.

Adult Bookstore: An enclosed building having as a substantial or significant portion of its stock in trade books, magazines, or other periodicals that are distinguished or characterized by their emphasis on matter depicting or describing sexual activities or anatomic areas, such as genitals, breasts or buttocks.

Adult Cinema: An enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks for observation by patrons in return for the payment of consideration, irrespective of the number of persons who may be able to view the presentation at one time.

Adult Entertainment Center: An adult bookstore, adult cinema, adult entertainment facility, or any sexually oriented businesses or combination thereof.

Adult Entertainment Facility: An enclosed building wherein an admission is charged for entrance, or food or non-alcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation, film or video of entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks.

Affected Area: An area having a radius of one-half mile from a proposed change, unless specified differently herein.

Agriculture: The use of land and structures for the raising of crops and/or livestock, excluding commercial feedlots. An agricultural operation includes the residential structures and any crop/grain or livestock handling or holding facilities on the farm which are necessary to the-operation.

Agri-tourism: Any agriculturally-based operation or activity at a working farm or ranch that brings visitors to the farm or ranch for enjoyment or education.

Alley: A minor street providing vehicular service access to the back or the side of two or more properties.

Allowed Use: Only specific uses enumerated in each of the zoning districts of this Ordinance.

Alteration: As applied to a structure, a change or re-arrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Amendment: Any change, revision or modification of either the text of this Ordinance or the County Zoning Map.

Animal Hospital or Clinic: An establishment where animals are admitted principally for examination, treatment, board and care by a doctor of veterinary medicine.

Area of Special Flood Hazard: The land in the floodplain subject to a one percent or greater chance of flooding in any given year.

Automobile Repair Shop: An area of land, including structures thereon, that is used for the repair and servicing of automobiles and/or trucks of no greater than 14,000 pounds GVWR.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Basement: A story of a structure which has a greater portion of its height below the ground surface than above it.

Bed and Breakfast Inn: An establishment that provides overnight lodging to the public for compensation; caters to the traveling public; is located in the proprietor's residence; and serves only a limited breakfast to registered guests. Mobile homes, trailers, recreational vehicles, and skid units are not bed and breakfast inns.

Block: A part of the platted area bounded by public surface rights-of-way, intersecting streets and/or railroad.

Bond: A debt security held by the County to insure certain obligations are met by the applicant.

Construction/Performance Bond: A bond that is issued guaranteeing the completion of a project or the fulfillment of a particular contract, agreement, or requirement in case the project fails or is left incomplete.

Reclamation Bond: A bond held by the County to remove structures, foundations, and disturbance areas and to return the site to its pre-development state or to productive agricultural use as existed prior to other uses of the site.

Buildable Area: The portion of a lot remaining after required yards and setbacks have been provided.

Building: Any structure designed or intended for the enclosure, shelter, or protection of persons, animals or property.

Building Height: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof and to the average height between the plat and ridge of a gable, hip or gambrel roof.

Campground: Any parcel of land containing three or more lots intended for occupancy by or actually occupied by travel trailers, recreational vehicles or tents.

Child Care Center (as defined by N.D.C.C. 50-11.1):

Licensed Child Care Provider Categories

- 1) **Licensed Family Child Care:** Family providers may care for up to 7 children with no more than 3 under the age of 24 months, plus two additional school-age children.
- 2) **Licensed Group Child Care:** Group child care programs may be licensed in a home or a facility. Groups may be licensed for up to 30 children, with the actual license capacity determined by available space, staff to child ratios, and sometimes local ordinances.

- 3) **Licensed Child Care Center:** Child care centers are licensed for at least 19 children in a facility, with the actual license capacity determined by available space, staff to child ratios, and sometimes local ordinances.
- 4) **Licensed Preschools:** Preschools provide educational and socialization experiences for children age 2 years to kindergarten and may operate sessions for no more than 3 hours per day.
- 5) **Licensed School-Age Programs:** School-age programs are licensed for at least 19 children in a facility, with the actual license capacity determined by available space, staff to child ratios, and sometimes local ordinances. School-age programs offer services before and after school, and sometimes on school holidays and through the summer months.

Unlicensed Child Care Provider Categories

- 1) **Self-declared Providers:** Care for 5 or fewer children or 3 infants a home. These providers must meet appropriate state standards as set by the North Dakota Department of Human Services and should contact and apply with the County Social Service Office.
- 2) **Approved Relatives:** Care for 5 or fewer children or 3 infants. By federal law, the 'approved' relatives must be related by marriage, blood relationship or court order and include: grandparents, great-grandparents, aunts, and uncles. A sibling who is age 18 or older and who does not live in the same home as the children for whom care is being provided, can also become an approved relative.
- 3) **Registered Providers:** Are generally registered by Tribal entities.

Club: A private club or lodge which is an association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.

Commercial Building: Any structure which is used primarily for business activities and not used for residential, medical, religious, or instructional purposes.

Commercial Feedlot: Any building, structure, enclosure, or premises used, designed or intended for the commercial feeding of 1,000 or more animal units which is operated as a separate pursuit and not as incidental to agriculture on a given piece of land regardless of its size.

Comprehensive Plan: The 2025 McKenzie County Comprehensive Plan.

Commercial Truck: A truck or vehicle of greater than 26,000 pounds GVWR, any trailer of greater than 30,000 pounds GVWR, or any combination of one such motor vehicle and one or more such trailers.

Commercial Truck Parking: Any parcel of land, structure, or other facility that is designed or used to store, park, load, repair and maintain, and/or station one or more commercial Trucks.

Communication Facility: Structures and towers use to transmit wireless signals.

Conditional Use: Uses not automatically allowed in a zoning district and which requires review and approval by the Board of County Commissioners after a public hearing to determine whether, with certain conditions met and in light of surrounding uses and the specific location, it is consistent with the purpose and the intent of these zoning regulations.

Conforming Building, Use or Structure: A building, use or structure that complies with all requirements of this Ordinance and other regulations adopted by the county.

County: McKenzie County, North Dakota.

Development: Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures, or accessory structures, the construction of additions or alterations to buildings or structures, ditching, dredging, paving, excavation or drilling operations.

Development Agreement: A contractual agreement between a person and the County, to develop a parcel of land.

Development Plan: A document including maps and data for development of an area as provided by this Ordinance.

Direct Family Member: Mother, father, mother-in-law, father-in-law, son, daughter, step son, and step daughter, brother or sister.

Dwelling: Any structure or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels or vehicles designed for camping such as recreational vehicles.

Dwelling, Duplex: A single structure containing two (2) dwelling units.

Dwelling, Multiple Family: A single structure or portion thereof, containing three (3) or more dwelling units.

Dwelling, Single Family: A structure containing one (1) dwelling unit only.

Dwelling Unit: A room or group of rooms with individual kitchen and bathroom facilities that is designed or intended for occupancy by a single-family.

Easement: A burden upon land as defined by N.D.C.C. Ch. 47-05-01.

Electrical Distribution Line: An electrical line designed to operate at a voltage less than forty-one and six tenths (41.6) kilovolts. N.D.C.C. Ch. 49-21.1-01.1

Electrical Substation: An assembly of equipment in an electrical power system through which electrical energy is passed. A substation is a part of an electrical generation, transmission, and distribution system that redistributes power and/or transforms voltage from high to low, or the reverse.

Electrical Transmission Facility: An electric transmission line and associated facilities with a design in excess of one hundred fifteen (115) kilovolts. "Transmission facility" does not include:

A temporary transmission line loop that is:

- 1) Connected and adjacent to an existing transmission facility.
- 2) Within the corridor of the sited facility and does not cross known exclusion or avoidance areas; and
- 3) In place for less than one year; or
- 4) A transmission line that is less than one mile long.

Electrical Transmission Line: Lines designed to operate at a voltage of 41.6 kilovolts or more. N.D.C.C. Ch. 49-21.1-01.1

Encroachment: Any fill, building, structure or use including accessory uses projecting into the required yard areas of properties.

Energy Conversion Facility: A plant, addition, or combination of plant and addition as provided in N.D.C.C. Ch. 49-22-03.

Establishment: A place of business for processing, production, assembly, sales, or service of goods and materials.

ETA: Extra Territorial Area is an area around a city that extends beyond the incorporated city limits as outlined in N.D.C.C. Ch. 40-47-01.1.

Extraterritorial Jurisdiction: The extension by ordinance of a city's zoning regulations to any unincorporated area within McKenzie County, pursuant to Ch. 40-47-01.1.

Family: A group of one or more persons occupying premises and living as a single housekeeping unit.

Farm: A lot within McKenzie County containing at least forty (40) acres which is used for the production of agricultural crops or livestock, or raising, feeding or producing livestock, poultry, milk, or fruit. The term does not include the production of timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services. Feedlots that are operated as a separate pursuit shall be deemed commercial feedlots and shall not be construed as farming or incidental to a farming operation.

Farm Related Business: A business to promote, sell or enhance the agricultural products or services of the farm or ranch where it was produced.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff or waters from any source.

Freshwater Depot: Storage, collection, or sale of fresh water for industrial or commercial use from surface or groundwater supplies that is not a Freshwater Storage Pond.

Freshwater Pipeline: A pipeline for the transportation of fresh water, whether the pipeline is buried or above-ground and whether it is permanent or temporary, and all mechanical apparatus that is used to operate the pipeline.

Freshwater Storage Pond: Storage, collection, or sale of fresh water for industrial or commercial use from surface or groundwater supplies that is accomplished exclusively with earthworks, landscaping, and/or a liner without any permanently installed mechanical apparatus.

Frontage Road: Minor street that is parallel to and adjacent to arterial streets and highways that provides access to abutting properties and protection from through traffic.

Garage: A building for the storage, repair or maintenance of motor vehicles.

Green Space: Land that is partly or completely covered with grass and maintained trees, shrubs, or other vegetation, including:

- 1) Parks,
- 2) Community Gardens,
- 3) Cemeteries.
- 4) Schoolyards
- 5) Playgrounds
- 6) Public seating areas
- 7) Public plazas

Historical Monuments and/or Structures: Any structure or building associated with an outstanding person or a specific event or period of history.

Homestead Parcel: A parcel of agricultural land that was set aside for a residence as a part of a ranch or farm an existing home must have been build prior to 1990.

Home Occupation: Any occupation or profession carried on by members of a family residing on the premises, which is clearly incidental and secondary to the use of the dwelling for residential purposes; does not change the character thereof; and does not create a nuisance, excessive noise, traffic, or conflict with adjoining uses.

Hotel: A permanent structure with lodging accommodations whether or not meals are provided. Mobile homes, trailers, recreational vehicles and skid units shall not be considered hotels.

Hunting Lodge: A structure containing basic amenities providing sleeping accommodations reserved for hunters during the hunting season and otherwise unoccupied.

Improvements: Street grading, surfacing, installation of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, and trees.

Industrial Waste: All waste resulting from an industrial, manufacturing service or commercial activity as defined by N.D.C.C. Ch. 23-29-03.

Inert Waste: Non-putrescent solid waste which will not generally contaminate water or form a contaminated leachate and further defined in N.D.A.C. Title 33-20.01.1-03.26. Inert waste does not serve as food for vectors. Inert waste includes, but is not limited to construction and demolition material, such as metal, wood, brick, masonry, and concrete, asphalt, concrete, and tree branches.

Kennel: Any premises where dogs, cats, or other household pets are boarded, bred, or maintained for compensation.

Landfill: Specially selected, designed, and operated sites for disposal of solid waste in accordance with N.D.C.C. Ch. 23-29-03 and the provisions of this Ordinance.

Livestock: Domestic animals customarily raised or kept on farms for profit or other purposes including fur bearing animals.

Livestock Auction Yard: An enclosure or structure designed or used for holding livestock for the purpose of sale or transfer by auction, consignment, or other means.

Lot: A tract of land that is separately described by reference to specific, whole lots within a subdivision plat that has been approved by the County and recorded; by reference to whole quarter-quarter sections and/or government lots within the Public Land Survey System; or by reference to whole Auditor's Irregular Tracts that were separately numbered prior to McKenzie County's first adoption of a subdivision resolution.

Lot Coverage: The total area of structures expressed as a percentage of the total lot, plot, or tract.

Lot Depth: The mean horizontal distance between the front and rear lot lines.

Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots all sides of a lot adjacent to streets shall be considered frontage.

Lot Merger: The process of taking two or more lots or parcels and assembling them into one larger parcel.

Lot Line: The property line bounding a lot.

Lot Line Adjustment: When the boundaries between two or more lots are adjusted such that the total number of lots remains the same.

Lot Width: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the rear of the required front yard.

Manufacture: Any method of processing, developing, fabricating or assembling raw materials, semi-finished materials or parts thereof into a semi-finished or finished product.

Manufactured Home: A prefabricated housing that is largely assembled in factories following U.S. Department of Housing and Urban Development (HUD) standards and then transported to sites of use. The definition of the term in the United States is regulated by federal law (Code of Federal Regulations, 24 CFR 3280): Manufactured homes may be single- or multi-section and are transported to the site and installed. Manufactured homes are built as dwelling units of at least three hundred and twenty (320) square feet in size with a permanent chassis to assure the initial and continued transportability of the home. The requirement to have a wheeled chassis permanently attached. Manufactured homes are typically set on piers and then anchored. Manufactured homes are not considered permanent structures.

Marijuana: any species in the genus Cannabis, including but not limited to Cannabis sativa, Cannabis indica, and Cannabis ruderalis. Means all parts of the plant of the genus cannabis; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin extracted from any part of the plant.

Medical Marijuana: Means a product intended for human consumption or use which contains cannabinoid concentrate containing, derived from, or

containing a derivative of Marijuana in any form, including but not limited to plants, seeds, and resins or any Medical Marijuana Product.

Medical Marijuana Distribution Center: an entity or facility registered with the North Dakota Department of Health to engaged in the acquiring, possession, storage, delivery, transfer, transport, sale, supply, or dispensing of Medical Marijuana or related products to a Medical Marijuana Qualifying Patient or Medical Marijuana Registered Designated Caregiver as dictated by state law.

Medical Marijuana Manufacturing Center: an entity or facility registered with the North Dakota Department of Health for the cultivation, growing, cloning, manufacturing, acquiring, possession, storage, delivery, transfer, transport, sale, supply of Medical Marijuana or related products to a North Dakota registered Medical Marijuana Distribution Center.

Medical Marijuana Registered Designated Caregiver: an individual who is registered with the North Dakota Department of Health who agrees to manage the well-being of a Medical Marijuana Qualifying Patient with respect to the Medical Marijuana Qualifying Patient's medical use of Marijuana.

Medical Marijuana Qualifying Patient: a person who has been diagnosed with a debilitating medical condition by a physician licensed to practice medicine in the State of North Dakota and who has in that person's possession a current, valid photo identification issued by the State of North Dakota or the United States of America and a current, valid document issued by the North Dakota Department of Health to that person and authorizing that person to possess and use Medical Marijuana.

MET Tower: Temporary and permanent meteorological towers used for the measurement of wind speed.

Mobile Home: A factory-built structure, transportable in one or more sections and designed as a year-round dwelling unit to be placed on a foundation or basement. The mobile home must comply with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development. A recreational vehicle or travel trailer is not a mobile home.

Mobile Home Park: A lot designed and developed to accommodate only mobile homes, each occupying a portion of the site on a purchased or leased basis and each provided with the necessary utilities and other amenities so that the total development serves as a suitable environment for long-term residential occupancy.

Modular Home: A factory-built dwelling unit, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site and which does not have permanently attached to its body or frame any wheel or axel and bears a label certifying that it was built in compliance with the North Dakota Building Code.

Motel: A permanent structure with lodging accommodations whether or not meals are provided. Mobile homes, trailers, recreational vehicles and skid units shall not be considered a motel.

N.D.A.C.: North Dakota Administrative Code.

N.D.C.C.: North Dakota Century Code.

N.D.I.C.: North Dakota Industrial Commission

Non-Conforming Use: Any structure or tract of land lawfully occupied by a use, at the time of passage of this Ordinance or amendments thereto, which does not conform with the provisions of this Ordinance or amendments thereto.

Open Space: Any open land that is undeveloped, meaning that it has no structures upon it and is not used or intended for vehicle parking or travel or for industrial or commercial activities, including green space.

Owner: The person who holds fee title to a structure or land, including any person who is a joint tenant, tenant in common, tenant by the entirety, or sole owner of the whole or any part of such structure or land.

Permit: A written document issued by McKenzie County that grants permission to perform an act or service.

Permanent Foundation: A concrete foundation and footings that extends below frost depth and are set for the soil conditions.

Permanent Housing Structures: Are residential dwellings that are set on a permanent foundation. Unit types are stick-built and modular homes. Manufactured homes and mobile homes are not considered permanent housing structures.

Permitted Use (Allowed Use): Any use which complies with the requirements of a zoning district.

Person: Any natural person, firm, partnership, association, social or fraternal organization, corporation, trustee, estate, government unity, or other body corporate.

Pipelines: An apparatus designed or used to transport fluids within a sealed conduit and the apparatus reasonably necessary for the operation of the pipeline.

Oil and Gas Gathering Line: A pipeline and associated facilities used to collect oil from a lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility at which end-use consumer-quality gas is produced, with or without the addition of odorant, and is regulated by the North Dakota Industrial Commission (N.D.I.C.). N.D.C.C. Ch. 49-22-03(12)(b)

Oil and Gas Transmission Line: A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide and is regulated by the Public Service Commission. N.D.C.C. Ch. 49-22-03(12)(b)

Salt Water Disposal Line: A pipeline that transports produced water from the wellhead to a storage or disposal facility regulated by the North Dakota Industrial Commission.

Freshwater Pipeline: A permanent underground pipeline, other than a Temporary Freshwater Line, that transports freshwater.

Temporary Freshwater Pipeline: An above-ground pipeline that transports freshwater and is in place for six (6) months or less.

Pipeline for Agriculture: Above or below ground pipeline use for irrigation, livestock or other farming and ranching needs.

Planned Unit Development (PUD): An area of land to be developed as a single project for a number of uses consistent with this Ordinance.

Planning Department: The McKenzie County Planning and Building Department.

Plat: A document drawn to scale, showing the divisions of a piece of land. It gives the legal descriptions of pieces of real property by lot and block number and rights-of-way.

Prohibited Use: Any use or structure which is not an allowed use, conditional use or nonconforming use.

P.S.C.: Public Service Commission

Public Way: Any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.

Radioactive Waste: A solid waste material containing radioactive materials and subject to N.D.A.C. Title 33-10.

Recreational Vehicle: A vacation trailer or other vehicular or portable unit that is either self-propelled or towed or carried by a motor vehicle and, is intended for human occupancy, and is designed for vacation, recreational or residential uses.

Recreational Vehicle Park: A tract of land designed, utilized and operated on a fee or other basis as a place for the temporary parking of occupied recreational vehicles.

Residential Truck Parking: The parking of no more than one Commercial Truck at a residence for no more than one consecutive week without the Commercial Truck leaving the property for at least four hours, provided that the person who primarily operates the Commercial Truck is a resident of the residence at which it is parked. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) for GVWR, Materials, and driver guidelines must be followed. Under no circumstances shall a motor vehicle which contains Division 1.1, 1.2, or 1.3 materials or any other hazardous materials be allowed to be parked within 300 feet of a dwelling or place where people work, congregate, or assemble.

Right-of-Way: The area of land, either public or private, over which the right of passage exists.

Rooming House: Any dwelling in which more than three (3) persons, either individually or as a family, are housed or lodged for hire, with or without meals.

Salvage Yard: A tract of land or structure, or part thereof, used primarily for the collecting, storage or sale of scrap or discarded material or for the collecting, dismantling, storing or salvaging of machinery or vehicles not in running order or for the sale of parts thereof.

Service Station: Any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the public.

Setback: The line within a property defining the required minimum distances between any structure or use and the adjacent right-of-way or property line of any lot.

Sign: Any emblem, name, identification, description or illustration which is used for outdoor advertising or communication having a permanent location on the ground or attached to or painted on a building including bulletin boards, poster boards and billboards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.

Site Plan: A detailed plan for making improvements to one or more lots for the purpose of building and development as provided in this Ordinance.

Skid Unit: A structure or group of structures, either single or multi-sectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis.

Skid Unit Permit: A permit granted by the County to locate skid units within the jurisdiction of the County and to enjoy attendant services and facilities provided by the County, as defined in N.D.C.C. Ch. 57-02.4

Storage - Oil/Gas: Above or below ground tank, reservoir or structure use to store, mix, or separate coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide.

Street: A way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place or however otherwise designated.

Arterial Street: A street that provides for through traffic movements of light and heavy vehicles between or around areas. Access to abutting property may be provided and street or road design speeds shall exceed 30 miles per hour.

Collector Street: A street that carries traffic from minor streets to arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

Minor Street: A street that is used primarily for access to the abutting property.

Half-Street: A half-street is when a street is constructed from the center line of the road to one edge of the pavement.

Structure: The word "structure" shall be construed as though followed by the words "or part or parts thereof" and is a combination of any materials fixed to form a building, or related facilities for the use of occupancy by persons, or property. Structure includes buildings, towers, advertising signs constructed or erected on the land, excluding fences.

Subdivision: The division of a lot according to a plat, creating one or more lots, tracts, or parcels; any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights-of-way, whether public or private, for access to or from any such lot, tract or parcel; and the creation of new or enlarged parks, playgrounds, plazas, or open spaces.

Substantial Improvements: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- 1) Before the improvement or repair is started, or
- 2) If the structure has been damaged and is being restored, before the damage occurred. "Substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Temporarily Permitted Use: A conditionally permitted use which has a definite time period as one of its conditions.

Temporary: One year or less except when otherwise noted in a specific section of this Ordinance

Temporary Housing: Housing that is not permanent. This includes recreational vehicles, skid units, work force housing, and camping structures. It can include trailer homes and manufactured homes.

Temporary Water Facility: above ground pipelines, pumps, tanks set up for less than six (6) months.

Trailer Park: Any parcel of land containing three or more lots intended for occupancy by travel trailers, recreational vehicles, and skid units to be used as living quarters.

Transmission Facility: Any of the following as regulated by the Public Service Commission.

- 1) An electrical transmission line and associated facilities with a design of forty-one and six-tenths (41.6) kilovolts or more.
- 2) An oil and gas transmission line and associated facilities.

Travel Trailer: Any portable unit designed to be used as a temporary dwelling for travel or recreational purposes. The term travel trailer includes the following:

- 1) An independent travel trailer, which is a travel trailer containing toilet and lavatory facilities.
- 2) A dependent travel trailer, which is a travel trailer containing either toilet or lavatory facilities or having neither facility.

Utility: The basic facilities for public use such as water, sanitary and storm sewers, electricity, gas and telephone lines.

Variance: An exception from the terms of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant or the applicant's predecessors-in-interest, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

Yard: A space on the same lot with the principle buildings or structures, open, unoccupied and unobstructed by buildings or structures from the ground upward.

Yard, Front: Yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the front lot line and the front setback line or building face.

Yard, Rear: A yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the rear lot line and the rear face of the principal building.

Yard, Side: A yard extending from the rear line of the required front yard to the rear lot line, the depth of which is the least distance from the side of the principal building and the side lot line.

Waste: Any garbage, refuse, sludge from a waste treatment plant, or air pollution control facility and other discarded waste material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities and further defined in N.D.C.C. Ch. 23-29-03.14 The term does not include solid or dissolved materials in domestic sewage, or

solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear or the by-product material as defined by the Atomic Energy Act of 1954, as amended.

Asbestos Waste: any waste containing 1 percent or more asbestos.

Hazardous Waste: Any waste or combinations of wastes of a solid, liquid, contained gaseous, or semi-solid form as further defined in N.D.C.C. Ch. 23-20.3-02 and N.D.C.C. Ch. 33-24-02.

Industrial Waste: All waste resulting from an industrial, manufacturing service or commercial activity as defined by N.D.C.C. Ch. 23-29-03.

Inert Waste: Non-putrescent solid waste that will not generally contaminate water or form a contaminated leachate and further defined in N.D.A.C. Title 33-20.01.1-03.26. Inert waste does not serve as food for vectors. Inert waste includes, but is not limited to construction and demolition material, such as metal, wood, brick, masonry, and concrete, asphalt, concrete, and tree branches.

Infectious Waste: Municipal and residual waste which is generated in the diagnosis, treatment, immunization or autopsy of human beings or animals, in research pertaining thereto, in the preparation of human or animal remains for interment or cremation, or in the production or testing of biologicals, and which falls under one or more of the following categories: Cultures and stocks, Pathological wastes, Human blood and body fluid waste, Animal wastes, Biological waste, and Used sharps.

Household Waste: Non-hazardous or infectious waste commonly associated with residential and commercial garbage.

NORM: Naturally Occurring Radioactive Material. These natural radioactive elements are naturally present in low concentrations in earth's crust and are brought to the surface through human activities such as oil and gas exploration or mining and through natural processes like leakage of radon gas to the atmosphere or through dissolution in ground water.

Solid Waste Landfill: (Aka: Sanitary Landfill) A site for the isolation of waste materials from the environment until it is safe. Non-hazardous solid waste is regulated by federal and state regulations.

North Dakota plays a lead role in ensuring the federal criteria for operating municipal solid waste and industrial waste landfills regulations are met.

Special Waste: Solid waste that is not a hazardous waste and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal or industrial waste (N.D.C.C. Ch. 23-29-03.16).

TENORM: Technologically Enhanced Naturally Occurring Radioactive Material. This is Naturally Occurring Radioactive material that through a processing or distillation activity has concentrated the radioactive material.

Waste Tires: A waste tire includes a repairable tire, scrap tire, and altered waste tire to be disposed.

Waste Management Facility: Any plant or facility engaged in the treatment, storage, or disposal of waste.

Wind Energy Conversion System: Any device that is designed to convert wind power to another form of energy such as electricity, mechanical or heat.

Wind Energy Facility: A facility directly generating electricity or indirectly generating electricity or energy through production of hydrogen, compressed air or other energy carrier from conversion of wind to energy and consisting of one or more wind turbines under common ownership or operating control, and includes substations, temporary and permanent MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity directly, or through wind energy conversion to another form of energy, to off-site customer(s).

Wind Turbine: A wind energy conversion system that converts wind energy into electricity, hydrogen, compressed air, or some other energy carrier and includes the turbine, blade, tower, base, and pad transformer.

Work Force Housing: Housing used to for the purpose of housing temporary workers. Housing types can be permanent or temporary. Housing may include but is not limited to skid units, trailers, and recreational vehicles.

ARTICLE II: GENERAL PROVISIONS

2.1 JURISDICTION

These regulations shall apply to all areas of McKenzie County, except:

- 1) Townships which have not by resolution relinquished the power to enact zoning regulations to the county.
- 2) Within an incorporated town or city boundaries or their approved ETA as authorized by N.D.C.C. Section 40-47-01.1.
- 3) Lands within the tribal boundaries.
- 4) Federal land.

2.2 COMPLIANCE WITH ORDINANCES, STATUTES AND REGULATIONS

No structure or land shall be occupied unless in conformity to this Ordinance and:

- 1) The provisions of the North Dakota Century Code.
- 2) The rules of the North Dakota State Commissions, Boards and Agencies.

2.3 EXCEPTIONS

Other than as they relate to setbacks from roads and floodplain regulations, these regulations shall not apply to land or structures used exclusively for agriculture.

Uses specifically exempted from County jurisdiction according to statutes of 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.

2.4 SEVERABILITY

If any part or provision of this Ordinance or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its effect to that part, provision, section or application directly involved in the controversy and expressly adjudged invalid and shall not affect or impair the integrity or validity of the remainder of the Ordinance or its application to other persons, property or circumstances.

The Board of County Commissioners hereby declares that it would have enacted the remainder of this Ordinance even without the affected part, provision, section or application.

2.5 REPEAL

All previous zoning regulations or parts of county regulations, existing ordinances and provisions which address zoning are hereby repealed and replaced with this Ordinance.

2.6 NON-CONFORMING USES

The lawful use of a building or premises at the date of the original adoption of this Ordinance (March 18, 2013) may be continued. Non-conforming uses are appurtenant to the land upon which they were established.

Non-conforming uses must be terminated upon the first of the following events to occur:

- 1) Change in use
- 2) Change in the density of use
- 3) Building modifications other than routine maintenance
- 4) Destruction of a structure or at least fifty (50%) percent of a structure by fire or similar occurrences
- 5) A violation of state or federal laws or statutes
- 6) Discontinuance or abandonment of the use for one hundred and eighty (180) consecutive days

Non-conforming uses shall not be expanded to occupy or disturb an area within a lot or parcel of land larger than existed at the date of the adoption of this Ordinance. To change the zoning of a parcel or development that pre-existed before the original adoption of this ordinance shall not constitute an end of the non-conforming use.

In the event any portion of a parcel of land is acquired for public use, whether by eminent domain or by the landowner's consent, all existing, lawful uses of the affected parcel of land may, if not otherwise allowed by this ordinance, be continued as non-conforming uses unless and until an independent termination event occurs.

2.7 CONDITIONAL USES

Where a use is designated as a conditional use in this Ordinance it must follow all of the provisions in this Ordinance and the Board of County Commissioners may require certain conditions of approval. See section 5.8 of this Ordinance.

2.8 PROHIBITED USES

Prohibited uses as defined in this Ordinance shall not be allowed and any person who maintains a prohibited use is in violation of this Ordinance.

2.9 COUNTY AND TOWNSHIP ROAD ACCESS

Access from County road must be approved by the County Road and Bridge Department.

2.10 ROAD SETBACKS

Setbacks shall apply to buildings, signs and structures. Roads are typically within Right-of-Ways (ROW) or road easements. Since these ROW and road easements can vary in their width the setback shall be measured from the ROW line or easement line, which defines the road corridor, and shall not be measured from the center line of the road.

State Highway setback – Setback of structures excluding advertising signs shall be a minimum of one hundred (100') feet from the ROW line, or easement line. Signs shall be setback as outlined in the zoning district in which they are located. When state or federal guidelines specify a minimum setback, the greater setback shall apply.

County Roads setback - Setback of structures over three (3) feet in height shall be a minimum of seventy-five (75') feet from the ROW line, or road easement line.

Private Road and Subdivision Road setback – Setback shall be measured from ROW line or road easement line and shall be as described in the zoning district. Property lines that extend to the centerline of a road, the setback shall be thirty-three (33') feet plus the setback as defined in the zoning district.

Section Line setback – All structures shall be setback from section lines a minimum of one hundred thirty-three (133') feet.

- 1) No visual obstructions higher than three (3') feet shall be allowed within one hundred (100') feet from each side of the intersection of

roads under the county jurisdiction and within thirty (30') feet of each side of the intersection of driveways, approach roads and county roads.

- 2) The minimum setback for utility poles shall be seventy-five (75') feet from the centerline of all county roads and township roads.

Gravel, Scoria Pit setback – All open pit operations shall be setback a minimum of one hundred (100') feet from a ROW or road easement line or one hundred thirty-three (133') feet from a section line whichever is greater.

When there is conflict between the setbacks listed above the greater setback shall apply.

2.11 PARKING STANDARDS AND REQUIREMENTS

Parking requirements are based on the square footage of the buildings on site. The square footage for oil and gas facilities shall be based on the square footage of the administration building and any additional office space within the facility.

- 1) Agriculture District – none required
- 2) Retail Commercial – 1 space per 250 square feet
- 3) Restaurant and Fast Food – 1 space per 100 square feet
- 4) Office – 1 space per 250 square feet
- 5) Warehouse – 1 space per 1000 square feet
- 6) Industrial and Manufacturing – 1 space per 500 square feet
- 7) Single Family Home – 2 spaces per home.
- 8) Multi-Family Housing – 2 spaces per unit
- 9) Work Force Housing – 1.2 spaces per bed
- 10) Public Building – 1 space per 300 square feet
- 11) Park and Recreational – 5 spaces per acre
- 12) Church – 1 space per 5 seats in auditorium or chapel
- 13) Theater - 1 space per 5 seats

- 14) Mobile Home Park – 2 spaces per trailer
- 15) Recreational Vehicle Park – 2 spaces per recreational vehicle
- 16) Parking stalls shall be a minimum of nine (9) feet wide and twenty (20) feet long.
- 17) Aisle in a parking lot shall be a minimum of twenty-five (25') feet wide for two-way traffic, or twenty (20') feet for one-way traffic.
- 18) As required all road approaches, driveways and parking lots shall be paved.

2.12 SCREENING, BUFFERING AND LANDSCAPING

2.12.1 Applicability

The screening, buffering and landscape requirements apply to following conditions:

- 1) The construction of any new principal structure for: commercial Industrial, institutional, or multi-family development.
- 2) Expansions of existing structures that increase the floor area by more than one thousand (1,000) square feet or ten (10%) percent of the existing structure (whichever is greater).
- 3) The installation of any new parking area or the expansion of any existing parking area by six (6) or more parking spaces.
- 4) A rezoning to a higher intensity use, or approval of a special permitted use to a higher intensity.

2.12.2 Exceptions

The following are exempt from the requirements of this section:

- 1) Agricultural land uses.
- 2) Changes in land use that do not require more than six additional parking spaces.
- 3) Buffer yards and parking lot perimeters which are naturally screened by topography or existing vegetation.
- 4) Planning Director may waive requirements in section 2.12 based on

site or soil conditions including but not limited to:

- a) Soil types on site that do not support plants as prescribed.
- b) Site security factors.
- c) Site safety factors.
- d) Absence of water on site.
- e) Other conditions as the Planning Director determines.

2.12.3 General Requirements.

Table 1: Planting Requirements

Type of Plan	Minimum Size at Time of Planting
Deciduous Trees	Caliper of 1 inch
Coniferous Trees	Minimum height of three (3) feet above grade
Shrubs	Minimum of 2 Gallon container size

- 1) **Ground Cover:** Exposed ground areas of parking lot perimeter strips and buffer strips which are not occupied by trees or shrubs shall be landscaped with grass, landscaping rocks, wood chips, or other landscaping material to be kept free of weeds.
- 2) **Plant Hardiness:** Plants must be rated to survive in the current USDA Plant Hardiness Zone designated for the McKenzie County area.
- 3) **Existing Plants:** Plants that exist on a site prior to development may be used to satisfy the landscaping standards of this section provided that they meet size, variety and locational requirements. They must be in good health and be adequately protected to ensure survival during and after site construction.
- 4) **Utility Line Interference:** Trees shall not be planted under utility lines when their ultimate, mature height may interfere with the lowest lines.
- 5) **Easements:** The landscape requirements shall not apply in easements for pipelines and utilities.

- 6) Fire Hydrants: No tree shall be planted within ten (10') feet of any fire hydrant.
- 7) Diversity: A variety of tree and shrub species shall be utilized. Not more than fifty (50%) percent of the required number of trees or shrubs may be comprised of any one (1) species.
- 8) Landscape Deadlines: All required landscaping shall be installed as soon as construction has been completed. For construction completions that occur after June 30th all plants shall be installed the following year prior to May 31st weather permitting.

2.12.4 Parking Lot Perimeter Landscaping

Applicability: Parking lot perimeter borders shall be located between adjacent roadway rights-of-way and parking areas in accordance with the following table:

Table 2: Parking Lot Perimeter Landscaping

Parking Lot Size	Planting Strip Min. Width	Minimum Planting Requirements
1-9	Five (5') feet	No additional landscaping required
10-50	Five (5') feet	1 tree & 5 shrubs per 5 parking stalls
51-250	Ten (10') feet	2 tree & 10 shrubs per 5 parking stalls

2.12.5 Buffer Yards

The purpose of buffer yards is to provide visual and physical separation of spaces; shield neighboring properties from the adverse effects of adjacent uses by reducing noise, dust, visual pollution, and glare between two lots. Buffer yards are not intended to separate mixed uses within a single development. Buffer yards are also not required between adjacent lots of the same land use.

- 1) Buffer yards shall be used solely for landscaping. No proposed building, building addition, parking area, trash receptacle enclosure, or any other type of physical land improvement (other than landscape features, walls, fences, or pedestrian connections) may be located in a required buffer yard. Buffer yard widths and density of vegetation increase proportionally with the degree of difference between two adjacent land uses as shown in Tables 3 and 4 below.
- 2) Buffer Yard Exceptions: For lots less than ten Thousand (10,000) square feet, the buffer yard need not exceed more than ten (10%)

percent of the total area of the site or more than ten (10%) percent of the width of the site.

- 3) When a new development is proposed for a property adjacent to an existing development of a different intensity land use, and the existing development occurred prior to buffer yard requirements, the new development, even if it is of lesser intensity, is responsible for installation of the buffer yard. The buffer yard will be located on the property that is being developed, not on the property of the existing development.
- 4) In situations where a buffer yard already exists but does not meet the current buffer yard requirements, the existing buffer yard may be used to satisfy a portion of the requirement for the current buffer yard standards. The width and vegetation density of an existing buffer yard shall be increased on the newly developing property to meet requirements.

Table 3: Buffer Yard Requirements

Land Uses	Single Family	Multi-Family	Mobile Home & RV	Commercial & Office	Institutional	Agricultural	Heavy & Light Industrial
Single Family	N/A	N/A	Light	N/A	N/A	N/A	Heavy
Multi-Family	N/A	N/A	Light	N/A	N/A	N/A	Med.
Mobile Home & RV	Light	Light	N/A	N/A	Med.	N/A	Med.
Commercial & Office	N/A	N/A	N/A	N/A	Light	N/A	Light
Institutional	N/A	N/A	Med.	Light	N/A	N/A	Heavy
Agricultural	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Heavy and Light Industrial	Heavy	Med.	Med.	Light	Heavy	N/A	N/A

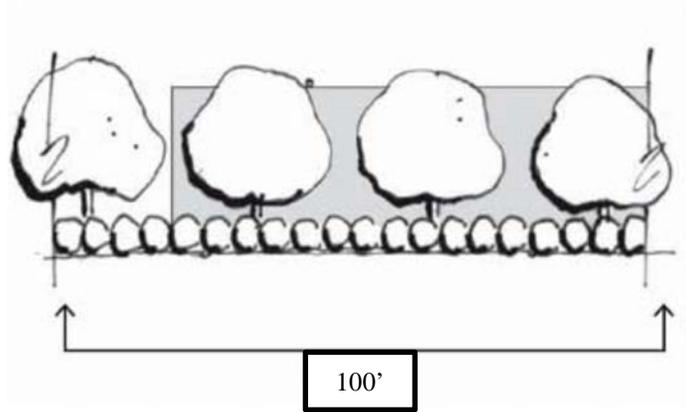
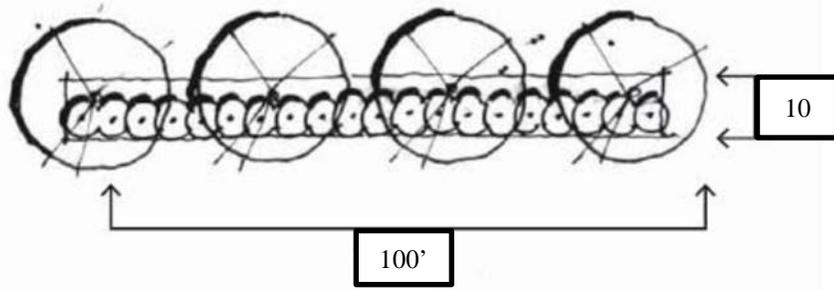
- 5) Where flaring of gas is occurring on a site and because of the

flaring activity there are difficulties in meeting the prescribed landscaping and screening requirements, the developer shall provide screening alternatives prepared by an engineer to be reviewed and approved by the Planning Director as an acceptable alternative.

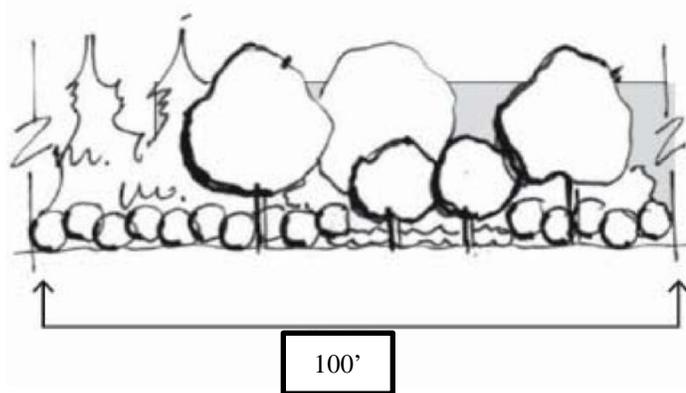
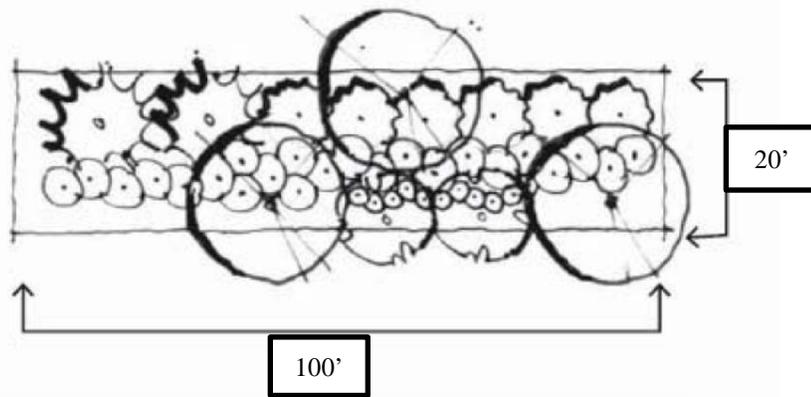
Table 4: Buffer Yard Details

Buffer Yard Requirements	Type of Buffer Yard		
	Light	Medium	Heavy
Minimum Width	10'	20'	25'
Berm Required	No	No	No
Trees per 100 Linear Feet	2 Deciduous & 2 Conifer	3 Deciduous & 3 Conifer	5 Deciduous & 5 Conifer
Shrubs per 100 Linear feet	10	20	25
Shrub Planting Requirements	Shall be planted in a line to create a continuous screen.	Shall be planted in a line or staggered under trees to create continuous screen.	Shall be planted in a line or staggered under trees to create continuous screen. All plantings shall be placed on the side of the berm facing the less intensive land use or the roadway with the exception of three deciduous trees, which shall be planted on the side adjacent to the more intensive land use.
Possible substitutions, must be approved by Planning Director	1 large coniferous tree may be substituted for 1 deciduous tree. No more than 50% of the trees may be substituted with conifers. A fence may be substituted for up to 50% of the shrub planting requirement. Remaining shrubs shall be placed on the side of the fence facing the less intense land use or the roadway.		1 large coniferous tree may be substituted for 1 deciduous tree and 4 shrubs. No more than 50% of the trees may be substituted with conifers. A solid masonry fence may be substituted for up to 50% of the shrub planting requirement. Remaining shrubs shall be placed on the side of the fence facing the less intense land use or the roadway.
Fence Requirement	No	6 feet high opaque fence.	6 feet high opaque fence or masonry wall.

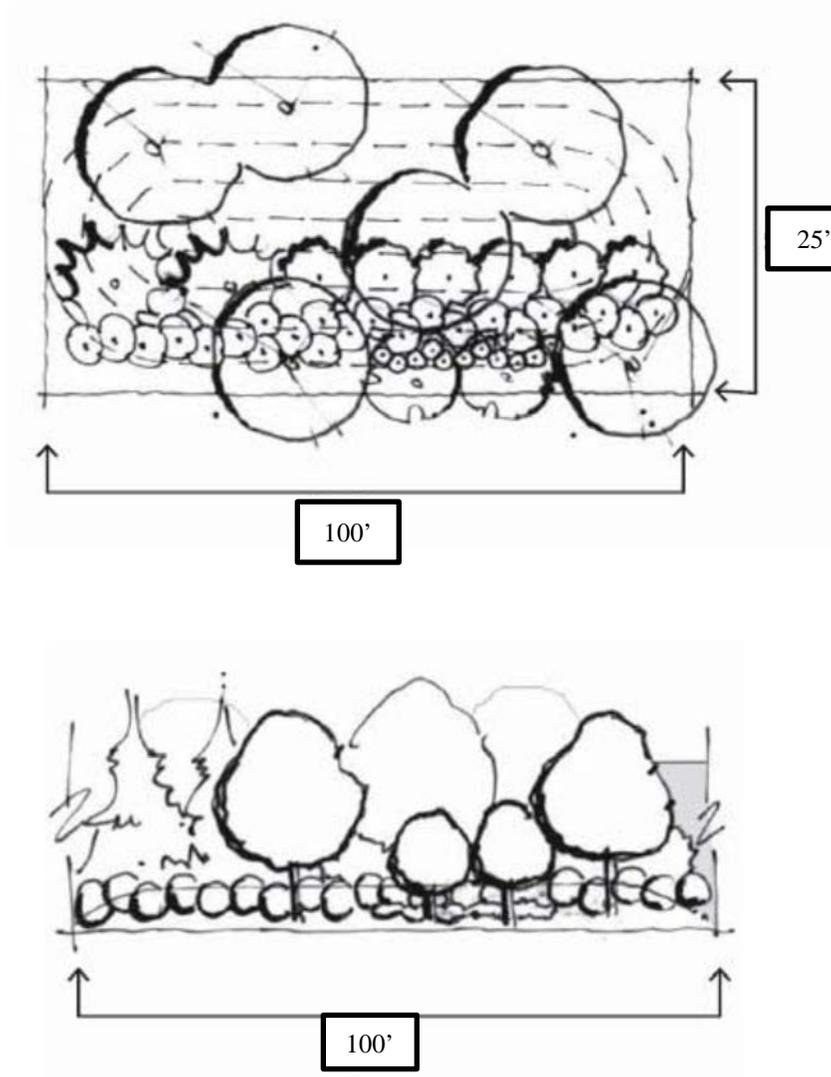
Light Buffer Yard



Medium Buffer Yard



Heavy Buffer Yard



2.12.6 Landscaping Plan Required

A landscape plan shall be required for all development. Landscape plans submitted for approval shall contain the following information:

- 1) North arrow and scale
- 2) Location of existing and proposed structures and parking areas
- 3) Drainage patterns
- 4) Location of easements

- 5) Location of retaining walls and fences
- 6) Location, size, and type of existing trees to be retained
- 7) The number, height, and caliper of trees to be used
- 8) The number of ground cover plants per unit area to be used
- 9) The locations where different plant types will be used
- 10) The common and scientific name of each plant to be used
- 11) Planting details

2.12.7 Fences

- 1) No site obscuring fence over forty-eight (48") inches in height shall be erected within the front yard of any lot used for residential purposes.
- 2) No permanent fence shall be constructed within a road right-of-way or within the confines of the ditch back slope.
- 3) Fences adjacent to agricultural land may use four (4) strand barbed wire with the approval of the Planning Director.

2.12.8 Screening of Outdoor Storage Areas and Trash Containers

- 1) Outdoor equipment storage areas, pipe yards, industrial and commercial storage areas which are visible from adjoining roadways shall be screened as outlined in section 2.12.1 and 2.12.2.
- 2) All trash containers for Multi-Family buildings in the R-2 and R-3 Districts shall be placed within a trash enclosure constructed of an opaque fence or wall not less than five (5') feet high.
- 3) In commercial districts, all trash containers shall be placed within a trash enclosure constructed of an opaque fence or wall not less than five (5') feet high.
- 4) All landscaping and buffering shall be maintained as approved and dead plants shall be replaced in a timely manner.

2.13 BONDS

Bonds are a mechanism used to protect the County from unnecessary financial problems caused by property abandonment, contract agreements and/or correcting violations.

2.13.1 Exceptions

The bonds outlined here may be waived if an applicant can show to the satisfaction of the County that the required bond duplicates the purpose of the state required bond.

Pipelines are exempt from the bond requirements. This exemption includes the portions of a pipeline that are brought to the surface for valves, maintenance or other necessary uses. Bonding for other surface structures and facilities are not exempt.

2.13.2 Reclamation Bonds

- 1) A reclamation bond is required for some allowed uses (as required specifically in certain zoning districts) and many conditional use permits (as outlined in section 5.8 of this Ordinance) and temporary site plans (as outlined in section 5.9) or other applications determined by the Planning Director.
- 2) The bond shall be for one hundred and fifty (150%) percent of a licensed engineer or the Planning Director estimate of the cost to remove all above ground structures, all underground structures to a depth of four (4') feet, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a predevelopment appearance, and re-seed the site with native grasses and vegetation.
- 3) The engineer's estimate of the reclamation cost shall be submitted with the application.
- 4) The cost estimate shall be subject to approval of the Planning Director.
- 5) The bond shall be presented to the Planning Director within sixty (60) days of the later of the following:
 - a) The Board of County Commissioners approval of the permit for which the bond is required and

- b) If any other county, state or federal permit, certificate, determination or approval is needed in order for the permittee to commence construction, the issuance of the last such permit, certificate, determination or approval. The permittee shall notify the Planning Director within thirty (30) days of the issuance of the last such permit, certificate, determination or approval, if applicable.

No construction or other activity may commence prior to presenting the bond to the Planning Director and the permit may be deemed null and void if the bond is not presented within the time required or if the bond expires, is cancelled or revoked, or otherwise becomes uncollectible by the County.

2.13.3 Construction Bonds:

- 1) A construction bond shall be required when a person has agreed to construct, repair, or build a road, building, structure, or other items for the benefit of the public or the County.
- 2) The construction bond may be released when the construction has been completed and approved by all parties.
- 3) If the bond is insufficient the Board of County Commissioners may institute appropriate legal or equitable action to recover the money necessary. All bonds deposited with the County, as required hereby, shall continue in effect until the improvements have been made and approved by the County.

2.13.4 Violation Bonds

A bond shall be posted when filing an application and the applicant has been notified that the land use applied for is in violation of this Ordinance. The applicant shall post a bond equal to one hundred fifty percent (150%) of the amount estimated by a licensed engineer and approved by the Planning Director, to be required to terminate the violation and bring the land or structure into compliance with this Ordinance.

2.14 DEDICATION OF LAND FOR STREETS

Whenever a parcel of land to be subdivided as a subdivision contains a street or public way, such street or alley shall be dedicated to the public at the location and details shown on the final plat. The developer or home owner's association is required to maintain all roads to and within a project unless the road has been designated by the County to be a county-maintained road. All non-section line

roadways shall be the responsibility of the subdivision developer. Nothing in this section shall require the county to build or maintain roads built on section lines.

2.15 AUTHORITY TO DO BUSINESS

No building, structure, or land shall be occupied unless the owners of record, owners not of record non-residential, tenants non-residential, occupants, and operators of the same are all the one of the following:

- 1) A living natural person who is legally capable of owning, renting, occupying, or operating the subject structure, or land and who has an address in the United States of America as shown in the office of the McKenzie County Recorder indexed to the subject land or as available to McKenzie County officials inquiring about the person's address at the location of the subject structure, or land.
- 2) An entity other than a natural person that has and at all times maintains a registered agent in North Dakota on file with the North Dakota Secretary of State and remains in good standing with both the North Dakota Secretary of State and the applicable government body regulating the business entity in the jurisdiction where it was organized.
- 3) A deceased natural person who, during his or her life, lifetime, complies with subdivision (1) above and whose estate has either not yet been admitted to probate in North Dakota or is currently admitted to probate in North Dakota.
- 4) An appropriate government entity authorized by North Dakota law to own, lease, occupy, or operate the subject building, structure, or land.
- 5) One of the forgoing acting as a guardian, conservator, or trustee for one or more beneficiaries who are all one of the forgoing in an arrangement recognized by North Dakota Law.

2.16 SKID UNIT PERMIT FEE

Pursuant to N.D.C.C. Ch. 57-02.4 the County imposes an annual fee of \$400.00 per unit for all skid units that are occupied in the county. The fee shall be for all units as defined in N.D.C.C. Ch. 57-02.4-01.

The fee shall be for units used for housing or a place of business on a extended temporary or permanent basis. The fee shall not be for temporary uses of less than 3 months or emergency temporary uses. The fee shall be placed in the County's general fund to offset the cost of services provided including but not limited to: policing, road maintenance and construction, social services, and general county services.

Every year each permitted Skid Unit is to display a reflectorized sticker indicating that the current yearly fee has been paid. Every year the permit stickers shall be obtained at the office of the McKenzie County Planning and Zoning Department upon completion of the Skid Unit Permit Fee Application and payment. The sticker shall be applied to the outside of the Skid Unit and be visible from the street access.

The fee is due on January 1st of each year the unit is occupied in the county or at the time of occupation if after January 1. The full fee is due for any part of the year the unit is occupied in the county and the fee shall not be pro-rated for partial years.

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

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 are 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-2 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

Preamble

The current McKenzie County Zoning Ordinance does not adequately protect the long-term investment of shooting ranges and other firearms facilities and does not adequately harmonize such uses with other uses of nearby parcels of land. This amendment replaces the existing regulations of all types of firearms facilities with an overlay district that is intended to harmonize and protect all uses of land in light of the unique nature of such facilities.

Amendment

New Section 3.12 of the McKenzie County Zoning Ordinance is hereby enacted, as follows:

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.

ARTICLE IV: SPECIAL PROVISIONS

4.1 SEWAGE DISPOSAL

Certain soil types in McKenzie County have severe limitations for soil absorption disposal systems (septic tanks), as is indicated in the maps and tables of the Natural Resources Conservation Service survey of McKenzie County soils. Said soils shall be avoided when designing a septic tanks system. If said soils cannot be avoided, proof that adequate precautionary steps shall be taken shall be provided to the Planning Director before construction is commenced.

To protect the public health, to control water pollution, and to reduce nuisance and odor, all subdivision development within the county shall be connected to an on-site sewage system approved by North Dakota Department of Health or the Upper Missouri Health District whichever has jurisdiction of the specific site. The construction and use of privies, outhouses, and cesspools in developments in the County is prohibited.

All soil absorption systems shall adhere to the rules and regulations of the Upper Missouri Health and North Dakota Department of Health guidelines.

4.2 SIGNS AND ADVERTISING

4.2.1 Intent

The intent and purpose of these regulations is to establish a reasonable framework for signage and to facilitate easy and agreeable communication, at the same time recognizing the need to protect the safety and welfare of the public, to maintain attractive appearance in the community and to allow adequate business identification. It is the further intent of these regulations to maintain a balance between the commercial needs of business enterprises and their visual impact on residents and visitors of the County.

Unless otherwise noted herein the County follows the regulation as outlined in N.D.C.C. Ch. 24-17.

4.2.2 Compliance Requirement

- 1) Signs are a conditional use and must be approved.

- 2) No person, including any owner, lessee, or other occupant of any premises, shall erect, construct or display, or permit the erection, construction, or display of any sign within the County, other than in accordance with the provisions of this chapter. All signs, unless exempted herein, must be licensed by the County.
- 3) The Planning Director shall examine all applications for permits for the erection of signs and issue licenses for new signs and for continued use of signs which conform to the requirements of this chapter. He shall review all applications for permits with any accompanying plans and documents, make routine inspections of signs and make such reports as the Planning Commission may require.

4.2.3 Prohibited Signs

- 1) Signs of such design and location that they interfere with, compete for attention with or may be mistaken for a traffic signal.
- 2) Signs erected or located on, within or over any public right-of-way, unless specifically permitted herein.
- 3) Portable signs.

4.2.4 Exemptions

- 1) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs, and such temporary emergency signs as may be erected by the government or public utility employees in carrying out their official work.
- 2) Historic site and historic building plaques and markers.
- 3) Signs used on property warning the public against trespassing, parking, or soliciting thereon.
- 4) Temporary safety, traffic, directional, and warning signs approved by the governmental agency having jurisdiction.
- 5) Signs required by any provision of law or signs deemed necessary to the public welfare by the governing body.
- 6) For any residential premises for sale or rent, one temporary non-illuminated "for rent" or "for sale" sign not over six square feet in area and "open house" signs not over four-square feet in area per sign.

- 7) A nameplate sign, situated within the property lines and bearing only the name and address of the principal occupant, provided that the sign does not exceed twelve (12") inches in height and twenty-four (24") inches in length. An additional sign, of the same size (12"x 24"), may be erected for a legally permitted home occupation.
- 8) The American flag, and governmental flags displayed by recognized governments or governmental agencies, provided such flags are displayed in a respectful manner and in accordance with established or recognized rules, standards and criteria.
- 9) Temporary signs no larger than five (5) square feet of sign area, advertising the sale of farm products produced on the premises, or advertising auctions or events of charitable, political or public service groups.
- 10) For the purposes of public safety, the County and municipalities within the county may be exempted from these regulations.

4.2.5 General Sign Provisions

- 1) No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words "STOP," "LOOK," "DRIVE-IN," "DANGER," or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.
- 2) Sign lighting. Illuminated signs may be directly or indirectly lighted, provided that they comply with the following standards:
 - a) Illumination of directly illuminated signs shall be of the diffused lighting type.
 - b) Indirectly illuminated signs with external spot or flood lighting must be arranged such that the light source is directed away from passersby. The light source must be directed against the sign such that it does not shine into adjacent property or cause glare for motorists and pedestrians.
 - c) Floodlights or spotlights used for the illumination of signs, whether such lights are attached to or separate from the building, shall not project light beyond the sign.

- 3) Places of worship, schools and other nonprofit, institutional facilities, where permitted, may display one freestanding and/or one wall sign not exceeding thirty-two (32) square feet in total area identifying the name of the facility and pertinent information relating to its activities. The freestanding sign shall be located no closer than fifteen (15') feet to a property line or street right-of-way line and shall not exceed six (6') feet in height.
- 4) Multi-family residential property or work force housing developments may display one freestanding identification sign at each street entrance to the development, designating only the name of the development, the address and name of the owner and the names of any buildings located therein, provided that the area of one side of said sign shall not exceed twenty-four (24) square feet and that the sign is set back ten (10') feet from the front property line.
- 5) Advertising signs are not allowed in any road right-of-way or road easement and shall be placed a minimum of ten (10') feet beyond said right-of-way or easement.
- 6) A maximum of one monument sign is permitted at each road frontage where there is vehicular access.
- 7) Signs providing directions for allowed uses shall not be larger than forty (40) square feet in area.
- 8) Signs providing directions for conditional uses shall not be larger than forty (40) square feet.
- 9) On-site advertising signs shall not be larger than ninety-six (96) square feet.
- 10) Off-premises signs are only allowable in Industrial and Commercial Districts and shall be limited to three hundred seventy-eight (378) square feet in size.
- 11) No sign may be permitted larger than four (4) square feet for a home occupation.
- 12) Billboards along state and federal highways shall be separated a minimum of one thousand (1,000') feet and shall be a maximum of seven hundred and fifty (750) square feet.

- 13) Billboards shall not be allowed in the County except within two (2) miles of the Watford City ETA boundary, or within one (1) mile of the Arnegard, Alexander or Keene boundaries or ETA.
- 14) Signs in the Commercial and Industrial Districts shall be limited to:
 - a) One general identification sign per business not exceeding fifty (50) square feet in area which may be wall, pedestal, ground, or projecting type;
 - b) Temporary signs including "For Sale", political campaign signs, greeting signs, and rally signs not exceeding fifty (50) square feet in area;
 - c) Directory and advertising signs in the Agricultural, Commercial, and Industrial districts shall not be larger than ninety-six (96) square feet in area and placed closer than six hundred (600') feet apart.
- 15) Placement of signs shall be subject to the setback requirements of the zoning district in which they are located.
- 16) Billboards with changing messages shall have a fifteen (15) second delay between messages.
- 17) No signage may advertise adult entertainment (sexually oriented businesses) or similar uses.
- 18) Signs if allowed in Residential Districts are limited to ten (10') feet in height.
- 19) Signs in Commercial, and Industrial Districts shall be limited to forty-five (45') feet in height.

4.2.6 Construction Requirements

- 1) Material. Signs shall be constructed of high-quality materials and completed with durable finishes.
- 2) Codes. All signs shall conform to the latest edition of the applicable building and electrical codes.
- 3) Lighting. External lighting shall be shielded from view and shall be focused upon the sign to avoid stray lighting.

- 4) Sanitation. Property surrounding any ground sign shall be maintained in a clean and sanitary condition. It shall be free from weeds, rubbish, and flammable material.
- 5) Responsibility for compliance. The owner of the parcel on which a sign is placed and the tenant are each fully responsible for the condition and the maintenance of the sign, and the area around the sign.

4.2.7 Non-Conforming Signs

- 1) This chapter is intended to encourage the eventual elimination of signs which do not comply with this chapter.
- 2) Nonconforming signs must comply with the regulations of this chapter if the use of the sign is abandoned for longer than six months.
- 3) Nonconforming grandfathered signs may remain in an agricultural, commercial or industrial zone for their normal life, subject to reasonable maintenance and repair. Signs which were erected without a sign permit and which are prohibited by this chapter shall be removed.
- 4) Continuance. A nonconforming sign may be continued if it is maintained in good condition. It shall not, however, be replaced by another nonconforming sign. A nonconforming sign may not be structurally altered so as to prolong the life of the sign.
- 5) Nuisance. An unsafe or abandoned sign is declared a public nuisance, which shall be abated by the owner within 30 days of receiving notice from the Building Inspector.

4.2.8 Variances and Appeals

- 1) Variance. The Planning Commission shall have the authority to vary the requirements and standards of these sign regulations in providing a variance is consistent with the intent.
- 2) Any variance granted by the Planning Commission which is not exercised by obtaining a corresponding sign permit within one year from the effective date of the variance shall be null and void.
- 3) Appeals. Decisions of the Planning Commission can be appealed to the Board of County Commissioners. All appeals shall be made within 30 days from the date of the decision of the Planning Commission.

4.3 COMMERCIAL FEEDLOTS

These regulations are designed to allow feedlots for feeding of livestock, furbearers, and poultry at the same time to protect the adjoining uses against odor, run off, and other incompatible characteristics associated with feedlots.

4.3.1 General Feedlot Requirements

- 1) All feedlots as defined by this Ordinance are only permitted as conditional uses subject to the provisions of this Ordinance and the requirements of the North Dakota Department of Health and Federal EPA requirements.
- 2) All feedlots shall be designed and constructed with all reasonable preventative measures to avoid surface run-off including construction of sealed collection and retention ponds.
- 3) Where appropriate, there shall be sufficient drainage to avoid standing effluents from pollution of ground and surface water.
- 4) Feedlots shall not be placed in the floodplains.
- 5) The applicant, as part of the site approval application, shall submit a plan for removal and disposal of the liquid and solid waste generated by the feed lot.
- 6) No feedlot shall be located nearer than one-half mile from a residence other than the owner/operator and shall follow the setbacks as shown in section 4.3.2.

4.3.2 Setback Distances for Feedlots

Feedlot setbacks from any occupied dwelling, residential zone, park, cemetery, church, or school shall be as follows:

Number of Animals in Feedlot	Hog Operations	Other Operations
100-299	1 mile	0.50 mile
300-999	1.5 miles	1 mile
1,000 or more	2.5 miles	2 miles

4.4 SANITARY LANDFILLS AND WASTE MANAGEMENT FACILITIES

4.4.1 Solid Waste Disposal and Management

Solid waste disposal and management facilities as regulated by this section shall include all facilities for the incineration or disposal of solid waste or solid waste residue which are required to be permitted under statute or rule by the North Dakota Department of Health. A solid waste disposal facility may only be allowed in compliance with zoning district requirements and provided that:

- 1) It is located at least one (1) mile from a residential zone unless written approval is obtained from the owners of any residence within that area.
- 2) It is continuously licensed and approved by the North Dakota Department of Health as to location and operation.
- 3) There is no substantive evidence that the facility will endanger the public health or the environment.
- 4) The Conditional Use Permit will be valid for a period of time set by the Board of County Commissioners. For the permit to be approved, all property owners within one mile of the proposed location must be notified of the time and place of the public hearing on a permit request.

4.4.2 County Ordinance and Procedures

This Ordinance adopts by reference the solid waste provisions of N.D.C.C. Ch. 11-33-20 and N.D.A.C. Title 33-20, to assure meeting the purposes of this Ordinance and the 2025 McKenzie County Comprehensive Plan. All waste management facilities must comply with all applicable state and federal regulations governing waste management facilities.

4.4.3 Solid Waste Site Approval Requirements

All solid waste sites require a review and approval by the Board of County Commissioners.

4.4.4 Waste Storage

- 1) All waste material shall be stored in a manner that complies with state and federal regulations and shall meet the requirements of the County.
- 2) Solid waste materials shall not be stored on public or private property for more than forty-five (45) days without approval of the County.

- 3) Storage of solid waste shall be confined to structures and landfills designed specifically for such purpose and shall be secured by appropriate fences and gates. The openings to the buildings and structures including, but not limited to, conveyors, doors, ramps and other points of access for use by transport or moving vehicles when not in use shall be closed to minimize the impact from odor and concentration of insects or rodents.

4.4.5 Asbestos Waste

Asbestos waste shall be disposed of in accordance with the applicable rules and regulations of the North Dakota Department of Health and the hazardous waste requirements of this Ordinance.

4.4.6 Hazardous Waste

- 1) Containers having hazardous waste shall be dated and marked to designate the content as toxic, explosive, or otherwise hazardous.
- 2) No person engaged in the operation of solid waste landfills, resource recovery or solid waste processing facilities may knowingly store, treat, handle, or dispose of hazardous waste in amounts in excess of quantities normally found in household waste unless approved by the North Dakota Department of Health.
- 3) No person shall place hazardous waste or dispose of hazardous waste within the County without approval of the County.

4.4.7 Incineration and Energy Recovery

- 1) Applicant shall meet the requirements of these regulations and all applicable rules of the State.
- 2) During operation, the operator shall comply with the following requirements:
 - a) Any discharges to the air, or to surface or ground water shall meet all applicable state and federal regulations.
 - b) Maintain permanent records for inspection on the quantity and type of material incinerated, the quantity of ash residue and schedule of plant operation.
- 3) No person shall install, operate, or incinerate waste materials as a commercial operation without first obtaining a permit from the County.

4.4.8 Major Appliances

Disposal of major appliances will be in accordance with the North Dakota Department of Health regulations.

4.4.9 Pesticide Waste

- 1) Any person who handles surplus agricultural pesticides and pesticide containers shall comply with applicable federal rules and regulations of the North Dakota Department of Health.
- 2) Surplus pesticides may not be discarded in any manner, including land filling, which endangers humans, animals, and the environment.

4.4.10 Problem Waste Materials

- 1) Any person selling lead-acid batteries at retail or wholesale is required to accept and dispose of, at his own expense, lead acid batteries from customers who purchase new lead acid batteries.
- 2) Disposal of lead, batteries or used oil will be in accordance with State law.
- 3) No person shall dispose of regulated infectious waste in a solid waste landfill.

4.4.11 Waste Tires

- 1) Waste tire collectors and processors, excluding the following persons, shall obtain a permit from the County:
 - a) Retail tire sellers.
 - b) Tire retreading operations.
- 2) Waste tire collectors and processors shall meet all requirements of the North Dakota Department of Health.
- 3) Waste tires shall be stored in a manner that will not create a nuisance, blight, health hazard or fire hazard.
- 4) Waste tires shall not be stored or disposed of in any stream, wetland, gully, floodplain or shore-land.

4.4.12 Industrial Waste

- 1) Any person who handles industrial waste shall comply with all applicable state and federal regulations governing industrial waste.
- 2) Industrial waste may not be discarded in any manner including landfilling that endangers humans, animals and the environment.

4.4.13 General Solid Waste Standards

- 1) A minimum horizontal separation of fifty (50') feet must be maintained between new or lateral expansion of solid waste management units or cells and any above ground or underground pipeline or transmission lines.
- 2) No person shall dispose of waste of any type in the following areas:
 - a) Aquifers, channels, ravines, or other waterways.
 - b) Critical habitats for endangered or threatened species of plant, fish, or wildlife.
 - c) In an area that could adversely impact an aquifer, aquifer recharge area horizontally from the ordinary high-water elevation of any surface water or wetland, any local, state or national park.
 - d) Public water supply designated wellhead protection area.
 - e) Where geological or man-made features may result in failure of the structural integrity of the facility.
 - f) Within a one-hundred-year floodplain.
- 3) No solid waste facility or lateral expansion shall be located within ten thousand feet of any commercial airport runway or five thousand feet of any general aviation airport runway.
- 4) No solid waste facility shall be located in areas that result in impacts on human health or environmental resources or in areas unsuitable because of reasons of topography, geology, hydrology, or soils.
- 5) Sites for a new solid waste facility, or for lateral expansion of, or for municipal waste landfills, or for industrial waste landfills shall have

favorable physical conditions. Sites shall have low permeability to prevent movement of contaminants.

4.5 HOME OCCUPATIONS, STANDARDS FOR APPROVAL

4.5.1 Home Occupation in Residential Districts:

When a home occupation is located in a residential district it shall meet the following minimum standards:

- 1) The occupation shall be limited to the dwelling and the area of the occupation shall not exceed twenty-five (25%) percent of the main floor area, but not including basement or garage floor space.
- 2) Structural changes shall not be made in the dwelling, unless a building permit is obtained.
- 3) Employees are limited to two (2) full-time or four (4) part-time personnel besides owners without a conditional use permit.
- 4) The occupation shall not adversely affect the character of the residential use permitted in the district in which it is located.

4.5.2 Farm Home Occupations:

When a home occupation is in an agricultural district it shall meet the following minimum standards:

- 1) Rural home occupations may be located in a separate non-residential or farm building provided any building principally used for the home occupation shall not exceed one thousand five hundred (1,500) square feet. The minimum lot size for a separate non-residential building shall be one (1) acre.
- 2) Employees are limited to two (2) full-time or four (4) part-time personnel, without a conditional use permit.
- 3) Structural additions shall be limited to twenty-five (25%) percent of the main floor area of the dwelling, but not including basement or garage floor area. A building permit shall be required.

4.6 ADULT ENTERTAINMENT CENTERS

- 1) An adult entertainment center shall not be located within two thousand six hundred and forty (2,640') feet of any religious institution, cemetery, school, park, recreation area or an established residence. They shall be located only in an Industrial District.
- 2) An adult entertainment center may not be licensed to sell or dispense alcohol and may not be located within two thousand six hundred and forty (2,640') feet from any premises at which the sale or dispensing of alcohol is licensed.
- 3) An adult entertainment center shall not be located within one thousand three hundred and twenty (1,320') of any other adult entertainment center.
- 4) An adult entertainment center must prohibit entrance by persons less than eighteen (18) years of age.
- 5) An adult entertainment center may not display any signs visible from the exterior of the adult entertainment center, except for signs identifying it as an adult entertainment center, as an adult book store, adult entertainment facility, adult cinema, or combination thereof.
- 6) No material depicting specified sexual activities or specifying anatomical areas shall be visible from the exterior of an adult entertainment center.
- 7) The business premises of an adult entertainment center that are generally open to its patrons are open equally at the same time to members of any law enforcement agency (without charge) who may wish to enter thereon provided the entry is in the course of the discharge of the law enforcement officer's duties.

4.7 WIND ENERGY FACILITY

4.7.1 Purpose

The purpose of the provision is to provide a regulatory framework for the siting, construction and operation of wind energy facilities in the county, subject to reasonable restrictions, which will preserve the safety and well-being of the residents, while allowing equitable and orderly development of wind energy facilities.

4.7.2 Regulatory Framework

- 1) Wind energy facilities require a conditional use permit and are subject to the restrictions and conditions of this Ordinance.

- 2) Principal or Accessory Use - A different existing use or an existing structure on the same lot shall not preclude the installation of a wind energy facility or a part of such facility on such lot. Wind energy facilities that are constructed and installed in accordance with the provisions of this Ordinance and State requirements shall not be deemed to constitute expansion of a nonconforming use or structure.
- 3) Applicability - The requirements of this Ordinance shall apply to all wind energy facilities with one or more wind turbines rated at fifty (50) kilowatts nameplate capacity or larger constructed after the effective date of this Ordinance. No operation of an existing wind energy facility shall be allowed without full compliance with this Ordinance and its conditional use permit, and no modification or alteration of an existing wind energy facility shall be allowed without issuance of a new conditional use permit pursuant to section 5.8 of this Ordinance.

4.7.3 General Requirements for Wind Energy Facilities

- 1) Appearance, Lighting, Facility Footprint, Agricultural Operations, Roads and Power Lines.
 - a) Each wind turbine shall be marked with a visible identification number to assist with provision of emergency services, and the permittee shall file with local fire departments, law enforcement and the county emergency management coordinator a wind energy facility map identifying wind turbine locations and numbers.
 - b) Roads accessing the wind energy facilities may be required by the County Engineer and all roads must be constructed to county standards. This shall not apply to private access roads and drives that are not generally used by the public.
 - c) The permittee shall ensure that, following completion of construction of a wind energy facility, county roads will be repaired or restored to a condition satisfactory to the County Engineer.
- 2) Setbacks from wind turbines shall be a distance not less than two thousand six hundred and forty (2,640') feet from the nearest occupied dwelling, commercial building or publicly-used structure or facility.
- 3) The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than fifty (50') feet.

4.7.4 Reclamation of Property

Within one hundred and eighty (180) days of termination or abandonment of leases or easements for a wind energy facility in the county, the permittee shall, at its expense, comply with the following decommissioning requirements:

Decommissioning and site reclamation includes dismantling and removal of all towers, turbine generators, transformers, and overhead cables; removal of underground cables to a depth of four (4') feet; removal of foundations, buildings and ancillary equipment to a depth of four feet and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction. The site must be restored and reclaimed to the same general topography that existed prior to the beginning of the construction of the wind energy conversion facility. Areas disturbed by the construction of the facility and decommissioning activities must be graded, top-soiled, and reseeded according to Natural Resource Conservation Service technical guide recommendations and other agency recommendations, unless the landowner requests in writing that the access roads or other land surface areas be retained.

To ensure compliance with these regulations the permittee shall post a reclamation bond per the standards set forth in section 2.13 of this Ordinance.

4.8 WORK FORCE HOUSING

Work force housing is sometimes necessary to support cycles of industrial growth without building excessive housing for the reasonable long-term needs of the County's population. The Board of County Commissioners will review and analyze this need annually. Work force housing may be approved as a conditional use in Agricultural, Commercial, Light Industrial and Industrial districts.

4.8.1 Application for Work Force Housing

In addition to the standard requirements of a Conditional Use Permit an application for work force housing shall include:

- 1) A description of the units together with an emergency 911 approved numbering system.
- 2) A description of how the proposed units are set and or anchored.

- 3) A statement of road construction and maintenance within the facility and accessing the facility. The County Engineer may require the paving of roads to access the site.
- 4) The name and address and contact information of the on-site manager. It is the applicant's responsibility to keep the Planning Department informed at all times who the current on-site manager is and a 24/7 emergency contact number.
- 5) Plot plans drawn to scale showing housing units, additional structures, setbacks, utilities, drainage, ingress and egress, screens, buffers, landscaping, site amenities and fencing.
- 6) Unit spacing shall be a minimum of fifteen (15') feet between units.
- 7) On-site security plan.
- 8) Fire and emergency evacuation plan.
- 9) Copy of permits issued by the North Dakota Department of Health shall be presented with the conditional use permit application including water, refuse disposal plan, and septic or sewer discharge plan.
- 10) A copy of the closure plan.
- 11) All work force housing developments shall post a reclamation bond per the standards set forth in section 2.13 of this Ordinance.
- 12) Parking requirements and standards shall follow section 2.11 of this Ordinance.
- 13) Any additional information deemed necessary.

4.8.2 Housing Types

There shall be no mixed housing types in a work force housing facility. The housing units approved for a facility shall be of a homogeneous nature. Standards for trailer parks as outlined in in section 4.14 shall be followed for trailers and skids. Standards for recreational vehicle parks as outlined in section 4.15 shall be followed for RV parks.

4.9 OIL AND GAS TRANSMISSION LINES – ADDITIONAL CONDITIONS

- 1) The applicant must abide by all state and federal regulations including but not limited to:

- a) The oil or gas transmission line must be located at least five hundred (500') feet from any occupied residential structure or waiver from the property owner shall be required.
 - b) The applicant shall limit sediment runoff from the site by use of perimeter controls on downslope portions of the site (e.g. silt fence) and limit channelized erosion in ditches, swales, and adjacent natural water bodies. The site shall be restored and stabilized to pre-project conditions.
 - c) The applicant shall maintain weed control.
 - d) Control garbage on the site at all times.
 - e) Reseeding disturbed area with appropriate grass mixtures.
- 2) If any easement or right-of-way is obtained in the County through eminent domain pursuant to N.D.C.C. Ch. 49-19-12, the applicant shall appear before the Board of County Commissioners to provide notice of the use of eminent domain. Revocation of a conditional use permit for the use of eminent domain is prohibited.
- 3) Conditions of approval for oil and gas transmission lines shall include:
- a) The applicant shall obtain any required building permits for proposed above-ground structures as may be required by the Planning Department.
 - b) All above ground structures shall be painted earth tones to blend into the surrounding environment.
 - c) The applicant shall provide the Planning Department with all State and Federal approvals, along with any violation notices relating to the construction of the pipeline.
 - d) The applicant shall control dust and tracking during construction of the pipeline and shall not track dirt, rocks, or debris onto any road or create a nuisance to the neighboring property owners and the public.
 - e) All lighting on site during construction shall be downward facing and shall not glare on adjacent property owners or the public travel ways.
 - f) An emergency plan shall be submitted and updated, as needed, with the County Emergency Manager so that first responders understand what risks are present on site.

- g) The applicant shall provide the Planning Department with electronic files of the as-built surveys of the pipeline corridor and facility boundaries within one hundred and twenty (120) days of construction being completed.

4.10 REGULATION OF FRESHWATER DEPOTS, PIPELINES, AND PONDS

The conditions of approval of a conditional use permit for a Freshwater Depot, Freshwater Pipeline, or Freshwater Storage Pond shall include, at a minimum, the following:

- 1) A sign, four feet by eight feet (4' x 8'), that identifies the company name, project name, site address, and name and phone number of the emergency contact individual. The sign shall be visible from the public road providing access to the site and shall meet the signage requirements of this Ordinance.
- 2) For a Freshwater Depot or Freshwater Storage Pond, the application must include a plan to fence the site so as to prevent livestock and unauthorized persons from accessing it. The owner and operator of the site shall construct and maintain a fence that meets or exceeds the design submitted with the application. 6' Chain Link Fence shall be installed when in close proximity to residential subdivisions, residences, schools, daycare, or other areas at the discretion of the Planning Director. 4 Strand Barbwire Fence shall be installed when adjacent to Agricultural Zoning or when 6' Chain Link Fence is not required.
- 3) The owner and operator of the site shall maintain weed control of the site.
- 4) The owner and operator of the site shall maintain garbage control of the site.
- 5) If the facility will be capable of storing 50 acre-feet of water or more, the applicant must submit proof of approval by the State Water Commission with the application.
- 6) During construction the owner and operator of the site shall maintain dust control on all roads accessing a Freshwater Depot, Freshwater Storage Pond, or staging area of a Freshwater Pipeline. At the discretion of the Planning Director, after construction and prior to use of facilities that will generate high traffic, dust control measures must be applied at least one-quarter (1/4) mile in each direction of all access points to the site and must be applied each year prior to May 31 and again before August 31. If the Planning Director determines that dust

control measures are required the owner and operator of the site shall submit to the Planning Department receipts or other appropriate proof each time dust control is applied.

- 7) The owner and operator shall limit sediment runoff from the site by use of perimeter controls on downslope portions of the site (e.g., a silt fence) and limit channelized erosion in ditches, swales, and adjacent natural water bodies. A Storm Water Pollution Prevention Plan shall be submitted if required by State or Federal regulations.
- 8) At the termination of the use, the owner and operator must restore and stabilize the site to pre-project conditions.
- 9) The applicant shall submit with the application an estimate for the costs of reclamation of the site to restore and stabilize it to pre-project conditions. Such estimate must be prepared and signed by a registered civil engineer.
- 10) The owner and operator shall, within sixty (60) days after the Board of County Commissioners approves the permit, submit a reclamation bond to the Planning Department that meets the standards set forth in Section 2.13 of this Ordinance. The reclamation bond must be maintained at all times until final reclamation of the site has been approved in writing by the Planning Director.
- 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.
 - b) The liner of the pond, if any, will have a service life of no less than 20 years.
 - 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, successors, and assigns for all claims, liabilities, costs, and attorney fees arising from or related to the pond.

- 12) Within one hundred twenty (120) days after completion of construction, the owner and operator shall provide the Planning Department with an electronic file containing the as-built surveys of all above- and below-ground equipment and pipelines.

4.11 COMMUNICATION TOWERS – ADDITIONAL CONDITIONS

Condition of approval for communication towers shall include but not limited to:

- 1) A sign four feet by eight feet (4x8) that identifies the company name, project name, site address and emergency contact name and phone number. The sign shall be visible from the road and shall meet the signage requirements of this Ordinance.
- 2) The applicant shall maintain access roads and the site for emergency vehicles to be able to access and maneuver around the site in all types of weather.
- 3) The applicant shall obtain a building permit for any proposed above- ground structures as required by the Planning Department.
- 4) The applicant shall not deposit any snow or water onto neighboring properties and dispose of storm water onsite through an approved engineering method.
- 5) The applicant shall design the storm water and culvert system to convey a twenty-five (25) year event.
- 6) The applicant shall maintain weed control.
- 7) The applicant shall allow space on the tower for a dish, antenna (or other device) to be used by emergency services.

4.12 ELECTRICAL TRANSMISSION LINES – ADDITIONAL CONDITIONS

Condition of approval for electrical transmission lines shall include but not limited to:

- 1) The applicant shall obtain a permit from the County Road and Bridge Department for any transmission line that is within a section easement or road right-of-way.
- 2) The applicant shall limit sediment runoff from the site by use of perimeter controls on downslope portions of the site (e.g. silt fence) and limit

channelized erosion in ditches, swales, and adjacent natural water bodies. The site shall be restored and stabilized to pre-project conditions.

- 3) All above ground structures shall be painted earth tones to blend into the surrounding environment, wood and galvanized poles and structures do not need to be painted.
- 4) The applicant shall maintain garbage control during construction.
- 5) The applicant shall maintain weed control around all disturbed land adjacent to any tower.
- 6) The applicant shall reseed all disturbed areas with appropriate grass mixture to minimize erosion throughout the easement area after installation of transmission line.

4.13 ELECTRICAL SUBSTATIONS – ADDITIONAL CONDITIONS

Condition of approval for electrical transmission lines shall include:

- 1) A sign four feet by eight feet (4x8) that identifies the company name, project name, site address and emergency contact name and phone number. The sign shall be visible from the road and shall meet the signage requirements of this Ordinance.
- 2) The applicant shall maintain access roads and the site for emergency vehicles to be able to access and maneuver around the site in all types of weather.
- 3) The applicant shall obtain a building permit for any proposed above-ground structures as required by the Planning Department.
- 4) The applicant shall not deposit any snow or water onto neighboring properties and dispose of storm water onsite through an approved engineering method.
- 5) The applicant shall design the storm water and culvert system to convey a twenty-five (25) year event.
- 6) All above ground structures shall be painted earth tones to blend into the surrounding environment, wood and galvanized poles and structures do not need to be painted.
- 7) The applicant shall maintain garbage control within the site at all times.
- 8) The applicant shall maintain weed control.

4.14 MOBILE HOME PARKS

Mobile home parks are an allowed use in the R-2, R-3 zoning districts, but must follow the standards and guidelines herein.

4.14.1 License required.

All mobile home parks shall obtain the appropriate licenses from either the North Dakota Department of Health or the County if the County receives authorization from the State to inspect and license mobile home trailer parks

4.14.2 Design Standards - Mobile Home Parks.

Mobile home parks shall follow these design standards:

- 1) The park must be established and maintained upon dry, well-drained ground. Any natural sinkholes or collection or pool of water must be artificially drained and filled.
- 2) The park shall contain a minimum of five (5) acres of land.
- 3) The maximum density shall be seven (7) units per gross acre.
- 4) Each mobile home shall be placed on a lot with minimum dimensions of fifty feet by one hundred feet (50'x100') with a minimum setback of ten (10') feet from any interior street. No portion of any mobile home shall be less than twenty (20') feet from any other portion of another mobile home.
- 5) Each unit shall be placed on a stand or piers that provide a firm foundation for anchoring purposes and must be approved by a North Dakota certified inspector.
- 6) An adequate supply of potable and safe drinking water must be provided. Water from other than a municipal supply may not be used until inspected, tested, and certified by the North Dakota Department of Health.
- 7) Sewage system must meet North Dakota Department of Health requirements.
- 8) All garbage and refuse must be stored in metal fly proof containers, and the contents removed and disposed of on a regular basis.

There shall be a trash receptacle no further than one hundred and fifty (150') feet from any trailer lot.

- 9) The mobile home park operator shall have garbage pick-up weekly.
- 10) Each park shall have roadways or streets wide enough to facilitate the movement of traffic within the park. The owner is responsible for road construction, maintenance, and snow removal.
- 11) All roads within the park shall be to County standards and approval of the county engineer.
- 12) Each mobile home park shall have adequate fire protection. All parks shall provide a ten thousand (10,000) gallon tank centrally located for fire flow. Tanks shall not be more than three (300') hundred feet from the furthest trailer; additional tanks may be required to fulfill this requirement. The tank shall be insulated or buried to prevent freezing.
- 13) Each mobile home park containing twenty-five (25) or more lots shall provide open space of ten (10%) percent of the total park area and shall include playground equipment. If an applicant can demonstrate a compelling reason why he/she should not comply with the requirements of this section the Board of County Commissioners may approve an alternative method.
- 14) Landscape shall be required as outlined in section 2.12 of this Ordinance.
- 15) Mixed use facilities are prohibited. Only HUD mobile homes are allowed in a mobile home park. Recreational vehicles are prohibited.
- 16) Trash barrel burning shall not be allowed in mobile home parks.

4.14.3 Mobile Home 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 ten (10') foot structure setback from the front lot line.
- 3) Setbacks shall be a minimum of twenty (20') feet between buildings.

- 4) The minimum setback from a structure to the rear lot line shall be ten (10') feet.
- 5) The minimum side yard setback from a property line to a structure shall be twenty-five (25') feet.

4.14.5 Bonds

Mobile home parks and recreational vehicle parks must post a reclamation bond per the standards set forth in section 2.13 of this Ordinance.

4.15 RECREATIONAL VEHICLE PARKS

Recreational vehicle parks are a conditional use in Recreational Districts, R-2, R-3, Commercial, Light Industrial, and Industrial zoning districts, but must follow the standards and guidelines herein.

4.15.1 License required.

All recreational vehicle parks shall obtain the appropriate state licenses and permits from either the North Dakota Department of Health or the County if the County receives authorization from the State to inspect and license mobile home trailer parks.

4.15.2 Design Standards - Recreational Vehicle Parks

4.15.2.1 Recreational Vehicles on Residential Property

- 1) Recreational vehicles may be temporarily occupied on an R-1, R-5A, and R-10A residential lot for a maximum of sixty (60) days in a calendar year and not more than thirty (30) consecutive days.
- 2) Recreational vehicles on any property shall comply with all setback requirements applicable to that property.
- 3) 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 shall be excluded from this section.

4.15.2.2 Recreational Vehicle Park Standards

The following regulations apply to all Recreational Vehicle Parks:

- 1) Minimum lot area for a recreational vehicle park shall be five (5) acres.
- 2) No parking is allowed on the street whether public or private.
- 3) Two-way streets shall be a minimum of twenty-five (25') feet wide. One-way streets shall be a minimum of eighteen (18') feet wide.
- 4) Maximum density shall be ten (10) recreational vehicles per gross acre.
- 5) No recreational vehicle, trailer, or other attachment may be located within fifteen (15') feet of any other recreational vehicle, trailer, or part thereof. No recreational vehicle may be located so as to restrict emergency vehicles and personnel from performing necessary services.
- 6) Constructing any addition to a recreational vehicle or trailer is strictly prohibited. A free-standing deck is allowed but setbacks must be maintained between the deck and the neighboring recreational vehicle.
- 7) No recreational vehicle, trailer, or other attachment may be within twenty-five (25') feet of an exterior boundary and must meet the road setbacks as outlined in section 2.10 of this Ordinance.
- 8) Streets in recreational vehicle parks shall be privately owned and maintained by the owner, but subject to an easement for public access and travel, and designed and constructed according to County standards.
- 9) Each recreational vehicle park shall have adequate fire protection. All parks shall provide a ten thousand (10,000) gallon tank centrally located for fire flow. Tanks shall not be more than three hundred (300') feet from the furthest trailer additional tanks may be required to fulfill this requirement. The tank shall be insulated or buried to prevent freezing.
- 10) One (1) manufactured home or modular home for the exclusive use of a live-in manager's residence is allowed in a recreational vehicle park.
- 11) Ten percent (10%) of the total area of the park shall be set aside for recreational uses such as playgrounds,

horseshoes, shuffleboard, picnic tables, barbecue grills, and similar uses appropriate for recreational vehicle parks. Setbacks between lots and open space within lots shall not use to calculate open space requirement.

- 12) Every recreational park must be established and maintained upon dry, well-drained ground. Any natural sinkholes or collection or pool of water must be artificially drained and filled.
- 13) All trash collection areas are to be enclosed and screened by an opaque wall no less than six (6') feet high.
- 14) There shall be a trash receptacle no further than one hundred and fifty (150') feet from any recreational vehicle stall.
- 15) The recreational park operators shall have garbage pick-up weekly.
- 16) Trash barrel burning shall not be allowed in recreational vehicle parks.

4.15.2.3 Recreational Vehicle Requirements between Nov. 1st- March 31st

All recreational vehicles that are occupied during the period from Nov. 1st thru March 31st must meet the following requirements. These requirements shall be upon the recreational park owner/operator. The Planning Department may issue notices of violations and require immediate corrective action; such corrective action may include the closure of the facility.

- 1) All water lines outside of or underneath a recreational vehicle must be wrapped in insulation or with heat tape to prevent freezing.
- 2) Sewer/septic lines outside of or underneath a recreational vehicle must be wrapped in insulation or with heat tape to prevent freezing.
- 3) Insulated skirting is required around the entirety of each recreational vehicle and installed prior to occupancy.

- 4) Skirting must closely match the material or color used on the exterior of the recreational vehicle. Wooden skirting must be painted to match the recreational vehicle.
- 5) If water lines or sewer lines freeze, the occupant must move out of the recreational vehicle within twenty-four (24) hours until the pipes are unfrozen.
- 6) Carbon monoxide detector designed for use in recreational vehicles must be installed and in good working order inside each recreational vehicle.
- 7) Upon Conditional Use Permit approval, the owners and operators grant the County Planning Department, Fire Official, and their agent's license to enter the park to conduct impromptu inspections to ensure that these requirements have been met.
- 8) No tents or uninsulated trailers or campers are allowed.

4.15.3 Bonds

Recreational vehicle parks must post a reclamation bond per the standards set forth in section 2.13 of this Ordinance.

4.16 MEDICAL MARIJUANA

4.16.1 Purpose and Intent

The 2017 North Dakota Legislature enacted Senate Bill 2344, relating to the implementation of the North Dakota Compassionate Care Act, N.D.C.C 19-24 for the regulation of medical marijuana dispensaries and the cultivations and propagation of medical marijuana in North Dakota.

All persons, entities or organizations wishing to establish a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) within the County must apply for and be granted a conditional use permit for said use.)

- 1) The use, cultivation, manufacturing, production, distribution, possession and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance" by both North Dakota and federal law;
- 2) The county commission does not have the authority to, and nothing in this chapter is intended to, authorize, promote, condone or aid the

production, distribution or possession of medical marijuana in violation of any applicable law;

- 3) The county commission intends to regulate the use, acquisition, cultivation, manufacturing, and distribution of usable medical marijuana in a manner that is consistent with the North Dakota Century Code. The regulations are intended to apply to all medical marijuana operations in the county by any medical marijuana business permitted under state law. Medical marijuana cultivation and production can have an impact on health, safety, and community resources, and this chapter is intended to permit state-licensed Medical Marijuana Manufacturing Center(s) or Distribution Center(s) where they will have a minimal negative impact;
- 4) To the extent that Medical Marijuana Manufacturing Center(s) or Distribution Center(s) are registered and authorized by the State of North Dakota to operate in the county, this commission desires to provide for their licensing and regulation to protect the public health, safety and general welfare of the citizens of the county;
- 5) This chapter is to be construed to protect the public over medical marijuana business interests. Operation of a medical marijuana business is a revocable privilege and not a right in the county. There is no property right for an individual or business to have medical marijuana in the county; and
- 6) Medical marijuana is a heavily regulated industry in the state and county, and the county has a zero-tolerance policy for violations of this chapter.
- 7) The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the county by prescribing the manner in which medical marijuana businesses can be conducted in the county. Further, the purpose of this chapter is to:
 - a) Provide for a means of cultivating, manufacturing and distribution of usable marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes as prescribed by state law.
 - b) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.

- c) Impose fees to cover the cost to the county of licensing medical marijuana businesses in an amount sufficient for the county to cover the costs of the licensing program.
- d) Create regulations that address the particular needs of the facilities, patients and residents of the county and comply with laws that may be enacted by the state regarding medical marijuana.

4.16.2 Definitions

Unless specified in this ordinance in section 1.4, all terms defined in N.D.C.C. § 19-24-02 or successors to that statute shall have the definitions provided therein.

4.16.3 Annual Permit Fee

As authorized by the Board of County Commissioners the Planning Director is to establish an annual permit fee to offset costs associated with policing, site inspections, monitoring, storage of media, and/or regulating medical marijuana facilities involved in the cultivation, propagation, manufacturing, processing, refining, distribution, delivery, supply, sale or handling of Medical Marijuana.

4.16.4 Conditional Use Permit Requirements

In addition to the requirements applicable to all Conditional Use Permit applications, an application for a Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must include the following:

- 1) Proof of Insurance (see section 4.16.5 for insurance requirements).
- 2) List of all persons and entities with an ownership interest in the Manufacturing Center(s) or Distribution Center(s) including all shareholders that hold any share in stock in the Manufacturing Center(s) or Distribution Center(s).
- 3) A security plan depicting the location and configuration of security cameras and surveillance equipment.
- 4) A complete description of the products and services to be produced or sold by the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).

- 5) A notarized statement acknowledging that the applicant understands applicable federal laws, any guidance or directives issued by the U.S. Department of Justice, the laws of the State of North Dakota and the laws and regulations of the county applicable thereto concerning the operation of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s). The written statement shall also acknowledge that any violation of any laws or regulations of the State of North Dakota or of the county, or any activity in violation of any guidance or directives issued by the U.S. Department of Justice, in such place of business, or in connection therewith, or the commencement of any legal proceeding relating to such Medical Marijuana Manufacturing Center(s) or Distribution Center(s) by federal authorities, may render the license subject to immediate suspension or revocation.
- 6) A notarized statement that the applicant will hold harmless, indemnify, and defend the county against all claims and litigation arising from the issuance of license and/or a conditional use permit including any claims and litigation arising from the Manufacturing Center(s) or Distribution Center(s), operation or ownership of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).
- 7) A notarized acknowledgement that the applicant is seeking a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit and that the applicant understands and acknowledges that the burden of proving qualifications to receive such a Conditional Use Permit is at all times on the applicant; that the granting of a Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is at the discretion of the county commission; and that the applicant agrees to abide by the decision of the county commission.
- 8) The Planning Director may require additional plans, documents or other information prior to deeming the application complete.
- 9) A Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit shall be reviewed annually by the county commission for renewal.
- 10) If the State of North Dakota or its electorate repeals the Compassionate Care Act or the act is otherwise declared void, all Medical Marijuana Manufacturing Center(s) or Distribution

Center(s) Conditional Use Permits issued by the county commission will be deemed to have immediately expired.

- 11) Once a conditional use permit is obtained for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s), any change in operation of the facility or in ownership shall require prior approval of the Board of County Commissioners.
- 12) Any building modifications or alterations must be approved by the County Planning Director.

4.16.5 Medical Marijuana Insurance and Bond Requirements

- 1) The minimum amount of third-person insurance coverage for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) shall be one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) general aggregate for bodily injury and property damage arising out of licensed activities and one million dollars (\$1,000,000.00) products and completed operations aggregate, commercial automobile coverage in a minimum of one million dollars (\$1,000,000.00) and excess liability in a minimum of three million dollars (\$3,000,000.00).
- 2) Additional insured: The County shall be named as an additional insured on all general liability, umbrella, and excess insurance policies required under this section. All insurance policies required under this section shall be primary over any other valid and collectible insurance.

4.16.6 Medical Marijuana Design Standards

- 1) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located in a separate, permanent, stand-alone structure and have a minimum six (6) foot high perimeter fence encompassing the parcel boundary.
- 2) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of 2,640 feet from a public or private preschool, kindergarten, elementary, secondary or high school, public park, public community center, dependent care facility, homeless shelter, youth center, or place of worship. The distance shall be measured from the exterior fence of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s) to the property line of the protected use.

- 3) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of 500 feet from any residential district, or any residential dwelling, trailer, recreational vehicle or recreational district. The distance shall be measured from the exterior fence of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s) to the property line or dwelling of the protected use.
- 4) No Medical Marijuana Dispensary shall have operating hours earlier than 8:00 AM or later than 7:00 PM.
- 5) The entire perimeter of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) structure must be well lit (minimum 1 candle foot) to prevent concealment in shadows around the structure for a minimum of 15 feet around each structure that is part of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s). Further, everything within the fenced area shall have 24-hour surveillance cameras depicting the entire exterior of the Manufacturing Center(s) or Distribution Center(s) as well as cameras at the property entrance depicting vehicles and license plates of each vehicle entering the parking lot.
- 6) Each Medical Marijuana Distribution Center shall have at least 1 parking space per 250 sq. ft. of structure.
- 7) Each Medical Marijuana Cultivation and/or Manufacturing Facility shall have at least 1 parking space for every 1000 sq. ft. of plant cultivation area and 1 parking space for each 250 sq. ft. of all other areas of the structure.
- 8) With the exception of the specific Medical Marijuana Manufacturing Center(s) or Distribution Center(s) approved as part of a Conditional Use Permit, no other activity may occur within the facility or land parcel.
- 9) No outdoor storage on-site shall be permitted.
- 10) No drive-through, drive-up, or walk-up facilities shall be permitted.
- 11) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must ensure there is no emission of dust, fumes, vapors, or odors into the environment.

- 12) Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals or window signage of any kind shall be strictly prohibited.
- 13) Each permittee shall obtain an inspection of the property from the county planning department or fire marshal prior to the annual renewal of the Conditional Use Permit.
- 14) All surveillance camera locations and surveillance recording equipment including specifications must be approved by the County Planning Director.
- 15) All applicable state standards and requirements shall apply in the design and operations of any Manufacturing Center(s) or Distribution Center(s).

4.16.7 Serviceability, Exclusions and Exceptions:

- 1) The provisions of this chapter do not waive or modify any other provision of this ordinance with which Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is required to comply. Nothing in this section is intended to authorize, legalize or permit the Manufacturing Center(s) or Distribution Center(s), operation or maintenance of any facility, building or use which violates any County ordinance or statute of the State of North Dakota regarding public nuisances, Medical Marijuana, or any federal regulations or statutes relating to the use of controlled substances.
- 2) This chapter shall be null and void if any determination is made, after the adoption of the ordinance enacting this chapter, by any court of competent jurisdiction, that Ch. 19-24, N.D.C.C., is invalid, or shall be null and void to the extent any portion of such section is held invalid.
- 3) Should any section, subsection, clause or provision of this chapter for any reason be held to be invalid or factually unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter, and each and every section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified irrespective of the fact that any one or more section, subsections,

sentences, clauses or phrases of this chapter be declared invalid or unconstitutional.

4.17 CONDITIONAL USE PERMIT FOR SINGLE-FAMILY HOME ON LOT LESS THAN 40-ACRES

4.17.1 Intent

The intent of this conditional use permit is to provide guidelines for approval from the County for a lot that is less than forty (40) acres specified in section 3.4.3 of this ordinance.

This conditional use permit is irrevocable once a building permit has been issued and construction has begun on a permanent residential structure.

4.17.2 Requirements for Approval

- 1) The minimum lot size is 5 acres.
- 2) Lot must have access to a County maintained road at the time of application.
- 3) Approved approach permit to serve the lot.
- 4) Acknowledgement from appropriate rural fire department concerning the serviceability of the access road and structure.
- 5) Setbacks as outlined in the Agriculture District shall be indicated on a plan drawn to scale.
- 6) Setbacks for buildings/structures from roads, section lines, and other structures shall be as outlined in this ordinance.
- 7) No variances shall be allowed for setbacks or lot size
- 8) A commercial business may not be run or maintained from a lot that has a residential CUP.
- 9) One (1) animal unit per full acre as described in the N.D.C.C Ch. 11-33-02.1 is allowed.

4.18 GRAVEL AND SCORIA OPERATIONS AND PITS

4.18.1 Purpose

Gravel and scoria operations and pits are necessary for many types of projects including oil and gas projects as well as road construction and maintenance. The transportation and delivery of the material poses safety and maintenance issues that must be address in conditional use permits and strictly adhered.

4.18.2 Conditional Use Permit Requirements

- 1) Post the address/project identification on site with a 4'x8' sign that is clearly visible from the road
- 2) Maintain weed control as approved by the McKenzie County Weed Control Officer.
- 3) Adhere to all State and Federal laws, regulations and conditions for the operation of the proposed facility and the transportation of the material
- 4) Have a 100' knock off zone on site, the knock off zone shall include a cattle guard or other approved method to remove debris from the tires of the trucks.
- 5) All loads exiting a gravel or scoria operation area must be tarped and or otherwise covered. It is the responsibility of the applicant to insure the tarping of all loads. Failure to do this can result in revocation of the permit.
- 6) The applicant shall post a bond based on an engineer's estimate and approved by the Planning Director to reclaim the site to a natural condition. The bond amount shall be 150% of the estimate. Reclamation shall include the removal of all structures, grading of the site, top soil must be applied to a depth of at least six (6) inches on all disturbed areas and planted with appropriate grasses as approved by the Planning Director. The bond shall name the county as the beneficiary.

- 7) Dust control requirements shall be by magnesium chloride or other approved product, all substitutions must be approved by the county Road Superintendent. Dust control must be applied a minimum of two (2) times per year, once in the month of May and again in the month of August. The applicant shall provide the Planning Director proof of application. Failure to provide dust control or proof of application may result in revocation of the permit. The Planning Director with the County Engineer will specify where the dust control is to be applied, typically it shall be from the point of operations to the nearest paved road.
- 8) Trucks may only travel on pre-approved routes and roads.
- 9) Trucks must obey all speed requirements as posted by federal, state, county or township agencies, but at no time shall speeds exceed 35 mph on gravel or dirt road.
- 10) Trucks exiting a gravel or scoria pit shall not exceed weight standards. Failure to do this can result in revocation of the permit.

ARTICLE V: ADMINISTRATION

5.1 BOARD OF COUNTY COMMISSIONERS

5.1.1 Authority

The Board of County Commissioners is authorized to regulate the use of property through the use of zoning and has final responsibility for the preparation of this Ordinance, the county zoning map and the administration thereof, under N.D.C.C. Ch. 11-33-01.

5.1.2 Duties

- 1) The Board of County Commissioners shall review and take action on all proposed amendments to this Ordinance.
- 2) The Board of County Commissioners shall review and decide all applications for zoning amendments.
- 3) The Board of County Commissioners shall hear and decide all requests for variances or other relief from the provisions of this Ordinance.
- 4) The Board of County Commissioners shall review all applications for conditional use permits.
- 5) The Board of County Commissioners shall hear and decide all appeals of decisions of the Planning Commission or the Planning Director.
- 6) The Board of County Commissioners shall investigate all violations of these regulations and shall determine and take appropriate remedial action.
- 7) The Board of County Commissioners shall, when as required by state law appoint members of the Planning Commission.
- 8) The Board of County Commissioners shall appoint the Planning Director.

5.2 PLANNING COMMISSION

5.2.1 Authority

The Planning Commission is created by the Board of County

Commissioners in accordance with the N.D.C.C. Ch. 11-33.

5.2.2 Duties

- 1) The Planning Commission shall hold public hearings on and make written recommendations to the Board of County Commissioners with respect to all proposed amendments to this Ordinance.
- 2) The Planning Commission shall hold public hearings on applications for zoning amendments and make written recommendations to the Board of County Commissioners for the approval or denial of such applications.
- 3) The Planning Commission shall hold public hearings on applications for conditional use permits and make written recommendations to the Board of County Commissioners for the approval, denial, modification, and/or the imposition of conditions upon such applications.
- 4) The Planning Commission shall hold public hearings on applications for variances from the provisions of this Ordinance and make written recommendations to the Board of County Commissioners for the approval, denial, modification, and/or the imposition of conditions upon such applications.
- 5) The Planning Commission shall make recommendation for zoning violations brought before them to the Board of County Commissioners for appropriate action.
- 6) The Planning Commission or its designee shall, when as required by law cause the publication of notice of zoning hearings and posting of the notice of zoning amendments on the affected site.
- 7) The Planning Commission may grant exceptions to this chapter, after due notice and hearing, when such exceptions will result in the prevention of waste and operation in a manner to protect correlative rights.

5.3 BOARD OF ADJUSTMENT

5.3.1 Authority

The Board of County Commissioners shall act as a Board of Adjustment until such time that they appoint members.

5.3.2 Board of Adjustment Duties

- 1) The board shall hear appeals from any person, party, firm or organization aggrieved by the actions or decisions of the Planning Commission.
- 2) The Board of Adjustment shall upon recommendation from the County Planning Commission authorize a variance from the terms of this Ordinance when the literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and said variance will not be contrary to the public interest.

Application for a variance shall include:

- a) The special conditions and circumstances which are unique to the land or structure and not applicable to other land or structure in the same district.
- b) Evidence that the special conditions and circumstances are not a result of the actions of the applicant or the applicant's predecessor-in-interest.
- c) The literal interpretation of those portions of the ordinance which would deprive the applicant of rights commonly enjoyed by other properties in the district.
- d) A demonstration that the granting of the variance will not confer any special privilege on the applicant that is denied by the ordinance to others in the same district.
- e) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

5.4 PLANNING DIRECTOR

5.4.1 Authority

The Board of County Commissioners shall appoint a Planning Director to carry out the directives and duties as assigned by the Planning Commission. The Planning Director shall be responsible directly to the Public Works Director.

5.4.2 Duties of the Planning Director

- 1) Attend all public zoning hearings.
- 2) Maintain updated copies of the Ordinance and district zoning map.
- 3) Keep copies of all records of the Planning Department.
- 4) Post notice of zoning hearings as prescribe by the N.D.C.C. Ch. 11-33.
- 5) Make inspection of land and/or structures to determine compliance with the provisions of this Ordinance and investigate reports of noncompliance received from the public.
- 6) Carry out any other duties assigned by the Planning Commission or Board of County Commissioners.
- 7) Grant building permits upon receipt of a complete application and application fee.
- 8) Grant administrative permits as allowed by the Board of County Commissioners.
- 9) Prepare materials and make recommendations on all applications submitted to the Planning Commission.

5.4.3 Appeals of Administrative Decisions

Any person aggrieved by an administrative decision may appeal the decision to the Public Works Director. If the decision is still not resolved it shall go before the Planning Commission if the matter is still not resolved it will go before the Board of County Commissioners, whose decision is final. Legal action may be taken according to the laws of North Dakota.

5.5 PERMITS, PROCEDURES AND FEES

Procedural steps, requirements, and review criteria that are common to all or some land development applications and will proceed as outlined below:

- 1) **Pre-Application Meeting:** The purpose is to provide an applicant and the County an opportunity to discuss the development proposal to determine the required applications, estimated time frame, and appropriate application materials.

- 2) **Application Submission, Related Contents, and Fees.** Application may be made by the landowner or their approved representative. In addition, the County Commission, Planning Commission, or Director may also file an application. The fees are non-refundable.
- 3) **Staff Review, and Staff Recommendations.** The Planning Director and staff will review the proposed application for completeness, legal sufficiency, consistency with the adopted 2025 McKenzie County Comprehensive Plan, and compliance with stated requirements in the Zoning Ordinance. The Director shall schedule the application for consideration on the next regular meeting agenda, or as soon as meeting agendas allow. A written staff report and recommendation shall be prepared.
- 4) **Public Notice.** Pursuant to ND Century Code Section 11-33-08, the Planning Commission shall hold a public hearing and the interested parties and citizens shall have an opportunity to be heard. Notice of the time, place, and purpose of the hearing shall be published once each week for two consecutive weeks in the official newspaper of the county, before the proposed hearing date.
- 5) **Action by Planning Commission.** The Planning Commission may take action on an application by approving, approving with conditions, tabling, remanding for further information or study, or denying the application. The applicant shall have the right to withdraw an application at any time prior to action at a public hearing. The applicant shall request the withdrawal in writing to the Director. The applicant is responsible to be present at the public hearing.
The action taken by the Planning Commission is forwarded as a recommendation to the Board of County Commissioners at their next meeting, or as soon as practicable. The County Commission's decision is final.
- 6) **Appeals:** Pursuant to N.D.C.C. 11-33-10: Any person aggrieved by any provision of a resolution adopted hereunder, or any amendment thereto may, within thirty (30) days after the first publication of such resolution or amendment, petition for a separate hearing thereon before the Board of County Commissioners. The petition shall be in writing and shall specify in detail the ground of the objections. The petition shall be filed with the county auditor. Appeals may also be made to the District Court following established procedures.

5.6 EXTENSION OF APPROVAL PERIOD

- 1) After consultation with other departments whose services, facilities, or plans for future services and facilities may be affected, the Planning

Director may grant an extension of an approval period up to twelve (12) months for good cause.

- a) All requests for extensions shall be submitted to the Planning Director in writing at least thirty (30) days prior to the expiration of approval.
 - b) An extension request shall include payment of required fees and a narrative stating the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the Comprehensive Plan or this Ordinance that have occurred since approval of the permit/plan as these changes affect the permit/plan, and the anticipated time schedule for completing the review project and/or the specific project.
- 2) Any denial of the extension may be appealed to the Planning Commission. If the extension is denied, the applicant may re-submit a new application, subject to the fees and regulations in effect at the time of re-submittal, for the same project.

5.7 AMENDMENTS TO THE ZONING ORDINANCE

Any person who has a pecuniary interest affected by this Ordinance, the Planning Director, any member of the Planning Commission or any member of the Board of County Commissioners may instigate action for the amendment of the Ordinance or zoning map. Said action shall be directed to the Planning Commission and shall be in the form of a petition if submitted by any person or a written request if submitted by a member of the Board of County Commissioners, a member of the Planning Commission or the Planning Director.

All changes, modifications, removal, or release of the provisions of an approved plan or plat shall be considered amendments. Amendments shall include, but are not be limited to, changes in use, access, layout, any condition of approval, any change resulting in significant increased off-site impacts, and similar changes as determined by the Planning Director.

- 1) Minor Amendments. The Planning Director shall determine if the proposed amendment is Minor. The following item may be used by the Planning Director to make the determination:
 - a) Amendments that do not modify any numerical development standard by more than ten percent.
 - b) Amendments do not include a change in any permitted or conditional use.

- c) An increase in permitted building height or any increase in development density or intensity, or any reduction in approved open space.
- 2) Major Amendments. All amendments that do not meet the definition of a minor amendment above shall be major amendments.
 - a) Major amendments must be reviewed and approved through the same procedure used for the initial approval of the application.
 - b) For purposes of review and scheduling, major amendments are treated as new applications subject to the applicable procedures and review criteria set forth in this Ordinance.

5.8 CONDITIONAL USE PERMIT

Each zoning district has conditional uses which may be permitted. These uses which, because of their unique characteristics cannot be classified as allowed uses in any particular district or districts without consideration in each particular case of the impact of those uses upon adjoining lands or public facilities. Such uses, nevertheless, may be necessary or desirable in a particular district provided that due consideration is given to location, development and operation of such uses.

Conditional uses are not temporary unless so indicated in this ordinance or as a condition of approval.

5.8.1 Application for a Conditional Use Permit

- 1) In order to promote and protect public health, safety and the general welfare, the Board of County Commissioners may stipulate conditions and restrictions upon the establishment, location, construction and operation of the proposed use. In all cases in which conditional uses are granted, the Planning Director may require evidence of compliance with these provisions and with the conditions set forth.
- 2) No application for a conditional use permit shall be approved by the Board of County Commissioners unless the applicant shall have met all the following criteria:
 - a) The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.
 - b) The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

- c) The proposed conditional use shall not impede the normal orderly development of the surrounding property.
 - d) Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided to accommodate the proposed conditional use.
 - e) Measures taken to provide ingress and egress to the property without adverse effects, as determined by the County Engineer, and traffic congestion to the adjoining properties.
 - f) The proposed conditional use shall conform to all applicable regulations of the district within which it is located.
 - g) Any existing violation on this the subject property by the applicant must be terminated or violation bond posted prior to making application.
- 3) The Planning Commission shall hold a public hearing on any application deemed complete, for a conditional use permit. A notice of which shall be published at least two weeks prior to the hearing in the official newspaper of the county.

The notice of hearing shall include:

- a) The time and place of hearing;
 - b) Description of the property to be affected;
 - c) The proposed use; and
 - d) A reasonable time and place for public inspection of documents prior to the hearing.
- 4) The Planning Commission, following a public hearing, shall make recommendation to the Board of County Commissioners for the approval or denial, modification, and/or imposition of conditions of each application. Upon decision by the Board of County Commissioners, the Planning Department shall issue a letter indicating the decision.
- 5) Upon the cessation or abandonment for a period of six (6) months of any use, for which a conditional use permit has been issued, such conditional use permit is deemed to have been terminated and any future use of the land, structure(s) or premises shall require a new conditional use permit.

5.8.2 Renewal of Conditional Use Permit

Conditional Use Permits that include temporary housing in accordance with this Ordinance shall expire on December 31st of each year from the date of issuance. The permit may be extended upon written application of the owner of the property or authorized representative provided that the extension is for the same use as specified in the original permit and that the applicant is in compliance with the terms and conditions specified in the original permit. Additional conditions may be imposed at the annual renewal of the permit.

5.8.3 Application Requirements of Conditional Use Permit when Violations Exist

When an application is received for a property or land use that is in violation of this Ordinance, the application shall not be approved until the applicant:

- 1) Posts a violation bond as outlined in section 2.13 of this Ordinance.
- 2) At time of application, execute an easement entitling the County, a party contracted by the County, and the agents of either of them to enter the land and terminate the violation by direct action if the application is denied. and release. Once the violation is terminated the easement becomes null and void.

If the violation relates to a facility subject to state or federal regulations under which the County or other third parties are prohibited from taking corrective action, then the applicant shall provide a binding consent to immediate and unconditional injunctive relief being entered to require corrective action in lieu of the required easement.

- 3) The applicant shall release the County and its agents, successors, and assigns from all claims, liability, and damages that are caused by the County's entrance to the land and activities thereon as well as for any liability for damages caused to the applicant or any others as a result of the County's termination of the violation and indemnifying the County and its agents for any liability to others for such damages.
- 4) Show proof of Insurance naming the County as an additional insured to cover such damages with coverage of no less than one million dollars per incident and no less than one million dollars per person for any liability and damages caused to the applicant or any others as a result of the county's termination of the violation.
- 5) The application shall be reviewed by the Planning Director and, as necessary, placed on the Planning Commission's agenda for a

hearing.

Once the violation is terminated and conditions have been met the Planning Director may release the applicant of the bond, and the additional insured requirements.

5.8.4 Revocation of a Conditional Use Permit

The Board of County Commissioners may review the status of any conditional use permit issued pursuant to this Ordinance and take appropriate action to suspend or revoke the same if there is any violation of the conditions of the permit or the requirements of this Ordinance, the Building Code, and/or the Fire Code.

Where the construction for a granted conditional use has not been commenced, or the construction has not been substantially completed within one (1) year of Board of County Commission approval or an extension granted by the Planning Director, for no more than one (1) year, the permit shall be null and void without further action of the Planning Commission or the Board of County Commissioners.

When any permit is revoked or suspended for any reason, no portion of the permit fee shall be returned to the applicant.

5.8.4.1 Exception to Revocation for Single Family Home

An approved conditional use permit for a single-family home structure cannot be revoked or rescinded once a building permit is issued. Any violation after issuance of the conditional use permit shall be treated as any other zoning violation with remedies as outlined in the zoning ordinance, but in no case shall the available remedy include revocation of the permit or removal of the home.

5.8.5 Amendments to an Existing Conditional Use Permit

When an applicant applies and acquires an initial conditional use permit subsequent changes, modifications and additions to that approved conditional use permit shall be considered an amendment to the original conditional use permit. Previously approved conditional use permits that are in good standing with their conditions and have no violations may make application for the expansions, additions, and alterations.

- 1) The amended application shall be reviewed by the Planning Director and shall decide if it the amendment can be done administratively or if it need go through the public hearing process. Uses that require the public hearing process include but not limited to:

- a) A change in use.
 - b) Enlargement of gas and oil storage.
 - c) Increased traffic.
 - d) Any permit that has been sited with a violation since the last review.
 - e) Any application where the original conditions are inadequate with the proposed amendment.
 - f) Any amendment that the Planning Director deems so.
- 2) The Planning Director may approve the amended conditional use permit with the conditions of the original permit.
 - 3) The applicant is required to file all easements with the County Recorder within ninety (90) days of the construction of the line.
 - 4) The applicant shall provide the Public Works Director or his designee with electronic files of the as-built surveys of all above and below ground equipment, and pipelines within (60) sixty days of construction being completed.

5.8.6 Temporary Conditional Use Permit

A temporary conditional use permit for a limited time use, not to exceeding one (1) year in duration, may be granted administratively by the Planning Director.

- 1) The application for a temporary conditional use permit shall contain the same information required for any other conditional use permit. Plus a justification for the permit period requested by the applicant.
- 2) A fee for a temporary use permit shall be the same as other conditional use permits as set by the Board of County Commissioners and shall be non-refundable.
- 3) A reclamation bond shall be required as outlined in section 2.13 of this Ordinance.
- 4) The Planning Director may require submittal of additional items as deemed necessary.

- 5) If the Planning Director denies the application of the temporary conditional use permit the applicant may appeal the decision following the provisions of section 5.4.3 of this Ordinance.

5.9 SITE PLAN PERMIT

5.9.1 Specific Uses Allowed with a Site Plan Permit

The Planning Director is authorized to administratively approve the following permits:

- 1) Communication towers
- 2) Electrical substations
- 3) Electrical transmission lines
- 4) Temporary freshwater pipelines

5.9.2 Site Plan Permit Requirements.

A complete application for a site plan permit shall be submitted to the Planning Department with a non-refundable fee as established by the Board of County Commissioners. No application will be processed until the application is complete and the required fee has been paid.

- 1) The application for a Site Plan Permit shall contain the same information required a conditional use permit.
- 2) A reclamation bond shall be required as outlined in section 2.13 of this Ordinance.
- 3) The Planning Director may require submittal of additional items as deemed necessary.
- 4) If the Planning Director denies the approval of the temporary conditional use permit the applicant may appeal the decision following the provisions of section 5.4.3 of this Ordinance.

The application may not be approved unless the Planning Director finds that the proposed project complies with all applicable provisions of this Ordinance and with all adopted plans and policy documents of the County. The Planning Director may grant approval with conditions only to the extent that such conditions are in compliance with this Ordinance, adopted plans, policies and procedures of the County.

5.10 VIOLATIONS AND PENALTIES

Each violation of any regulation or restriction of this Ordinance, the Building Code or the Fire Code, by any person shall constitute the maintenance of a public nuisance and shall, pursuant to the provisions of N.D.C.C. Ch. 11-33-21, be a class B misdemeanor. Each day that a violation occurs shall be considered a separate punishable offense.

5.10.1 Procedures for Complaints Regarding Violations

If any structure that is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure or land is used in violation of this Ordinance, the Building Code or the Fire Code, or is alleged to have occurred, any person may file a complaint with the Planning Director. Such complaints must state with specificity the causes and basis thereof. The Planning Director shall follow these procedures:

- 1) Make an inspection of the affected site or structure.
- 2) Notify the person causing the violation and owner of the property. Such notification shall be sent by certified mail.
- 3) The Planning Director shall outline the findings and explain what actions the violating party must take to correct the violation and the timing of any correction. These actions may include: cease and desist notice, stop work order, or legal remedy afforded by the law. If emergency condition exists as a result of the violation the Planning Director may request that the court enter an injunctive relief. If injunctive relief is requested the Planning Director shall present the matter to the Planning Commission.
- 4) The violation must be corrected or a violation bond must be in place (see section 2.13) prior to the Planning Department processing any further application(s) for the site.

5.10.2 Reimbursement of Legal Expenses

No person may be issued any conditional use permit, building permit, or certificate of occupancy if a civil action has been commenced against that person or his predecessors in interest relating to a violation of this Ordinance and the County has not yet been reimbursed for its actual legal expenses, including such costs and disbursements and reasonable attorney fees as were incurred in preparing, commencing, and prosecuting the action.

Upon completion of all other requirements for issuance of the conditional

use permit, building permit, or certificate of occupancy such that the alleged violation has been abated, the applicant for the same shall be given notice of the legal expenses incurred and shall reimburse McKenzie County for the same within thirty (30) days of such notice. If the reimbursement in full has not been made within thirty (30) days of notice, the conditional use permit, building permit, or certificate of occupancy shall be denied and all application fees forfeited. In the event of a dispute as to the actual legal expenses incurred by McKenzie County, the matter shall be resolved by submitting the same to the North Dakota District Court in and for McKenzie County.

McKenzie County shall be entitled to reimbursement of its actual legal expenses pursuant to this section and may claim the same in addition to its damages in civil action brought to enforce this Ordinance.

5.11 BUILDING CODE

All buildings or structures or parts of structures used for residential or commercial purposes, and accessory structures thereto shall be designed, constructed, altered, equipped, and maintained in accordance with the most current version of the International Building Code (IBC) as adopted in North Dakota and the same is hereby made a part of this Ordinance and incorporated therein as if set out at herein, and from the date this resolution takes effect the provisions thereof shall be controlling in the construction of all residential buildings and accessory.

5.1.1 Authority

The Planning Director shall appoint the Building Official to carry out the directives and duties as assigned. The Building Official is granted the authority to interpret and enforce the Building Code. Decisions may be appealed to the Planning Director. Decisions may be appealed to the Board of County Commissioners. The decision of the Board of County Commissioners shall be final.

5.11.2 Exemptions

Pursuant to N.D.C.C. Ch. 54-21.3-04(2) the following buildings are exempt from the Building Code:

- 1) Buildings which are neither heated nor cooled.
- 2) Buildings used whose peak design rate of energy usage is less than one watt per square foot or three and four-tenths British thermal units an hour per square foot of floor area.
- 3) Restored or reconstructed buildings deliberately preserved beyond

their normal term of use because of historical associations, architectural interests, or public or buildings otherwise qualified as a pioneer building, historical site, state monument, or other similar designation pursuant to state or local law.

- 4) Any building used solely for agricultural purposes, unless a place of human habitation or for use by the public exempt from this chapter.

However, application must still be made with the Planning Department so that the intended building use can be reviewed and verified that it is an allowed use in the zoning district. The applicant shall provide a notarized affidavit that the structure is included in one of the above exemptions.

5.11.3 Amending the Building Code

Pursuant to N.D.C.C. Ch. 54-21.3-03(6) "The governing body of a city, township, or county that elects to administer and enforce a building code shall adopt and enforce the state building code. However, the state building code may be amended by cities, townships, and counties to conform to local needs."

McKenzie County amends the State Building Code as follows:

- 1) Building permits and/or inspections may be waived for structures that are built on-site for gas and oil processing and storage.
- 2) Waivers of building permits and/or inspections may only be given in writing.
- 3) Each request for a waiver of building permits and/or inspections must include the legal description of the location of the structure and a description of the structure for which a waiver is requested. Each waiver is specific to the structure described therein and does not apply to replacements, expansions, changes in use, or major alterations to the structure.
- 4) Waivers of building permits and/or inspections shall be granted by the Planning Director when the Planning Director determines that the structure's safety is adequately regulated by other government agencies, whose enforcement authority and execution the Planning Director deems sufficient, and that the structure is not designed to be occupied regularly by persons (e.g. as an office or housing facility, whether on a temporary or permanent basis).
- 5) Waivers of building permits and/or inspections do not exempt the structure from fire and safety inspections. A fire and safety inspection is required prior to commencement of operations within the structure and

thereafter on an annual basis or as requested by the County Fire Inspector or Planning Director.

- 6) Prior to commencement of operations the facility operator shall certify in writing that American Petroleum Institute construction, safety and operational standards and procedures have and shall be maintained.
- 7) The Planning Director's decision to deny a waiver of building permits and/or inspections may be appealed to the Board of County Commissioners.

This amendment in no way alters or amends any zoning requirement. Prior to any construction, alteration or development of a facility the applicant must meet with the Planning Director to determine the extent of the exception. It is further the intent of this amendment to limit the number of building to which this applies.

5.11.4 Manufactured Homes Installation Program

All first-time installations of manufactured homes must comply with Article 108-03 of the North Dakota Administrative Code (N.D.A.C.). Manufactured homes within McKenzie County's Building jurisdiction must be installed by a State approved licensed installer, and inspected by a State certified inspector. A person who owns the manufactured home and the real property upon which the manufactured home is installed may install the manufactured home without registering as an installer, provided that the person complies with all provisions of N.D.A.C. Section 108-03-01-07.

- 1) Owner or licensed Installer must submit a Manufactured Home Permit to the Planning Department.
- 2) No work shall begin prior to the issuance of the Manufactured Home Permit by the Planning Department.

5.12 FIRE CODE

The State of North Dakota has appointed a State Fire Marshal, N.D.C.C. Ch. 18-01 who has delegation authority, 18-01-03.2 to conduct investigations, surveys, or inspections, and the authority to enforce compliance where violations are discovered. Pursuant to N.D.A.C. Article 10-07, the fire prevention rules for North Dakota include the State Fire Code. The provisions of the International Fire Code (IFC) correspond to the year presently on use with the State Building Code, with the following deletions and exceptions:

- 1) Section 103 Department of Fire Prevention.

- 2) Section 105 Permits
- 3) Section 108 Board of Appeals.
- 4) Section 109 Violations.
- 5) Section 113 Fees.

McKenzie County has the right to enforce the International Fire Code and adopt and revise the deleted exceptions.

The following sections to the State Fire Code are hereby modified:

Section 103 Division of Fire Prevention

The Division of Fire Prevention is established as a division under the Department of Planning and Building.

Section 105 Permits

Section 105 with all subsections as in the current International Fire Code.

Section 108 Board of Appeals

The Board of County Commissioners shall serve as the Board of Appeals for the Fire Code or until such time as they appoint a Board of Appeals.

Section 109 Violations, Violation penalties.

Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, has active knowledge of violations or unlawful action of the Fire Code or of a permit or certificate used under provisions of this code, shall be guilty of a class B misdemeanor.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the fire code official and/or Planning Director. Such complaint must state with specificity the causes and basis thereof.

Each violation of any regulation or restriction of this Ordinance by any person shall constitute the maintenance of a public nuisance and shall, pursuant to the provisions of N.D.C.C. Ch. 11-33-21, be a class B misdemeanor. Each day that a violation occurs shall be considered a separate punishable offense.

Section 113 Fees

A schedule of fees shall be approved and amended from time to time by the Board of County Commissioners.

5.12.1 County Fire Official

5.12.1.1 Authority

The Board of County Commissioners may appoint a Fire Official to carry out the directives and duties as assigned by the Board of County Commissioners. The Fire Official shall be independent in his authority to interpret and enforce the Fire Code. Decisions may be appealed to the Board of Appeals. If the Board of Appeals is other than the Board of County Commissioners the decision of the Board of County Commissioners shall be final.

5.12.1.2 Duties of the County Fire Official

The duties of the County Fire Official shall include but not be limited to the following:

- 1) As directed by the State Fire Marshal;
 - a) Conduct investigations, surveys, or inspections,
 - b) Enforce compliance where violations are discovered.
- 2) Review building plans, prepare materials and make recommendations on all building applications.
- 3) Attend hearings as needed.
- 4) Keep copies of all records for building plan review, fire inspections, fire investigations and fire permits.
- 5) Make inspection of land and/or structures to determine compliance with the provisions of this Ordinance and investigate reports of noncompliance received from the public.
- 6) Carry out duties of the Fire Code Official as outlined in the International Fire Code or other duties assigned by the Planning Director.
- 7) Grant fire permits.

ARTICLE VI: SUBDIVISION REGULATION

6.1 GENERAL PROVISIONS

This Subdivision Regulation is authorized by N.D.C.C. Ch. 11-33.2 and, in the event of any conflict between this Regulation and the North Dakota Century Code the provisions of the Century Code shall prevail.

Pursuant to N.D.C.C. Ch. 11-33.2-03 this Subdivision Regulation shall affect subdivisions of land in all organized and unorganized townships in McKenzie County except subdivisions within a city corporate limit or the incorporated city's extraterritorial zoning jurisdiction or tribal land.

6.1.1 Title

Article VI shall be known as the McKenzie County Subdivision Regulation, and will be referred to herein as the Subdivision Regulation.

6.1.2 Purpose

This Subdivision Regulation is adopted for the following purposes:

- 1) To protect and provide for the public health, safety, and general welfare of the County.
- 2) To preserve the land in tracts large enough for viable agricultural operations.
- 3) To protect and conserve the value of land throughout the County, the value of buildings and improvements upon the land, and to minimize the conflict among the uses of land and buildings.
- 4) To provide the most even beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the county.
- 5) To establish reasonable standards of design and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land and to ensure proper legal descriptions and survey monuments of subdivided land.
- 6) To prevent the pollution of air, streams, and wetlands; to ensure the adequacy or drainage facilities; to protect underground water resources and to encourage the wise use and management of

natural resources in order to preserve the integrity, stability, and beauty or of the county.

- 7) To promote cooperation between the County, Townships, and Cities in the administration of this Subdivision Regulation.
- 8) To require applicants of new subdivisions to provide financial support for infrastructure improvements that are necessary to support new growth.

6.1.3 Policy

- 1) It is hereby declared to be the policy of the County to consider the subdivision of land in the subsequent development of the plat as subject to the control of the County pursuant to the 2025 McKenzie County Comprehensive Plan for the orderly, efficient and economic development of the county.
- 2) Land to be subdivided shall be of such character that can be used safely for building purposes without danger to health from fire, flood, or other menace. Land shall not be subdivided unless proper provisions have been made for drainage, storm water management, wetland protection, potable water, domestic wastewater, streets, and capital improvements such as schools, parks, recreational facilities, transportation facilities, storm water improvements, and any other necessary improvements.
- 3) Each lot created under the provisions of this Subdivision Regulation must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the county.
- 4) The existing and proposed public improvements shall conform to and be properly related to the 2025 McKenzie County Comprehensive Plan and this Ordinance. It is intended that this Subdivision Regulation shall supplement and facilitate the enforcement of the provisions and standards contained in the Building Code, Fire Code, this Ordinance, and the 2025 McKenzie County Comprehensive Plan.

6.1.4 Jurisdiction

The Subdivision Regulation pursuant to the provisions of this Subdivision Regulation shall in no way affect subdivisions within tribal land or the corporate limits of any city or within the area of application of extraterritorial zoning jurisdiction adopted pursuant to N.D.C.C. Ch. 40-47-01.1. Additionally, this Subdivision Regulation shall not prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming (see N.D.C.C. Ch. 11-33.2-03).

6.1.5 Platting Required

A plat is required to be recorded with the County Recorder prior to any permit for the erection of a structure on such proposed subdivision.

6.1.6 Restrictions on Recording and Building Permits

No plat shall be entitled to be recorded in the Office of the County Recorder, nor shall it have any validity unless approved under the provisions of this Subdivision Regulation. The County shall not issue building permits for any structure on any lot in a subdivision that has not received final approval pursuant to this Subdivision Regulation.

6.2 PREMATURE SUBDIVISIONS

Any plat and/or development deemed premature pursuant to the criteria listed below shall be denied by the Board of County Commissioners.

6.2.1 Conditions Establishing Premature Subdivisions

A subdivision may be deemed premature should any of the following conditions exist:

- 1) Lack of Adequate Drainage. A condition of inadequate drainage shall be deemed to exist:
 - a) Surface or subsurface water retention and runoff is such that it constitutes a hazard resulting in flooding, loss of life, property damage, or other losses.
 - b) The proposed subdivision will cause pollution of water bodies or damage to other natural resources.
 - c) The proposed site grading and development will cause damage from erosion, sedimentation, or slope instability.

- d) The proposed subdivision fails to comply with the storm water management requirements of this Ordinance or the State of North Dakota as may be amended.
 - e) Factors to be considered in making these determinations may include: average rainfall for the area; area drainage patterns; the relationship of the land to floodplains; the nature of soils and sub-soils and their ability to adequately support surface water runoff and waste disposal systems; and the slope and stability of the land.
- 2) Lack of Adequate Potable Water Supply. A proposed subdivision shall be deemed to lack an adequate potable water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation or existing water supplies for surrounding areas.
 - 3) Lack of Adequate Roads or Highways to Serve the Subdivision. A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when it is more than one half ($\frac{1}{2}$) mile from a paved road, and:
 - a) County or local roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, sight distance and paved surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, or when said roads are inadequate for the intended use.
 - b) The traffic generated by the proposed subdivision would create or contribute to unsafe conditions on highways existing at the time of the application.
 - 4) Lack of Adequate Waste Disposal Systems. A proposed subdivision shall be deemed to lack adequate waste disposal systems if there is inadequate on-site sewer capacity potential to support the subdivision if developed to the maximum permissible density allowed by this Ordinance.
 - 5) Inconsistency with 2025 McKenzie County Comprehensive Plan and this Ordinance. A proposed subdivision shall be deemed inconsistent with the 2025 McKenzie County Comprehensive Plan

and/or this Ordinance when the subdivision is inconsistent with the purposes, objectives and/or recommendations of the adopted 2025 McKenzie County Comprehensive Plan and this Ordinance, as may be amended.

- 6) Public Service Capacity. A proposed subdivision shall be deemed to lack sufficient public services if services and facilities such as roads, parks, schools, police and fire protection and other public facilities cannot reasonably be provided for within the next two (2) years by the County, Township or School District. .

6.2.2 Burden of Evidence

The burden shall be upon the applicant to show evidence that the proposed subdivision or development is not premature.

6.3 PLATTING EXEMPTIONS

To allow for the transfer of agricultural land without the burden of platting, exempt from this Subdivision Regulation is the division of land for the sole purpose of continued agricultural use provided that each parcel resulting from the subdivision:

- 1) Is forty (40) or more acres in area;
- 2) Does not require a new street or access easement (other than a field access for farm equipment);
- 3) Does not require a new utility easement;
- 4) Does not require the construction of a non-farm structure;
- 5) Does not require the construction of a residential dwelling;
- 6) The parcel remains as a purely agricultural land use; and
- 7) Does not include commercial agri-business development or the non-farm uses.

6.4 MINOR SUBDIVISION PLATS AND RE-PLATS

6.4.1 Minor Subdivision Criteria

New subdivision of land or previously platted property that meets the following criteria may be platted as a minor subdivision:

- 1) Does not require the dedication of public rights-of-way or the construction of new streets;
- 2) The resulting subdivision is four (4) lots or less;
- 3) Does not create any public improvements;
- 4) Does not land-lock the subject tract or any adjacent property;
- 5) Does not violate any local, state or federally-adopted law or this Ordinance;
- 6) Is prepared in accordance with and is subject to all requirements of the County Recorder or the procedures for Final Plats as established by this Subdivision Regulation;
- 7) The lot and block arrangement of the plat of record along with its original name shall be indicated by dotted or dashed lines. Also, any revision or vacated roadway on the original plat of record shall be so indicated.

For property that does not meet the above criteria a major subdivision plat is required.

A storm water management plan and traffic study may be required for a minor subdivision plat as determined by the Planning Director or County Engineer.

6.4.2 Lot Line Adjustments, Lot Split and Lot Merger

The purpose of this subsection is to provide for approval of lot line adjustments. This process is intended to facilitate the further minor subdivision of lots, the combination of existing lots, or the adjustment of a lot line by relocation of a common boundary.

- 1) Any person having a legal interest in the property may file an application for a lot modification. An adjustment of an existing lot line requires an affidavit from the property owners of all property that is adjusted by this action indicating their consent.
- 2) An application for a lot modification shall be submitted to the Planning Director, along with the applicable fee; a certificate of survey prepared by a registered land surveyor showing the parcel or lot, the proposed modification, and all existing

structures; a legal description of the original parcel, and a legal description of the resulting parcel(s).

- 3) An application for a lot merger and lot line shall be reviewed by the Planning Director in consultation with the County Engineer. No hearing or review by either the Planning Commission or Board of County Commissioners is necessary.

6.4.2.1 Lot Line Adjustment

An adjustment of an existing platted lot line between two (2) adjoining lots by relocation of a common boundary must meet the following criteria:

- 1) Does not involve lots within more than one zoning district;
- 2) Is not one lot line adjustment in a series of lot line adjustments proposed for contiguous lots as a way to circumvent the minor subdivision platting process.
- 3) Both of the resulting parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located, or will do so when combined with an adjacent parcel as part of the same lot modification action;
- 4) The resulting parcels are able to be legally described with no more than two (2) directional descriptors (i.e. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For lot line adjustments between irregularly-shaped parcels or to transfer an irregularly-shaped portion of a lot to an adjacent land owner, the Planning Director may waive this requirement, provided the resulting parcels can be legally described as the original lot number combined with a letter (i.e. Lot 1 would become Lots 1A, 1B and 1C);

6.4.2.2 Lot Merger

A merger of two (2) or more platted lots into a single lot whose boundaries coincide with the lot lines shown on the recorded plat of the subdivision must meet the following criteria:

- 1) Does not involve the vacation of any portion of any existing easement or right-of-way;
- 2) Does not involve lots within different zoning districts.

6.4.2.3 Lot Split

The division of a previously platted lot resulting in not more than three (3) lots and must meet the following criteria:

- 1) The lot split does not involve the creation of new utility easements;
- 2) The lot split does not require the dedication of public rights-of-way for the purpose of gaining access to the property;
- 3) All parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located;
- 4) The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For an irregularly-shaped lot, the Planning Director may waive this requirement, provided the resulting parcels can be legally described as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C), and provided that any line dividing the parcel along a common wall is a straight line from the front property line to the back-property line along the common wall;
- 5) The property has not previously been divided through the lot split provisions of this Ordinance.

6.5 MAJOR SUBDIVISION PLATS AND RE-PLATS

Subdivisions that do not meet the criteria of a minor subdivision as outlined in section 6.4.1 shall be considered a major subdivision.

6.5.1 Purpose

A major subdivision plat is for the purpose of selling land and for building development. The creation of a lot, a street, a public or private easement or

right-of-way requires a major subdivision plat to be prepared and approved in accordance with this Subdivision Regulation, and N.D.C.C. Ch. 11-33.2-01, and 40-50.1.

Subdivision platting includes three basic steps:

- 1) Preliminary Plat which shall include a pre-application meeting prior to the submission of the preliminary plat.
- 2) Improvement Plans shall include the following unless modified by the County Engineer.
 - a) Grading plan.
 - b) Drainage plan.
 - c) Paving plan.
 - d) Utility plan including water, sewer, electricity, cable.
 - e) Fire prevention plan.
- 3) Final Plat.

6.6 PRELIMINARY PLAT

6.6.1 Pre-Application Meeting with Planning Department

Prior to preparing a preliminary subdivision plat, the applicant shall meet with county staff to discuss the proposed plat and its consistency with county plans, zoning, and policies.

The purpose of the pre-application meeting (no fee) is for the applicant to receive information and assistance from county staff prior to the formal preparation and submittal of a preliminary plat.

The applicant shall bring a sketch plan to the pre-application meeting with general information regarding land use, street and lot arrangement, tentative lot sizes, and such information as may be required to allow county staff to better evaluate the proposed subdivision and identify any issues which could result in unnecessary costs to the applicant. Sketch plan requirements shall be as outlined on a checklist provided by the Planning Department.

6.6.2 Preliminary Plat Preparation and Submittal

The applicant shall have a registered engineer prepare the preliminary plat. The preliminary plat shows a higher level of detail of existing features. Preliminary Plats are not recorded. Approval by the Planning Commission of a preliminary plat is necessary before proceeding with an improvement plans and the final plat. A checklist of requirements shall be provided by the Planning Department.

The applicant will distribute a copy of the preliminary plat to the following recipients and deliver to the Planning Director responses from each recipient.

- 1) County Engineer.
- 2) Rural Fire District.
- 3) County Sheriff.
- 4) County Emergency Manager.
- 5) School District (only for residential plats).
- 6) Each utility providing service to the proposed subdivision.
- 7) Adjoining municipality (if site is located within one (1) mile of a municipal or ETA boundary).
- 8) North Dakota Department of Transportation (if located adjacent to a state highway, as determined by the Planning Director).
- 9) Board of Supervisors of the township(s) affected. Acknowledgement of receipt must be provided by the applicant.

The applicant will also provide a list and mailing labels for adjacent property owners within three hundred (300') feet of the subject property so the County may notify property owners of the proposed preliminary plat hearing.

The plat application shall be considered to be officially filed when the Planning Director or his designee has received and examined the application and has determined that the application is complete and all submittal items have been received. Additional information may be requested by the Planning Department.

6.6.4 Preliminary Plat Tentative Approval

A hearing is held by the Planning Commission on the preliminary plat. The plat shall be reviewed and modified as needed. The Planning Commission shall tentatively approve the preliminary plat or deny it.

If the preliminary plat is recommended for denial, the reasons for that action shall be stated.

If tentatively approved the applicant may proceed with preparing improvement plans. Tentative approval of a preliminary plat by the Planning Commission is not an acceptance of the subdivision plat for record, but is rather a general expression of approval of the preliminary plat as a representation of the forthcoming final plat.

6.7 IMPROVEMENT PLANS AND TECHNICAL REVIEW

The tentative approval of the preliminary plat shall be effective for a maximum period of six (6) months, unless requested by the applicant and granted by the Planning Director an extension of a maximum of six (6) months. If the improvement plans have not been submitted for review within six (6) months, and if an extension is not granted, the preliminary plat must again be submitted to the Planning Commission for tentative approval. All improvement plans shall be reviewed by the Planning Director and the County Engineer.

Improvement plans shall follow county design standards as described in section 6.9 of this Ordinance and shall consist of the following:

- 1) Grading plan. The grading plan shall include:
 - a) Existing and proposed grading for the entire site,
 - b) Contours as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features;
 - c) Location site retention.
 - d) Topography plan shall include but not be limited to catch basins, culverts, grated inlets, inverts, railroad tracks, sidewalks, driveways, trees, utility structures, manholes, curb & gutter, water valves, monuments, centerline ties, and miscellaneous surface features to complete the project design.
- 2) Drainage plan. The drainage plan shall include storm water management of the developed site delineating:

- a) The direction and at what rate storm water runoff will be conveyed from the site.
 - b) Location of the areas of the site where storm water will be collected.
 - c) Storm Water Pollution Prevention Plan (SWPPP) is required.
 - d) Existing drainage improvements shall be investigated and shown on the project plans. The design shall include recommendations to improve the drainage facilities, at the same time creating smooth transitions on the longitudinal and cross sections of the pavement.
- 3) Paving plan. A paving plan shall include:
- a) Three profiles of existing ground elevation; one at centerline and one on each side of the right-of-way, fifty (50') feet beyond the right-of-way lines, and
 - b) A centerline profile of proposed design elevation.
 - c) Striping plan.
 - d) Acceleration and deceleration lanes as needed.
 - e) Traffic Impact Study may be required if the County Engineer determines the impacts to the road system require further studies. The traffic impact study shall detail improvements and recommendations to ensure safe and efficient access to the development. A checklist of elements to be included in a traffic study shall be provided by the County Engineer.
- 4) Utility plan. A utility servicing plan shall include water, sewer, electricity, cable:
- a) The location of existing utilities within or adjacent to the plat;
 - b) The proposed location of utility lines (water, sewer, electric, gas, and other) within the subdivision, how these mains are proposed to connect to existing systems,
 - c) Easements required to accommodate utilities on or off of the site,
 - d) A letter from the water provider indicating the availability of water;
 - e) Proposed water well locations, if necessary;

- f) Proposed sewer or septic system information, as necessary;
- 6) Fire prevention plan. The fire prevention plan shall include:
 - a) Location of proposed fire hydrants or water tanks for firefighting.
 - b) Location, size and operating capacity of all pipes, pumps, and equipment to achieve fire flow for a minimum of two (2) hours.
- 7) Additional plans as required by the County Engineer.
- 8) All Improvement Plans are to be wet-signed and bear the original seal of the registered civil engineer that prepared the plans.

The County may require the developer to enter an agreement for the completion of any public improvement and shall be subject to a construction bond for said public improvements.

The County Engineer shall perform a technical review of the improvement plans and provide comments and required revisions to the improvement plans. The County Engineer may require changes to the preliminary plat design if necessary because of site conditions or to achieve acceptable engineering practices.

Upon acknowledgement from the County Engineer that the plans are acceptable, the applicant shall prepare or have prepared the final plat.

6.8 FINAL PLAT

6.8.1 Final Plat Preparation and Submittal

Upon County Engineer's approval of the improvement plans the applicant shall have prepared a final plat by a North Dakota registered civil engineer following the requirements as outlined by the Planning Department. The application, fee and plat shall be submitted to the Planning Department for review and recommendation to the Planning Commission.

6.8.2 Final Plat Approval and Recording

- 1) Township acknowledgement. In accordance with N.D.C.C. Ch. 11-33.2-12, The Board of Township Supervisors shall be notified, by certified mail that an application for final plat has been filed, and that the Board of Township Supervisors is requested to make a recommendation on the application. If the Board of County Commissioners does not receive, by certified mail, a recommendation by the Board of Township Supervisors within sixty (60) days after notification, it may take final action on the application for plat approval.

The recommendations by the Board of Township Supervisors shall not be binding on the Board of County Commissioners.

- 2) Planning Commission hearing. Pursuant to established policies and procedures the Planning Commission shall conduct a public hearing on the final plat and shall make a recommendation to the Board of County Commissioners to approve or deny the final plat.
- 3) Recommendations. The recommendations of the Planning Commission and the Board of Township Supervisors shall be sent to the Board of County Commissioners for their consideration.
- 4) Board of County Commission hearing. Pursuant to established policies and procedures the Board of County Commission shall conduct a public hearing on the final plat and shall approve or deny the plat.
- 5) Signatures. If the plat is approved by the Board of County Commissioners the applicant shall provide the plat on Mylar with any and all covenants and signature blocks, acknowledgments and certifications required for recording. The County Auditor shall have the plat signed as required by State law.
- 6) Recording of the plat. After all required signatures and certification are completed the applicant shall file the final plat for recording with the County Recorder within ninety (90) days after approval. One (1) copy shall also be filed with the Planning Director.
- 7) Failure of the applicant to have the final plat recorded within ninety (90) days of Board of County Commissioners approval shall make the approval null and void without further action and the applicant will need to submit a new application and fees for consideration.

Until the plat is recorded, no building permit for any structure within the subdivision shall be issued and lots shall not be sold. The sale of lots or construction of buildings prior to final plat approval and recording is a class B misdemeanor as established by N.D.C.C. Ch. 11-33.2-15.

6.9 ADEQUATE PUBLIC FACILITIES

New developments add to a greater demand on services and facilities. These facilities are necessary to maintain and improve the quality of life for the general public. It is therefore imperative that new developments assist in providing adequate improvements to public facilities to support the new and growing demand. It is the intent that these standards and regulations to improve and

provide for adequate public facilities. The development requirements of this Ordinance shall provide for:

- 1) The construction and maintenance of roads.
- 2) The expansion of a public water system.
- 3) Development of public sewer facilities.
- 4) The development and enhancement of parks and open space.
- 5) Adequate fire protection.

6.9.1 Public Improvement Requirements

The following requirements shall apply to new development, except where noted, that are approved after the adoption of this Ordinance

- 1) Roads
 - a) Residential, commercial and industrial developments shall pave and maintain interior roads, drives and parking areas within the project.
 - b) Residential, commercial and industrial developments shall pave and maintain all existing and proposed roads adjacent to the project.
 - c) All roads shall be built to County standards as outlined in section 6.10 of this Ordinance.
 - d) Residential, commercial and industrial developments that are within five hundred (500) feet of an existing pave road shall extend the pavement to their property.
 - e) Residential subdivisions zoned R-5A and R-10A shall not be required to pave but shall construct and improve interior roads and perimeter roads to the standards outline in sections 6.10.8 and 6.10.9 of this Ordinance.
- 2) Water
 - a) All residential subdivision, except R-5A and R-10A, that are located within the distance of one half (1/2) mile of existing public water service shall extend waterlines to the subdivision and tie into said service.

- 3) Sewer
 - a) Residential subdivisions with one hundred (100) or more proposed lots shall provide a tie into a public sewer system or provide for a package treatment plant. Individual septic systems shall not be allowed.
- 4) Parks and Open Space
 - a) All residential subdivision except R-5A and R-10A shall provide open space of ten (10) percent. The open space shall be landscaped and include site amenities such as benches, picnic tables, BBQ grills and playground equipment.
- 5) Fire Protection
 - a) Residential and commercial developments shall construct and maintain adequate fire protection.
 - b) All residential zones, except R-5A and R-10A, shall provide a minimum ten thousand (10,000) gallon water tank for connection for the fire department. The tank must be insulated to prevent freezing or must be buried below the frost line.
 - c) Oil and gas storage facilities, not excepted from application of this ordinance, shall space storage tanks two (2) times the distance as prescribed in National Fire Protection Association publication 30 (NFPA 30) or shall provide foam as required by the County Emergency Manager. All other standards of NFPA 30 shall be followed.

6.10 DESIGN STANDARDS

All plats and improvement plans shall follow these design standards

6.10.1 General Provisions

- 1) Streets within and bordering a subdivision shall be coordinated with the County Engineer, and be of such width, grade and cross section as required to meet county standards.
- 2) No street names will be used that will duplicate or be confused with the names of existing streets within McKenzie County or within ten (10) miles of the proposed subdivision. Streets that are now or will

eventually be continuations of existing streets shall be called by the names of the existing streets.

- 3) All streets shall be marked with permanent street name signs (installed at developer's expense) at each end and every intersection with another street and shall be in a 14-point, Arial font all capital letters.
- 4) Adequate easements or rights of way shall be provided for drainage and utilities.
- 5) Dedications of any area designed for use as public grounds, open space or parks shall be of suitable size and location for the designated use.
- 6) Land which is subject to extraordinary hazards, including flooding and subsidence, either shall be made safe for the purpose for which such land is proposed to be used, or shall be set aside for uses which shall not endanger life or property or further aggravate or increase the existing hazard.

6.10.2 Streets and Roadway Design Standards

- 1) Access and street classifications shall be consistent with the 2025 McKenzie County Comprehensive Plan and County Engineer's requirements.
- 2) The arrangement, character, extent, width, grade, and location of all streets shall conform to the 2025 McKenzie County Comprehensive Plan and shall be considered in relation to existing and planned streets, to topographical conditions, and to the proposed uses of lands to be served.

6.10.3 General Arrangement of Streets

- 1) The arrangement of streets in a subdivision shall either:
 - a) Provide for the continuation, or appropriate projection, of existing principal streets in surrounding areas; or
 - b) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance of or conformance to existing streets impractical.

- 2) Local streets shall be so laid out to minimize through traffic and discourage excessive speeds.
- 3) A tangent at least one hundred and fifty (150') feet long shall be introduced between reverse curves on collectors.
- 4) A tangent at least fifty (50') feet long shall be introduced between reverse curves on local roads.
- 5) Horizontal curves shall be used at all angle changes in excess of two (2) degrees. Single, long radius curves shall be used rather than a series of curves with varying radii and/or a series of short curves separated by short, straight segments. The minimum horizontal curve radius for streets shall be one hundred and fifty (150') feet.
- 6) Property lines at street intersections shall be rounded with a radius of ten (10') feet, or of a greater radius where the County Engineer may deem necessary.
- 7) Unless otherwise shown on the 2025 McKenzie County Comprehensive Plan, right-of-way and roadway widths shall be as follows:

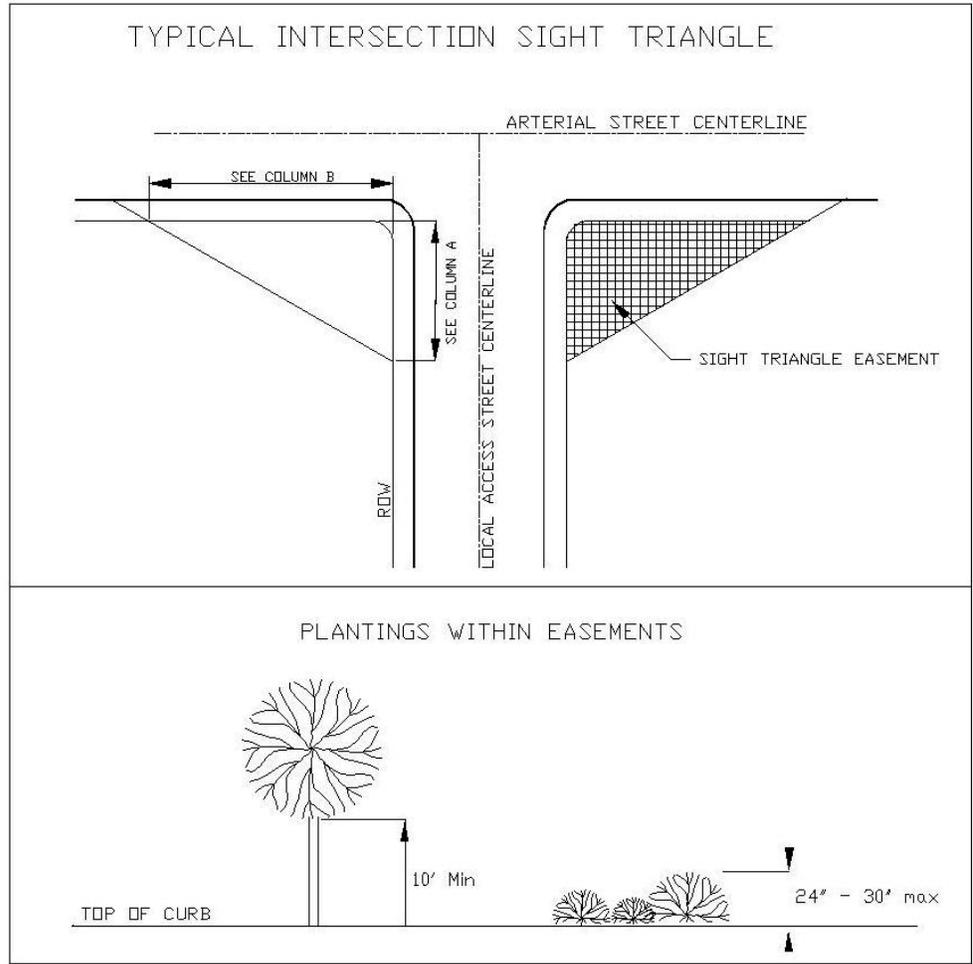
Street Class	Minimum Right-of-Way	Typical Roadway Width
Principal Arterial	150 feet	12' lanes, turning lane, 10' shoulders, ditch 4:1 slope
Minor Arterial	100 feet	12' lanes, turning lane, 10' shoulders, ditch 4:1 slope
Collector Road	80 feet	12' lanes, 10' shoulders, ditch 4:1 slope
Local Road	66 feet	12' lanes. 4' shoulders, ditch 4:1 slope

- 8) If demonstrated by the developer that special circumstances exist, the County Engineer may adjust minimum required right-of-way widths.

6.10.4 Intersections and Sight Distance

- 1) Intersections involving the junction of more than two streets are prohibited.
- 2) Street intersection jogs with an offset of less than three hundred (300') feet shall be avoided.

- 3) Unless approved by the County Engineer, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be eighty (80) degrees.
- 4) Proper sight distance shall be provided at all new street and all new access drive intersections in accordance with the latest edition of the American Association of State Highway and Transportation Officers (AASHTO) *A Policy on Geometric Design of Highways and Streets*. Sufficient design and plan information shall be submitted with the plan application proving that this minimum standard will be achieved and such design information shall be performed by a professional registered in North Dakota to perform such design work.
- 5) At all intersections where stop signs or other stop control devices are not proposed, sight triangle easements or dedicated right-of-way shall be required and shall include the area on each street corner that is bounded by the line which connects the sight or connecting points located on each of the right-of-way lines of the intersecting street. The planting of trees or other plantings or the location of structures exceeding thirty (30") inches in height that would obstruct the clear sight across the area of the easements or right-of-way shall be prohibited; and a public right-of-entry shall be reserved for the purpose of removing any object, material or otherwise, that obstructs the clear sight. The sight triangle distances as shown in the diagram and table below shall be required.



	Column A	Column B		
		Local	Collector	Arterial
Local	30'	30'	120'	150'
Collector	120'	30'	120'	150'
Arterials	150'	30'	120'	150'

6.10.5 Private Streets

- 1) Minimum right-of-way or easement width for a private roadway within a residential subdivision shall be fifty (50') feet.
- 2) All subdivision streets shall be dedicated for the public use unless design objectives of the development warrant private use. Approval of a subdivision involving a private street shall be solely at the discretion of the Planning Commission.

- 3) Dedication of streets for public use shall not constitute a requirement that the County maintain the dedicate street. Construction and maintenance of all streets with the exception of County designated roads shall be the responsibility of the developer.
- 4) Applications that propose a private street shall be constructed and maintained by the developer.

6.10.6 Half-Streets

- 1) Half-streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other standards of this Subdivision Regulation, and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided.
- 2) All roads shall be constructed to their full width and cross section.
- 3) Where there exists a half-street adjacent to a tract to be subdivided, the other half shall be platted within such tract.

6.10.7 Cul-de-Sac and Dead-End Streets

- 1) Dead-end streets (temporary or permanent) without cul-de-sac turn arounds shall be prohibited.
- 2) Cul-de-sac shall be a maximum of six hundred (600') feet measured from the edge of curb of the intersecting street to the edge of the curb at the end of the cul-de-sac.
- 3) A cul-de-sac will not be permitted when a through street is feasible. The feasibility of a through street will be based on the physical features of the tract proposed for development, the potential for extension of the street to adjoining lands, restrictions imposed by other government and the ability of the design to meet all other requirements of this Subdivision Regulation.
- 4) Cul-de-sac shall have a paved diameter of at least eighty (80') feet in residential subdivisions and one hundred (100') feet in commercial, industrial and light industrial subdivisions and shall maintain the same distance between the roadway edge and the right-of-way line as is maintained for the straight sections of the street.
- 5) Temporary cul-de-sac. In those instances where a street is

terminated pending future extension in conjunction with future subdivision.

- 6) Temporary cul-de-sacs shall be constructed completely within the right-of-way. Conversion of the cul-de-sac to a straight section of street, restoration of the street and areas within the right-of-way, shall be the responsibility of the developer making the future connection to the temporary cul-de-sac.

6.10.8 Roadway Cross Section

- 1) All roads within the subdivision shall be centered on the roadway right-of-way unless approved by the County Engineer.
- 2) Minimum top of roadway elevation shall be three (3') feet above ditch invert with side slopes of 4:1 unless otherwise approved by the County Engineer.
- 3) Ditch bottoms shall be three (3') feet in width and have positive drainage to an outlet.

6.10.9 Gravel Surfacing

When a road, parking lot or other driving surface is not required to be paved the following standards shall apply:

- 1) The topsoil shall be removed and a clay subgrade compacted to ninety-five (95%) percent rate when tested in accordance using a standard modified proctor method (ASTM D698).
- 2) Six (6") inches of Class 13 compacted gravel applied as the surface layer shall meet the North Dakota Department of Transportation *Standard Specifications for Road and Bridge Construction* manual. .
- 3) The road shall have a four (4%) percent crown.
- 4) Parking lots shall have a minimum of a two (2%) percent cross slope for positive drainage.
- 5) All approaches to private property shall be graveled with Class 13 aggregate to a compacted depth of two (2") inches. Gravel shall extend from the edge of the roadway to the property line.
- 6) Any deviation from these standards must be approved by the County Engineer.

6.10.10 Paved Surfacing

The following standards shall apply to all roads, parking lots and driving surfaces that are required to be paved.

- 1) The base shall be built with six (6") inches of compacted gravel meeting the North Dakota Department of Transportation *Standard Specifications for Road and Bridge Construction* manual for Class 5 gravel.
- 2) The road shall be built with six (6") inches of asphalt or six (6") inches of concrete.
- 3) Asphalt roads shall initially be built with four (4") inches of asphalt with a two (2") inches asphalt wear course constructed following the completion of eighty (80%) percent of the development's primary structures. All low spots and areas experiencing settling shall be filled to grade with asphalt prior to the final two (2") inches wear course.
- 4) The road shall have a two (2%) percent crown.
- 5) When pavement is required by the County Engineer, pavement shall not end at the access road but the entire frontage of the property where the road is located shall be paved.

STREET GRADE AND INTERSECTION STANDARDS		
	Local	Collector
Minimum Grade	0.5%	0.5%
Maximum Grade	5%	5%
Maximum Grade Within 75' of Intersection of Centerlines	2%	2%
Minimum Centerline Radius	100'	150'
Minimum Tangent Length Between Reverse Curves	50'	150'
Roadway Radii	25'	35'

6.10.11 Approaches and Access Points

- 1) Each lot shall have access to a public road.
- 2) The County Road and Bridge Department may disapprove any point of ingress or egress to any lot, tract, parcel, or development from any street or highway when the proposed ingress or egress would create unsafe conditions, reduce the capacity of the adjoining street or highway, result in substandard circulation and impaired vehicle movement, or if inconsistent with county, township, city, state or other entity's spacing requirements.
- 3) The County Road and Bridge Department may require the applicant to provide ingress and egress to a particular lot or tract through the remainder of his property or other properties over which the applicant has control.
- 4) In approving ingress or egress from any State road or highway, the Planning Commission can only approve those access points that are not in conflict with safety standards of the North Dakota Department of Transportation. In the case of a plan requiring access to a highway under the jurisdiction of the North Dakota Department of Transportation, the applicant shall submit documentation from the North Dakota DOT demonstrating the approved access onto such road.
- 5) Access spacing from a County or Township road shall be consistent with the standards set forth in the 2025 McKenzie County Comprehensive Plan, to related policies adopted by the County, and with this Ordinance.

6.10.12 Easements

- 1) Easements and right-of-way, when approved, shall not thereafter be changed without the approval of the Board of County Commissioners upon the recommendation of the Planning Commission.
- 2) Easements for sanitary sewer facilities, storm water drainage facilities, public or private utilities, or pedestrian access shall meet the following standards:
 - a) To the fullest extent possible, easements shall be adjacent to property lines.
 - b) Nothing shall be placed, planted, set, or put within the area of

an easement that would adversely affect the function of the easement or conflict with the easement agreement.

- c) Public utility easements shall have a minimum width of twenty (20') feet and private utility easements shall have a minimum width of ten (10') feet and shall be required along lot frontage and may be required along the back of lots. All utility companies are encouraged to use common easements.
- d) The applicant shall reserve easements where storm water or surface water drainage facilities exist or are proposed, whether located within or beyond the boundaries of the property, easements shall be required for all conveyance systems crossing private property. Easements shall have a minimum width of twenty (20') feet and shall be adequately designed to provide area for the collection and discharge of water, the maintenance, repair and reconstruction of the drainage facilities and the passage of machinery for such work. The easements shall clearly identify who has the right-of-access and responsibility of maintenance.

6.10.13 Blocks and Lots

- 1) Blocks
 - a) In general, intersecting streets and roads, determining block lengths, shall be provided at such intervals as will serve cross traffic adequately and to meet existing streets and roads. Where no adjacent plats exist, the blocks in subdivisions shall normally not exceed thirteen hundred and twenty (1,320') feet in length, except where topography or other conditions justify departure from this maximum.
 - b) The design of blocks longer than eight hundred (800') feet shall give special consideration to the requirements of fire protection, pedestrian access and utility service. The Planning Commission may require easements as necessary for these purposes.
 - c) Blocks in nonresidential areas may vary from the maximum block length requirement when required by the nature of the use. Adequate provisions shall be made for off-street parking, loading areas and traffic circulation.

2) Lots

- a) All lots shall front on a public street, unless a private street is approved for access. Principal vehicular access to lots shall be provided from the frontage along the approved street.
- b) The minimum lot area, width and depth shall not be less than that established by this Ordinance in effect at the time of adoption of the plat.
- c) Corner lots for residential use shall have additional width of five (5') feet to permit appropriate building setback from both streets as required in this Ordinance.
- d) Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines. Exceptions may include cases where proposed lot lines follow existing lot lines, improvements, or natural features.
- e) Width. Every lot must have the minimum width measured at the front yard setback (front building line).
- f) No singular plat shall extend over a political boundary or school district line without documenting notification to the affected units of government.
- g) Double frontage lots, lots with frontage on two (2) parallel streets shall not be permitted except where lots back on major collector or arterial streets, County or State highways, or where topographic or other conditions render subdividing otherwise unreasonable. All such lots shall have within every rear yard that is adjacent to section line or arterial road a planted landscaping buffer consistent with section 2.12 of this Ordinance.
- h) On single family residential lots determined to be irregular in shape (e.g., triangular), the developer shall demonstrate to the County Engineer an ability to properly place principal structures upon the site which are compatible in size and character to the surrounding area.

6.10.14 Erosion and Sediment Control

- 1) In all zoning districts, except Agricultural, the following standards and conditions shall apply:

- a) Before any developer or other firm, person or agency changes or alters the contour of any land proposed to be subdivided, developed or changed in use by grading, excavating or the removal of the natural topsoil, trees, or other vegetative covering thereon for the purpose of development, construction or other purposes, he or his agent shall develop a plan to control erosion and sedimentation which can be expected to occur if appropriate precautions are not taken to arrest such waste and soil depletion.
 - b) Erosion and sedimentation control shall be exercised throughout the time of excavation, landfill and/or construction. No such work shall be finally approved until after appropriate seeding, sodding, plantings, mulching or other appropriate erosion control measures have been taken.
 - c) The Board of County Commissioners may require the posting of a performance bond by any such persons who desire to change the contour of the land. Such bond shall be in the amount he reasonably expects the cost to be to the County to enter upon the property for the purpose of taking corrective action where such developer or other person has failed to satisfactorily control either erosion or sedimentation. The amount of the bond shall be approved by the County Engineer.
- 2) The following erosion control measures shall be observed during development of property when changing the contour of the land:
- a) The smallest practical area of land will be exposed at any time during development.
 - b) When land is exposed during development, the exposure will be kept to the shortest practical period of time. Top soil shall be removed and stockpiled during grading/development activities and replaced as needed upon completion in order to facilitate revegetation. The site shall be revegetated promptly upon completion of grading activities.
 - c) Where necessary, temporary vegetation and/or mulching will be used to protect areas exposed during development.
 - d) Sedimentation basins will be installed and maintained to remove sediment from run-off waters from land undergoing development or substantial changes of grade.
 - e) Provisions are to be made to effectively accommodate the

increased run-off caused by changed soil and surface conditions during and after development.

- f) Permanent final vegetation and structural development are to be installed as soon as practical in the development.
- g) The development plan is to be adapted to the topography and soils so as to create the least erosion potential.
- h) Wherever feasible, trees, shrubs, and natural vegetation are to be retained and protected to control erosion.

6.10.15 Grading

A grading permit shall be required to be obtained from the County Engineer if more than one (1) acre is to be disturbed.

- 1) Grading plan shall show existing and proposed grading.
- 2) Applicant shall provide a restoration plan.
- 3) Applicant shall provide a dust control plan of the graded area.

6.10.16 Storm Water Management

- 1) The purpose of these standards is to reduce, to the most practicable extent, increases in storm water runoff peak flows, flow duration and volumes and their associated effects within the county and to provide for the protection of natural and artificial water storage and retention areas and public waters.
- 2) Storm water management plans shall be subject to written approval by the County Engineer prior to the public hearing on the final plat by the Planning Commission.
- 3) Storm water management plans shall contain elements as required by the County Engineer.
- 4) Enforcement of an approved storm water management plan shall include intermittent on-site inspections of the development and subdivision by the Planning Director or County Engineer. Should any inspections result in a determination of non-compliance with the approved plan the owner/developer will be notified of the necessary corrective actions. Should such corrective actions not be implemented within a specified time frame, designated in the notice, any current permits for construction on such properties may be

suspended. If corrective action is not taken within a period of not less than fourteen days from the date of receipt of notice the owner/developer may be subject to legal action to achieve compliance. In the case where non-compliance is associated with overall development within a subdivision, enforcement could include the suspension and/or revocation of any other permits approved within the subdivision and the performance bond may be used to make corrective actions.

- 5) Any damages to public facilities resulting from non-compliance with the storm water management plan (i.e. roadway washout, sediment removal, etc.) shall be corrected by the offending owner/developer or payment made to the County for the extent of such damages. Costs incurred by the County to correct such damages shall be paid by the owner/developer or may be assessed to the development properties.

6.10.17 Improvements

- 1) General
 - a) As a condition of final approval of plats, the Board of County Commissioners may require that the subdivision developer to enter an agreement with the County to install such public improvements at the subdivision developer's expense and that the subdivision developer execute a surety bond or other security to ensure that the subdivision developer will so make those improvements within such time as the board of Board of County Commissioners shall set.
 - b) The County shall determine the appropriate type of financial guarantee or security.
 - c) Provisions to release the surety bond or other security upon completion of public improvements required to be made by the subdivision developer shall be outlined in writing and approved by all parties.
 - d) In the event that any public improvements which may be required to be installed by the subdivision developer have not been installed as provided in this Subdivision Regulation or in accordance with the plat as finally approved, the Board of County Commissioners may enforce any surety bond, or other security, required of said subdivision developer by appropriate legal and equitable remedies.

- e) If the proceeds of the bond, or other security, are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by the security, the Board of County Commissioners may, at its option, install part of such improvements in all or part of the subdivision and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the subdivision developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other purpose.
- 2) Street
 - a) Roads within the subdivision shall begin construction prior to any building permit being issued. A certificate of occupancy for structures within the subdivision shall not be issued until roads are constructed and approved by the County Engineer.
 - b) All roads outside of a project that are required to be paved shall be paved the entire length of the property.
 - 3) Sanitary Sewer and Water Distribution
 - a) All sewage and water systems shall conform to the provisions of this Ordinance, the State Department of Health and the Upper Missouri District Health Unit.
 - b) All unsafe wells and/or abandoned wells within the subdivision shall be closed and capped.
 - 4) Development Agreement
 - a) Prior to installation of any required public improvements the developer shall enter into an agreement in writing with the county requiring the developer to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual agreement conditions and/or pay appropriate costs for improvements or other costs associated with the plat. Further, the agreement shall provide for the development of any restrictions, covenants, easements, signage, park, or other conditions of the approved plat and provide for the proper execution, recording or other action required. Approval of the developer's agreement shall be part of plat approval by the Board of County Commissioners.

- b) The development agreement shall include provisions for the supervision of the details of construction by the County Engineer or his agent.
 - c) The development agreement shall require the developer to provide a financial guarantee acceptable by the County to ensure completion or all improvements as provided in this Subdivision Regulation.
 - d) The time for completion of the work, and the several parts thereof, shall be determined by the County Engineer after consultation with the developer and shall be reasonable in relation to the work to be done, the seasons of the year, and proper coordination with construction activity in the subdivision.
 - e) One (1) copy of the development agreement which was signed by the applicant and the County shall be submitted to the Planning Department at the time the plat is recorded.
 - f) A construction bond for the approved improvement shall be obtained naming the county as sole beneficiary. See section 2.13.
- 5) Completion of Improvements
- a) Governmental Units. Governmental units to which these guarantee and agreement provisions apply may file, in lieu of said agreement or financial guarantee, a certified resolution from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this section.
 - b) Failure to Complete Improvement. For a subdivision for which no financial guarantee has been posted, if the improvements are not completed within the period specified by the county in the approval process, the approval shall be deemed to have expired. In those cases where a financial guarantee has been posted and required improvements have not been installed within the terms of such financial guarantee, the county may declare the financial guarantee to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the financial guarantee is declared to be in default.
 - c) Release of Financial Guarantee. Certification of Satisfactory Completion. The County shall not release a financial guarantee

for those improvements required until the County Engineer has certified that all required improvements have been satisfactorily completed.

- 6) Deferral or Waiver of Required Improvements
 - a) The County may defer or waive at the time of plat approval, subject to appropriate conditions, the provision of any or all such improvements that, in its judgment, are not requisite to the interests of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.
 - b) Whenever it is deemed necessary by the County to defer the construction of daily required improvement because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the developer may post a financial guarantee ensuring completion of said improvements upon demand of the County.

6.10.18 Bond

A construction bond shall be required when roads or other improvements within the subdivision are not constructed prior to the recording of a final plat. Bond shall be as outlined in section 2.13 of this Ordinance.

6.10.19 Enforcement

A violation of this Subdivision Regulation is deemed a violation of this Ordinance and shall be remedied accordingly, by criminal prosecution, civil action, and/or other remedies available by law.

6.11 SEVERABILITY AND SUPREMACY

- 1) Severability
 - a) Every section, provision, or part of this Subdivision Regulation or any permit issued pursuant to this Subdivision Regulation is declared separable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Subdivision Regulation or any permit issued pursuant to this Subdivision Regulation shall be held invalid by a court of competent jurisdiction; it shall not invalidate any other section, provision, or part thereof.
 - b) If any court of competent jurisdiction shall judge invalid the application of any provision of this Subdivision Regulation to a particular property,

building, or structure, such judgment shall not affect other properties, buildings or structures.

2) Supremacy

- a) When any condition imposed by a provision of this Subdivision Regulation on the use of land or building or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other County Resolution or regulation, the more restrictive conditions shall prevail.
- b) This Subdivision Regulation is not intended to abrogate any easements, restrictions, or covenants relating to the use of land within the County by private declaration or agreement, but where the provisions of this Subdivision Regulation is more restrictive than any such easement, restriction, or covenant or the provision of any private agreement, the provisions of this Subdivision Regulation shall prevail.