

McKenzie County, North Dakota
Land Development Ordinance
DRAFT – July 3, 2024

Table of Contents

Article 1.	Introduction.....	6
Sec. 1-1	Title and Scope.....	6
Sec. 1-2	Purpose and Intent.....	6
Sec. 1-3	Authorization	6
Sec. 1-4	Definitions.....	7
Article 2.	General Provisions	30
Sec. 2-1	Jurisdiction.....	30
Sec. 2-2	Compliance with Ordinances, Statutes, and Regulations	30
Sec. 2-3	Exceptions.....	31
Sec. 2-4	Severability	31
Sec. 2-5	Replace.....	31
Sec. 2-6	Non-Conforming Uses or Structures	31
Sec. 2-7	Conditional Uses.....	32
Sec. 2-8	Prohibited Uses	32
Sec. 2-9	Road, Traffic, and Access Requirements	32
Sec. 2-10	Road Setbacks.....	37
Sec. 2-11	Parking Standards and Requirements	37
Sec. 2-12	Landscaping Standards	39
Sec. 2-13	Bonds	45
Sec. 2-14	Dedication of Land for Streets.....	47
Sec. 2-15	Authority to do Business.....	47
Sec. 2-16	Skid Unit Permit Fee.....	48
Sec. 2-17	Stormwater Management	48
Sec. 2-18	Erosion Control During Construction.....	52
Sec. 2-19	Fire Protection.....	53
Sec. 2-20	Signs.....	54
Article 3.	Zoning Districts	63
Sec. 3-1	Zoning District Designation.....	63
Sec. 3-2	Zoning Map and District Boundaries.....	64
Sec. 3-3	Table of Uses.....	64
Sec. 3-4	Table of Dimensional and Density Standards.....	71

Sec. 3-5	Agricultural District (AG).....	73
Sec. 3-6	Recreational District (REC).....	73
Sec. 3-7	Residential Low Density District (R-1)	74
Sec. 3-8	Rural Residential District (R-5A).....	74
Sec. 3-9	Residential Medium Density District (R-2).....	75
Sec. 3-10	Residential High Density District (R-3)	75
Sec. 3-11	Commercial District (C-1)	75
Sec. 3-12	Light Industrial District (I-1)	76
Sec. 3-13	Heavy Industrial District (I-2)	76
Sec. 3-14	Planned Unit Development Overlay District (PUD)	77
Sec. 3-15	Floodplain Overlay District	79
Sec. 3-16	Highway Corridor Overlay District	79
Sec. 3-17	Firearms Facility Overlay District	81
Sec. 3-18	Public-Use Airport Overlay District	86
Article 4.	Special Provisions.....	91
Sec. 4-1	Sewage Disposal.....	91
Sec. 4-2	Commercial Feedlots	92
Sec. 4-3	Solid Waste Landfills and Waste Management Facilities	93
Sec. 4-4	Home Occupations.....	96
Sec. 4-5	Adult Entertainment Centers.....	97
Sec. 4-6	Workforce Housing	98
Sec. 4-7	Freshwater Depots, Pipelines, and Ponds	99
Sec. 4-8	Communication Facilities	101
Sec. 4-9	Electrical Substations.....	101
Sec. 4-10	Manufactured Home Parks	102
Sec. 4-11	Recreational Vehicle Parks	104
Sec. 4-12	Recreational Vehicle Occupancy, Limited.....	106
Sec. 4-13	Medical Marijuana	106
Sec. 4-14	Surface Mining (Commercial and Public)	112
Sec. 4-15	Child Care – Self-declared Provider	113
Sec. 4-16	Wind Energy Facility	113
Sec. 4-17	Accessory Solar Energy System.....	117

Sec. 4-18	Solar Energy System.....	118
Sec. 4-19	Data Centers.....	122
Sec. 4-20	Accessory Farm Labor Housing.....	125
Sec. 4-21	Accessory Residential Structure.....	125
Article 5.	Administration.....	126
Sec. 5-1	Roles and Responsibilities.....	126
Sec. 5-2	Board of County Commissioners.....	127
Sec. 5-3	Planning and Zoning Board.....	128
Sec. 5-4	Planning and Zoning Director.....	128
Sec. 5-5	Board of Adjustment.....	129
Sec. 5-6	Permits, Procedures, and Fees.....	130
Sec. 5-7	Land Development Ordinance Text Amendments.....	131
Sec. 5-8	Zoning Map Amendments.....	132
Sec. 5-9	Variances.....	134
Sec. 5-10	Major Subdivisions.....	137
Sec. 5-11	Minor Subdivisions.....	142
Sec. 5-12	Lot Line Adjustments, Lot Splits, and Lot Mergers.....	143
Sec. 5-13	Conditional Use Permits.....	144
Sec. 5-14	Administrative Permit.....	149
5-14-4	Extensions for Applications with Limited Timeframes.....	151
Sec. 5-15	Appeals.....	151
Sec. 5-16	Violations and Penalties.....	152
Sec. 5-17	County Fire Official.....	154
Sec. 5-18	Building Permit.....	155
Sec. 5-19	Manufactured Homes Installation Program.....	157
Article 6.	Subdivision Regulation.....	158
Sec. 6-1	General Provisions.....	158
Sec. 6-2	Exemptions.....	159
Sec. 6-3	Adequate Public Facilities.....	160
Sec. 6-4	Major Subdivisions.....	163
Sec. 6-5	Minor Subdivisions.....	166
Sec. 6-6	Lot Line Adjustments, Lot Splits, and Lot Mergers.....	167

Sec. 6-7	Blocks	168
Sec. 6-8	Lots	169
Sec. 6-9	Street Design Standards	169
Sec. 6-10	Easements	173
Sec. 6-11	Supremacy.....	174

Tables

Table 2-1.	Slight Triangle Requirements	33
Table 2-2.	Planting Requirements.....	40
Table 2-3.	Parking Lot Perimeter Landscaping Standards.....	41
Table 2-4.	Buffer Yard Types	42
Table 2-5.	Buffer Yard Requirements	43
Table 2-6.	Distance for Measuring Brightness	59
Table 2-7.	Sign Type and Zoning District Table	60
Table 3-1.	Zoning and Land Use Table.....	66
Table 3-2.	Dimensional and Density Standards	72
Table 4-1.	Animal Units.....	92
Table 4-2.	Feedlot Setbacks	93
Table 4-3.	Medical Marijuana Insurance Requirements	110
Table 4-4.	Wind Energy Facility Setback Standards.....	115
Table 4-5.	Solar Facility Setback Standards	119

ARTICLE 1. INTRODUCTION

Contents

[Section 1-1: Title and Scope](#)

[Section 1-2: Purpose and Intent](#)

[Section 1-3: Authorization](#)

[Section 1-4: Definitions](#)

Sec. 1-1 Title and Scope

The McKenzie County Zoning Ordinance, Zoning Map, and Subdivision Regulations, shall collectively be known as the Land Development Ordinance and may be cited as the LDO or the Ordinance.

The Land Development Ordinance includes the North Dakota Building Code, International Fire Code, and other codes, regulations, and modifications as directed by the McKenzie County Board of County Commissioners.

Sec. 1-2 Purpose and Intent

This Ordinance is 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.

Sec. 1-3 Authorization

This Ordinance is developed and enacted under authority granted in North Dakota Century Code (NDCC) 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.” This Ordinance is also developed and enacted under authority granted in NDCC 11-33.2 regarding subdivisions.

To the extent allowable by the NDCC, the North Dakota Administrative Code (NDAC), and other state and federal laws, the County shall exercise its rights to promote the health, safety, and wellbeing of the citizens of McKenzie County by regulating land uses, Development, construction and building code through this Ordinance.

Sec. 1-4 Definitions

1-4-1 General Terms

- (A) The word shall is taken to mean mandatory; may is taken as permissive.
- (B) 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: A subordinate Use or Structure which is clearly incidental to and serves exclusively to the Principal Use or Structure and shall be located on the same Lot.

Accessory Farm Labor Housing: Accessory residential structures that house people seasonally employed by the residents of the farm or Owners of the property and that is not used for rental purposes.

Accessory Live-work Unit: A permanent structure that includes space for a commercial enterprise as well as one housekeeping unit of the individual(s) responsible for management or security.

Accessory Parking: Parking or storage of machinery, vehicles, watercraft, and any other equipment that is clearly incidental to and serves exclusively to the Principal Use or Structure and shall be located on the same Lot. Accessory Parking shall be reasonable in proportion to the Principal Use or Structure on the Lot. All machinery, vehicles, watercraft, and other equipment that is parked or stored as Accessory Parking must be (a) kept in fully enclosed storage or (b) in operable condition and, if originally licensed for use on public highways and not presently used for Agriculture upon the lot, titled, licensed, and insured for use on public highways in the name of one or more occupants of the Lot.

Accessory Residential Structure: A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

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

Adult Entertainment Center: Either of the following:

- (A) An enclosed building in which the principal use is the sale of books, magazines, videos, or other items that are distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or anatomical areas.
- (B) An enclosed building used on a regular basis for presenting pictorial materials, visual images, or live entertainment distinguished or characterized

by an emphasis on matters depicting, describing, or relating to specified sexual activities or anatomical areas.

Agriculture: Any use of land or structures for the growing, raising or production of agricultural, horticultural and viticultural crops and vegetable products of the soil, poultry and poultry products, livestock, field grains, seeds, hay, apiary and dairy products, and the processing for commercial purposes of livestock or agricultural commodities. 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. An agricultural operation also includes the storage of such machinery, vehicles, and other equipment that are (a) in operable condition and actually used for the agricultural operation on the farm or (b) in inoperable condition but have historically been used for the agricultural operation on the farm or by the present owner of the farm. This definition excludes Commercial Feedlots.

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

Agrivoltaics: A solar energy system co-located with an agricultural use or uses, such as crop production, grazing, beekeeping, etc.

Airport: Any area of land or water, or both, designed and set aside for the landing and taking-off of aircraft and utilized or to be utilized in the interest of the public for such purposes.

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

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

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.

Animal Unit: A number used to normalize the number of animals (e.g., head) for each specific livestock type which produce comparable bulk quantities of manure.

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

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

Aquaculture: The hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

Area of Special Flood Hazard: The land in the floodplain subject to a one percent or greater chance of occurrence of a Flood 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 gross vehicle weight rating.

Bar: An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises. Food sales, if any, are subordinate to the sales of alcoholic beverages.

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.

Batch Plant: An industrial facility used for the production of asphalt or concrete, or asphalt or concrete products, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises and the storage and maintenance of required equipment, but does not include the retail sale of finished asphalt or concrete products.

Batch Plant, Temporary: A temporary facility that produces or processes concrete or asphalt only for use in one construction project and only for the duration of that project.

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.

Bond, Performance: 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.

Bond, Reclamation: 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 Face: The general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four Building Faces.

Building Height: The vertical dimension measured from the average elevation of the finished lot grade in the front yard 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.

Bulk Dry Storage: A place used to store uncontained solid matter such as powder, grain, stone, sand, etc. Excludes Hazardous Material Storage, Sale, or Distribution.

Car Wash: The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

Cemetery: A place used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.

Early Childhood Services. The care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services, as defined by NDCC 50-11.1.

Child Care - Licensed Providers: A program licensed with the State of North Dakota to provide child care. Different types of child care providers are defined below.

Child Care Center: A program licensed to provide Early Childhood Services for at least 19 children.

Child Care, Family: A private residence licensed to provide Early Childhood Services for up to seven (7) children at any one time, except

that the term includes a residence licensed to provide Early Childhood Services to two additional school-age children.

Child Care, Group: A child care program licensed to provide Early Childhood Services for up to 30 children.

Child Care, School-Age: A school program licensed to provide Early Childhood Services on a regular basis for at least 19 children aged five years through eleven years.

Child Care, Multiple Licensed Program: An early childhood program licensed to provide more than one type of Early Childhood Services.

Child Care, Preschool: A school program licensed to offer Early Childhood Services for children aged two years to kindergarten, which follow a preschool curriculum designed to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.

Child Care - Unlicensed Providers: A program not licensed with the State of North Dakota to provide child care. Different types of child care providers not licensed with the State of North Dakota are defined below.

Self-declared Provider: An individual who submits voluntary documentation of Early Childhood Services provided in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.

Registered Providers: Are generally registered by Tribal entities.

Club: A building or grounds, or portion thereof, which is owned by or leased to private organizations or non-profit associations for meeting, recreational, or social purposes. The use of such premises is restricted to the members of these organizations and their guests.

College: A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees.

Commercial Feedlot: Establishments engaged in the fattening, raising, or breeding of animals typically for the commercial production of food, where the animals are fed primarily in pens, lots, or buildings (partially or wholly enclosed). This term includes establishments referred to as “Animal Feeding Operations” (AFOs) and Concentrated Animal Feeding Operations (CAFOs) as defined by the North Dakota Department of Environmental Quality (NDDEQ).

Commercial Grain Elevator: A structure or group of related structures whose primary purpose is limited to the receiving, retailing, storage, drying, and

transportation of grain which was not grown or raised on the land where the elevator is located.

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 used to transmit wireless signals.

Comprehensive Plan: The adopted Comprehensive Plan for McKenzie County.

Conditional Use: Uses not automatically a Permitted Use 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: A Use, Lot, or Structure that complies with all requirements of this Ordinance and other regulations adopted by the county.

Conical Surface. A surface extending outward and upward from the periphery of the Horizontal Surface at a slope of twenty to one (20: 1) for a horizontal distance of four thousand (4,000) feet.

County: McKenzie County, North Dakota.

County Road Improvement Standards: Road design standards and typical section requirements as maintained by the County Engineer.

Cultural Center: A library, museum, or similar facility that promotes cultural enrichment or community engagement.

Data Center: A facility which houses computer or network equipment, systems, servers, and related appliances or components used primarily for the storage, management, processing, and transmission of digital data. Includes facilities with cryptocurrency mining.

Departure End of Runway. The end of the Runway available for the ground run of an aircraft departure.

Development: The placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density of intensity of use of land, change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or Alteration of

the size of any structure, including any facility of any private, public, or municipal utility.

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.

Developer: Any person or persons undertaking any Development as defined in this Ordinance.

Domestic Farm Animals: Cattle, calves, horses, mules, swine, sheep, goats, poultry or other similar birds and animals.

Dwelling: Any Structure or portion thereof, used for human habitation including single family and multiple family units but not including hotels or vehicles designed for camping such as Recreational Vehicles.

Dwellings, Attached: Includes vertically or horizontally attached Dwelling Units, such as twin homes, apartments, and condominiums.

Dwelling, Duplex: A single structure containing two (2) Dwelling Units on a shared lot.

Dwelling, Single Family Detached: A structure containing one (1) Dwelling Unit.

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 NDCC Ch. 47-05-01. May be public or private.

Electrical Substation: An assembly of equipment in an electrical power system through which electrical energy is passed. An Electrical 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: Any facility that is regulated by the Public Service Commission under NDCC Chapter 49-22.

Encroachment: Any fill, building, structure or use including accessory uses extending into the required yard areas of a lot.

Energy Conversion Facility (Electric): Any facility that is regulated by the Public Service Commission under NDCC Chapter 49-22.

Energy Conversion Facility (Gas or Liquid): Any facility that is regulated by the Public Service Commission under NDCC Chapter 49-22.1.

Energy Transmission Facility (Gas or Liquid): Any facility that is regulated by the Public Service Commission under NDCC Chapter 49-22.1.

Entertainment Establishment: A business that provides entertainment, including theaters, bowling alleys, miniature golf, and the like, but excluding Adult Entertainment Centers.

Equestrian Event: Any exhibition or competition involving horses whose purpose is to test or advance the skills of a horse or its rider, such as but not limited to horse shows, schooling events, horse training seminars or clinics, open houses, cutting competitions, rodeos, or jackpot roping contests.

Extraterritorial Jurisdiction: The area around a city that extends beyond the incorporated city limits as outlined in NDCC 40-47-01.1; wherein the city is permitted zoning jurisdiction as provided in NDCC 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. Includes feed grain sales, agricultural supply sales; trailer sales; welding services; fence construction; riding stables; water well drilling service; septic cleaning service; and other similar uses as determined by the Planning Director or their designee.

Farm, Limited: Land used for farming activities limited to crop production and grazing where no permanent structures are established to support the use.

Farm Stand: A building or structure used for the retail sales of local fresh fruits, vegetables, flowers, herbs, or plants. May also involve the accessory sales of other local unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, and similar items as determined by the Planning and Zoning Director or their designee.

Flood: 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 of waters from any source.

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

Freshwater Pipeline: A pipeline that transports fresh water, whether the pipeline is buried or above-ground, and all mechanical apparatus that is used to operate the pipeline.

Freshwater Pipeline, Industrial Use: A Freshwater Pipeline that supports oil or gas extraction, processing, production, or related activities, such as waste fluid injection.

Freshwater Pipeline, Non-Industrial Use: A Freshwater Pipeline that is not an Industrial Use Freshwater Pipeline.

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

Freshwater Storage Pond: Storage, collection, or sale of freshwater for industrial or commercial use from surface or groundwater supplies that is accomplished exclusively with earthworks, landscaping, and/or use of 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.

Golf Course: A tract of land laid out for playing a game of golf and improved with tees, greens, and fairways. A golf course includes a clubhouse and shelters as accessory uses.

Good Standing: The property owner, the applicant, and any legal entity the applicant has a financial interest in or a business affiliation with, are:

- (1) Current in the payment of all monies owed to the political subdivision, including, but not limited to:
 - (a) McKenzie County property taxes.
 - (b) Planning Department permit fees, including any planning and zoning permits, building permits, or building code and inspection fees.
 - (c) Liens placed on properties in McKenzie County.
 - (d) Not in breach of any contractual obligation with McKenzie County.
 - (e) Not in violation of any violation of this Ordinance.

- (2) The applicant shall provide documentation of good standing with the State of North Dakota, certified by the Secretary of State, to demonstrate their record of compliance with all applicable North Dakota laws.

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

Government Administration or Maintenance Facility: A government service facility providing direct or indirect services to the public wherein large aggregations of people are probable, especially those such as employment offices, public assistance offices, motor vehicle registration and licensing services, and similar activities commonly accustomed to having sizeable assemblages of people queueing, tarrying, biding, or waiting for service, whether pedestrian or vehicular. This includes buildings associated with the storage and maintenance of vehicles and equipment to provide public services.

Greenhouse: An operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale.

Group Home: Any community residential facility, foster home, family care facility, or other similar home for individuals with a developmental disability (NDCC 25-16-14.).

Hazard to Air Navigation. An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Hazardous Material Storage, Sale, or Distribution: The storage, sale or distribution of any substance, as determined by the Department of Fire Prevention and State Fire Marshal, that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

Health Care Facility: A facility or institution that provides services for personal health maintenance, diagnosis or treatment of diseases, pain, injury, or other physical or mental condition, including but not limited to a general hospital, diagnostic center,

treatment center, rehabilitation center, extended care center, hospice, outpatient clinic, or combination of such uses.

Heavy Equipment: A movable or transportable vehicle or other apparatus commonly used in commercial, industrial, or construction enterprises, such as but not limited to trucks, trailers, bulldozers, cranes, backhoes, rollers, loaders, lifts, having a gross weight of 2.5 tons or more.

Heavy Equipment Repair: The commercial repair of Heavy Equipment.

Heavy Equipment Storage: The open air or enclosed storage of Heavy Equipment.

Historical Monument and/or Structure: Any structure, building, or place associated with an outstanding person, specific event, or period of history.

Homestead Parcel: A parcel of agricultural land that was set aside for a Dwelling where the Dwelling was constructed prior to 1990.

Home Occupation: Any occupation, profession, or business activity which is conducted by a resident(s) of the premises and up two full-time or four part-time employees in addition to the resident(s), which is conducted in whole or part in the Dwelling Unit or accessory building, and which is clearly incidental and secondary to the use of the Dwelling for residential purposes.

Horizontal Surface. A horizontal plane one hundred fifty (150) feet above the Airport Elevation that is established by swinging arcs ten thousand (10,000) feet in radius from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs.

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 a Hotels.

Housekeeping Unit: a single living unit, consisting of a room or suite or combination of rooms, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

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

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.

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

Instrument Runway. A Runway having an existing, approved, or planned instrument approach procedure.

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 NDCC Ch. 23-29-03 and the provisions of this Ordinance.

Landlock: A Lot that has no access to a Public Way either directly or through a private access easement.

Lawful: Conforming or Non-Conforming.

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.

Nursing Home: A facility licensed by the State of North Dakota for the aged or chronically or incurably ill persons are provided with food and shelter or care for compensation, but not including a Health Care Facility.

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

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.

Manufacturing, Heavy: An industrial establishment engaged in the manufacturing, assembly, fabrication, packaging, or processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an establishment having the potential to produce noise, dust, glare, odors, or vibrations beyond its property line. This term includes but is not limited to the manufacture of alcoholic beverages, chemicals, concrete/stonework, metal materials, lumber, or agricultural, construction, or mining machinery. This term also includes establishments with exterior storage/production yards.

Manufacturing, Light: An industrial establishment engaged in the indoor manufacturing, assembly, fabrication, packaging, or other processing of finished parts or products, primarily from previously prepared materials, where there are few external effects across property lines. This term includes but is not limited to a business engaged in the processing of assembly of food, textile, leather, wood, paper, plastic, ceramic, or metal products, but does not include basic industrial processing from raw materials.

Manufactured Home: A prefabricated home that is assembled following U.S. Department of Housing and Urban Development (HUD) standards, which is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a Permanent Foundation when connected to the required utilities.

Manufactured Home Park: A lot or contiguous lots of land developed for the placement of manufactured homes, which is under single control or ownership and may include a person, firm, association, partnership, or entity.

Marijuana: as defined in NDCC 19-24.1-01.

Mean Sea Level Height. The elevation above mean sea level.

Medical Marijuana: Any “Medical cannabinoid product” as defined in NDCC 19-24.1-01.

Medical Marijuana Distribution Center: any “Dispensary” as defined in NDCC 19-24.1-01.

Medical Marijuana Manufacturing Center: any “Manufacturing facility” as defined in NDCC 19-24.1-01.

Medical Marijuana Registered Designated Caregiver: any “Designated caregiver” as defined in NDCC 19-24.1-01.

Medical Marijuana Qualifying Patient: any “Qualifying patient” as defined in NDCC 19-24.1-01.

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

Mining, Surface (Commercial): Processes for the commercial removal of minerals, such as sand, gravel, scoria, and rock, from the surface of the earth. Includes crushing, handling, and bulk storage of extracted materials. This definition does not include borrow sites used for one-time use on a specific project. The mine is privately owned and operated.

Mining, Surface (Public): Processes for the removal of minerals for public purposes, such as sand, gravel, scoria, and rock, from the surface of the earth. Includes crushing, handling, and bulk storage of extracted materials. This definition does not include borrow sites used for one-time use on a specific project. The mine is publicly owned and operated.

Mobile Home: As defined by the U.S. Department of Housing and Urban Development (HUD), a mobile home is a factory-built home constructed prior to June 15, 1976. Mobile Homes do not conform to current federal housing standards and are considered Non-Conforming Uses.

Modular Home: A Permanent Dwelling constructed offsite, where modules are transported and assembled onsite. Modular homes must meet all applicable local and state building code requirements and must be aesthetically indistinguishable from a Dwelling constructed onsite.

NDAC: North Dakota Administrative Code.

NDCC: North Dakota Century Code.

NDIC: North Dakota Industrial Commission.

Non-Conforming: A Use, Lot, or Structure lawfully established prior to the passage of this Ordinance or Amendments thereto, which does not conform with the provisions of this Ordinance or Amendments thereto.

Non-Participating: Any landowner that is not Participating.

Non-Traditional Livestock: The keeping or raising of animals for personal or commercial purposes, which are classified by the North Dakota Department of Agriculture as “Non-Traditional Livestock.”

Obstruction. Any Vertical Structure, growth, or other object, including a mobile object, which exceeds a limiting Mean Sea Level Height set forth in *Section 3-18* of this Ordinance.

Office: A room, suite of rooms, or building in which a person transacts the affairs of a business, service, industry, or government.

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. This definition includes 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. Include record property owners. When appropriate the Planning and Zoning Director may rely on the County tax records to determine the name and address of the owner of a parcel.

Owner's Association: An incorporated or unincorporated group of individuals comprising a homeowner's association, merchant's association, community association, or other group of individuals with similar interests in a defined area.

Park: Any area designated by a local, state, or federal government that is predominately Open Space, used principally for active or passive recreation, and not used for a profit-making purpose. This definition does not include Wildlife Management Refuge.

Participating: Any landowner which has an interest to see a proposed Development manifest on their Lot.

Permanent Dwelling: A Dwelling that is set on a Permanent Foundation. Unit types are stick-built and Modular Homes.

Permanent Foundation: A concrete foundation and footings that extends below frost depth and are set for the soil conditions. Manufactured Homes and Mobile Homes are not considered Permanent Dwellings.

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

Permitted Use: A Use that is allowed in the applicable zoning district and complies with the requirements of this Ordinance.

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 is reasonably necessary for the operation of the pipeline.

Place of Religious Assembly: Any building or site, the primary use of which is public religious assembly or worship, irrespective of the denomination or religion practiced.

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 Zoning and Building Departments.

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

Post Office: A facility that contains service windows for mailing packages and letters, post office boxes, offices, sorting and distribution facilities for mail, and may include vehicle storage areas.

Primary Surface. A surface longitudinally centered on a Runway. The Primary Surface extends two hundred (200) feet beyond the Approach End of Runway / Departure End of Runway point for each Runway. The width of the Primary Surface shall be established for each Runway at each Public-Use Airport for which a Public-Use Airport Overlay District is established.

Principal: The main Use or Structure to which the premises is devoted and the primary purpose for which the premises exists.

Prohibited: Not Lawful.

PSC: Public Service Commission

Public Way: Any dedicated and recorded Right-of-Way including Alleys, bikeways, sidewalks, streets, roads or highways.

Public Safety Facility: A government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

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

Radio and/or Television Broadcasting Station: An establishment containing one or more broadcasting studios for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures. This term includes all associated Communication Facility(ies).

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.

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

Restaurant: A Use that involves the preparation and retail sale of food and beverages, whether alcoholic or non-alcoholic. The majority of sales must come from food and non-alcoholic beverages.

Retail Sales: A Use that includes the sale or lease of goods or food items directly to consumers, in which all merchandise and transactions are located indoors.

Retail Sales, Outdoor: Use of the property for the display and sales of products that are intended for outdoor use, including but not limited to, automobiles, farm implements, manufactured homes, recreational vehicles, storage sheds, burial monuments, and the like.

Right-of-Way (ROW): 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 are housed or lodged for hire, with or without meals.

Runway. A defined area on an Airport or Public-Use Airport prepared for landing and takeoff of aircraft along its length.

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, vehicles, watercraft, and any other equipment that is not in running order or for the sale of parts thereof.

School: An institution providing full time instruction and including accessory facilities traditionally associated with a program of study which meets the requirements of the laws of the state. This definition excludes College and Child Care, Preschool.

Seasonal Residence: Building used seasonally or intermittently, generally as a base for hunting, fishing, and/or outdoor recreation.

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

Services, Automotive Repair: An establishment performs auto collision repair, paint detailing, transmission repair, tire installation, wheel alignment, upholstery repair, lubrication work, and the like.

Services, Contractor’s Office: An establishment used for the indoor repair, maintenance, or storage of a contractor’s vehicles, equipment, or materials, and may include the contractor’s business office.

Services, Personal: Establishments providing nonmedically related services, including beauty and barber shops; clothing rental; dry cleaning pick-up stores; laundromats (self-service laundries); psychic readers; shoe repair shops; tanning salons. These uses may also include accessory retail sales of products related to the services provided.

Services, General Repair: Establishments primarily engaged in repair services to individuals and households, such as appliance repair, small engine repair, jewelry repair, and the like, but excluding repair to automobiles and machinery.

Setback: The line within a property defining the required minimum distances between any structure or use and the adjacent Right-of-Way line, road Easement line, or property line of any lot.

Sight Triangle: The area of visibility necessary on a corner to allow for the safe operation of vehicles, trains, pedestrians, and cyclists in the proximity of intersecting streets, rail lines, sidewalks and bicycle paths.

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

Skid Unit: Any “Skid unit” or “Crew housing facilities” as defined in NDCC 57-02.4-01.

Skid Unit Permit: Any “Crew housing permit” as defined in NDCC 57-02.4-01.

Slaughterhouse: A Building or Structure designed for the confinement, slaughter, and preparation of livestock for distribution to butcher shops or Retail Sales establishments such as grocery stores. A Slaughterhouse may include packing, treating, storage, or sale of the product on the premises.

Solar Energy System: A device, array of devices, or structural design feature that provides for the generation, storage, or transmission of photovoltaic electricity or that utilizes solar energy for space heating or cooling, interior lighting, or water heating. Solar energy systems may distribute energy for wholesale.

Solar Energy System (SES), Accessory: A device such as rooftop solar panels or stand-alone panels that generate and utilize solar energy or photovoltaic electricity on-site. An accessory SES is limited to no more than one-hundred (100) kilowatts and does not distribute electricity for wholesale. It is considered an accessory use on the parcel(s) on which it is located.

State Highway: Any road under the jurisdiction of the State of North Dakota.

Stockyard: Services involving the temporary keeping of livestock for slaughter, market, or shipping.

Storage Yard: Facilities characterized by open air storage of inventory, equipment, or vehicles, and light or heavy trucking activity, but not involved in manufacturing or production.

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

Storage, Self-Service: Secured storage units that provide for interior storage only and that are constructed on Permanent Foundations.

Stormwater Management: means any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality after Development activities.

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, and Signs. The term excludes fences less than 8.5 feet in height.

Subdivision: The division, consolidation, or rearrangement of land according to a Plat; 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.

Substantially Completed: More than 50% of the approved application has been completed.

Substantial Improvements: Any reconstruction, rehabilitation, addition or other improvement to a structure, the total cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.

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, Workforce Housing, and Manufactured Homes not on a Permanent Foundation.

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

Temporary Public Gathering or Event: A single-purpose event, including the consumption of food and beverages, such as a wedding, concert, fair, or festival not to exceed one (1) month in duration.

Terminal, Transit: Any premises for the transient housing or parking of motor-driven buses and/or taxis. Bus terminals include the loading and unloading of passengers at a common location to facilitate transfer between bus routes/lines.

Terminal, Freight: Any premises used by a motor freight or heavy rail company(ies) as a carrier of goods, which is the origin or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading goods.

Traffic Impact Study: An engineering study that determines the potential traffic impacts of a proposed traffic generator.

Transitional Surface. A surface extending outward at a 90-degree angle to the Runway centerline and the Runway centerline extended at a slope of seven to one (7:1) from the sides of the Primary Surface and Approach Surface to where they intersect the Horizontal Surface and Conical Surface.

Use: The conduct of an activity or the performance of a function or operation, on a Lot or in a Building or Structure.

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

Variance: An adjustment to any regulation in this Ordinance allowed if unique circumstances meet the criteria established in Section 5-9-2.

Vertical Growth. Any object of natural growth that is vertical, such as a tree.

Vertical Structure. An object, including a mobile object, constructed or installed by man, including but without limitation buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Warehouse: Facilities characterized by enclosed structures with the purpose of containing inventory, equipment, or vehicles, and light or heavy trucking activity, but not involved in manufacturing or production.

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 NDCC 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 NDCC Ch. 23-20.3-02 and NDCC Ch. 33-24-02.

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

Inert Waste: Any “Inert waste” as defined in NDAC Title 33-20.01.1-03.

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 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: 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.

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.

Wholesale Activities, Including Outdoor Storage: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This includes the outdoor storage of inventory and/or capital necessary to support the business activity.

Wholesale Activities, Excluding Outdoor Storage: An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Business activities are conducted wholly within the enclosed structure and excludes the outdoor storage of inventory and/or capital necessary to support the business activity.

Wildlife Management Refuge: An area maintained in a natural state for the preservation of both animal and plant life.

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

Wind Energy Conversion System, Accessory. A device such as a wind charger, windmill, or Wind Turbine and associated facilities that converts wind energy to electric energy intended for use onsite. Accessory WECS are comprised of one or more devices with a capacity of less than one-hundred (100) kilowatts that generate power for a single Farm, residence, or business. They do not distribute electricity for wholesale. Accessory WECS are treated as accessory structures and must comply with all regulations pertaining to accessory structures.

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

Electrical 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.

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

Yard: A space on the same Lot with the Principal Buildings or Structures, open, unoccupied and unobstructed by Buildings or Structures from the ground upward.

Front Yard: 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. The front shall be the side of the Lot that abuts public Right-of-Way. If multiple sides of a Lot abut public Right-of-Way, the owner shall determine which side shall be the Front Yard.

Rear Yard: 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 Building Face of the Principal Building.

Side Yard: 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.

Zoning Map: Official map of all the zoning districts as described in this Ordinance.

ARTICLE 2. GENERAL PROVISIONS

Contents

[Section 2-1: Jurisdiction](#)

[Section 2-2: Compliance with Ordinances, Statutes, and Regulations](#)

[Section 2-3: Exceptions](#)

[Section 2-4: Severability](#)

[Section 2-5: Repeal](#)

[Section 2-6: Non-Conforming Uses or Structures](#)

[Section 2-7: Conditional Uses](#)

[Section 2-8: Prohibited Uses](#)

[Section 2-9: Road, Access, and Traffic Requirements](#)

[Section 2-10: Road Setbacks](#)

[Section 2-11: Parking Standards and Requirements](#)

[Section 2-12: Landscaping Standards](#)

[Section 2-13: Bonds](#)

[Section 2-14: Dedication of Land for Streets](#)

[Section 2-15: Authority to do Business](#)

[Section 2-16: Skid Unit Permit Fee](#)

[Section 2-17: Stormwater Management](#)

[Section 2-18: Erosion Control During Construction](#)

[Section 2-19: Fire Protection](#)

[Section 2-20: Signs](#)

Sec. 2-1 Jurisdiction

The Land Development Ordinance shall apply to all areas of McKenzie County, except:

- (A) Townships which have not by resolution relinquished the power to enact zoning regulations to the County.
- (B) Within an incorporated city boundary
- (C) A city's exclusive Extraterritorial Jurisdiction as authorized by NDCC Section 40-47-01.1, if any.
- (D) Lands within the tribal boundaries as recognized by the U.S. Department of the Interior, Bureau of Indian Affairs.
- (E) Land under ownership of the Federal government.

Sec. 2-2 Compliance with Ordinances, Statutes, and Regulations

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

[Main Table of Contents](#)

[Article 2 Table of Contents](#)

- (A) The provisions of the North Dakota Century Code and the Administrative Code.
- (B) Federal law.

Sec. 2-3 Exceptions

Uses specifically exempted from County jurisdiction according to statutes of the North Dakota Century Code, NDCC 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.

Sec. 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.

Sec. 2-5 Replace

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

Sec. 2-6 Non-Conforming Uses or Structures

2-6-1 Authority to Continue

A Non-Conforming Use or Structure may be continued subject to the provisions of this section. A Non-Conforming Use or Structure is appurtenant to the land upon which it was established.

2-6-2 Termination Events

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

- (A) Change in Use
- (B) Change in the density of Use
- (C) Building modifications other than routine maintenance
- (D) Intentional demolition
- (E) Destruction of a structure or at least fifty (50) percent of a Structure by fire or similar occurrences
- (F) Discontinuance or abandonment of the Use for one hundred and eighty (180) consecutive days.

2-6-3 Expansion Prohibited

A Non-Conforming Use or Structure that existed prior to, or is created by, the adoption of this Ordinance or an Amendment thereto shall not be expanded to occupy or disturb an area within a Lot larger than existed at the date of the adoption of the respective Ordinance for which the Non-Conforming status was established. To change the zoning of a Lot that pre-existed before the adoption of this Ordinance shall not constitute an end to the Non-Conforming Use or Structure.

2-6-4 Public Exception

In the event any portion of a Lot is acquired for public Use, whether by eminent domain or by the landowner’s consent, all existing, Lawful Uses and Structures of the affected Lot may, if not otherwise allowed by this Ordinance, be continued as Non-Conforming Uses or Structures unless and until an independent termination event occurs.

Sec. 2-7 Conditional Uses

Where a use is designated as a Conditional Use in it must follow all provisions in this Ordinance and the Board of County Commissioners may require certain conditions of approval. See [Section 5.13](#) of this Ordinance for Conditional Use permitting standards.

Sec. 2-8 Prohibited Uses

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

Sec. 2-9 Road, Traffic, and Access Requirements

2-9-1 Access Requirements

- (A) The County Engineer shall review proposed points of ingress or egress to any lot, tract, parcel, or Development from any street or highway under McKenzie County’s jurisdiction and will follow the Road and Bridge Department Approach Permit Policy.
- (B) In approving Development relying on any state road or highway, the decision-making individual or body as provided in [Section 5-1](#) of this Ordinance must have written approval from the North Dakota Department of Transportation (NDDOT) of said access.
- (C) Refer to the Road and Bridge Department Approach Permit Policy regarding additional access requirements and guidelines. Note that the Road and Bridge Department Approach Permit Policy is not subject to enforcement as stipulated in this Ordinance.

2-9-2 Sight Triangle

At all intersections where stop control (2-way and all-way) is not proposed, Sight Triangle areas 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. Any plantings or structures placed within the Sight Triangle area shall not exceed thirty (30) inches in height. A public right-of-entry shall be reserved for the purpose of removing any object, material or otherwise, that obstructs clear sight. The Sight Triangle distances as shown in the diagram and table below shall be required.

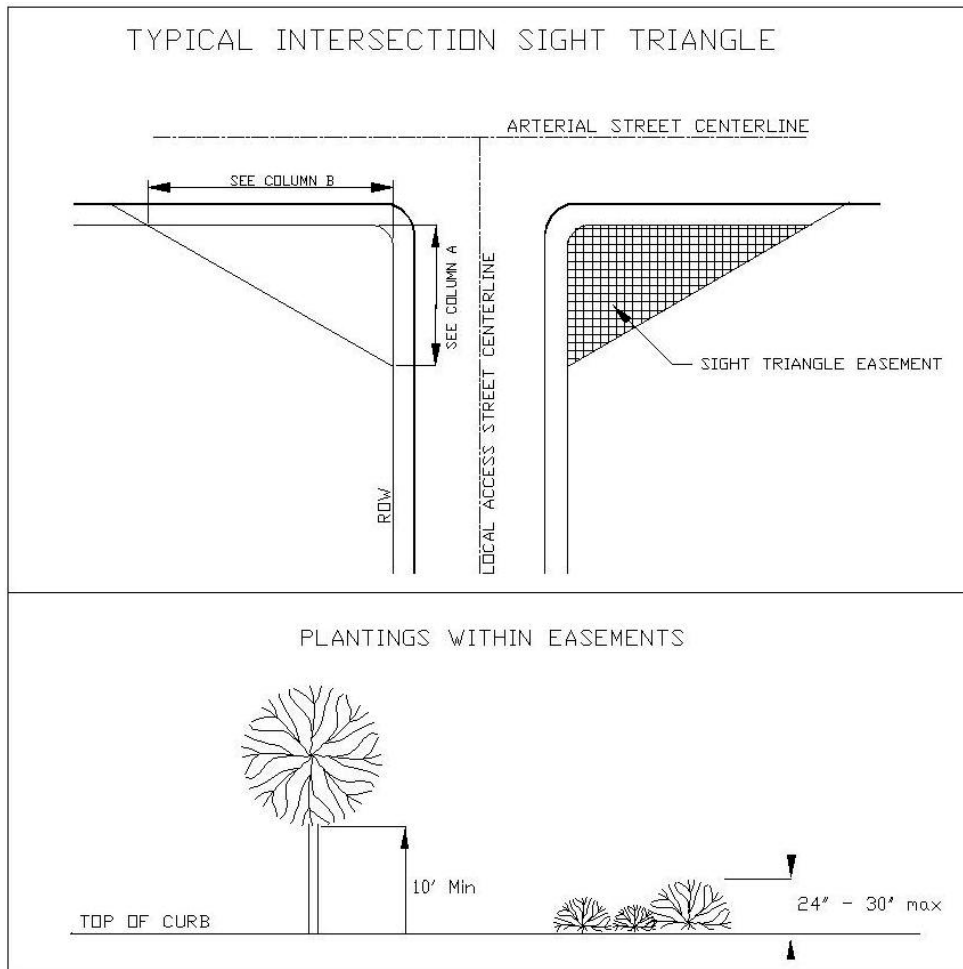


Table 2-1. Slight Triangle Requirements

	Clear Sight Setback – Column A	Clear Sight Setback – Column B
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		Local	Collector	Arterial
Local	30'	30'	120'	150'
Collector	120'	30'	120'	150'
Arterial	150'	30'	120'	150'

2-9-3 Traffic Impact Study

- (A) **Purpose.** The purpose of the traffic impact study is to identify the adequacy of the transportation system to serve a proposed Development and the expected effects of the proposed Development on the transportation system. McKenzie County may require a traffic impact study to determine the effects of Development on public roads and determine what improvements are needed, if any, to maintain safe, efficient traffic operations.
- (B) **Applicability.**
 - (1) Traffic impact studies may be required by the County Engineer at any of the following stages of Development:
 - (a) Application for a Comprehensive Plan land use Amendment
 - (b) Application for a zone change
 - (c) Application for a major subdivision
 - (d) Application for a Conditional Use permit
 - (e) Application for a building permit
 - (2) A traffic impact study **shall be** required for:
 - (a) Any Development that can be reasonably expected to generate more than 500 vehicle trips during a single day and/or more than 100 vehicle trips during a single hour. Trips are external to the site.
 - (b) Any proposed zoning or land use change that, after development is completed, can be reasonably expected to generate more than 300 trips during a single day more than the previous zoning or land use condition.
 - (3) A traffic impact study **may be** required for:
 - (a) Any Development that can be reasonably expected to generate more than 200 vehicle trips during a single day and/or more than 40 vehicle trips during a single hour.

- (b) Any Development in which, based on the engineering judgment of the County Engineer, the proposed Development would significantly affect the adjacent roadway system. Examples include but are not limited to proposals adding traffic to or creating known or anticipated safety concerns or proposals that will generate a significant amount of truck traffic (more than 30 trips per day or over 5% of site traffic.)
- (C) **Trip Generation.** To verify the proposed number of trips for development detailed in Section 2-9-3(B), the County Engineer may request any Development to verify the expected number of trips per day generated by the Development, which is done using the current Trip Generation Manual from the Institute of Transportation Engineers.
- (D) **State Coordination.** Proposed Development that receives access from a State Highway requires coordination with the State Department of Transportation, wherein a traffic impact study may be required by the State Department of Transportation in compliance with state guidelines.
- (E) **Study Requirements.** The following items are required as part of the traffic impact study. The County Engineer has the authority to waive any of the requirements of this section based on professional engineering judgement.
 - (1) A summary of the proposed Development, the major findings of the analysis, and proposed mitigation measures.
 - (2) A vicinity map showing the location of the proposed project in relation to the transportation system.
 - (3) Existing traffic volumes using the best available data, unless the County Engineer determines that new traffic counts are necessary.
 - (4) Sight distance evaluation at study intersections.
 - (5) Study intersection design, including a recommendation on the need for right and/or left turn lanes. This recommendation must follow the State Department of Transportation’s “Guidelines for the Installation of Turn Lanes along State Highways”. If turn lanes are recommended, the study should use State Department of Transportation design practices to indicate the length of the proposed turn lanes including tapers, etc.
 - (6) Capacity analysis at intersections and segments within the study area, as appropriate. The analysis should document:
 - (a) Existing traffic volumes using the best available data, unless the County Engineer determines that new counts are necessary due to recent Development changes in the area.
 - (b) Existing performance of the transportation system, including Levels of Service (LOS) and volume/capacity ratios.

- (c) Complete trip generation figures for all aspects of the proposed Development, including the number of trips by vehicle type (cars and trucks), and time-of-day entering/exiting percentages.
 - (d) Forecast volumes and performance of the transportation system with the Development at buildout.
 - (e) Directional trip distribution (for example, 30% from the west, 70% from the east). For Development that is expected to generate a significant amount of Commercial Truck traffic (more than 30 trips per day or 5% of site traffic), indicate if the truck directional distribution varies from the vehicle directional distribution.
- (7) Crash data analysis at existing study intersections.
 - (8) Traffic signal warrant analysis – with a recommendation of signalization (including timing, phasing, protected/permissive turns, and other signal coordination), roundabout or other traffic control devices.

(F) Process

- (1) The County Engineer shall be consulted by a potential applicant prior to the submission of an application of a Comprehensive Plan Amendment, zone change, subdivision or building permit to determine if a traffic impact study is required.
- (2) The Developer shall be responsible for the cost of the traffic impact study, unless a condition exists where cost sharing may occur, as determined by the County Engineer.
- (3) When required as part of an application listed in Section 2-9-3(B)(1), a complete traffic impact study must be submitted for the application to be considered complete. The traffic impact study shall be submitted with the complete application by the established deadline for the application type.
- (4) The traffic impact study must be signed and stamped by a Professional Engineer registered in the State of North Dakota.
- (5) Improvements recommended as a result of the traffic impact study will be required upon application approval by the Planning and Zoning Board to be either:
 - (a) constructed and in place before commencement of operations, or
 - (b) bonded to assure completion prior to application approval.

Sec. 2-10 Road Setbacks

- (A) Setbacks shall apply to Buildings and Structures. Setbacks shall be measured from the ROW line or Easement line, which defines the road corridor.
- (B) Signs shall follow Setbacks as provided in [Section 2-20](#), not the requirements in this Section (2-10).
- (C) When there is conflict between the Setbacks listed below the greater setback shall apply.

2-10-1 State Highway Setback

Setback of Structures, excluding Signs, shall be a minimum of one-hundred-feet (100') from the ROW line or Easement line. When state or federal guidelines specify a minimum setback, the greater setback shall apply.

2-10-2 County Road and Township Road Setback

- (A) 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.
- (B) 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.

2-10-3 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.

2-10-4 Section Line Setback (Section Lines without Roads)

All Structures shall be Setback from section lines a minimum of one-hundred-thirty-three (133) feet.

Sec. 2-11 Parking Standards and Requirements

2-11-1 Parking Stalls Required

Parking requirements for specific Uses are provided in the list below and are tied to a Development's intensity as defined by the square footage of the Structures onsite, number of beds or vehicles, or size of property dedicated to a particular Use. Parking shall be provided for each Use separately as provided in this Section. Uses that require a Conditional Use Permit may be subject to additional parking requirements as determined by the Board of County Commissioners in approving any Conditional Use.

- (A) Except for Commercial Feedlots, Agricultural Uses as identified in Table 3-1 are exempt from the parking requirements in this Section.
- (B) Commercial Feedlot – 1 space per 500 square feet
- (C) Retail Sales – 1 space per 250 square feet
- (D) Restaurant – 1 space per 100 square feet
- (E) Office – 1 space per 250 square feet
- (F) Warehouse – 1 space per 1,000 square feet
- (G) Manufacturing, Light or Heavy – 1 space per 500 square feet
- (H) Dwellings – 2 spaces per Dwelling Unit
- (I) Workforce Housing – 1.2 spaces per bed
- (J) Government Administration or Maintenance Facility – 1 space per 300 square feet
- (K) Recreational Uses as identified in Table 3-1. – 5 spaces per acre
- (L) Place of Religious Assembly – 1 space per 5 seats in main gathering area or 1 space for every 50 square feet in the main gathering area, whichever is greater.
- (M) Manufactured Home Park – 2 spaces per Manufactured Home
- (N) Recreational Vehicle Park – 2 spaces per Recreational Vehicle

2-11-2 Parking Area Design

- (A) Parking stalls shall be a minimum of nine (9) feet wide and twenty (20) feet long.
- (B) Parking lot aisles shall be a minimum of twenty-five (25) feet wide for two-way traffic, or twenty (20) feet for one-way traffic.
- (C) As required, all road approaches, driveways and parking lots shall be paved unless waived by the Planning and Zoning Director. Any denial of a request to waive the paving requirements may be appealed to the Board of County Commissioners as provided in [Section 5-15](#) of this Ordinance.
- (D) Parking lots shall have a minimum of a two (2) percent cross slope for positive drainage.

2-11-3 Residential Truck Parking

Residential Truck Parking shall follow the additional provisions below:

- (A) Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) for GVWR, Materials, and driver guidelines must be followed.

- (B) 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.

Sec. 2-12 Landscaping Standards

2-12-1 Purpose

Landscaping standards are intended to promote desired aesthetics, enhance property value, and soften the transition between differing land uses.

2-12-2 Applicability

Landscaping is required within parking lot perimeter strips (Section 2-12-6) and within buffer yards that separate abutting zoning districts (Section 2-12-7).

2-12-3 Exceptions

- (A) Unless required as a condition of approval as part of a Conditional Use Permit, the Agricultural District is exempt from all landscaping requirements.
- (B) No trees or shrubs shall be planted in an area that is required to remain free of vegetation by this Ordinance or any law.
- (C) Landscaping requirements shall not apply in Easements for pipelines and utilities.
- (D) No tree shall be planted within ten feet (10') of a fire hydrant.
- (E) The Planning and Zoning Director may waive or modify landscaping requirements if site conditions are not conducive to landscaping. Conditions that are not conducive to landscaping include, but are not limited to, soil conditions, safety hazards, water availability, and utility interference. Any denial to a request to waive or modify landscaping requirements may be appealed to the Board of County Commissioners as provided in [Section 5-15](#) of this Ordinance.

2-12-4 Landscaping Plan Required

- (A) A landscaping plan shall be submitted and approved prior to issuance of a building permit. A landscaping plan is required under the following circumstances:
 - (1) For any new commercial, industrial, public/institutional Structures
 - (2) For any new Manufactured Home Park or Development that includes Dwellings, Attached (More than 4 Units).

- (3) For any existing commercial, industrial, public/institutional Structure where the area is proposed to be expanded by more than 1,000 square feet or 10 percent, whichever is greater.
- (4) For any existing Manufactured Home Park or Development that includes Dwellings, Attached (More than 4 Units) where additional Dwelling Units are proposed.
- (5) For any new parking area.
- (6) For any existing parking area that is expanded by 10 or more stalls.
- (B) Landscaping plans shall contain the following information:
 - (1) North arrow and scale.
 - (2) Location of existing and proposed parking areas.
 - (3) Site drainage patterns.
 - (4) Location of Easements.
 - (5) Number of parking spaces and the preferred parking perimeter landscaping option, as required in Section 2-12-6.
 - (6) Identification of the required buffer yard type (Light, Medium, or Heavy) and the preferred landscaping option (A, B, or C), as required in Section 2-12-7.
 - (7) Names of all tree species to be planted on site.
 - (8) Location of walls and fences.
 - (9) Number of shrubs or types perennial grasses to be used per unit length of buffer yards and perimeter parking strips.

2-12-5 General Standards

- (A) **Plant Selection:** Plants must be rated to survive in USDA Hardiness Zone 4a or lower.
- (B) **Plant Diversity:** No more than 50 percent (50%) of the required number of trees or shrubs may be comprised of any one (1) species.
- (C) **Tree and Shrub Heights:** Trees and shrubs shall satisfy the minimum height requirements listed in Table 2-2.

Table 2-2. Planting Requirements

Type of Plant	Minimum Size at Installation	Minimum Size at Maturity
Broad leaf/deciduous	5 feet above grade	20 feet
Evergreen/coniferous	4 feet above grade	15 feet

Type of Plant	Minimum Size at Installation	Minimum Size at Maturity
Shrub	2 gallon container	4 feet
Perennial Grasses	1 gallon container	2.5 feet

- (D) **Installation:** Landscaping shall be installed within eighteen (18) months of building permit approval. Tree installation shall follow [NDSU Extension planting guidelines](#). Spring planting is preferred for most tree species. Should the eighteen (18) month timeframe from when building permit approval conclude following September 26, but before May 15 of the subsequent year, all planting shall occur by September 26 nearest the end of the eighteen (18) month timeframe.
- (E) **Maintenance:** Property Owners shall be responsible for regular maintenance of all required vegetation and/or fencing. Dead or diseased plants shall be promptly removed and replaced within the next growing season. Required vegetation that is not properly installed, maintained, or replaced shall be in violation of this Ordinance and subject to enforcement provisions of [Section 5-16](#).
- (F) **Ground Cover:** Exposed ground not occupied by trees or shrubs shall be landscaped with grass, landscaping stones, wood chips, or other landscaping material to be kept free of weeds.
- (G) **Existing Plants:** Plants that exist on a site prior to Development may be used to satisfy all or a portion of required landscaping provided they meet the requirements of this section.

2-12-6 Parking Lot Perimeter Landscaping

- (A) Landscaped buffers shall be located between adjacent roadway rights-of-way and off-street parking areas/vehicular circulation areas within the front or side street setback, in accordance with Table 2-4. Buffer Yard Types.
- (B) Plants shall be spaced evenly to form a continuous row, straight or curvilinear.
- (C) Buffer widths shall be measured from the property line.

Table 2-3. Parking Lot Perimeter Landscaping Standards

Parking Lot Size	Planting Strip Minimum Width	Minimum Materials per 30 Linear Feet
1-9 stalls	5 feet	--

Parking Lot Size	Planting Strip Minimum Width	Minimum Materials per 30 Linear Feet
10-49 stalls	6 feet	Option A – 6 shrubs
		Option B – 12 perennial grasses
		Option C – Decorative fence
50+ stalls	8 feet	Option A – 6 shrubs + 1 tree
		Option B – 12 perennial grasses + 1 tree

2-12-7 Buffer Yards

- (A) **Placement:** Buffer yards shall be located along the entire length of any side or rear property line between adjacent zoning districts, as required in Table 2-3. Parking Lot Perimeter Landscaping Standards. Buffer yards may overlap with other required yards or setbacks.
- (B) **Materials:** Buffer yards shall be used solely for landscaping/screening. No structure or impervious surfaces shall be allowed in buffer yards, excepting fences and walls.
- (C) **Buffer Yard Types:** There are three buffer yard types: Light, Medium, and Heavy. Each type has landscaping requirements corresponding to the degree of difference between two adjacent zoning districts as shown in Table 2-4 and Table 2-5.

Table 2-4. Buffer Yard Types

		Adjacent District							
		AG, R5-A	R-1	R2, R3	REC	C-1	I-1	I-2	P
Proposed District	AG, R-5A	--	--	--	--	--	--	--	--
	R-1	--	--	--	Light	Light	--	Heavy	Med
	R2, R3	--	--	--	Light	--	--	Heavy	Light
	REC	--	Light	Light	--	--	Light	Med	--
	C-1	--	--	--	--	--	Light	Med	--
	I-1	--	Med	Med	Light	Light	--	Light	Med
	I-2	--	Heavy	Heavy	Med	Med	--	--	Heavy
	P	--	Med	Light	--	--	Med	Heavy	--

[Main Table of Contents](#)


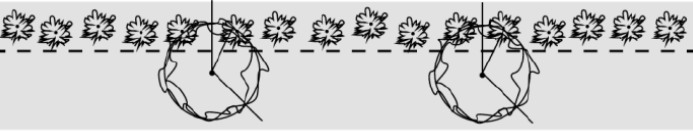
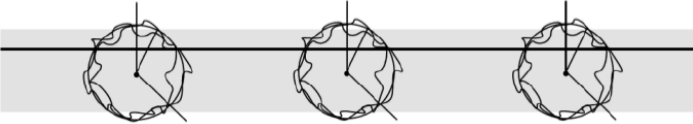
[Article 2 Table of Contents](#)



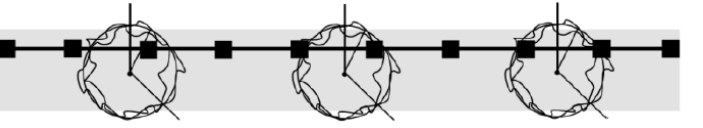

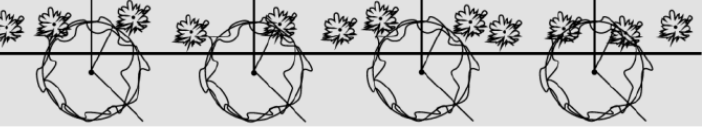
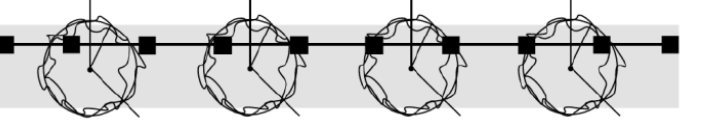
(D) Landscaping Options:

- (1) Landscaping options for each buffer yard type are listed in Table 2-4.
- (2) A fence or masonry wall constructed to a minimum height of six (6) feet but not to exceed nine (9) feet may be substituted to fulfill a portion of the planting requirements as indicated in Table 2-5. Table 2-4 details requirements for opaque and non-opaque fencing.
- (3) If the Planning and Zoning Director determines that a buffer yard is not conducive to planting, an opaque fence or masonry wall, berm or series of berms, or combination thereof may be required to fully screen the site. Berms shall have a minimum height of four (4) feet. To accommodate berms, the buffer yard may need to be wider than required in Table 2-4.

- (E) Existing Buffer Yards:** When an existing buffer yard does not meet the current buffer yard requirements, the buffer yard shall be improved to meet the requirements of this section. The trigger for this requirement is stipulated in [Section 2-12-4](#).

Table 2-5. Buffer Yard Requirements

Light Buffer Yard		
Option	Materials per 100 Linear Feet	Illustration
A	Buffer Width: 25' Trees: 4 Shrubs: 24 Barrier: None	
B	Buffer Width: 15' Trees: 2 Shrubs: 16 Barrier: Non-opaque fence	
C	Buffer Width: 10' Trees: 3 Shrubs: 0 Barrier: Opaque fence	
Medium Buffer Yard		
Option	Materials per 100 Linear Feet	Illustration

A	Buffer Width: 25' Trees: 6 Shrubs: 24 Barrier: None	
B	Buffer Width: 15' Trees: 3 Shrubs: 9 Barrier: Opaque fence	
C	Buffer Width: 10' Trees: 3 Shrubs: None Barrier: Wall	
Heavy Buffer Yard		
Option	Materials per 100 Linear Feet	Illustration
A	Buffer Width: 25' Trees: 10 Shrubs: 0 Barrier: None	
B	Buffer Width: 15' Trees: 4 Shrubs: 12 Barrier: Opaque fence	
C	Buffer Width: 10' Trees: 4 Shrubs: None Barrier: Wall	

2-12-8 Fences

(A) Opaque Fences:

- (1) Opaque fences shall provide full screening and shall be constructed of wood or composite/vinyl material that has the appearance of wood.
- (2) Opaque fences utilized within a required buffer yard shall have a minimum height of six (6) feet. All other opaque fences shall have a minimum height of five (5) feet. No opaque fence shall exceed nine (9) feet in height.
- (3) No opaque fence shall be erected within the front yard of any residential lot.

(B) Non-Opaque Fences:

[Main Table of Contents](#)

[Article 2 Table of Contents](#)

- (1) Non-opaque fences include all semi-transparent fences that are constructed of woven wire (e.g., chain link fence), lattice framework, wood rails, or in-line boards or metal tubing, excluding decorative fences.
 - (2) All non-opaque fences shall have a minimum height of four (4) feet and a maximum height of six (6) feet.
- (C) **Decorative Fences:**
- (1) Decorative fences shall be constructed of metal tubing, such as wrought iron or aluminum, to a minimum height of three (3) feet and a maximum height of four (4) feet.
 - (2) A decorative fence shall not include a chain link fence or any other type of woven fence.
- (D) No permanent fence shall be constructed within a road Right-of-Way or within the ditch back slope.

2-12-9 Screening of Outdoor Storage Areas and Trash Containers

- (A) All trash containers for multifamily buildings shall be placed within a trash enclosure constructed of a minimum five (5) foot high opaque fence or wall.
- (B) In commercial districts, all trash containers shall be placed within a trash enclosure constructed of a minimum five (5) foot high opaque fence or wall.
- (C) Additional screening requirements are stipulated in Section 3-16.

Sec. 2-13 Bonds

2-13-1 Purpose

Among other purposes, bonds are a mechanism used to protect the County from unnecessary financial problems caused by property abandonment, violations of contract agreements, and/or correcting violations of the Zoning Ordinance.

2-13-2 Exceptions

- (A) The bonds that are specified in this Ordinance may be waived if an applicant can show to the satisfaction of the County that the required Bond duplicates the purpose of a Bond that is required by state or other law and that such Bond will remain in effect at all times applicable to the Bond specified in this Ordinance.
- (B) Pipelines, other than those transporting freshwater, are exempt from the Bond requirements listed in this code. 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.

2-13-3 Reclamation Bonds

- (A) A Reclamation Bond is required for some Permitted Uses (as required specifically in certain zoning districts) and many Conditional Uses and temporary Site Plans.
- (B) The Bond shall be for one hundred and fifty (150) percent of the estimated 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 pre-Development appearance, and re-seed the site with native grasses and vegetation. The estimated cost shall be determined by an engineer licensed in the State of North Dakota.
- (C) An estimate of the cost shall be subject to approval of the Planning and Zoning Director. Any denial may follow the Appeal procedures as provided in [Section 5-15](#).
- (D) The Bond shall be presented to the Planning and Zoning Director within sixty (60) days of the later of the following:
 - (1) Approval of a permit for which the Bond is required;
 - (2) If any other county, state or federal permit, certificate, determination or approval is needed in order for the permittee to commence construction, the permittee shall notify the Planning and Zoning Director within thirty (30) days of the issuance of the last such permit, certificate, determination or approval, if applicable.
- (E) No Development may commence prior to presenting the Bond in the amount of the approved cost estimate to the Planning and Zoning Director. Failure to provide the Bond within the time required or if the Bond expires, is cancelled or revoked, or otherwise becomes uncollectible by the County, may result in revocation following the procedures as provided in Article 5 of this Ordinance.
- (F) The estimated cost of removal and reclamation for Reclamation Bonds shall be reviewed and, if necessary, adjusted based on inflation (using the US Bureau of Labor Statistics Producer Price Index) every five (5) years. If inflation has increased in the five (5) year timeframe, an engineer's estimate for a new Bond shall be submitted to the Planning and Zoning Director, and shall comply with parts (B) – (F) of this section.

2-13-4 Performance Bonds

- (A) A Performance 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.
- (B) The Performance Bond may be released when the construction has been completed and confirmed by the County.
- (C) The County reserves all rights to enforce its contracts, including bonds.

2-13-5 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 (150) percent of the amount estimated by a licensed engineer and approved by the Planning and Zoning Director, to be required to terminate the violation and bring the land or structure into compliance with this Ordinance.

Sec. 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 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, or is a township road designated to be maintained by an organized township. 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.

Sec. 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 one of the following:

- (A) 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.
- (B) 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.

- (C) A deceased natural person who, during his or her life, lifetime, complies with subdivision (A) above and whose estate has either not yet been admitted to probate in North Dakota or is currently admitted to probate in North Dakota.
- (D) An appropriate government entity authorized by North Dakota law to own, lease, occupy, or operate the subject building, structure, or land.
- (E) 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.

Sec. 2-16 Skid Unit Permit Fee

2-16-1 Requirements

- (A) Pursuant to NDCC Ch. 57-02.4 the County imposes an annual fee per unit for all Skid Units that are occupied in the County. The fee shall be for all Skid Units as defined in NDCC Ch. 57-02.4-01. The fee is established by resolution of the Board of County Commissioners.
- (B) The fee shall be for units used for housing or a place of business for a period of time three (3) months or longer.
- (C) 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.
- (D) Every year each permitted Skid Unit is to display a reflectorized permit sticker indicating that the current yearly fee has been paid. A permit stickers shall be obtained at the office of the Planning Department following completion of the Skid Unit Permit Fee Application and payment of the annual fee. The sticker shall be applied to the outside of the Skid Unit and be visible from the street access.
- (E) The fee is due on January 1 of each year the Skid 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 Skid Unit is occupied in the County and the fee shall not be pro-rated for partial years.

Sec. 2-17 Stormwater Management

2-17-1 Purpose

The purpose of these stormwater management standards is to protect water resources by minimizing the impacts from land use change and Development.

Stormwater management helps minimize erosion, reduce Flood risk, and protect water quality by reducing the volume and rate of stormwater flow. The section is intended to ensure that stormwater is managed appropriately protect County water resources after construction is completed.

2-17-2 Application of Regulations

- (A) A stormwater management plan shall be required for the following activities that fall under the jurisdiction of McKenzie County’s Land Development Code:
 - (1) Any Development 1 acre in size or greater.
 - (2) Any Development that will have 20,000 square feet of impervious surface area or greater.
 - (3) Any non-agricultural subdivision with five (5) or more buildable lots.
- (B) No building permit, subdivision approval, Conditional Use permit, or permit to allow land disturbing activities shall be issued until the stormwater management plan has been approved or a waiver has been granted in accordance with the provisions of this section.
- (C) Stormwater management plans shall be subject to written approval by the County Engineer prior to the public hearing on the planning and zoning application by the Planning and Zoning Board. The decision by the County Engineer may be appealed, as described in [Section 5-15](#).
- (D) The following processes and activities are exempt from provisions of this section:
 - (1) Land disturbing activity involving Farm activities.
 - (2) Land disturbing activity involving the construction of one Single-Family Dwelling or one Duplex Dwelling.
 - (3) Emergency work to protect life, limb, or property. This determination is made by the County Engineer.

2-17-3 Waiver of Requirements

- (A) The County Engineer may waive the requirements of this section if one of the following conditions is met:
 - (1) A stormwater management analysis was previously performed on the property and the existing stormwater management system is adequate for the proposed Development or use.
 - (2) The proposed Development or use will not permanently and significantly increase the impervious surface area of the property,

negatively impact water quality, or permanently increase soil erosion.

- (B) The County Engineer may require as a condition of the waiver such dedication or construction, or agreement to dedicate or construct, as may be required to adequately meet the standards of this section.

2-17-4 Stormwater Management Plan

- (A) **Hydrologic Response.** The stormwater management plan shall show how the applicant intends to install or construct all facilities necessary to manage increased runoff so that the 2-year, 10-year, and 100-year storm peak discharge rates existing before the proposed Development or land disturbing activity are not increased because of the activity.
- (B) **Natural Features.** To reduce the need to construct stormwater management facilities, the stormwater management plan shall incorporate the use of natural topography and land cover such as wetlands, ponds, and natural swales and depressions to the degree that these features can accommodate increased hydrologic flows without degradation.
- (C) **Other Agency Requirements.** Other standards, including state and federal stormwater permitting requirements, may apply. If the standards of multiple agencies conflict, the more restrictive shall apply. It is the responsibility of the applicant to obtain any required permits from other governmental agencies having jurisdiction over the work to be performed.
- (D) **Operation and Maintenance.** Maintenance of stormwater facilities is the responsibility of the property Owner. The stormwater management plan shall include a plan for operation and maintenance that assures ongoing effectiveness. All stormwater facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. The County Engineer may inspect any stormwater management facility at any time. It is the responsibility of the applicant to obtain any necessary Easements to allow access to stormwater management facilities for maintenance purposes.
- (E) **Expiration.** The stormwater management plan shall expire after one (1) year if construction has not commenced. At such time, a new plan shall be submitted for review.
- (F) **Approval.** The County Engineer has the authority to approve the stormwater management plan.

2-17-5 Construction Documents

- (A) Construction documents prepared as part of the stormwater management plan must be sealed and signed by a professional engineer registered in the State of North Dakota.
- (B) No building permit shall be issued, nor shall any Development, construction, or land disturbing activity commence on any property subject to a stormwater management plan, until the stormwater management plan has been approved by the County Engineer.
- (C) Construction documents for stormwater management shall be coordinated with the erosion control plan (Section 2-18).
- (D) Permanent erosion control measures (left in place after construction) shall be identified.

2-17-6 Enforcement and Maintenance

- (A) Enforcement of an approved storm water management plan shall include intermittent inspections of the Development from public right of way or Easement by the Planning and Zoning Director or County Engineer. Should any inspections result in a determination of non-compliance with the approved plan the Owner will be notified of the necessary corrective actions. Should such corrective actions not be implemented within the 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 (14) 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.
- (B) 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 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 or may be assessed to the Development properties.
- (C) Any approvals associated with the stormwater management plans shall be suspended if non-compliance with this section threatens the health, safety, and/or welfare of the public.

- (D) The plan shall include ongoing maintenance of the subject area to ensure compliance with requirements of the County weed control officer. Maintenance shall be the responsibility of the property Owner.

Sec. 2-18 Erosion Control During Construction

2-18-1 Purpose

The requirements of this section are intended to protect McKenzie County's soil and water resources from erosion and sedimentation that may occur during the construction process.

2-18-2 Erosion Control Plan

- (A) **Requirement.** An erosion control plan shall be required before the commencement of any construction or Development that disturbs one (1) acre or more of land by grading, excavating, or removing the natural topsoil, trees, or other vegetative covering thereon. Erosion and sedimentation control shall be exercised throughout the time of excavation, landfill, and construction. No such work shall be approved until after appropriate seeding, sodding, planting, mulching, or other appropriate erosion control measures have been taken. The erosion control plan is subject to review and approval by the County Engineer prior to approval of the following:
 - (1) Building permit
 - (2) Any planning and zoning application (if such application is required)
 - (3) Any grading adjacent to County right of way
- (B) **Agricultural Exemption.** Development that is a Permitted Use in the Agricultural District is exempt from the requirements of this section.
- (C) **Standards.** The erosion control plan shall address the following minimum standards:
 - (1) The smallest practical area of land will be exposed at any time during Development.
 - (2) When land is exposed during Development, the duration of exposure will be limited to the shortest practical time period.
 - (3) Topsoil 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.
 - (4) Where necessary, temporary vegetation and/or mulching shall be used to protect areas exposed during Development.

- (5) Sedimentation basins shall be installed and maintained to remove sediment from run-off waters from land undergoing Development or substantial changes of grade.
- (6) Permanent vegetation and structures shall be installed as soon as practical in the Development.
- (7) The Development plan shall be adapted to the topography and soils of the site so as to create the least erosion potential.
- (8) Wherever feasible, trees, shrubs, and natural vegetation shall be retained and protected to control erosion.
- (9) Water pumped from a Development site shall be treated by temporary sedimentation basins, grit chambers, sand filters, soil concentrators, or other appropriate controls as necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or Flood occurring on the Development site, receiving channels, or wetlands.
- (10) Construction contractors shall ensure that all waste and materials including garbage, debris, wastewater, toxic materials, and hazardous materials are properly disposed of off-site and are not carried by runoff into any water course, storm sewer system, or wetland.

Sec. 2-19 Fire Protection

- (A) Adequate fire protection must be provided and maintained for all residential, commercial, and industrial Development. Adequate fire protection must be identified prior to approval of the following:
 - (1) building permits,
 - (2) subdivisions,
 - (3) Conditional Use permits,
 - (4) zone changes, and
 - (5) Comprehensive Plan land use changes.
- (B) The applicant shall coordinate with the State Fire Marshal office to determine adequate fire protection based on the type of Development.
- (C) Oil and gas storage facilities not excepted from application of this Ordinance shall space storage tanks as determined by the State Fire Marshal.

Sec. 2-20 Signs

2-20-1 Purpose

The intent 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 NDCC Ch. 24-17.

2-20-2 Permit Requirement

- (A) 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 section. All Signs, unless exempted herein, require a Sign Permit issued by the County.
- (B) The Planning and Zoning Director or their designee shall examine all applications for the erection of Signs and, upon determining that a Sign(s) is(are) in accordance with the provisions of this Section, issue permits for new Signs and for continued use of Signs which conform to the requirements of this Section. Further, they shall collect a permit fee as established by the Board of County Commission to review all applications, any accompanying plans and documents, make routine inspections of Signs, and make such reports as the Planning and Zoning Board may require.

2-20-3 Definitions

The following definitions are added to the Ordinance:

Ancillary Sign: A Sign providing information for the purpose of achieving orderly interaction of employees and visitors within the business premises.

Billboard: A Freestanding or Wall Sign greater than two-hundred-fifty square feet (250 s.f.) which advertises a business, commodity, good, service, entertainment or attraction which is not sold, produced, manufactured, or furnished on the premises where the billboard is located. Billboards include either a Digital Sign, static displays, or three-message displays (three-message displays consist of triangular prisms placed inside a frame).

Digital Sign: Electronic image displays that present one Sign or a series of Signs on a rotating basis through LED, or similar, electronic technologies.

Freestanding Sign: A Sign that is greater than eight feet (8') in height as measured from the adjacent ground to the top of the Sign supported by a single or multiple poles, secured to a Permanent Foundation upon the ground, and not attached directly to any Building. Commonly referred to as pole or pylon sign.

Ground Sign: A Sign that is less than eight feet (8') in height as measured from the adjacent ground to the top of the Sign, set firmly in or upon the ground surface, and is not attached to any Building.

Onsite Circulation: The area of a Development that is necessary to facilitate the movement of pedestrians, bicyclists, and motorized vehicles about the premises (e.g. sidewalks; walkways; parking areas; drive-aisles).

Portable Sign: Any sign which is constructed so as to be movable, either by skids, wheels, truck or other conveyance; any sign which does not have a Permanent Foundation or is not otherwise permanently fastened to the ground. . When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category, neither does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors.

Road Frontage:

- (A) The length of the property boundary that abuts a Right-of-Way or public access Easement.
- (B) Where the length of the property boundary that abuts a Right-of-Way or public access Easement is thirty (30) feet or less and where its sole purpose is to provide direct access to the Right-of-Way or public access Easement, Road Frontage may be calculated by utilizing the entire length of the property boundary running parallel to the Right-of-Way or public access Easement.
- (C) For properties with that do not have a property boundary which abuts a Right-of-Way or public access Easement, Lot Frontage shall be used.

Sign: Any emblem, name, identification, description or illustration which is used to communicate having a permanent location on the ground or attached to or painted on a building.

Sign Alteration: Any change of copy, sign face, color, size, shape, illumination, position, or location and does not require either the modification of the existing support structure (Sign Cabinet, raceway, background panel, etc.) or the erection of new support structure.

Sign Alteration, Major: Any Sign Alteration that includes:

- (A) Replacement of the pole or other supporting structure of a Freestanding Sign.
- (B) Replacement of a Sign Cabinet of a Wall Sign.

- (C) Any other repair that constitutes a Substantial Improvement as defined in [Section 1-4-2](#).

Sign Alteration, Minor: Any Sign Alteration that includes:

- (A) Replacement of the Sign Face of any sign.
- (B) Replacement of the Sign Cabinet of a Freestanding sign.

Sign Area:

- (A) The sign area will be calculated by the smallest rectangle around the text/logos/etc. or clearly defined Sign Cabinet(s).
- (B) The sign area shall not include any supporting framework, bracing or trim which is incidental to the display, provided that it does not contain any lettering, wording, or symbols.
- (C) Where the sign consists of individual letters, designs, or symbols attached to a building, awning, or wall, the area shall be that of the smallest rectangle which encompasses all of the letters, designs, and symbols.
 - (1) Where the average width between the individual letters, designs, or symbols is greater than the average width of the individual letters, designs, or symbols, each individual letter design, or symbol shall be treated as its own Sign for the purpose of calculating Sign Area.

Sign Cabinet: The apparatus that encompasses, contains, or holds in place the Sign Face.

Sign Clearance: The distance as measured by the smallest vertical distance between the finished grade and the lowest point of the Sign Cabinet, excluding the pole of a Freestanding Sign.

Sign Face: The area or display surface used for the message.

Sign Height: The height of a Sign shall be computed as the vertical distance as measured from finished grade to the top of the highest attached component of the Sign or sign structure.

Sign Permit: A permit to erect, construct, or display a Sign.

Temporary Sign: Any sign, banner, pendant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time for a particular event.

Wall Sign: A Sign attached to the wall of a Building. This definition includes painted signs, individual letter, and signs on a mansard roof.

Window Sign: A Sign that is painted directly on a window or affixed to the inside or outside of a window that requires no modification to an existing Structure.

2-20-4 Prohibited Signs

- (A) No sign shall be erected 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, phase, symbol or character in such manner as to interfere with, mislead, or confuse traffic.
- (B) Signs erected or located on, within or over any public Right-of-Way, unless specifically permitted herein.
- (C) Portable Signs.
- (D) Any abandoned Sign (not containing a Sign Face) must be removed within six months of the date of abandonment. Removal shall include removal of abandoned structural components.
- (E) Signs that are not clean or in substantial good repair; or are not affixed to a sound structure.

2-20-5 Exemptions

The following shall be exempted from the requirement to obtain a Sign permit:

- (A) 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.
- (B) Plaques and markers associated with a historic site or historic building, as determined by the State Historic Preservation Office (SHPO), and Historical Monuments and/or Structures as defined in this Ordinance.
- (C) Signs used on property warning the public against trespassing, parking, or soliciting thereon.
- (D) Signs required by any provision of law or signs deemed necessary to the public welfare by the governing body (e.g. building permit number and associated information posted onsite for construction projects; Sign required as part of a Conditional Use Permit).
- (E) Building and/or site addressing.
- (F) Signs not exceeding six (6) square feet.
- (G) Window Signs.

2-20-6 General Sign Provisions.

- (A) **Setbacks:** A Sign shall be located no closer than ten (10) feet from a property boundary or private or public access Easement. An exception to this requirement applies to a Sign less than six (6) square feet attached to a fence. When state or federal guidelines specify a minimum Setback, the greater Setback shall apply.
- (B) **Sight Triangle:** No sign shall interfere with the Sight Triangle as provided in this Ordinance.
- (C) **Onsite Circulation.** A Sign shall not interfere with Onsite Circulation.
- (D) **Sign Lighting:** Illuminated signs may be directly or indirectly lighted, provided that they comply with the following standards:
 - (1) Illumination of directly illuminated signs shall be of the diffused lighting type.
 - (2) 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.
 - (3) 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.
- (E) **Major Sign Alteration.** A Major Sign Alteration may only be performed on a Conforming Sign.
- (F) **Minor Sign Alteration.** A Minor Sign Alteration may be performed on a Conforming or Non-Conforming Sign.
- (G) **Building Code Compliance.** A Sign is subject to review and approval by the Planning Department for compliance with the adopted building-related codes at the time of application. Additional documentation and/or building permitting may be required. Additional fees, if any, are separate from the Sign Permit fees.
- (H) **Responsibility for Compliance.** The Owner of the parcel on which a Sign is placed is fully responsible for the condition and the maintenance of a Sign, including the area within five feet (5') of the Sign.
- (I) **Sanitation.** Within five feet (5') of any Sign, property shall be maintained in a clean and sanitary condition to include being free from weeds, rubbish, and flammable material.
- (J) **Digital Signs.** The following additional provisions apply:

- (1) Digital Signs shall be equipped with automatic dimming technology that adjusts the display’s brightness based on ambient light conditions. Maximum brightness levels shall not exceed 0.3 (three tenths) footcandles over ambient light levels measured at a preset distance as described in the following table:

Table 2-6. Distance for Measuring Brightness

Size of Sign in Total Square Feet	Distance from Sign
250-350	150 feet
351-650	200 feet
Over 650	250 feet

Prior to issuance of a Sign Permit, certification must be provided to the Planning and Zoning Director or their designee demonstrating that the Sign has been preset to automatically adjust the brightness to these levels or lower. Reinspection and recalibration may be required by the Planning and Zoning Director in their reasonable discretion.

- (2) Digital Signs shall display a static message which message may not change or be changed for a period of at least seven (7) seconds.
- (3) Digital Sign transitions from one such static message to the next shall occur instantaneously (one second or less) without the use of animation, flashing or frame effects.
- (K) **Material.** Except for Temporary Signs, Signs shall be constructed of high-quality materials, such as dura-wood, Dibond, vinyl, or aluminum.
- (L) **Additional Specific Provisions/Limitations Apply.** Additional sign provisions and/or limitations shall apply for certain uses as provided in [Article 4](#).
- (M) **Window Signs.** Window Signs are limited to thirty-five percent (35%) of the window area of a Building Face.
- (N) **Billboards.** The following additional provisions apply:
 - (1) Billboards are limited to those properties within two (2) miles of the Watford City Extraterritorial Jurisdiction boundary, or within one (1) mile of the Arnegard, Alexander or Keene boundaries or their respective Extraterritorial Jurisdiction boundaries.
 - (2) Digital Billboards shall comply with the same brightness requirements as provided in [Section 2-20-6](#).
 - (3) Billboards along State Highways require coordination with the North Dakota Department of Transportation and may be subject to additional limitations and requirements.

2-20-7 Sign Type and Zoning District Table

Table 2-7. Sign Type and Zoning District Table

Sign Type	Dimensional Standard (Maximum)	Zoning District									
		AG	REC	R-1 ¹	R-5A ¹	R-2 ¹	R-3 ¹	C-1	I-1	I-2	
Wall	Sign Area	1 s.f. per foot of Road Frontage up to 100 s.f.		4 s.f.				2 s.f. per foot of Road Frontage up to 200 s.f.	2.5 s.f. per foot of Road Frontage up to 250 s.f.	3 s.f. per foot of Road Frontage up to 300 s.f.	
	Sign Height	Top of building wall									
	Sign Clearance	8' when abutting any pedestrian walkway									
	Sign Quantity	Multiple ^{2,3}			1			Multiple ^{2,3}			
Freestanding	Sign Area	1 s.f. per foot of Road Frontage up to 75 s.f.	1 s.f. per foot of Road Frontage up to 50 s.f.	Not permitted				1 s.f. per foot of Road Frontage up to 100 s.f.	1.5 s.f. per foot of Road Frontage up to 150 s.f.	1.5 s.f. per foot of Road Frontage up to 150 s.f.	
	Sign Height	35'	25'					45'			
	Sign Clearance	8'							8'		
	Sign Quantity	1 per three-hundred (300) feet of Road Frontage							1 per three-hundred (300) feet of Road Frontage		
Ancillary	Sign Area	1 s.f. per foot of Road Frontage up to 150 s.f.	1 s.f. per foot of Road Frontage up to 100 s.f.	Not permitted				2 s.f. per foot of Road Frontage up to 200 s.f.	2.5 s.f. per foot of Road Frontage up to 250 s.f.	3 s.f. per foot of Road Frontage up to 300 s.f.	
	Sign Height										

Sign Type	Dimensional Standard (Maximum)	Zoning District									
		AG	REC	R-1 ¹	R-5A ¹	R-2 ¹	R-3 ¹	C-1	I-1	I-2	
	Sign Clearance	Follow the respective zoning district standards for either a ground/monument sign or wall sign; freestanding signage not permitted.							Follow the respective zoning district requirements for either a ground/monument sign or wall sign; freestanding signage not permitted.		
	Sign Quantity	Multiple							Multiple		
Ground	Sign Area	32 s.f.			6 s.f.				64 s.f.		
	Sign Height	Up to 8'									
	Sign Clearance	N/a									
	Sign Quantity	1									
Temporary⁴	Sign Area	32 s.f.			6 s.f.				50 s.f.		
	Sign Height	8'	6'				8'				
	Sign Clearance	N/a									
	Sign Quantity	1									
Billboard	Sign Area	Not permitted						750 s.f.			
	Sign Height							45'			
	Sign Clearance							14'			
	Sign Quantity							1 per one-thousand (1,000) feet.			

¹Signage located within residential districts for residential uses as denoted in Table 3-1. Zoning and Land Use Table is subject to the limitations set forth in this Table. An exception exists for any Conditional Use that specifies signage as a condition of approval as part of the Conditional Use permitting process to include area, quantity, height, clearance, and type, but at no time may signage exceed what is permitted within the C-1 Commercial District.

²Signage may be allocated across multiple signs, but the total may not exceed the maximum sign area.

³At a minimum, each business in a multi-tenant/multi-business Development is entitled to have one (1) forty (40) s.f. Wall Sign. This provision in no way inhibits the ability of a property Owner to further limit signage collectively for the Development or of individual tenants.

⁴Temporary signs must be removed within seven (7) days following the event for which they were erected.

2-20-8 Non-Conforming Signs

- (A) **Replacement:** A Non-Conforming Sign may continue if it is maintained in good condition. It shall not, however, be replaced by another Non-Conforming Sign. A Non-Conforming Sign may not undergo a Major Sign Alteration.
- (B) **Nuisance:** An unsafe or abandoned Sign is declared a public nuisance, which shall be abated by the Owner within thirty (30) days of receiving notice from the Planning Department.

2-20-9 Variances and Appeals

- (A) **Variance:**
 - (1) The Planning and Zoning Board 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 and Zoning Board 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.
- (B) **Appeals:** Decisions of the Planning and Zoning Board may be appealed to the Board of County Commissioners. All appeals shall be filed within 30 days from the date of the decision of the Planning and Zoning Board.

ARTICLE 3. ZONING DISTRICTS

Contents

[Section 3-1: Zoning District Designation](#)

[Section 3-2: Zoning Map and District Boundaries](#)

[Section 3-3: Table of Uses](#)

[Section 3-4: Table of Dimensional and Density Standards](#)

[Section 3-5: Agricultural District \(AG\)](#)

[Section 3-6: Recreational District \(REC\)](#)

[Section 3-7: Residential Low Density District \(R-1\)](#)

[Section 3-8: Rural Residential District \(R-5A\)](#)

[Section 3-9: Residential Medium Density District \(R-2\)](#)

[Section 3-10: Residential High Density District \(R-3\)](#)

[Section 3-11: Commercial District \(C-1\)](#)

[Section 3-12: Light Industrial District \(I-1\)](#)

[Section 3-13: Heavy Industrial District \(I-2\)](#)

[Section 3-14: Planned Unit Development Overlay District \(PUD\)](#)

[Section 3-15: Floodplain Overlay District](#)

[Section 3-16: Highway Corridor Overlay District](#)

[Section 3-17: Firearms Facility Overlay District](#)

[Section 3-18: Public-Use Airport Overlay District](#)

Sec. 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 NDCC Ch. 11-33-02. Said districts shall be known as:

- (A) Agricultural District (AG)
- (B) Recreational District (REC)
- (C) Residential Low Density District (R-1)
- (D) Residential Medium Density District (R-2)
- (E) Residential High Density District (R-3)
- (F) Rural Residential District (R-5A)
- (G) Commercial District (C-1)
- (H) Light Industrial District (I-1)
- (I) Heavy Industrial District (I-2)
- (J) Planned Unit Development District (PUD)
- (K) Floodplain Overlay District

[Main Table of Contents](#)

[Article 3 Table of Contents](#)

- (L) Highway Corridor Overlay District
- (M) Firearms Facility Overlay District
- (N) Airport Overlay District

Sec. 3-2 Zoning Map and District Boundaries

3-2-1 Zoning Map

The zoning districts as described in this Ordinance shall be mapped. Said map shall be known as the County Zoning Map and shall include all materials necessary for the interpretation of the map. The County Zoning Map shall include the date of the last Amendment to the map and shall be available for inspection in the office of the County Auditor upon request. The County Zoning Map may be maintained in digital format. The County Zoning Map shall be updated and republished on a regular basis to reflect approved amendments.

3-2-2 Boundary Definition

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

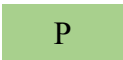



3-2-3 Boundary Interpretation

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 and Zoning Director shall interpret and delineate the boundary line in question. Any dispute to the Administrative Determination of the Planning and Zoning Director shall follow the Appeals procedures as provided in [Section 5-16](#).

Sec. 3-3 Table of Uses

3-3-1 Zoning and Land Use Table

(A) The *Zoning and Land Use Table* (Table 3-1) on the following pages lists existing and potential future uses that are permitted in each zoning district. The table uses the following key:

	P	Use permitted by right
	C	Conditional use subject to Board of County Commissioners approval
	C/A	Conditional use subject to administrative approval
	NA	Use not subject to County oversight

(blank) Use not permitted in zoning district

- (B) **Special use standards:** Special use standards apply to certain uses. Special use standards typically pertain to the permitting, Development, operation, maintenance, or closure/reclamation of a use. The rightmost column of Table 3-1 includes section references to special use standards, if applicable.

Table 3-1. Zoning and Land Use Table

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
<i>Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.</i>										
Agricultural Uses										
Agriculture	P									
Aquaculture	C									
Non-Traditional Livestock	C									
Agritourism	P									
Commercial Grain Elevators	C							P	P	
Commercial Feedlot	C									Section 4-2
Farm	P									
Farm-Related Business	P							P	P	
Farm Stand	P									
Farm, Limited		P								
Livestock Auction Yards	C									C
Greenhouse	P						P			
Agricultural Product Processing	C							P	P	
Recreational Uses										
Equestrian Event	P	P								
Golf Course		P								
Hunting, Fishing, and Trapping	P	P								
Hunting Lodge	P									
Park	P	P	P	P	P	P				
Recreational Vehicle Park		P		C	C					Section 4-11
Wildlife Management Refuge	P	P								
Residential Uses										
Dwellings, Attached (Up to 4 Units)				P	P					
Dwellings, Attached (More than 4 Units)					P					
Domestic Farm Animals			P			P				
Dwelling, Duplex				P	P					
Manufactured Home	P		P	P		P				Section 5-19
Manufactured Home Park				P	P	P				Section 4-10
Home Occupation			P			P				Section 4-4

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
<i>Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.</i>										
Recreational Vehicle Occupancy, Limited		P	P	P	P	P				Section 4-12
Residential Truck Parking			P							
Seasonal Residence		C								
Dwelling, Single-Family Detached	P	C	P	P	P					
Public and Institutional Uses										
Airport	C									
Terminal, Transit							P	P	P	
Cemetery	P									
Child Care Center			C	C	C	C	C			
Child Care, Family	P		P	P	P	P				
Child Care, Group	C		C	C	C	C	P			
Child Care, Preschool	C		C	C	C	C	P			
Child Care, School-Age	C		C	C	C	C	P			
Child Care, Multiple Licensed Program	C		C	C	C	C	P			
Child Care, Self-declared Provider	P		P	P	P	P				Section 4-15
Place of Religious Assembly	P	C	P	P	P	P	P			
Clubs	P	C	P	P	P	P	P			
College					P		P			
Cultural Center		C	P	P		P				
Government Administration or Maintenance Facility	C	C					C	P	P	
Group Home (up to six (6) individuals)			P	P	P	P				
Group Home (up to eight (8) individuals)				P	P					
Health Care Facility							C			
Historical Monument and/or Structure	P	P								
Nursing Home						C	C			
Post Office	P	P	P	P	P	P	P	P	P	
Public Safety Facility	P	P	P	P	P	P	P	P	P	
School	P	C	P	P	P	P				
Commercial and Service Uses										
Adult Entertainment Center								C	C	Section 4-5
Animal Hospital and Clinic	P							P		

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
<i>Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.</i>										
Bar/Tavern		C					P			
Entertainment Establishment							P	P		
Hotel							P	P	P	
Kennel	P							P		
Office							P	P		
Restaurant		P					P			
Retail Sales							P	P		
Retail Sales, Outdoor							C	P		
Storage, Self-Service							P	P	P	
Services, Automotive Repair								P		
Services, Contractor’s Office							P	P		
Services, General Repair							P	P		
Services, Personal							P	P		
Car Wash							P	P		
Service Station							P	P		
Wholesale Activities, Excluding Outdoor Storage							P	P		
Wholesale Activities, Including Outdoor Storage							C	P		
Industrial Uses										
Batch Plant									P	
Data Center	C								C	Section 4-19
Commercial Truck Parking	C							P	P	
Electrical Substation	C							C	C	
Electrical Transmission Facility	NA									NDPSC has lead jurisdiction
Energy Transmission Facility (Gas or Liquid)	NA									NDPSC has lead jurisdiction
Energy Conversion Facility (Electric, other than Wind or Solar)	NA									NDPSC has lead jurisdiction
Energy Conversion Facility (Gas or Liquid)	NA									NDPSC has lead jurisdiction
Heavy Equipment Storage	C							C	P	
Heavy Equipment Repair								C	P	
Mining, Surface (Public)	C/A							C/A		
Mining, Surface (Commercial)	C							C	C	Section 4-14
Medical Marijuana Manufacturing or Distribution Center	C							C	C	Section 4-13

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
<i>Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.</i>										
Hazardous Material Storage, Sale, or Distribution	C								C	Section 4-3
Bulk Dry Storage								P	P	
Terminal, Freight								C	P	
Manufacturing, Heavy									P	
Manufacturing, Light								P	P	
Oil and Gas Extraction	NA									NDIC has jurisdiction
Radio and/or Television Broadcasting Station								C	P	
Salvage Yard									C	
Stockyard/Slaughterhouse									C	
Storage Yard								P	P	
Warehouse							C	P	P	
Waste Management Facility/Landfill									C	Section 4-3
Solar Energy System	C									Section 4-18
Wind Energy Facility	C									Section 4-16
Infrastructure										
Communication Facility	C/A	C/A						C/A	C/A	Section 4-8
Electrical Substation	C/A	C						C/A	C/A	
Freshwater Depot/Storage Pond	C						C	P	P	Section 4-7
Freshwater Pipeline, Non-Industrial Use	P	P	P	P	P	P	P	P	P	
Freshwater Pipeline, Industrial Use	C	C						P	P	Section 4-7
Utility	P	P	P	P	P	P	P	P	P	
Railroad Tracks and Spurs	C							C	C	
Accessory Uses										
Accessory Use or Structure	P	P	P	P	P	P	P	P	P	
Accessory Farm Labor Housing (1 unit)	P									Section 4-20
Accessory Residential Structure (1 unit)	P		P	P	P	P				Section 4-21
Accessory Live-Work Unit (1 unit)							C	C	C	
Accessory Parking	P	P	P	P	P	P	P	P	P	
Accessory Wind Energy Conversion System	P	P						P	P	
Accessory Solar Energy System (SES) – Roof/Building-mounted	P	P	P	P	P	P	P	P	P	Section 4-17
Accessory Solar Energy System – Ground-mounted	P	P				P		P	P	Section 4-17

Land Use Type	Zoning District									Special Use Standards
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2	
<i>Note: Any Structure associated with any use listed in this table may require a Building Permit from the Planning Department. Please contact the Planning Department to confirm.</i>										
Temporary Uses										
Temporary Batch Plant	C							C	P	
Temporary Farmers Market (up to 6 months)	C/A						C/A			
Temporary Fireworks Sales (up to 3 months)	C/A							C/A		
Temporary Freshwater Facilities (up to 6 months)	C/A							C/A		
Temporary Retail Sales, Outdoor (up to 1 week)							C/A	C/A		
Temporary Christmas Tree Sales (up to 2 months)	C/A						C/A	C/A		
Temporary Public Gathering or Event (up to 1 month)	C/A	C/A								
Unlisted Temporary Use	C	C	C	C	C	C	C	C	C	
Temporary Heavy Equipment Storage (up to 1 year)	C/A							C/A	P	
Temporary Workforce Housing	C							C	C	Section 4-6

Sec. 3-4 Table of Dimensional and Density Standards

[Table 3-2](#) below lists density and setback requirements for lots or tracts and structures within each zoning district of McKenzie County. The standards shall be interpreted according as follows:

- (A) **Application of Standards.** All dimensional standards for Buildings or Structures apply to the Principal building or structure together with all Accessory Buildings or Structures on the Lot.
- (B) **Calculation of Setbacks.** Setbacks in Table 3-2 are measured from the foundation of the building or structure to the property line of the lot or tract within which the building or structure is located.
- (C) **Calculation of Height.** Roof structures and mechanical appurtenances such as belfries, chimneys, domes, flag poles, radio towers, and spires shall not be taken into account when calculating the height of buildings for the purposes of determining compliance with height limitations. Furthermore, Building Height limitations do not apply to bulkheads, monuments, Communication Facilities, water towers, or similar structures.
- (D) **Airport Height Restrictions.** Nothing in this section shall be interpreted to permit the erection of any structure in violation of any applicable Public-Use Airport Overlay District provisions (see [Section 3-18](#)).

Table 3-2. Dimensional and Density Standards

Dimensional Standards	Zoning Districts								
	AG	REC	R-1	R-2	R-3	R-5A	C-1	I-1	I-2
Minimum Lot/Tract Area	5 acres	1 acre	1 acre	7,000 SF	6,000 SF	5 acres	1 acre	2 acres	2 acres
Minimum Lot/Tract Width	300'	100'	100'	60'	100'	100'	100'	200'	200'
Minimum Lot/Tract Depth	300'	200'	200'	120'	200'	200'	200'	200'	200'
Maximum Density	3 DU/40 acres ^(a)	--	1 DU/acre	10 DU/acre	20 DU/acre	0.2 DU/acre	--	--	--
Maximum Building Height	35'	35'	35'	50'	50'	35'	35'	75'	75'
Minimum Setbacks									
Front Yard	25'	25'	30'	30'	30'	100'	30'	50'	50'
Side Yard	25'	10'	10'	10'	10'	25'	10'	25'	25'
Rear Yard	25'	10'	25'	25'	25'	50'	25'	50'	50'
Setback between buildings	--	--	Minimum 15' between buildings or a 1-hour firewall						(b)
Setback from roadways	See Section 2-10								

(a) Three Dwelling Units per quarter-quarter section of a legal section.

(b) Minimum 20' setback between buildings. No building or structure in the Heavy Industrial District (I-2) shall be located within 1,250' from the boundary of a residential district or within 500' from any Dwelling Unit.

Sec. 3-5 Agricultural District (AG)

3-5-1 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 intended to regulate scattered non-farm Development and to promote the orderly and economic Development of public service utilities and schools. These areas have very limited availability of infrastructure and services for residential purposes.

3-5-2 Setbacks and Dimensional Standards

Setbacks and dimensional standards listed in Table 3-2.

3-5-3 Development Standards

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-6 Recreational District (REC)

3-6-1 Intent

The purpose of the Recreational District is to protect sensitive, unique, or vulnerable lands, vegetation, wildlife, and historic sites and monuments. Furthermore, this district is intended to promote the wise use of lands for recreational activity and residency around rivers, lakes, and other water courses to maintain the quality of the environment.

3-6-2 Setbacks and Dimensional Standards

Setbacks and dimensional standards listed in Table 3-2.

3-6-3 Development Standards

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).

- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-7 Residential Low Density District (R-1)

3-7-1 Intent

The Residential Low Density District is intended to provide for orderly single-family residential Development with a maximum density of one (1) Dwelling Unit per acre.

3-7-2 Development Standards

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-8 Rural Residential District (R-5A)

3-8-1 Intent

The purpose of the Rural Residential District is to provide for rural residential communities with a minimum lot size of 5 acres, where water is provided by a rural water district or private wells and wastewater is treated by on-site septic systems.

3-8-2 Development Standards

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-9 Residential Medium Density District (R-2)

3-9-1 Intent

The purpose of the Residential Medium Density District is to support residential neighborhoods with diversified housing stock to satisfy market demand and consumer preferences, up to 10 dwelling units per acre. This district must be served by a state-approved water system and sewer system.

3-9-2 Development Standards

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-10 Residential High Density District (R-3)

3-10-1 Intent

The purpose of the Residential High Density District is to support residential neighborhoods with diversified housing stock to satisfy market demand and consumer preferences, up to 20 dwelling units per acre. This district must be served by a state-approved water system and sewer systems.

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-11 Commercial District (C-1)

3-11-1 Intent

The purpose of the Commercial District is to organize retail establishments offices, wholesale, and service activities in areas with access to paved roads, water, sewer, and utilities.

3-11-2 Development Standards

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).
- (E) **Design Review.** Site plans, architectural elevations, and proposed materials must be submitted to the Planning Department for design review for Permitted and Conditional Uses.

Sec. 3-12 Light Industrial District (I-1)

3-12-1 Intent

The intent of the Light Industrial District is to designate areas for wholesale commercial, manufacturing, trucking, limited retail sales and service, and the like. All manufacturing activity must be conducted within and shall not emit fumes, odor, dust, smoke, gas, or vibrations beyond the confines of property.

3-12-2 Development Standards

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).

Sec. 3-13 Heavy Industrial District (I-2)

3-13-1 Intent

The purpose of the Heavy Industrial District is 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.

3-13-2 Development Standards

- (A) **Landscaping Plan.** Development is subject to the requirements of [Section 2-12](#).
- (B) **Highway Corridor Overlay.** Development is subject to the requirements of [Section 3-16](#).
- (C) **Parking:** Parking standards are listed in [Section 2-11](#). Accessory Parking is an permitted use.
- (D) **Signs:** Sign standards are provided in [Section 2-20](#).
- (E) **Residential Buffer.** 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.

3-13-3 Performance Standards

- (A) All combustible material shall be stored in such a way to permit free access to firefighting equipment.
- (B) Dust, fumes, odors, smoke, vapor, noise, lights, and vibrations shall be confined within the industrial district.

Sec. 3-14 Planned Unit Development Overlay District (PUD)

3-14-1 Purpose

The Planned Unit Development Overlay District (PUD) provides an alternative to conventional zoning to facilitate design for unique Development proposals, including area master plans and mixed-use concepts. Uses incorporated within a PUD may deviate from base zoning district standards, pending County approval. In exchange for greater Development flexibility, the County may require the Developer to provide additional amenities or enhancements.

3-14-2 PUD Standards

- (A) The PUD shall allow only Permitted Uses as provided in the base zoning district.
- (B) The Minimum PUD area shall be five (5) acres.
- (C) Any PUD that falls within a Highway Corridor Overlay District shall be subject to the requirements of [Section 3-16](#).
- (D) Any change in use within an approved PUD shall require approval of the Board of County Commissioners.

- (E) Any expansion of a use within an approved PUD that increases the total building area by twenty (20) percent or more shall require approval of the Board of County Commissioners.
- (F) Other modifications may be approved by the Planning and Zoning Director.

3-14-3 PUD Application and Plan

- (A) **Development Plan.** The submittal of a PUD application requires a physical plan, images, and narrative that describe all uses within the PUD, the conventional zoning districts under which those uses are normally permitted, and the proposed dimensional standards and requirements that will apply to each use in the PUD. The application shall indicate where the Developer requests deviation from base zoning standards. The narrative shall describe the additional amenities/enhancements of the project, which may include but are not limited to improved site design; open space preservation; and improved parks, trails, or recreation facilities.
- (B) **Site Plan.** The Site Plan and accompanying narrative shall include the following:
 - (1) **Setting.** The physical characteristics of the site and adjacent land uses.
 - (2) **Dimensional Standards.** Setbacks, densities, and Building Heights.
 - (3) **Design Standards.** Architectural standards, street section design, landscaping, and signage.
 - (4) **Development Concept.**
 - (a) Location and size of each land use
 - (b) Open space quantity and amenities provided.
 - (c) Parks, trails, and pedestrian connections
 - (d) Street concept
 - (5) **Phasing Plan.**
 - (a) A map indicating each stage of Development.
 - (b) Timeframe for construction and installation of infrastructure and structures.
 - (6) Any additional information deemed necessary by the Planning and Zoning Director or designee.
- (C) **Reclamation Bond.** A PUD or sections of the PUD may be subject to a Reclamation Bond if deemed necessary by the Board of County Commissioners.

Sec. 3-15 Floodplain Overlay District

3-15-1 Intent

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

3-15-2 District Application

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.

3-15-3 Remediation Plan

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.

Sec. 3-16 Highway Corridor Overlay District

3-16-1 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:

- (A) The establishment of enhanced standards for Buildings, landscaping, and other improvements constructed on the properties bordering and within the transportation corridors; and
- (B) 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.
- (C) 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.

3-16-2 Exemptions

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

3-16-3 Standards

(A) **Design Review.** Any and all Site Plans, architectural elevations, and proposed materials must be submitted to the Planning Department for design review prior to a building permit being issued.

(B) **Building Design.** Building design shall incorporate materials to convey permanence, substance, timelessness, and restraint. Metal siding systems may be used along the corridor provided that metal is limited to fifty (50) percent of the Building Face. At a minimum, each building shall be constructed with one or more of the following material(s) consisting of at least fifty (50) percent of the exterior materials:

- (1) Clay or masonry brick.
- (2) Customized concrete masonry.
- (3) Architectural flat metal panels or glass.
- (4) Stucco or Exterior Finish Insulation.
- (5) Natural stone.
- (6) Residential grade permanent siding with brick decorative masonry.
- (7) Post and Beam – Log structures and/or entries.

(C) **Multi-building and Mixed-Use Projects.**

- (1) 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.
- (2) 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.
- (3) 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.

(D) **Site Design.**

- (1) Trash enclosures and trash compactors shall be located such that they are not visible from the identified corridor.

- (2) 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.
- (3) Loading and delivery areas shall not be located along the front side of the building that fronts on the identified corridor.
- (4) 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.
- (5) 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 weather protection, such as overhangs, awnings, and canopies to increase usefulness in a variety of weather conditions.

Sec. 3-17 Firearms Facility Overlay District

3-17-1 Intent

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.

3-17-2 Definitions

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

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

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

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

3-17-3 District Application

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.

3-17-4 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 permitted 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.

3-17-5 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.

3-17-6 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.

3-17-7 Application Requirements

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

- (A) 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
- (B) The legal description of the parcel of land upon which the firearms facility will be operated
- (C) 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
- (D) Detailed, to-scale plans of all buildings within which the facility will operate
- (E) 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
- (F) 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
- (G) All regulations for the use of the facility
- (H) Evidence that the facility is capable of being operated according to its regulations
- (I) 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
- (J) 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
- (K) 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
- (L) 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

3-17-8 Conditional Use Permit Application Requirements for Other Uses

All applications for Conditional Use permits for uses other than for a firearms facility within the firearms facility overlay district must include the following:

- (A) 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.
- (B) 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.
- (C) 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.

3-17-9 Performance Standards

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

- (A) Compliance with all applicable federal, state, and local laws.
- (B) 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.
- (C) 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.
- (D) 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.
- (E) 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.
- (F) Notifying, as soon as is practicable, the McKenzie County Sheriff of each call placed to the emergency contact telephone number.
- (G) Providing a detailed incident report as requested by the McKenzie County Sheriff and 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.

- (H) 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.

3-17-10 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:

- (A) A description of the proposed changes in the firearms facility
- (B) A description of the proposed changes to the Site Plan
- (C) A description of the proposed changes to the buildings within which the facility will operate
- (D) 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
- (E) 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
- (F) 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
- (G) All proposed changes to the regulations for the use of the facility and, if any such changes are proposed:
 - (1) Evidence that the facility is capable of being operated according to its regulations

- (2) 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
- (3) 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
- (H) 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

Sec. 3-18 Public-Use Airport Overlay District

3-18-1 Intent

The intent of this district is to restrict the Mean Sea Level Height of Vertical Structures and objects of natural growth and otherwise regulate the use of property in the vicinity of Public-Use Airports.

3-18-2 District Application

A Public-Use Airport overlay district consists of lands designated by McKenzie County for an Public-Use Airport. The specific dimensions, slopes, and measurements specified in this section may be modified for the overlay district created for an Public-Use Airport, as part of the application for the overlay district or an application to amend the overlay district.

3-18-3 Airport Zones

Each Public-Use Airport overlay district consists of certain zones, which are hereby created and established and include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Public-Use Airport for which the district is created. Land located in more than one of the following zones is considered to be only in the zone with the most restrictive Mean Sea Level Height limitation. The zones are established and defined as follows:

- (A) **Approach Zone:** The area covered by the Approach Surface.
- (B) **Transitional Zone:** The area covered by the Transitional Surface.
- (C) **Horizontal Zone:** The area covered by the Horizontal Surface, exclusive of the primary, approach, and transitional zones.
- (D) **Conical Zone:** The area covered by the Conical Surface.

3-18-4 **Airport Zone Mean Sea Level Height Limitations**

- (A) **Height Standards:** Except as otherwise provided in this section, no Vertical Structure shall be erected, altered, or maintained, and no Vertical Growth shall be allowed to grow in any zone created by this section to a Mean Sea Level Height in excess of the applicable Mean Sea Level Height limit herein established for such zone. Such applicable Mean Sea Level Height limitations are hereby established for each of the zones in question as follows:
- (1) **Approach Zone.** The Mean Sea Level Height of the Approach Surface.
 - (2) **Transitional Zone.** The Mean Sea Level Height of the Transitional Surface.
 - (3) **Horizontal Zone.** The Mean Sea Level Height of the Horizontal Surface.
 - (4) **Conical Zone.** The Mean Sea Level Height of the Conical Surface.
- (B) **Exceptions.** Outside of the Approach Zone and Transitional Zone, nothing in this section shall be construed as prohibiting the construction or maintenance of any Vertical Structure, or any Vertical Growth, to a Mean Sea Level Height up to fifty (50) feet above the natural surface of the land.

3-18-5 **Use Restrictions**

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this section in such a manner as to create electrical interference with navigational signals or radio communications between the Public-Use Airport and aircraft, make it difficult for pilots to distinguish between Public-Use Airport lights and others, result in glare in the eyes of pilots using the Public-Use Airport, impair visibility in the vicinity of the Public-Use Airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the Public-Use Airport.

3-18-6 **Nonconforming Uses**

- (A) **Regulations Not Retroactive.** The regulations prescribed in this section shall not be construed to require the removal, lowering, or other change or Alteration of any Vertical Structure or Vertical Growth not conforming to the regulations as of the effective date of this section, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, Alteration, or intended use of any Vertical Structure, the construction or Alteration of which was begun prior to the effective date of this section and is diligently prosecuted.
- (B) **Marking and Lighting.** Notwithstanding the subdivision (A) above, the owner of any existing nonconforming Vertical Structure or Vertical Growth is

hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Planning and Zoning Director or designee to indicate to the operators of aircraft in the vicinity of the Public-Use Airport the presence of such Public-Use Airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the owner or operator of the Public-Use Airport.

3-18-7 Permits

- (A) **Future Uses.** Except as specifically provided in subdivisions (1), (2), and (3) hereunder, no material change shall be made in the use of land, no Vertical Structure shall be erected or otherwise established, and no Vertical Growth shall be planted in any zone created by this section unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, Vertical Structure, or Vertical Growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this section shall be granted unless a variance has been approved in accordance with Section 3-18-7(D).
- (1) In the horizontal zone and conical zone, no permit shall be required for any Vertical Growth or Vertical Structure less than one hundred (100) feet of vertical Mean Sea Level Height above the natural ground level, except when, because of terrain, land contour, or topographic features, such Vertical Growth or Vertical Structure would extend above the Mean Sea Level Height limits prescribed for such zones.
 - (2) In the approach zone but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any Vertical Growth or Vertical Structure less than one hundred (100) feet of vertical Mean Sea Level Height above the natural ground level, except when such Vertical Growth or Vertical Structure would extend above the Mean Sea Level Height limit prescribed for such approach zones.
 - (3) In the transition zone beyond the perimeter of the horizontal zone, no permit shall be required for any Vertical Growth or Vertical Structure less than one hundred feet of vertical Mean Sea Level Height above the natural ground level, except when such Vertical Growth or Vertical Structure, because of terrain, land contour, or topographic features, would extend above the Mean Sea Level Height limit prescribed for such transition zone.

- (4) Nothing prescribed in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or Alteration of any Vertical Structure or growth of any Vertical Growth in excess of any of the Mean Sea Level Height limits established by this section except as set forth in Section 3-18-7(D).
- (B) **Existing Uses.** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, Vertical Structure, or Vertical Growth to become a greater hazard to air navigation than it was on the effective date of this section or any Amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- (C) **Non-Conforming Uses Abandoned or Destroyed.** Whenever the Planning and Zoning Director determines that a nonconforming Vertical Growth or Vertical Structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such Vertical Structure or Vertical Growth to exceed the applicable Mean Sea Level Height limit or otherwise deviate from the regulations of this section (Section 3-18).
- (D) **Variances.** Any person desiring to erect or increase the Mean Sea Level Height of any Vertical Structure, permit any Vertical Growth, or use property, not in accordance with the regulations prescribed in this section, may apply to the Board of Adjustment for a variance from such regulations. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this section. Additionally, no application for a variance to the requirements of this section may be considered by the Board of Adjustment unless a copy of the application has been furnished to the owner and operator of the Public-Use Airport for advice as to the aeronautical effects of the variance. If the owner or operator of the Public-Use Airport does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.
- (E) **Obstruction Marking and Lighting.** Any permit or variance granted, may, if such action is deemed advisable to effectuate the purpose of this section and be reasonable in the circumstances, be so conditioned as to require the owner of the Vertical Structure or Vertical Growth in question to install, operate, and maintain, at the owner's expense, such markings and lights as

may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the owner or operator of the Public-Use Airport, at its own expense, to install, operate, and maintain the necessary markings and lights.

ARTICLE 4. SPECIAL PROVISIONS

Contents

- [Section 4-1: Sewage Disposal](#)
- [Section 4-2: Commercial Feedlots](#)
- [Section 4-3: Solid Waste Landfills and Waste Management](#)
- [Section 4-4: Home Occupations](#)
- [Section 4-5: Adult Entertainment Centers](#)
- [Section 4-6: Workforce Housing](#)
- [Section 4-7: Freshwater Depots, Pipelines, and Ponds](#)
- [Section 4-8: Communication Facilities](#)
- [Section 4-9: Electrical Substations](#)
- [Section 4-10: Manufactured Home Parks](#)
- [Section 4-11: Recreational Vehicle Parks](#)
- [Section 4-12: Recreational Vehicle Occupancy, Limited](#)
- [Section 4-13: Medical Marijuana](#)
- [Section 4-14: Surface Mining \(Commercial and Public\)](#)
- [Section 4-15: Child Care – Self-declared Provider](#)
- [Section 4-16: Wind Energy Facility](#)
- [Section 4-17: Accessory Solar Energy Systems](#)
- [Section 4-18: Solar Energy Systems](#)
- [Section 4-19: Data Centers](#)
- [Section 4-20: Accessory Farm Labor Housing](#)
- [Section 4-21: Accessory Residential Structure](#)

Sec. 4-1 Sewage Disposal

- (A) 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 Environmental Quality 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.
- (B) All soil absorption systems shall adhere to the rules and regulations of the Upper Missouri Health and North Dakota Department of Environmental Quality guidelines.

Sec. 4-2 Commercial Feedlots

4-2-1 Intent

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.

4-2-2 General Feedlot Requirements

- (A) 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 Environmental Quality and Federal EPA requirements.
- (B) 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.
- (C) Where appropriate, there shall be sufficient drainage to avoid standing effluents from pollution of ground and surface water.
- (D) Feedlots shall not be placed in the floodplains.
- (E) 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.
- (F) 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 Table 4-2.
- (G) Animal Units. The requirements in Section 4-2-3 are based on animal units as shown in Table 4-1.

Table 4-1. Animal Units

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	Animal Units
A. One mature dairy cow, milking or dry	1.33
B. One dairy cow, heifer or bull, (other than described in A)	1.0
C. One weaned beef animal, whether a calf, heifer, steer, or bull	0.75
D. One cow-calf pair	1.0
E. One swine weighing 55 lbs. or more	0.4
F. One swine weighing less than 55 lbs.	0.1
G. One horse	2.0
H. One sheep or lamb	0.1
I. One turkey	0.0182

J. One chicken, other than a laying hen	0.008
L. One duck	0.033
M. Any livestock not listed in subdivisions A-L	1.0 (per 1,000 lbs. whether single of combined weight)

4-2-3 Setback Distances for Feedlots

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

Table 4-2. Feedlot Setbacks

Number of Animal Units in Feedlot	Hog Operations	Other Operations
100-299	1 mile	0.5 mile
300-999	1.5 miles	1 mile
1,000 or more	2.5 miles	2 miles

Sec. 4-3 Solid Waste Landfills and Waste Management Facilities

Solid Waste Landfills and Waste 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 Environmental Quality.

4-3-1 Statutory Requirements

This Ordinance adopts by reference the solid waste provisions of NDCC Ch. 11-33-20 and N.D.A.C. Title 33-20. All Solid Waste Landfills and Waste Management Facilities must comply with all applicable state and federal regulations governing waste management facilities.

4-3-2 Conditional Use Permit Requirements

The following Section provides general standards applicable to all Solid Waste Landfills and Waste Management Facilities. Additional standards are provided for each type of waste that may be disposed of as part of the operation.

No Waste shall be stored on public or private property for more than forty-five (45) days without complying with the requirements of this Ordinance as it relates to a Solid Waste Landfill and/or Waste Management Facility.

(A) General Standards:

- (1) The Conditional Use Permit will be valid for a period of time set by the Board of County Commissioners, if approved.
- (2) All Owners of property within one (1) mile of the proposed location must be notified of the time and place of the public hearing on a permit request.
- (3) The Solid Waste Landfill and/or Waste Management Facility shall be located at least one (1) mile from a residential zone unless written approval is obtained from all Owners of property nearer than one (1) mile within said residential zone.
- (4) The Solid Waste Landfill and/or Waste Management Facility shall be continuously licensed and approved by the North Dakota Department of Environmental Quality.
- (5) There is no substantive evidence that the Solid Waste Landfill and/or Waste Management Facility will endanger the public health or the environment.
- (6) 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.

4-3-3 General Solid Waste Standards

- (A) 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.
- (B) No person shall dispose of waste of any type in the following areas:
 - (1) Aquifers, channels, ravines, or other waterways.
 - (2) Critical habitats for endangered or threatened species of plant, fish, or wildlife.
 - (3) 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.
 - (4) Public water supply designated wellhead protection area.
 - (5) Where geological or man-made features may result in failure of the structural integrity of the facility.
 - (6) Within a one-hundred-year floodplain.

- (C) No solid waste facility or lateral expansion shall be located within five thousand feet of any Public-Use Airport runway and ten thousand feet of any other Airport runway.
- (D) 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.
- (E) 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.

4-3-4 Asbestos Waste

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

4-3-5 Hazardous Waste

- (A) Containers having hazardous waste shall be dated and marked to designate the content as toxic, explosive, or otherwise hazardous.
- (B) 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 Environmental Quality.
- (C) No person shall place hazardous waste or dispose of hazardous waste within the County without approval of the County.

4-3-6 Incineration and Recovery

- (A) During operation, the operator shall comply with the following requirements:
 - (1) Any discharges to the air, or to surface or ground water shall meet all applicable state and federal regulations.
 - (2) Maintain permanent records for inspection on the quantity and type of material incinerated, the quantity of ash residue and schedule of plant operation.
- (B) No person shall install, operate, or incinerate waste materials as a commercial operation or part of a commercial operation without complying with this Ordinance.

4-3-7 Major Appliances

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

4-3-8 Pesticide Waste

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

4-3-9 Waste Tires

- (A) Waste tire collectors and processors shall meet all requirements of the North Dakota Department of Environmental Quality.
- (B) Waste tires shall be stored in a manner that will not create a health or fire hazard.
- (C) Waste tires shall not be stored or disposed of in any stream, wetland, floodplain, or shore-land.

4-3-10 Infectious Waste

No person shall dispose of Infectious Waste, as regulated by the North Dakota Department of Environmental Quality, in a solid waste landfill.

4-3-11 Industrial Waste

- (A) Any person who handles Industrial Waste shall comply with all applicable state and federal regulations governing Industrial Waste.
- (B) Industrial Waste may not be discarded in any manner including landfilling that endangers humans, animals, or the environment.

Sec. 4-4 Home Occupations

4-4-1 Home Occupations in Residential Districts

- (A) A Home Occupation shall be limited to the Dwelling and the area devoted to the Home Occupation shall not exceed twenty-five (25%) percent of the main floor area of the Dwelling. Basements and Garages shall not be included in calculating the main floor area of a Dwelling.
- (B) The Home Occupation must be operated by a resident of the Dwelling.
- (C) Additional employees of the Home Occupation are limited to the following:
 - (1) Two (2) full-time; or

- (2) Four (4) part-time; or
- (3) One (1) full-time and two (2) part-time.

4-4-2 Home Occupations in the Agricultural District

- (A) A Home Occupation shall be limited to the Dwelling and the area devoted to the Home Occupation shall not exceed fifty percent (50%) of the main floor area of the Dwelling.
- (B) In addition to the allowance in Section 4-4-2 (A), a Home Occupation in the Agricultural District may be located in a separate non-residential or farm Building provided that the Home Occupation shall not exceed one thousand five hundred (1,500) square feet total in the Building(s) separate from the Dwelling.
- (C) The Home Occupation must be operated by a resident of the Dwelling.
- (D) Additional employees of the Home Occupation are limited to the following:
 - (1) Two (2) full-time; or
 - (2) Four (4) part-time; or
 - (3) One (1) full-time and two (2) part-time.

Sec. 4-5 Adult Entertainment Centers

- (A) 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.
- (B) 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.
- (C) An Adult Entertainment Center shall not be located within one thousand three hundred and twenty (1,320') of any other Adult Entertainment Center.
- (D) An Adult Entertainment Center must prohibit entrance by persons less than eighteen (18) years of age.
- (E) 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.
- (F) No material depicting specified sexual activities or specifying anatomical areas shall be visible from the exterior of an Adult Entertainment Center.

- (G) 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.

Sec. 4-6 Workforce Housing

4-6-1 Intent

Workforce 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.

4-6-2 Conditional Use Permit Requirements

In addition to the standard requirements of a Conditional Use Permit, an application for Workforce Housing shall include:

- (A) A description of the units together with an emergency 911 approved numbering system.
- (B) A description of how the proposed units are set and or anchored.
- (C) 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.
- (D) The name, address, and contact information, including phone number, of the on-site manager. It is the applicant's responsibility to inform the Planning Department of any personnel change of the on-site manager and their corresponding name, address, and contact information, including phone number.
- (E) Plot plans drawn to scale showing housing units, additional structures, setbacks, utilities, drainage, ingress and egress, screens, buffers, landscaping, site amenities, and fencing.
- (F) Unit spacing shall be a minimum of fifteen (15') feet between units.
- (G) On-site security plan.
- (H) Fire and emergency evacuation plan.
- (I) Copy of permits issued by the North Dakota Department of Environmental Quality and/or Upper Missouri District Health Unit. shall be presented with the Conditional Use permit application including water, refuse disposal plan, and septic or sewer discharge plan.
- (J) All Workforce Housing Developments shall post a Reclamation Bond per the standards set forth in [Section 2.13](#) of this Ordinance.

- (K) Parking requirements and standards shall follow [Section 2.11](#) of this Ordinance.

4-6-3 **Housing Types**

There shall be no mixed housing types in a Workforce Housing facility. The housing units approved for a facility shall be of a homogeneous nature. Additional standards, if any apply, shall be followed for the type of housing proposed as part of a Workforce Housing facility (e.g. Recreational Vehicles shall follow additional provisions in this Ordinance for Recreational Vehicle Parks).

Sec. 4-7 **Freshwater Depots, Pipelines, and Ponds**

4-7-1 **Conditional Use Permit Requirements**

The conditions of approval of a Conditional Use permit for a Freshwater Depot, Freshwater Pipeline, or Freshwater Storage Pond shall include but not be limited to:

- (A) **Signage:** 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.
- (B) **Fencing Plan:** Fencing is required to prevent livestock and unauthorized persons from accessing the Freshwater Depots and Freshwater Ponds.
 - (1) Six (6) foot high Chain Link Fence shall be installed when within a quarter (1/4) mile from the following: residential subdivisions, residences, schools, daycare, paved County Roads, or State Highways.
 - (2) Four (4) Strand Barbwire Fence meeting USDA NRCS Barbed Wire guidelines (Conservation Practice Job Sheet RI-382(a)) shall be installed when adjacent to Agricultural Zoning or when a six (6) foot high Chain Link Fence is not required.
 - (3) Fencing shall be shown on the Site Plan and submitted with the application for approval or revisions. The Site Plan shall have a signature and date line for the Property Owner signature and a statement that indicates the property Owner approves of the Site Plan as presented.
- (C) **Storage Capacity:** 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.
- (D) **Dust Control:** 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 and Zoning 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. The Planning and Zoning Director will coordinate with the County Engineer if County roads are within the area subject to dust control. If the Planning and Zoning 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.

- (E) **Stormwater Management:** 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.
- (F) **Site Maintenance:**
 - (1) The owner and operator of the site shall maintain weed control of the site.
 - (2) The owner and operator of the site shall maintain garbage control of the site.
- (G) **Reclamation Bond:** A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.
- (H) **Waiver Exception:** For Freshwater Storage Ponds, the requirements of subsection (G) may be waived if:
 - (1) 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 Department that they understand the implications of the waiver. The Board of County Commissioners shall consider each request for a waiver individually and determine whether a waiver is appropriate in the circumstances.
 - (2) The applicant demonstrates that all landowners entitled to notice of the application have been specifically notified of the waiver request.
 - (3) The liner of the pond, if any, will have a service life of no less than 20 years.
 - (4) 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.

- (I) **Survey Data:** 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.

Sec. 4-8 Communication Facilities

4-8-1 Conditional Use Permit Requirements

Condition of approval for Communication Facilities shall include but not be limited to:

- (A) Project identification information shall be posted on site with a four-foot by eight-foot (4x8) sign that is visible from the road providing access to the site. The sign shall identify the company name, project name, site address and emergency contact name and phone number.
- (B) 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.
- (C) The applicant shall obtain a building permit for any proposed above-ground structures as required by the Planning Department.
- (D) The site shall comply with the Stormwater Management requirements of this Ordinance ([Section 2-17](#)).
- (E) The applicant shall maintain weed control.
- (F) The applicant shall allow space on the tower for a dish, antenna (or other device) to be used by emergency services. Such space must be reserved for rent or lease by an emergency service provider.

Sec. 4-9 Electrical Substations

4-9-1 Conditional Use Permit Requirements

Condition of approval for Electrical Substations shall include but not be limited to:

- (A) A Sign four feet by eight feet (4x8) shall be visible from the road providing access to the site and shall meet the signage requirements of this Ordinance. The Sign shall identify the company name, project name, site address, emergency contact name, and phone number.
- (B) 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.
- (C) The applicant shall obtain a building permit for any proposed above-ground structures as required by the Planning Department.

- (D) The site shall comply with the Stormwater Management requirements of this Ordinance ([Section 2-17](#)).
- (E) 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.
- (F) The applicant shall maintain garbage control within the site at all times.
- (G) The applicant shall maintain weed control.

Sec. 4-10 Manufactured Home Parks

Manufactured Home Parks shall follow the standards herein.

4-10-1 License Required

All Manufactured Home Parks shall obtain the appropriate licenses from either the North Dakota Department of Health and Human Services or the County if the County receives authorization from the State to inspect and license Manufactured Home Parks.

4-10-2 Dimensional Standards

- (A) The park shall contain a minimum of five (5) acres of land.
- (B) The maximum density shall be seven (7) units per gross acre.
- (C) Each manufactured 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 manufactured home.

4-10-3 Setbacks

- (A) Setbacks from roads and section lines shall be as indicated in Section 2-10 of this Ordinance.
- (B) There shall be at least a ten (10') foot setback from each Manufactured Home to the front lot line.
- (C) Setbacks shall be a minimum of twenty (20') feet between buildings.
- (D) The minimum setback from a structure to the rear lot line shall be ten (10') feet.
- (E) The minimum side yard setback from a property line to a structure shall be twenty-five (25') feet.

4-10-4 Development Standards

- (A) The Manufactured Home 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.
- (B) 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 building inspector.
- (C) 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 and Human Services.
- (D) Sewage system must meet North Dakota Department of Health and Human Services requirements.
- (E) 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.
- (F) The Manufactured Home Park operator shall have garbage pick-up weekly.
- (G) All streets within the Manufactured Home Park shall be designed and constructed to County standards and shall be approved by the County engineer. Streets shall be wide enough to facilitate the movement of traffic within the Manufactured Home Park.
- (H) The owner is responsible for street construction, maintenance, and snow removal.
- (I) Each Manufactured 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.
- (J) Each Manufactured 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.
- (K) Landscape shall be required as outlined in [Section 2-12](#) of this Ordinance.
- (L) Mixed-use facilities are prohibited. Only Manufactured Homes are allowed in a Manufactured Home Park. Recreational Vehicles are prohibited.

- (M) Trash barrel or open pit burning shall not be allowed in Manufactured Home Parks.

4-10-5 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

Sec. 4-11 Recreational Vehicle Parks

Recreational Vehicle Parks shall follow the standards herein.

4-11-1 License Required

All recreational vehicle parks shall obtain the appropriate state licenses and permits from either the North Dakota Department of Environmental Quality or the County if the County receives authorization from the State to inspect and license Recreational Vehicle Parks.

4-11-2 Recreational Vehicle Park Standards

- (A) Minimum lot area for a Recreational Vehicle Park shall be five (5) acres.
- (B) No parking is allowed on any private streets.
- (C) 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.
- (D) Maximum density shall be ten (10) recreational vehicles per gross acre.
- (E) 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.
- (F) 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.
- (G) 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.
- (H) 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.
- (I) 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.

- (J) 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.
- (K) 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.
- (L) 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.
- (M) All trash collection areas are to be enclosed and screened by an opaque wall no less than six (6') feet high.
- (N) There shall be a trash receptacle no further than one hundred and fifty (150') feet from any recreational vehicle stall.
- (O) The recreational park operators shall have garbage pick-up weekly.
- (P) Trash barrel burning shall not be allowed in recreational vehicle parks.

4-11-3 Recreational Vehicle Requirements between November 1st- March 31st

All recreational vehicles that are occupied during the period from Nov. 1st thru March 31st must meet the following requirements. The Planning Department may issue notices of violations; such corrective action may include the closure of the facility.

- (A) All water lines outside of or underneath a recreational vehicle must be wrapped in insulation or with heat tape to prevent freezing.
- (B) Sewer/septic lines outside of or underneath a recreational vehicle must be wrapped in insulation or with heat tape to prevent freezing.
- (C) Insulated skirting is required around the entirety of each recreational vehicle and installed prior to occupancy.
- (D) 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.
- (E) Carbon monoxide detector designed for use in recreational vehicles must be installed and in good working order inside each recreational vehicle.
- (F) Upon Conditional Use Permit approval, the owners and operators grant the Planning Department, County Fire Official, and their agent's license to enter the park to conduct impromptu inspections to ensure that these requirements have been met.

- (G) No tents or uninsulated trailers or campers are allowed.

4-11-4 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

Sec. 4-12 Recreational Vehicle Occupancy, Limited

4-12-1 Intent

The purpose of this Section is to provide an allowance for visitors to Dwellings located in select residential districts the ability to occupy a Recreational Vehicle for a limited timeframe.

4-12-2 Development Standards

- (A) Up to one (1) Recreational Vehicle may be temporarily occupied on properties zoned REC, R-1, R-2, R-3, and R-5A
- (B) An existing Dwelling must be located on the subject property for which the Recreational Vehicle is located.
- (C) Maximum occupancy is sixty (60) days in a calendar year and not more than thirty (30) consecutive days at one time.
- (D) Recreational vehicles shall comply with all setback requirements applicable to the property it is located.
- (E) 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 are excluded from this section.

Sec. 4-13 Medical Marijuana

4-13-1 Intent

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.

4-13-2 Statutory Framework

- (A) 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.
- (B) 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;
- (C) 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;
- (D) 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 section is intended to permit state-licensed Medical Marijuana Manufacturing Center(s) or Distribution Center(s) where they will have a minimal negative impact.
- (E) 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, the County desires to provide for their licensing and regulation to protect the public health, safety and general welfare of the citizens of the County.
- (F) This section is to be construed to protect the public over medical marijuana business interests. There is no property right for an individual or business to have medical marijuana in the County.
- (G) 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.

4-13-3 **Definitions**

Unless specified in this Ordinance in [Section 1-4](#), all terms defined in NDCC § 19-24-02 or successors to that statute shall have the definitions provided therein.

4-13-4 **Conditional Use Permit Requirements**

- (A) 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.
- (B) 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 4-13-4 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.
- (C) The Planning and Zoning Director or designee may require additional plans, documents or other information prior to deeming the application complete.
- (D) A Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit shall be reviewed annually by the Board of County Commissioners for renewal.
- (E) 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 Board of County Commissioners will be deemed to have immediately expired.
- (F) 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.
- (G) Any building modifications or Alterations must be approved by the Planning and Zoning Director.

4-13-5 Annual Permit Fee

As authorized by the Board of County Commissioners, the Planning and Zoning Director shall 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.

4-13-6 Insurance Requirement

(A) Minimum Coverage Requirements

The minimum amount of third-person insurance coverage for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) shall be as follows:

Table 4-3. Medical Marijuana Insurance Requirements

Insurance Type	Minimum Coverage Amount
Per occurrence	\$1,000,000
General aggregate for bodily injury and property damage arising out of licensed activities	\$2,000,000
Products and completed operations aggregate	\$1,000,000
Commercial automobile coverage	\$1,000,000
Excess liability	\$3,000,000

- (B) **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.

4-13-7 **Development Standards**

- (A) 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.
- (B) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of 0.5 mile 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.
- (C) 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.

- (D) No Medical Marijuana Dispensary shall have operating hours earlier than 8:00 AM or later than 7:00 PM.
- (E) 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.
- (F) Each Medical Marijuana Distribution Center shall have at least 1 parking space per 250 sq. ft. of structure.
- (G) 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.
- (H) 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.
- (I) No outdoor storage on-site shall be permitted.
- (J) No drive-through, drive-up, or walk-up facilities shall be permitted.
- (K) 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.
- (L) Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals or window signage of any kind shall be strictly prohibited.
- (M) 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.
- (N) All surveillance camera locations and surveillance recording equipment including specifications must be approved by the Planning and Zoning Director.
- (O) All applicable state standards and requirements shall apply in the design and operations of any Manufacturing Center(s) or Distribution Center(s).

4-13-8 **Serviceability, Exclusions and Exceptions**

- (A) 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.
- (B) 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, NDCC, is invalid, or shall be null and void to the extent any portion of such section is held invalid.
- (C) 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.

Sec. 4-14 Surface Mining (Commercial and Public)

4-14-1 **Intent**

Surface Mining of gravel, sand, and other materials is 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 addressed in Conditional Use permits.

4-14-2 **Conditional Use Permit Requirements**

- (A) Project identification information shall be posted on site with a four-foot by eight-foot (4'x8') sign that is visible from the approach onto the subject property.
- (B) Maintain weed control as approved by the McKenzie County Weed Control Officer.
- (C) Adhere to all State and Federal laws, regulations, and conditions for the operation of the proposed facility and the transportation of the material.

- (D) Have a 100' knock-off zone on site. The knock-off zone design shall be approved by the Planning Department. A knock-off zone is an onsite roadway designed for the purpose of knocking off soil and clay before exiting a site.
- (E) A Reclamation Bond as provided in [Section 2-13-3](#) of this Ordinance. Further, the engineer's estimate shall include topsoil applied to a depth of at least six (6) inches on all disturbed areas and planted with appropriate grasses as approved by the Planning and Zoning Director.
- (F) **Garbage Control:** The applicant shall keep the site free of garbage, junk, litter, debris, and unused construction materials.
- (G) **Dust Control:** Dust control shall be maintained on all roads accessing the site. At the discretion of the Planning and Zoning Director, after construction and prior to use of the site, 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. The Planning and Zoning Director will coordinate with the County Engineer if County roads are within the area subject to dust control. The owner and operator of the site shall submit to the Planning Department receipts or other appropriate proof each time dust control is applied.
- (H) **Loads to be Covered:** The applicant shall post a sign at the knock-off zone stating "All Loads Must be Covered".
- (I) **Setback:** All Surface Mining grading and 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.

Sec. 4-15 Child Care – Self-declared Provider

Self-declared 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.

Sec. 4-16 Wind Energy Facility

4-16-1 Intent

This section is established to enable the orderly Development of Wind Energy Facilities in McKenzie County; to protect public health, safety, and welfare; and to minimize adverse impacts to pre-existing Development, infrastructure, and economic activities.

4-16-2 Application Requirements

- (A) **Environmental Review.** Applicants shall fulfill all state and federal requirements for environmental review and permitting, including a wetland determination, wetland mitigation, archeological surveys, biological surveys, and storm water permitting, in coordination with the U.S. Army Corps of Engineers (USACE), the U.S. Fish and Wildlife Service (USFWS), North Dakota Game and Fish (NDGF), the State Historic Preservation Office (SHPO), and other agencies, as needed.
- (B) **Visual Impact Assessment.** Applicants shall prepare a visual impact assessment for the proposed Wind Energy Facility. The visual impact assessment shall:
 - (1) Define the visual character of the project study area. The study area must include a five (5) mile radius of the project area.
 - (2) Evaluate potential project visibility within the study area and assess the visual impacts of the proposed project.
 - (3) Identify existing visual resources within the study area, including but not limited to all public recreational areas, State Wildlife Management Areas, Federal Waterfowl Production Areas, and National Wildlife Refuges.
 - (4) Provide at least one visual simulation from each visual resource.
 - (5) Describe the appearance of the visible components of the project during daytime and nighttime.
 - (6) Identify mitigation measures to address any visual impacts.
- (C) **Electromagnetic Interference Assessment.** The applicant shall submit an assessment of background microwave signal patterns in the project area prior to commencement of construction. The purpose of this assessment is to provide data that can be used in the future to determine whether the Wind Energy Facility is the cause of any potential disruption or interference that occurs after it becomes operational.
- (D) **Development Plan.** Applications for a Wind Energy Facility shall include to-scale horizontal and vertical elevation drawings. Drawings must indicate the location of all turbines, access roads, occupied buildings, participating properties, utility buildings, property lines, and required setbacks.
- (E) **Platting Process.** Applicants shall satisfy all requirements for subdivision platting and Easement recordation, as needed.

4-16-3 Development Standards

- (A) **Appearance.** Wind Turbines shall be painted a non-reflective, non-obtrusive color as determined by the Visual Impact Assessment.
- (B) **Signage.** Wind Turbines shall display no advertising except for the required identification of the manufacturer or operator of the Wind Energy Facility.
- (C) **Lighting.**
 - (1) Wind Turbines shall not be artificially lighted except to the minimum extent required by the Federal Aviation Administration (FAA) or other applicable authority.
 - (2) Wind Turbines must be equipped with functioning light-mitigating technology system, pursuant to NDAC 69-06-11.
- (D) **Setback Standards.** Setbacks shall be measured as the horizontal distance between the tower base and the building/feature as provided in Table 4-4, which lists setback requirements for utility-scale wind energy facilities.

Table 4-4. Wind Energy Facility Setback Standards

Building/Feature	Wind Energy Facility Setbacks
Occupied Buildings (Participating) ¹	1.1 x tower height
Occupied Buildings (Non-Participating) ²	1 mile
Property Lines (Non-Participating)	1.1 x tower height
Federal, State, and County Roads and Section Lines ³	2.0 x tower height
Transmission Line (150 kv or higher) ⁴	1.1 x tower height
Airport Runway (Public-Use Airport or other Airport)	1 mile

- 1. Denotes participating and non-participating landowner properties.
- 2. Setbacks from occupied buildings for non-participating properties may be reduced with written permission from the affected landowner.
- 3. Measured from the roadway centerline.
- 4. Measured from the Right-of-Way or Easement edge.

- (E) **Ground Clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than fifty (50) feet.
- (F) **Construction and Maintenance Standards.**
 - (1) **Roads.** Roads accessing the Wind Energy Facility may be required by the County Engineer. The location and construction of access roads and other infrastructure shall, to the extent reasonably practicable, minimize disruption to the landscape, farmland, and agricultural operations. All public roads must be constructed to McKenzie County standards. The applicant 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) **Fences.** The applicant shall promptly replace or repair all fences or gates removed or damaged for the duration of wind energy facility operation, unless otherwise negotiated with the affected landowner.
- (3) **Tree Removal.** The applicant shall minimize the removal of trees and shall not remove groves of trees or shelter belts without written approval from the landowner. Trimming or removal of trees within the public Right-of-Way to allow for safe construction of power lines is permissible.
- (4) **Power and Communication Lines.** The permittee shall place electrical lines and communication cables underground to a depth of at least four (4) feet. Collectors and cables shall be placed adjacent to the Wind Energy Facility access roads unless otherwise negotiated with the affected landowner. Overhead feeder lines may be placed on private property in accordance with the Easement negotiated with the affected landowner. Where the permittee cannot place overhead feeder lines on private property, feeder lines may be permitted within public Right-of-Way with approval from the responsible jurisdiction.
- (5) **Electromagnetic Interference.** The Wind Energy Facility shall not interfere with microwave, television, radio, telecommunications, or navigation systems contrary to Federal Communications Commission (FCC) regulations. In the event the Wind Energy Facility causes such interference, the applicant shall take measures necessary to correct the problem within thirty (30) calendar days.

(G) **Public Safety Standards.**

- (1) **Public Safety Plan.** Prior to construction, the applicant shall prepare a public safety plan in consultation with local fire departments, law enforcement, and the McKenzie County Emergency Manager. The applicant shall provide any necessary safety measures, such as warning signs and access restrictions, as outlined in their public safety plan.
- (2) **Tower Identification.** Each Wind Turbine shall be marked with a visible identification number to assist with the provision of emergency services. The permittee shall file with local fire departments, law enforcement, and the McKenzie County Emergency Management Coordinator a map identifying Wind Turbine locations and numbers.
- (3) **Extraordinary Event.** Within twenty-four (24) hours of an occurrence, the permittee shall notify the McKenzie County Emergency Management Coordinator of any extraordinary event. Extraordinary events include, but are not limited to, fire, tower collapse, thrown blade, electrical failure, and related personal injury. Within thirty (30) days of the occurrence, the permittee shall submit a report to the

McKenzie County Emergency Management Coordinator describing the cause of the occurrence and the steps taken to avoid future occurrences.

4-16-4 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

4-16-5 Site Decommissioning and Restoration

- (A) **Decommissioning.** Within one (1) year of termination or abandonment of leases or Easements for a Wind Energy Facility in McKenzie County, the permittee shall, at its expense, completely remove all structures, unless the landowner requests in writing that any improvements be kept onsite. Underground cables do not require removal, but any Easements of record must be released. All reclaimed structures and components must be disposed of at a landfill legally accepting such materials.
- (B) **Surface Restoration.** Areas disturbed by the construction or decommissioning of a Wind Energy Facility shall be restored to their original condition and shall be graded, top-soiled, and reseeded according to Natural Resource Conservation Service (NRCS) recommendations or similar best practices, unless the landowner requests in writing to the Planning and Zoning Director that access roads or other Development be retained. Such request must be submitted within six (6) months prior to commencement of the reclamation activities.

Sec. 4-17 Accessory Solar Energy System

4-17-1 Intent

This section is established to enable the use of accessory solar energy systems (SES) while protecting the character of residential neighborhoods and prominent roadway corridors.

4-17-2 General Standards

- (A) **Building Permit.** A building permit is required for the installation of all Accessory Solar Energy Systems.
- (B) **Glare.** All Accessory Solar Energy Systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.

4-17-3 Standards for Roof-Mounted SES

- (A) **Height.** A roof-mounted Accessory Solar Energy System shall not exceed the maximum allowed height in any zoning district.

- (B) **Setbacks.** A roof-mounted Accessory Solar Energy System shall not extend beyond the exterior perimeter of the building on which the system is mounted, unless the collector and mounting systems has been explicitly engineered to extend beyond the building edge and setback standards are not violated.
- (C) **Aesthetics.** Roof-mounted systems on pitched roofs that are visible from the Right-of-Way shall have the same finished pitch as the roof and shall not extend more than ten (10) inches above the roof. Roof-mounted systems on flat roofs that are visible from the Right-of-Way shall not extend more than three (3) feet above the roof.

4-17-4 Standards for Ground-Mounted SES

- (A) **Height.** A small ground-mounted Accessory Solar Energy System shall not extend more than 15 feet above grade when solar arrays are oriented at maximum tilt.
- (B) **Setbacks.** A small ground-mounted Accessory Solar Energy System shall not extend into the side or rear yard setback when oriented at minimum tilt, except as otherwise allowed for building mechanical systems.
- (C) **Accessory Structure Limitations.** A small ground-mounted Accessory Solar Energy System shall not count toward accessory structure limitations.
- (D) **Septic System.** A small ground-mounted Solar Energy System shall not be located over a septic system.

Sec. 4-18 Solar Energy System

4-18-1 Intent

This section is established to enable the orderly Development of a Solar Energy System (SES) in McKenzie County; to protect public health, safety, and welfare; and to minimize adverse impacts to pre-existing Development, infrastructure, and economic activities.

4-18-2 Application Requirements

- (E) **Environmental Review.** Applicants shall fulfill all State and Federal requirements for environmental review and permitting, including a wetland determination, wetland mitigation, archeological surveys, biological surveys, and storm water permitting, in coordination with the U.S. Army Corps of Engineers (USACE), the U.S. Fish and Wildlife Service (USFWS), North Dakota Game and Fish (NDGF), the State Historic Preservation Office (SHPO), and other agencies, as needed.

- (F) **Development Plan.** Applications for a Solar Energy System shall include to-scale horizontal and vertical (elevation) drawings. Drawings must show the location of solar arrays, access roads, any required landscaping, occupied buildings within and adjacent to the site, utility buildings, and property lines.
- (G) **Visual Impact Assessment.** Applicants shall prepare a visual impact assessment for the proposed SES. The visual impact assessment must analyze the potential visual impacts of solar panels and fencing from non-participating properties. To mitigate visual impacts, the Board of County Commissioners may require vegetative screening or buffering in accordance with [Section 2-12](#) of this Ordinance.
- (H) **Platting Process.** Applicants shall satisfy all requirements for subdivision platting and Easement recordation, as needed.

4-18-3 Development Standards

- (A) **Solar Array Height.** A ground-mounted Solar Energy System shall not extend more than 20 feet above grade when solar arrays are oriented at maximum tilt.
- (B) **Ground Clearance.** Panels shall be placed at least two (2) feet off the ground when oriented at maximum tilt, as measured from the panel edge, and allow at least four (4) feet of clearance for mowing and other maintenance.
- (C) **Setback Standards.** Setbacks shall be measured as the horizontal distance between the nearest solar array or other structural component integral to Solar Energy System operation and the roadway centerline. All Setbacks may be reduced by up to 50 percent if solar arrays are fully screened from the Setback point of measurement, so long as Development satisfies the Agricultural District (AG) Setback requirements (Table 3-2) and McKenzie County’s general roadway Setback standards ([Section 2-10](#)).

Table 4-5. Solar Facility Setback Standards

Building/Feature	Setback Distance
Occupied Buildings (Participating) ¹	50 feet
Occupied Buildings (Non-Participating) ²	1,000 feet
Property Lines (Non-Participating) ²	500 feet
Federal, State, and County Roads ³	250 feet
Township Roads	150 feet
Section Lines	133 feet
1. Denotes participating and non-participating landowner properties. 2. Setbacks from property lines and occupied buildings for non-participating properties may be reduced with written permission from the affected landowner. 3. Measured from the roadway centerline.	

- (D) **Septic System.** A ground-mounted Solar Energy System shall not be located over a septic system.
- (E) **Construction and Maintenance Standards.**
 - (1) **Roads.** Roads accessing the Solar Energy System may be required by the County Engineer. The location and construction of access roads and other infrastructure shall, to the extent reasonably practicable, minimize disruption to the landscape, farmland, and agricultural operations. All public roads must be constructed to McKenzie County standards. The applicant shall ensure that, following completion of construction of a Solar Energy System, County roads will be repaired or restored to a condition satisfactory to the County Engineer.
 - (2) **Power and Communication Lines.** Power and communication lines running between the banks of solar arrays may be placed above ground, provided they do not extend above the solar modules. Power and communication lines to Electrical Substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Planning and Zoning Director in the following cases:
 - (a) Where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
 - (b) When required by the utility company.
 - (3) **Ground Cover.** Grassland/grazing vegetation shall be installed and maintained for the duration of use. Panels shall be placed to allow vegetation to establish and become self-sustaining, and to facilitate mowing and maintenance of the site. A seeding plan and maintenance plan shall be submitted prior to issuance of the building permit.
 - (4) **Inspection.** The owner/operator of the Solar Energy System shall allow the McKenzie County Soil Conservation District to conduct site visits to verify that ground cover is properly maintained. McKenzie County may require submittal of an inspection fee prior to construction to support ongoing inspection of ground cover.
 - (5) **Agrivoltaics.** Applicants are encouraged to co-locate the Solar Energy System with compatible agricultural uses, including crop production and grazing, to mitigate the loss of farmland. In facilities that incorporate agrivoltaics, panels should be arranged to enable such activities to occur in a safe and effective manner.
 - (6) **Tree Removal.** Large-scale tree removal is discouraged. Permittees shall minimize removal of trees and shall not remove tree groves or shelterbelts without written approval of the landowner. Any trees

removed shall be replaced on a 1:1 ratio within one-year of removal and relocated to the perimeter of the Solar Energy System.

(F) **Public Safety Standards**

- (1) **Public Safety Plan.** Prior to construction, the applicant shall prepare a public safety plan in consultation with local fire departments, law enforcement, and the McKenzie County Emergency Management Coordinator.
- (2) **Security.** A minimum 6-foot security fence shall enclose all electrical and mechanical components of the Solar Energy System. Fences shall be maintained by the owner/operator of the facility. Lock boxes and keys shall be stored at locked entrances for emergency personnel access.
- (3) **Firebreak.** To mitigate fire risk, vegetation clearance shall be maintained around the site perimeter. A clear area with a minimum width of 10 feet of defensible space shall be maintained within the fence line with additional defensible space outside the fence line. The Developer/operator of the Solar Energy System shall be responsible for maintaining this area free of potential fire hazards in accordance with the approved public safety plan.
- (4) **Signage.** Signs identifying the Solar Energy System owner, operator, and emergency contact information shall be affixed at all entrances to the facility. Warning signs, including contact information, shall be displayed at intervals of 500 feet along the perimeter of the facility.

4-18-4 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

4-18-5 Site Decommissioning and Restoration

- (A) **Decommissioning.** Within one (1) year of termination or abandonment of leases or Easements for a Solar Energy System in McKenzie County, the permittee shall, at its expense, fully remove all Solar Energy System structures and components from the site. This includes all associated above ground and below ground infrastructure., which must be placed in a landfill approved for disposal of such materials. Any Easements of record must be released.
- (B) **Surface Restoration.** Areas disturbed by the construction or decommissioning of a Solar Energy System shall be restored to their original condition and shall be graded, top-soiled, and reseeded according to Natural Resource Conservation (NRCS) recommendations or similar best practices,

unless the landowner requests in writing that access roads or other Development be retained.

Sec. 4-19 Data Centers

4-19-1 Intent

Data centers are intensive land uses that can consume large quantities of water and electricity. Buildings often include industrial HVAC systems or water cooling/storage systems to prevent computer servers from overheating. Such systems commonly generate continuous sound that can spread across property lines. The low-frequency sounds emitted by Data Centers consist of long wavelengths that are not easily absorbed by the air or blocked by a sound barrier. Long-term exposure to noise impacts the health of McKenzie County residents. This Section is provided minimize the potential off-site impacts of Development to protect public health, safety, and the general welfare of McKenzie County residents.

4-19-2 Exemption

Data centers which are solely located on an oil and gas well site or underground gathering pipeline line facility and which are subject to the exclusive jurisdiction of the North Dakota Industrial Commission pursuant to NDCC Chapter 38-08, or any successor statute, are exempt from the provisions of this Section.

4-19-3 Application Requirements

The application for the installation or construction of a Data Center, or for modifications to a lawfully existing Data Center beyond routine maintenance, shall follow the application procedures for Conditional Use Permits ([Section 5-13](#)) and any other procedures as may be required by this Ordinance for Data Centers, such as zoning map Amendments, platting, or Variances. In addition, applications shall include the following:

- (A) **Applicant Name and Contact Information.** The applicant must also identify on the application, if different than the applicant, the record Owner of the property, the occupant or lessee of the property, and the operator of the Data Center.
- (B) **Narrative.** A narrative describing the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs.
- (C) **Acoustic Study.** A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.

- (D) **Site Plan.** A Site Plan, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.
- (E) **Project Area Map.** A map of the project area showing all single-family and multi-family Dwellings, schools, churches, synagogues, and other similar religious institutions or structures, and public parks located within one (1) mile of the exterior boundaries of the property where the Data Center will be located.
- (F) **Copies of Permits and Documentation.** Copies of signed permits or other documentation that indicates compliance with all applicable State and Federal laws, statutes, rules, regulatory standards, including but not limited to the North Dakota State Electrical Board and the North Dakota State Electrical Code, and any Amendments thereto.
- (G) **Power Purchase Agreement.** Copy of the signed electrical power purchase agreement. If one is not available at the time of application, the application may be accepted. However, no Conditional Use Permit may be approved by the Board of County Commissioners prior to a signed electrical power purchase agreement being provided to the Planning Department.
- (H) **Other Documentation.** Other relevant studies, reports, certifications, or approvals as may be required by the Planning and Zoning Director to ensure compliance with this Section and this Ordinance. Any rejection of an application for failure to provide the aforementioned other documentation may be appealed to the Board of County Commissioners following the provisions of this Ordinance.

4-19-4 Development Standards

- (A) **Separation from Sensitive Properties.** Data Centers shall be set back at least one (1) mile from all Dwellings, Schools, Places of Religious Assembly, and Parks as measured from the nearest property line of any of these sensitive properties to the Data Center's exterior property lines.
- (B) **Separation from Other Data Centers.** New Data Centers shall be set back at least three (3) miles from any lawfully existing Data Center.
- (C) **Height.** All Buildings, Structures, and appurtenances on the property where the Data Center will be located shall meet the height requirements of the respective zoning district for which they reside.
- (D) **Electrical Wiring.** All electrical wiring shall be buried underground, except where wiring is brought together for interconnection to system components or the local utility power grid, provided that all electrical wiring shall comply with the North Dakota State Electrical Board, and any of its rules and regulations.

- (E) **Security Fencing.** A secured chain link or solid wood or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility. Any fencing shall comply with [Section 2-12](#) of this Ordinance.
- (F) **Buffering and Screening.** Landscaped buffers shall be required around the entire perimeter of the property where the Data Center is located in accordance with the requirements of the Landscaping Standards in this Ordinance.
- (G) **Exterior Lighting Standards.** Exterior lighting for the Data Center shall be hooded and directed downward.
- (H) **Accessory Structures and Appurtenances.** All accessory structures or appurtenances, including those constructed for noise mitigation, shall be designed in a manner that is complementary with the primary building(s) and shall be finished in a non-obtrusive color.
- (I) **Roads.** All adjacent exterior access roads serving a Data Center shall conform to [Section 2-9](#) of this Ordinance. Exterior road construction or improvements shall be subject to approval by the McKenzie County Engineer or their designee. A road maintenance agreement with any government entity having jurisdiction over the adjacent exterior access roads shall be required during installation or construction of the Data Center, or during modification of a lawfully existing Data Center beyond routine maintenance. All interior roads serving the Data Center shall be subject to review by the McKenzie County Fire Official to ensure safe and adequate access by emergency services personnel.
- (J) **Storm Drainage, Erosion Control, Grading, and Drainage.** The Data Center shall comply with the storm drainage, erosion control, grading, and drainage requirements of this Ordinance.
- (K) **Development Agreement.** The applicant and, if different than the applicant, the record Owner of the property, the occupant or lessee of the property, and/or the operator of the Data Center and of the property on which the Data Center will be located, as determined appropriate by the County, must sign a Development agreement which shall include, at a minimum, provisions surrounding the posting and use of financial security, exterior and interior road construction or improvement, road maintenance, improvements related to storm drainage, erosion control, grading, and drainage, reclamation and restoration, and/or any other condition imposed by this Section, this Ordinance, or the Board of County Commissioners in approving installation of construction of the Data Center or modifications to a lawfully existing Data Center beyond routine maintenance.

4-19-5 Reclamation Bond

A Reclamation Bond is required as provided in [Section 2-13](#) of this Ordinance.

Sec. 4-20 Accessory Farm Labor Housing

If contained in a separate structure, the Accessory Farm Labor Housing unit must be no larger than the primary dwelling on the subject lot.

Sec. 4-21 Accessory Residential Structure

If contained in a separate structure, the Accessory Residential Structure must be no larger than the primary dwelling on the subject lot.

ARTICLE 5. ADMINISTRATION

Contents

- [Section 5-1: Roles and Responsibilities](#)
- [Section 5-2: Board of County Commissioners](#)
- [Section 5-3: Planning and Zoning Board](#)
- [Section 5-4: Planning and Zoning Director](#)
- [Section 5-5: Board of Adjustment](#)
- [Section 5-6: Permits, Procedures, and Fees](#)
- [Section 5-7: Land Development Ordinance Text Amendments](#)
- [Section 5-8: Zoning Map Amendments](#)
- [Section 5-9: Variances](#)
- [Section 5-10: Major Subdivisions](#)
- [Section 5-11: Minor Subdivisions](#)
- [Section 5-12: Lot Line Adjustments, Lot Splits, and Lot Mergers](#)
- [Section 5-13: Conditional Use Permits](#)
- [Section 5-14: Administrative Permit](#)
- [Section 5-15: Appeals](#)
- [Section 5-16: Violations and Penalties](#)
- [Section 5-17: County Fire Official](#)
- [Section 5-18: Building Permit](#)
- [Section 5-19: Manufactured Homes Installation Program](#)

Sec. 5-1 Roles and Responsibilities

Roles and responsibilities for reviewing certain applications and rendering a decision are distributed as follows:

Application Type	Section	Planning and Zoning Director	Planning and Zoning Board	Board of County Commissioners
Land Development Ordinance Text Amendment	5-7	Recommend Action	Recommend Action	Decide
Zoning Map Amendment	5-8	Recommend Action	Recommend Action	Decide
Variances	5-9	Recommend Action	Recommend Action	Decide
Major Subdivision	5-10	Recommend Action	Recommend Action	Decide
Minor Subdivision	5-11	Recommend Action	Recommend Action	Decide

[Main Table of Contents](#)

[Article 5 Table of Contents](#)

Application Type	Section	Planning and Zoning Director	Planning and Zoning Board	Board of County Commissioners
Lot Line Adjustments, Lot Splits, and Lot Mergers	5-12	Decide*	Report Issuance	Appeal
Conditional Use Permit	5-13	Recommend Action	Recommend Action	Decide
Administrative Permit	5-15	Decide*	Report Issuance	Appeal
Building Permit & Building Permit/Inspection Waivers	5-19	Decide	--	Appeal

*Planning and Zoning Director may refer application to Planning and Zoning Board

Sec. 5-2 Board of County Commissioners

5-2-1 Authority

The Board of County Commissioners is authorized to regulate the use of property through zoning and has final responsibility for the preparation of this Ordinance, the County Zoning Map, and the administration thereof, under North Dakota Century Code.

5-2-2 Duties

- (A) The Board of County Commissioners shall review and take action on all proposed Amendments to this Ordinance (Zoning Map Amendments and Ordinance Text Amendments).
- (B) The Board of County Commissioners shall review all applications for Conditional Use Permits.
- (C) The Board of County Commissioners shall hear and decide all appeals of decisions of the Planning and Zoning Director.
- (D) The Board of County Commissioners shall, when required by state law, appoint members of the Planning and Zoning Board.
- (E) The Board of County Commissioners shall appoint the Planning and Zoning Director.

Sec. 5-3 Planning and Zoning Board

5-3-1 Authority

The Planning and Zoning Board is created by the Board of County Commissioners in accordance with the North Dakota Century Code.

5-3-2 Duties

- (A) The Planning and Zoning Board shall hold public hearings on all proposed Amendments to this Ordinance and make written recommendations to the Board of County Commissioners with respect to such proposals.
- (B) The Planning and Zoning Board shall hold public hearings on applications for Zoning Map Amendments and make written recommendations to the Board of County Commissioners for the approval or denial of such applications.
- (C) The Planning and Zoning Board 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.
- (D) The Planning and Zoning Board shall hold public hearings on applications for variances from the provisions of this Ordinance and make written recommendations to the Board of Adjustment for the approval, denial, and/or modification.
- (E) The Planning and Zoning Board shall investigate all violations of these regulations and shall determine and take appropriate remedial action.
- (F) The Planning and Zoning Board or its designee shall, as required by law, publish notice of public hearings.

Sec. 5-4 Planning and Zoning Director

5-4-1 Authority

The Board of County Commissioners shall appoint a Planning and Zoning Director to administer the Ordinance. The Planning and Zoning Director shall report directly to the Board of County Commissioners.

5-4-2 Duties

- (A) Maintain updated copies of the Ordinance and Zoning Map.
- (B) Keep copies of all records of the Planning Department.
- (C) Post notice of zoning hearings as prescribed by NDCC.

- (D) 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.
- (E) Grant building permits upon receipt of a complete application and application fee.
- (F) Grant Administrative Permits as provided by this Ordinance.
- (G) Prepare materials and make recommendations on all applications submitted to the Planning and Zoning Board.

Sec. 5-5 Board of Adjustment

5-5-1 Authority

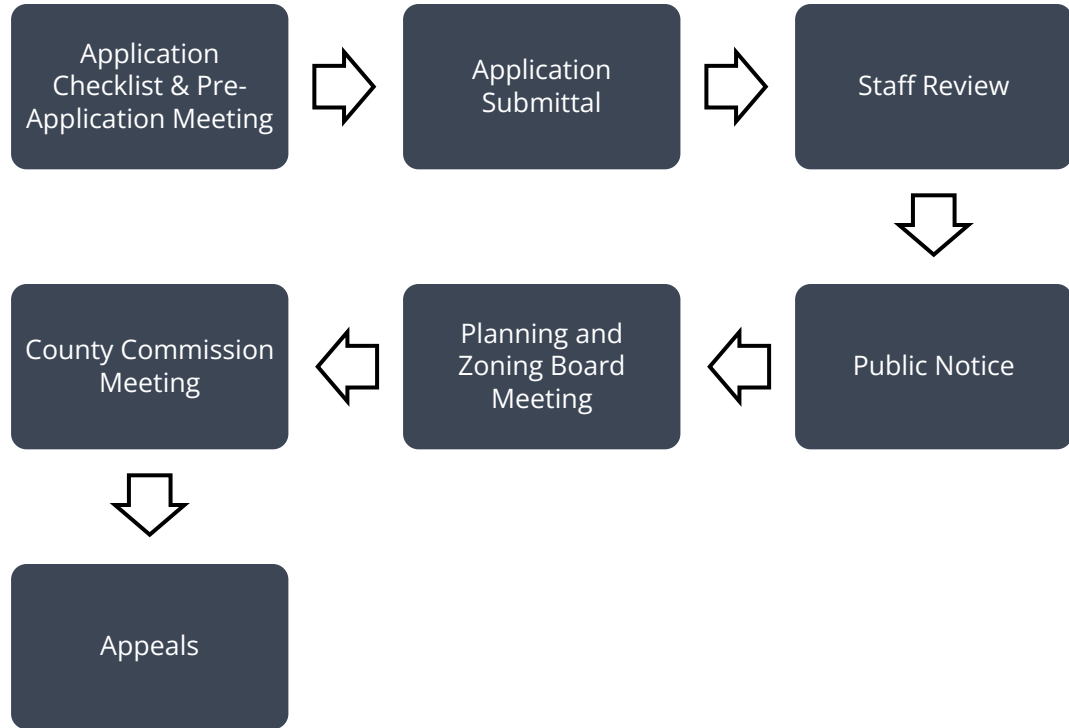
The Board of County Commissioners shall act as a Board of Adjustment.

5-5-2 Duty

The Board of Adjustment shall upon recommendation from the County Planning and Zoning Board 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.

Sec. 5-6 Permits, Procedures, and Fees

Procedural steps, requirements, and review criteria that are common to most land Development applications are outlined below:



- (A) **Application Checklist & Pre-Application Meeting.** The purpose is to provide an applicant and the County an opportunity to discuss the Development proposal to discuss the application checklist, estimated time frame, and appropriate application materials.
- (B) **Application Submission, Related Contents, and Fees.** Application may be made by the landowner or their approved representative. In addition, the County Commission, Planning and Zoning Board, or Planning and Zoning Director may also file an application. The fees are non-refundable.
- (C) **Staff Review and Recommendations.** The Planning and Zoning Director or designee will review the proposed application for completeness, legal sufficiency, consistency with the Comprehensive Plan, and compliance with stated requirements in the Ordinance. The Planning and Zoning 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.
- (D) **Public Notice.** Pursuant to ND Century Code Section 11-33-08, the Planning and Zoning Board 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.

- (E) **Action by Planning and Zoning Board.** The Planning and Zoning Board may act 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 Planning and Zoning Director. The applicant is responsible for being present at the public hearing.
- (F) **Decision by Board of County Commissioners.** The action taken by the Planning and Zoning Board is forwarded as a recommendation to the Board of County Commissioners at their next meeting, or as soon as practicable. The Board of County Commissioners decision is subject to appeal in the District Court.
- (G) **Appeals.** Pursuant to North Dakota Century Code: 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 grounds of the objections. The petition shall be filed with the County auditor.

Sec. 5-7 Land Development Ordinance Text Amendments

5-7-1 Authority

- (A) The Board of County Commissioners may amend this Ordinance by supplementing, modifying, or repealing any of the regulations, restrictions, or provisions herein.
- (B) A proposed Amendment may be initiated by the Board of County Commissioners upon its own motion, upon request by the Planning and Zoning Board, or upon petition from any interested person(s) or their agent(s).

5-7-2 Report

All proposed Amendments to the Ordinance shall be documented in a report, to be submitted by the Planning and Zoning Board to the Board of County Commissioners before acting thereon.

5-7-3 Public Hearing

- (A) The Planning and Zoning Board shall hold a public hearing on the proposed Amendment(s), at which any person or party in interest shall have an opportunity to be heard.
- (B) Notice of the public hearing with the Planning and Zoning Board shall be given in accordance with provisions of the North Dakota Century Code.
- (C) The Planning and Zoning Board shall determine whether the proposed Amendment is consistent with the goals and objectives of the Comprehensive Plan, or otherwise promotes the general health, safety, or welfare of McKenzie County residents.
- (D) The final report of the Planning and Zoning Board shall be submitted to the Board of County Commissioners within ninety (90) days after the proposal is referred to the Planning and Zoning Board unless the Board of County Commissioners agrees to an extension.

5-7-4 Board of County Commissioners

- (A) After receipt of the final report on any proposed Amendment to the Ordinance, the Board of County Commissioners may adopt the proposed Amendment, with such changes as it may deem advisable.
- (B) The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners and published in accordance with laws established by the North Dakota Century Code.
- (C) Any adopted Amendment may be modified or repealed by the Board of County Commissioners following the procedures described in Section 5-7 of this Ordinance.

Sec. 5-8 Zoning Map Amendments

5-8-1 Authority

Amendments to the McKenzie County Zoning Map are legally equivalent to Ordinance Amendments because the Zoning Map is incorporated into this Ordinance under Section 3-2. A Zoning Map Amendment may be initiated by the Planning and Zoning Board or the Board of County Commissioners, or by another applicant following the procedures of Section 5-8.

5-8-2 Approval Criteria

Zoning Map Amendments shall be consistent with the goals and objectives of the Comprehensive Plan.

5-8-3 Zoning Map Amendment with Subdivision

An applicant may seek approval for a Zoning Map Amendment and a subdivision during the same public hearing(s). A fee must be paid for each request.

5-8-4 Application

- (A) The applicant shall submit a completed application for Zoning Map Amendment to the Planning and Zoning Director or designee at least twenty-one (21) days prior to the Planning and Zoning Board meeting at which the item will be considered.
- (B) The application shall be submitted with:
 - (1) Payment of a nonrefundable fee in the amount established by resolution of the Board of County Commissioners.
 - (2) A map or legal description of the area proposed for a zone change, unless the application is accompanied by a plat that shows the area.

5-8-5 Public Hearing

- (A) All requests for a Zoning Map Amendment shall require one (1) public hearing before the Planning and Zoning Board.
- (B) Notice of the public hearing with the Planning and Zoning Board shall be given in accordance with North Dakota Century Code. The Planning Department shall notify by mail all Owners of property within one-half (1/2) mile of the area for which the Zoning Map Amendment is requested. The notice shall state the name of the applicant, the location of the proposed zone change, and the date, time, and location of the scheduled public hearing. This requirement is considered met if reasonable effort is made to contact applicable property Owners, even if some are inadvertently omitted from notification.
- (C) At the public hearing, the Planning and Zoning Board shall hear comments and comments regarding the request for Zoning Map Amendment.
- (D) After the public hearing is closed, the Planning and Zoning Board shall make one of the following decisions, to be recorded in its official records with any supporting statements:
 - (1) Recommend approval of the Zoning Map Amendment to the Board of County Commissioners.
 - (2) Recommend disapproval of the Zoning Map Amendment to the Board of County Commissioners, stating findings of fact to justify the rationale for disapproval.

- (3) Conduct a second public hearing to review the Zoning Map Amendment, requesting from the applicant any additional information necessary to reach a decision.

5-8-6 Board of County Commissioners

- (A) After the Planning and Zoning Board has made a recommendation, the Board of County Commissioners shall consider the Zoning Map Amendment at its next regularly scheduled meeting, unless the applicant and the Planning and Zoning Director or designee agree to defer to a later meeting, and make one of the following decisions:
 - (1) Approve the Zoning Map Amendment.
 - (2) Disapprove the Zoning Map Amendment, stating the reason(s) for disapproval.
 - (3) Refer the request back to the Planning and Zoning Board. The Board of County Commissioners shall only exercise this option if it finds that there is substantial additional information relating to the request for Zoning Map Amendment that was not presented to the Planning and Zoning Board.
- (B) The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners. If the request is not approved, the decision shall also be communicated in writing to the applicant.

Sec. 5-9 Variances

5-9-1 Authority

The Board of Adjustment may adjust any regulation in this Ordinance for a specific application of the regulation if unique circumstances meet the criteria of this section. Any adjustments of enforcement, pursuant provisions established by the North Dakota Century Code, will be made through the variance process.

5-9-2 Approval Criteria

During the review of a request for a variance, the Planning and Zoning Board and the Board of Adjustment shall consider the following criteria:

- (A) Strict compliance with the regulations of this Ordinance would result in extraordinary hardship to the landowner, adversely affect the public welfare, or obstruct the goals and objectives of the Comprehensive Plan.
- (B) The hardship motivating the request for variance is related to the size, shape, or topography of the lot or tract or some other physical feature. The hardship is not a result of the actions of the applicant.

- (C) The special conditions and circumstances motivating the request for variance are special to the property in question and are not a common condition experienced by other landowners in the same district.
- (D) The literal interpretation of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the district.
- (E) Granting the variance would not confer any special privilege on the applicant that is denied by the Ordinance to others in the same district.
- (F) Any variance granted shall be no more than the minimum easing of the regulation necessary to alleviate the hardship.
- (G) 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.

5-9-3 Application

- (A) The applicant shall submit a completed application for variance to the Planning and Zoning Director or designee at least twenty-one (21) days prior to the meeting of the Planning and Zoning Board at which the variance is to be considered.
- (B) The application shall be submitted with:
 - (1) Payment of a nonrefundable fee in the amount established by resolution of the Board of County Commissioners.
 - (2) A written letter describing the nature of the hardship and the reason for the variance request.
 - (3) A copy of a Site Plan in a format requested by the Planning and Zoning Director or designee.

5-9-4 Public Hearing

- (A) All variance requests shall require one (1) public hearing before the Planning and Zoning Board.
- (B) Notice of the public hearing shall be given in accordance with regulations established by the North Dakota Century Code.
- (C) The Planning Department shall notify by mail all Owners of property within one-half (1/2) mile of the Lot for which the application is requested. The notice shall state the name of the applicant, the regulation from which the variance is sought, the location of the property for which the variance is sought, and the date, time, and location of the scheduled public hearing. This requirement is considered met if reasonable effort is made to contact

applicable property Owners, even if some are inadvertently omitted from notification.

- (D) At the public hearing, the Planning and Zoning Board shall hear comments and comments regarding the variance request. The applicant or a designated representative is encouraged to attend the public hearing to provide additional information on the request.
- (E) After the public hearing is closed, the Planning and Zoning Board shall make one of the following decisions, to be recorded in its official records with any supporting statements:
 - (1) Recommend approval of the variance to the Board of County Commissioners.
 - (2) Recommend disapproval of the variance to the Board of County Commissioners, with findings of fact to justify the rationale for disapproval.
 - (3) Consider the variance request during the next regularly scheduled meeting of the Planning and Zoning Board, requesting from the applicant any additional information necessary to reach a decision. The Planning and Zoning Board shall not consider same variance request at more than two Planning and Zoning Board meetings.

5-9-5 Board of County Commissioners

- (A) After the Planning and Zoning Board has made a recommendation, the Board of County Commissioners shall consider the variance at its next regularly scheduled meeting, unless the applicant and the Planning and Zoning Director or designee agree to defer to a later date.
- (B) The Board of County Commissioners shall make one of the following decisions:
 - (1) Approve the variance.
 - (2) Disapprove the variance, stating the reason(s) for disapproval.
 - (3) Refer the request back to the Planning and Zoning Board. The Board of County Commissioners shall only exercise this option if it finds that there is substantial additional information relating to the request for variance that was not presented to the Planning and Zoning Board.
- (C) The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners. If the variance request is approved, the variance shall be filed at the office of the Planning and Zoning Director, and a copy shall be mailed to the applicant. If the variance request is denied or referred back to the Planning and Zoning Board, the decision shall be communicated in writing to the applicant.

Sec. 5-10 Major Subdivisions

Major subdivisions require a public hearing for both the preliminary plat and the final plat. Any subdivision that does not meet the criteria of a minor subdivision (see [Section 6-5](#)) or exemption from platting requirements (see [Section 6-2](#)) shall be classified as a major subdivision.

5-10-1 Approval Criteria

During review of a major subdivision, the Planning and Zoning Board and Board of County Commissioners will consider the following:

- (A) The proposed subdivision satisfies all applicable provisions of this article.
- (B) The proposed Development is consistent with the Comprehensive Plan.
- (C) The proposed Development is consistent with the Zoning Map or the applicant has applied for a Zoning Map Amendment.
- (D) The proposed Subdivision satisfies all requirements of the corresponding zoning district(s). All land can be safely and reasonably developed for its intended Use under the requirements of this Ordinance.
- (E) All necessary utilities, facilities, and services have been or will be provided to the subdivision (see [Subsection 6-4-4](#), Improvement Plans).

5-10-2 Consultation and Application

- (A) Prior to preparing a preliminary subdivision plat, a prospective applicant is encouraged to consult with the Planning and Zoning Director to review the proposal in relation to existing conditions, planned Development, and public facilities, utilities, and services. The purpose of this consultation is to ensure an efficient platting process and avoid unnecessary costs to the applicant. There is no fee for the pre-application meeting.
- (B) The applicant is encouraged to provide a sketch plan that shows existing and proposed Development, the general arrangement of streets and lots, tentative lot sizes, and any additional information which may be requested of the applicant by the Planning and Zoning Director.
- (C) The applicant shall submit a completed application for Major Subdivision to the Planning and Zoning Director or designee at least twenty-one (21) days prior to the meeting of the Planning and Zoning Board at which the application is to be considered. The application must include the application form, the required nonrefundable fee, as determined by resolution of the Board of County Commissioners, a digital copy of the preliminary plat in portable document format (pdf), and any supporting documents as may be required by this Ordinance.

- (D) Prior to the public hearing, the Planning and Zoning Director or designee shall distribute the preliminary plat for comment from the County Engineer, the McKenzie County Emergency Management Coordinator, the rural fire district, impacted utilities, and other agencies/departments as applicable as determined by the Planning and Zoning Director.
- (E) An application is not considered complete until the application is signed by all Owners of property and representatives, all fees are paid, and all required attachments are included.

5-10-3 Preliminary Plat

- (A) The preliminary plat shall be prepared by a registered land surveyor and shall meet all specifications listed in [Section 6-4-2](#).
- (B) One (1) public hearing before the Planning and Zoning Board is required for preliminary plat review.
 - (1) Notice of the public hearing shall be given in accordance with North Dakota Century Code.
 - (2) The Planning Department shall notify by mail all Owners of property within one-half mile ($\frac{1}{2}$ mile) of the proposed subdivision. The notice shall state the name of the applicant, the proposed name of the subdivision, the number of lots proposed, the location of the proposed subdivision, and the date, time, and location of the scheduled public hearing.
 - (3) At the public hearing, the Planning and Zoning Board shall hear testimony and comments regarding the preliminary plat. The applicant or a designated representative is encouraged to attend the public hearing to provide additional information on the proposed subdivision, as requested by the Planning and Zoning Board.
 - (4) After the public hearing is closed, the Planning and Zoning Board shall make one of the following recommendations:
 - (a) Tentatively approve the preliminary plat.
 - (b) Tentatively approve the preliminary plat with conditions. The Planning and Zoning Board shall clearly state the nature and extent of any such conditions or modifications that must be met before a final plat is submitted for review and approval.
 - (c) Disapprove the preliminary plat, stating the reason for disapproval.
 - (d) Conduct a second public hearing to review the preliminary plat during the next regularly scheduled meeting of the Planning and

Zoning Board, requesting from the applicant any additional information necessary to reach a decision.

- (5) Tentative approval of a preliminary plat by the Planning and Zoning Board 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. Once the preliminary plat has been tentatively approved, the applicant may proceed with preparing improvement plans (see [Section 6-4-4](#)).

5-10-4 Improvement Plans

- (A) **Technical Review.** All improvement plans shall be reviewed by the Planning and Zoning Director and the County Engineer or their designees. The County Engineer shall perform a technical review of the improvement plans and provide comments and required revisions as necessary. The County Engineer may require changes to the preliminary plat design to achieve acceptable engineering practices. Upon acknowledgement from the County Engineer that the plans meet County Road Improvement Standards, the applicant may prepare the final plat.
- (B) **Submittal Period.** The applicant shall have six (6) months from the date the preliminary plat is approved to complete the improvement plans. If the improvement plans have not been submitted for review within six (6) months or the agreed-upon extension period, the preliminary plat is deemed to be withdrawn and the application fee forfeited.
- (C) **Improvement Plan Requirements.** All Improvement Plans shall be prepared and signed by a professional engineer licensed in the State of North Dakota, shall follow County design standards as described in [Section 6-9](#) of the Ordinance, and shall consist of the following:
 - (1) **Grading Plan.** A grading plan shall be provided to the County Engineer if more than one (1) acre is to be disturbed. The grading plan shall follow County standards for erosion control (see [Section 2-18](#)) and include the following:
 - (a) Existing and proposed contours for all graded areas, with a minimum interval of two (2) feet.
 - (b) Location of site water retention.
 - (c) All proposed surface features necessary to complete the project design, including catch basins, culverts, grated inlets, inverts, railroad tracks, sidewalks, driveways, trees, utility structures, manholes, curb and gutter, water valves, monuments, centerline ties, and other features as necessary.
 - (d) Dust control plan.

- (e) Site restoration plan.
- (2) **Road Plan.** The paving plan shall include the following:
 - (a) Title Sheet including certification language and signature block for the County Engineer.
 - (b) List of Standard Drawings
 - (c) Plan Notes
 - (d) Construction Details
 - (e) Typical Sections
 - (f) Plan and Profile Sheets
 - (g) Grading Plans
 - (h) Striping and Signage Plans
 - (i) Cross Sections
 - (j) Temporary Traffic Control
 - (k) Erosion Control Plans
- (3) **Utility Plan.** The utility plan shall include the following:
 - (a) The location of existing utilities within or adjacent to the plat.
 - (b) The location of proposed utilities (water, sewer, electric, gas, and other) within the subdivision, and interconnections to existing systems.
 - (c) Easements required to accommodate utilities or utility maintenance.
 - (d) A letter from the water provider stating that adequate water supply is available if water is to be provided to the Subdivision.
 - (e) Proposed water well locations, if necessary.
 - (f) Proposed sewer or septic system information.
- (4) **Fire Prevention Plan.** The fire prevention plan shall include the following:
 - (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.
- (5) **Traffic Impact Study.** A Traffic Impact Study may be required. Refer to [Section 2-9-3](#) for requirements.

(6) **Stormwater Management Plan:** See [Section 2-17](#) for stormwater management requirements.

(D) **Developer Agreement.** McKenzie County may require the Developer to enter into an agreement or provide a Performance Bond to ensure the completion of any public improvements.

5-10-5 Final Plat

(A) **Application.** The applicant shall submit a completed application to the Planning and Zoning Director or designee at least twenty-one (21) days prior to the meeting of the Planning and Zoning Board at which the application is to be considered. The application must include the application form, the required nonrefundable fee, as determined by resolution of the Board of County Commissioners, a digital copy of the final plat in portable document format (pdf), and any supporting documents as may be required by this Ordinance or requested by the Planning and Zoning Director or designee.

(B) **Plat Requirements.** The final plat shall be prepared by a professional engineer or land surveyor registered in the State of North Dakota shall meet all specifications listed in [Section 6-4-3](#).

(C) **Township Review.** If located within an organized township, township notification is required. In accordance with North Dakota Century Code 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. The recommendations by the Board of Township Supervisors shall not be binding on the Board of County Commissioners. If the Board of County Commissioners does not receive, by certified mail, a recommendation by the Board of Township Supervisors within forty-five (45) days after notification, it may take final action on the application for plat approval.

(D) **Public Hearing.** One (1) public hearing before the Planning and Zoning Board is required for final plat review.

(1) Notice of the public hearing shall be given in accordance with regulations established by the North Dakota Century Code.

(2) The Planning Department shall notify by mail all Owners of property within one-half mile ($\frac{1}{2}$ mile) of the proposed subdivision. The notice shall state the name of the applicant, the proposed name of the subdivision, the number of lots proposed, the location of the proposed subdivision, and the date, time, and location of the scheduled public hearing.

(3) At the public hearing, the Planning and Zoning Board shall hear testimony and comments regarding the final plat. The applicant or a

designated representative is encouraged to attend the public hearing to provide additional information on the proposed subdivision, as requested by the Planning and Zoning Board.

- (4) The Planning and Zoning Board shall determine whether the final plat conforms substantially to the preliminary plat and may review any improvement plans required as a condition of subdivision approval. This requirement does not apply to a Minor Subdivision.
 - (5) After the public hearing is closed, the Planning and Zoning Board shall decide to recommend approval or disapproval of the final plat. If the plat is not approved, the reason for disapproval shall be stated. The decision shall be recorded in the official records of the Planning and Zoning Board.
- (E) **Board of County Commissioners Meeting.** After the Planning and Zoning Board has made a recommendation, the Board of County Commissioners shall consider the final plat at its next regularly scheduled meeting and shall approve or disapprove the final plat, stating any reason for disapproval. The decision and supporting statements shall be recorded in the official records of the Board of County Commissioners.
- (F) **Signatures.** If the plat is approved by the Board of County Commissioners the applicant shall provide the plat on Mylar with all covenants, signature blocks, acknowledgments, and certifications required for recording. The County Auditor shall have the plat signed as required by State law.
- (G) **Plat Recording.**
- (1) After the plat has been signed and certified, the applicant shall file the plat for recording with the County Recorder within ninety (90) days. One (1) copy shall also be filed with the Planning and Zoning Director or designee.
 - (2) If the plat is not recorded within ninety (90) days of approval the plat shall be null and void without further action.

Sec. 5-11 Minor Subdivisions

5-11-1 Purpose

The purpose of the minor subdivision procedure is to simplify the requirements and review process for qualifying minor subdivisions. Minor subdivisions are exempt from the preliminary plat process but require one (1) public hearing with the Planning and Zoning Board to review the final plat.

5-11-2 Minor Subdivision Criteria

- (A) Any subdivision that meets the following criteria may be platted as a minor subdivision:
 - (1) The subdivision does not require the dedication of public rights-of-way or the construction of new streets;
 - (2) The subdivision does not require new utility Easements or public improvements;
 - (3) The subdivision contains four (4) lots or fewer and the lots will be used for agricultural or residential purposes only;
 - (4) The subdivision does not Landlock any property;
 - (5) Any portion of the land proposed for subdivision has not been previously subdivided within two (2) years of the date of application submittal.

5-11-3 Requirements

- (A) Minor subdivisions shall be subject to the requirements and procedures for final plats, except where stated otherwise (see [Section 5-10-5](#)) .

Sec. 5-12 Lot Line Adjustments, Lot Splits, and Lot Mergers

- (A) **Purpose.** The purpose of this section is to provide for the administrative approval of lot modifications.
- (B) **Application Submittal.** All applications for Lot Line Adjustments, Lot Splits, and Lot Mergers shall be submitted to the Planning and Zoning Director or designee, along with the nonrefundable application fee, as determined by resolution of the Board of County Commissioners; a certificate of survey prepared by a land surveyor registered in the State of North Dakota showing all subject parcels, the proposed modification, and all existing structures; the legal description of the original parcel(s); and the legal description of the resulting parcel(s).
- (C) **Technical Review.** All applications for lot splits, lot line adjustments, and lot mergers shall be reviewed by the Planning and Zoning Director or designee in consultation with the County Engineer or designee. Review shall be performed for compliance with [Section 6-6](#) of this Ordinance. No public hearing or review by either the Planning and Zoning Board or the Board of County Commissioners is necessary.

Sec. 5-13 Conditional Use Permits

5-13-1 Authority

- (A) To promote and protect public health, safety, and the general welfare of the community, the Board of County Commissioners may stipulate conditions and restrictions upon the establishment, location, construction, and operation of any proposed Conditional Use.
- (B) In all cases in which Conditional Uses are granted, the Planning and Zoning Director or designee may require evidence of compliance with these provisions and with the conditions set forth.

5-13-2 General Provisions

- (A) A Conditional Use Permit (CUP) shall be required for uses identified within each zoning district as a Conditional Use according to Table 3-1.
- (B) No building permit or certificate of occupancy shall be issued until the application for a required Conditional Use Permit has been approved by the Board of County Commissioners.
- (C) Conditional uses are considered to be permanent unless otherwise indicated in this Ordinance or as a condition of approval.
- (D) Applicants shall be in Good Standing. Any existing violation on the subject property must be remedied or a Violation Bond must be posted prior to application submittal.

5-13-3 Approval Criteria

- (A) During review of a request for a Conditional Use permit, the Planning and Zoning Board and Board of County Commissioners shall consider the following criteria:
 - (1) The proposed Conditional Use shall not adversely affect public health and safety.
 - (2) The proposed Conditional Use shall not impede the normal use or Development of adjacent properties.
 - (3) The proposed Conditional Use will comply with all applicable regulations of the zoning district in which it is located.
 - (4) The proposed Conditional Use will comply with any regulations established by *Article 4, Special Use Standards*.

5-13-4 Conditional Use Permit with Zoning Map Amendment

The applicant may seek approval for a Conditional Use Permit and a Zoning Map Amendment and/or subdivision at the Preliminary Plat Public Hearing. A fee must be paid for each request.

5-13-5 Application

- (A) The applicant shall submit a complete application for Conditional Use permit at least twenty-one (21) days prior to the meeting of the Planning and Zoning Board at which the permit will be considered.
- (B) The application shall be submitted with:
 - (1) Payment of a nonrefundable fee in the amount established by resolution of the Board of County Commissioners.
 - (2) A copy of the Site Plan in the format and scale requested by the Planning and Zoning Director or designee.
 - (3) Any additional application requirements for the proposed use stipulated by Article 4, Special Use Standards.
 - (4) Any other information relevant to the need for the proposed use, siting constraints, or the expected effects of the proposed use on surrounding areas and McKenzie County in general, as requested by the Planning and Zoning Director or his/her designee.

5-13-6 Public Hearing

- (A) The Planning and Zoning Board shall hold a public hearing on the Conditional Use permit application, at which any person or party of interest shall have an opportunity to be heard.
- (B) Notice of the public hearing with the Planning and Zoning Board shall be given in accordance with provisions established by the North Dakota Century Code.
- (C) The Planning Department shall notify by mail all Owners of property within one-half (1/2) mile of the property in question. The notice shall state the name of the applicant, the proposed use for which the Conditional Use is required, the location of the proposed use, and the date, time, and location of the scheduled public hearing. This requirement is considered met if reasonable effort is made to contact applicable property Owners, even if some are inadvertently omitted from notification.
- (D) At the public hearing, the Planning and Zoning Board shall hear comments regarding the request for Conditional Use Permit.

- (E) After the public hearing is closed, the Planning and Zoning Board shall make one of the following decisions, to be recorded in its official records with any supporting statements:
 - (1) Recommend approval of the Conditional Use permit to the Board of County Commissioners.
 - (2) Recommend conditional approval of the Conditional Use permit to the Board of County Commissioners, stating the recommended terms and conditions to be attached to the permit.
 - (3) Recommend disapproval of the Conditional Use permit to the Board of County Commissioners, stating the rationale to justify disapproval.
 - (4) Conduct a second public hearing to review the Conditional Use permit during the next regularly scheduled meeting of the Planning and Zoning Board, requesting from the applicant any additional information necessary to facilitate the body's decision. No more than two (2) public hearings may be conducted for any proposed Conditional Use.

5-13-7 Board of County Commissioners

- (A) After the Planning and Zoning Board has made a recommendation, the Board of County Commissioners shall consider the Conditional Use Permit at its next regularly scheduled meeting, unless the applicant and the Planning and Zoning Director or designee agree to defer to a meeting not later than six (6) months from the Public hearing.
- (B) The Board of County Commissioners shall make one of the following decisions:
 - (1) Approve the Conditional Use permit.
 - (2) Approve the Conditional Use permit with any terms and conditions deemed necessary to protect surrounding areas or McKenzie County in general.
 - (3) Disapprove the Conditional Use permit, stating the reason(s) for disapproval.
 - (4) Refer the request back to the Planning and Zoning Board. The Board of County Commissioners shall only exercise this option if it finds that there is substantial additional information relating to the request for Conditional Use permit that was not presented to the Planning and Zoning Board.
- (C) The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners. If the request is not approved, the decision shall also be communicated in writing to the applicant.

- (D) If the Conditional Use permit is approved, the permit shall be filed at the office of the Planning and Zoning Director, and a copy shall be mailed to the applicant.

5-13-8 Cessation of Conditional Use

Upon the cessation or abandonment for a period of one (1) year of any use for which a Conditional Use Permit has been issued, the Conditional Use Permit will be terminated through revocation (Section 5-13-12) and any future use of the land, structure(s) or premises shall require a new Conditional Use Permit.

5-13-9 Renewal of Permit

Conditional Uses do not have a specified time period for operation unless so indicated in this ordinance or as a condition of approval. If a Conditional Use Permit expires, then a new Conditional Use Permit application shall be filed with the Planning Department.

5-13-10 Monitoring

Where practical, approved Conditional Use Permits shall be monitored by the Planning Department. The frequency of permit review shall be identified within the conditions of approval. Conditional Use Permits that do not specify a frequency of review in the conditions of approval may be reviewed once a year at the discretion of the Planning and Zoning Director.

5-13-11 Amendment to Permit

- (A) Any modification to an approved Conditional Use Permit shall be considered an Amendment to the original Conditional Use Permit. An Amendment to a Conditional Use Permit can only be approved if, at a minimum, the Permit is in compliance with its original conditions and there are no current violations.
- (B) The Planning and Zoning Director or designee shall review the Conditional Use Permit application filed for the Amendment and determine if the Amendment can be processed administratively or if it needs go through the public hearing process. Activities that require the public hearing process include the following:
 - (1) A change in use.
 - (2) Enlargement of gas and oil storage.
 - (3) Increased traffic.
 - (4) Any permit that has been cited with a violation since the last review.
 - (5) Any application where the original conditions are inadequate with the proposed Amendment.

5-13-12 Revocation of Permit

- (A) 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, the Fire Code, or other law.
- (B) 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 approval, the permit shall be null and void without further action of the Planning and Zoning Board or the Board of County Commissioners.
- (C) When any permit is revoked or suspended for any reason, no portion of the permit fee shall be returned to the applicant.

5-13-13 Application Requirements when Violations Exist

- (A) 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 following conditions are fulfilled:
 - (1) The applicant posts a Violation Bond as outlined in [Section 2-13](#) of this Ordinance.
 - (2) The applicant executes an Easement entitling the County, a party contracted by the County, and the agents of either of them to enter the land and remedy the violation by direct action if the application is denied. Once the violation is remedied the Easement becomes null and void.
 - (3) 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.
 - (4) 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.
 - (5) The applicant shall 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 due to the County's termination of the violation.

- (B) Once the violation is remedied and conditions have been met the Planning and Zoning Director may release the applicant of the Violation Bond and the additional insured requirements.

5-13-14 Reclamation Upon Expiration, Termination, or Revocation

If the Conditional Use Permit has expired, has been terminated, or has been revoked, the landowner shall reclaim the land within one (1) year of notice of such. The Planning Department shall provide notice to the landowner of expiration, termination, or revocation. If the landowner fails to reclaim the land within such time, the County and its agents may use the reclamation bond to reclaim the land and gain access to conduct reclamation.

Sec. 5-14 Administrative Permit

5-14-1 Authority

The Planning and Zoning Director is authorized to administratively approve those uses denoted as "C/A" in Table 3-1. Zoning and Land Use Table.

5-14-2 Approval Criteria

During review of a request for an Administrative Permit, the Planning and Zoning Director or designee shall consider the following criteria:

- (A) The proposed timeline of the Use, if any, complies with the maximum allowable duration provided in Table 3-1.
- (B) The Use will not create a burden on public facilities which serve or are proposed to serve the area.
- (C) The Use will not impede the normal use or Development of adjacent properties. The Planning and Zoning Director or designee may define restrictions on the hours of operation, lighting, and noise levels, as necessary.
- (D) Adequate measures have been taken to minimize traffic congestion, provide adequate ingress and egress to the site, and provide on-site parking, as necessary.
- (E) Adequate water supply, individual sewage treatment facilities, erosion control, and stormwater management are provided, as necessary.
- (F) All applicable permits, licenses, and/or certifications required for the operation of the Use have been acquired.

- (G) There is a plan to return the site to its original condition. Remediation, if necessary, shall be completed by the date specified on the Administrative Permit.
- (H) Each Administrative Permit shall include the following, at a minimum:
 - (1) A description of the nature of the Use.
 - (2) A reference to a Site Plan, if required, to illustrate the area of a Property where the Use may be conducted.
 - (3) Conditions of approval, if any.
 - (4) The date on which the Use may be initiated.
 - (5) The date on which the Use must be terminated.
 - (6) The date for which a Reclamation Bond must be submitted to the Planning and Zoning Director, if one is required.
 - (7) The date on which remediation of the site must be completed, if necessary.

5-14-3 Application

- (A) A complete application for an Administrative Permit shall be submitted to the Planning Department at least twenty-one (21) days prior to the initiation of the proposed use with a nonrefundable 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.
- (B) The application for an Administrative Permit shall contain the same information required for a Conditional Use Permit.
- (C) A Reclamation Bond may be required as outlined in this Ordinance based on the nature of the activity(ies) proposed. The Planning and Zoning Director shall have the authority to determine whether a Reclamation Bond is necessary and the Planning and Zoning Director's decision regarding the need for a Reclamation Bond may be appealed following the provisions of this Ordinance.
- (D) The Planning Department shall notify by mail all Owners of property within one-half mile ($\frac{1}{2}$ mile) of the proposal. The Planning Department shall notify by mail all Owners of property within one-half mile ($\frac{1}{2}$ mile) of the proposed use. The notice shall state the name of the applicant, the proposed use for which the Administrative Permit is required, the location of the proposed use, Planning Department contact information, and the date by which comments must be received.
- (E) The application may not be approved unless the Planning and Zoning 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 and Zoning Director may grant approval with conditions necessary to mitigate negative externalities and ensure harmony with adjacent landowners.

- (F) The Planning and Zoning Director or designee shall report the issuance of a permit at the next regularly scheduled meeting of the Planning and Zoning Board.
- (G) The Planning and Zoning Director may refer any application for an Administrative Permit to the Planning and Zoning Board for approval, approval with conditions, or denial of the permit.
- (H) If an application for an Administrative Permit is denied or if the applicant disputes any condition of approval the applicant may appeal the decision following the provisions of this Ordinance.

5-14-4 Extensions for Applications with Limited Timeframes

Up to one (1) extension may be requested for those applications which specify a termination date. A request for extension shall be submitted to the Planning and Zoning Director or designee in writing at least thirty (30) days prior to the expiration of approval and follow the same application and approval requirements as a new Administrative Permit application.

5-14-5 Revocation of Permit

An Administrative Permit may be revoked should the landowner or permittee holder, if different from the landowner, conduct activity in violation of this Ordinance on the subject Property for which an Administrative Permit is issued.

The Planning and Zoning Director shall provide thirty (30) days' notice to the landowner or permittee holder, if different from the landowner, of the intent to revoke the Administrative Permit unless there is an imminent threat to public health or safety, in which case the permit may be immediately revoked.

Any decision of the Planning and Zoning Director to revoke an Administrative Permit may be appealed following the provisions of this Ordinance.

Sec. 5-15 Appeals

5-15-1 Request for an Appeal Hearing

- (A) Any person may file a petition for a separate hearing before the Board of County Commissioners if aggrieved by any of the following:
 - (1) Any Amendment to this Ordinance, within thirty (30) days after the first publication of the enactment of such Amendment.

- (2) Any decision made by the Board of County Commissioners regarding a previous application or petition, within thirty (30) days after the public meeting in which the decision was made.
 - (3) Any administrative decision, as provided in this Ordinance, made by any officer, board, or agent of McKenzie County, within thirty (30) days after the decision was communicated either verbally or in writing.
- (B) All petitions for appeal shall be filed with the McKenzie County Auditor.

5-15-2 Procedures for an Appeal Hearing

- (A) The Board of County Commissioners shall conduct a public hearing on the matter no sooner than the next available Board of County Commissioner meeting after the filing of petition with the McKenzie County Auditor, who shall notify the appellant of the time and place of the hearing.
- (B) Notice of the public hearing shall be given in accordance with provisions established by the North Dakota Century Code.
- (C) At the public hearing, the Board of County Commissioners shall consider any relevant provisions from this Ordinance or from the Comprehensive Plan and shall render a decision on the matter. The Board of County Commissioners shall notify the petitioner of its action by certified mail.

5-15-3 Appeal to District Court

Any person or persons aggrieved by a decision of the Board of County Commissioners under this Ordinance may appeal to District Court in the manner provided for in the North Dakota Century Code.

Sec. 5-16 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 set forth by the North Dakota Century Code, be a Class B misdemeanor. Each day that a violation occurs shall be considered a separate punishable offense.

5-16-1 Violation Procedures

- (A) If any land use, structure, or Development violates this Ordinance, or if an alleged violation has occurred, any person may file a complaint with the Planning and Zoning Director. Such complaints must state with specificity the causes and basis thereof.
- (B) The Planning and Zoning Director or designee shall follow these procedures:
 - (1) Inspect the affected site or structure to confirm that a violation may exist.

- (2) Notify the person causing the violation and Owner of the property. Such notification shall be sent by certified mail.
 - (3) Outline the findings and explain what actions the violating party must take to correct the violation and the timing of any correction.
 - (4) The Planning and Zoning Director is authorized to issue a cease-and-desist notice, stop work order, or seek a permanent injunction against the violation.
 - (5) If the violation immediately jeopardizes public health or safety, the Planning and Zoning Director may request that the court enter an injunctive relief. If injunctive relief is requested the Planning and Zoning Director or designee shall present the matter to the Planning and Zoning Board.
- (C) The violation must be corrected, or a Violation Bond must be in place prior to the Planning Department processing any further application(s) for the site.

5-16-2 Reimbursement of Legal Expenses

- (A) 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.
- (B) 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 issue to the North Dakota District Court in and for McKenzie County.
- (C) 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.

Sec. 5-17 County Fire Official

5-17-1 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 or her authority to interpret and enforce the Fire Code. Decisions may be appealed to the Board of Adjustment. If a Fire Official is not appointed, the Planning and Zoning Director shall carry out the duties described in this Section.

5-17-2 Duties

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

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

5-17-3 Fire Code

McKenzie County has the right to enforce the International Fire Code and adopt and revise the deleted exceptions. The County may further rely upon the State Fire Marshals office to assist with Fire Code compliance. The following sections to the State Fire Code are hereby modified:

- (A) **Section 103 Division of Fire Prevention:** The Division of Fire Prevention is established as a division under the Department of Planning and Zoning.
- (B) **Section 105 Permits:** Section 105 with all subsections as in the current International Fire Code.

- (C) **Section 108 Board of Appeals:** The Board of County Commissioners shall serve as the Board of Adjustment for the Fire Code or until such time as they appoint a Board of Adjustment.
- (D) **Section 109 Violations:** The provisions provided in Section 5-16 shall be followed.
- (E) **Section 113 Fees:** A schedule of fees shall be approved and amended from time to time by the Board of County Commissioners.

Sec. 5-18 Building Permit

5-18-1 Purpose

No land within the jurisdiction of this Ordinance shall be built upon and no structure shall be structurally altered or moved until a building permit has been obtained from the Planning Department.

- (A) Any building permit issued must be in accordance with this Ordinance.
- (B) No permit is required for maintenance of any Structure which does not structurally alter the building.
- (C) If no construction takes place within a year of the issuance of a building permit, the permit shall expire.
- (D) The building permit process is outlined below:
 - (1) All applicants who wish to build or alter any Structure as defined in this Ordinance must apply to the Planning Department for a permit.
 - (2) If the applicant's plans meet the requirements of this Ordinance, the Planning Department shall collect the fees and issue the building permit, if applicable.

5-18-2 Adoption of State Building Code

The erection, construction, enlargement, Alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area, and maintenance of buildings or structures in McKenzie County shall meet with the provisions of the rules and regulations of the North Dakota State Building Code, which includes the International Building Code (IBC), the International Residential Code (IRC), the International Mechanical Code (IMC), and the International Fuel Gas Code (IFGC) as adopted by the State of North Dakota. Any future updates and Amendments to the North Dakota State Building Code and its adopted incorporated codes will be held on file with the Planning Department.

5-18-3 Amendments to State Building Code

Pursuant to the North Dakota Century Code, McKenzie County amends the State Building Code as follows:

- (A) Building permits and/or inspections may be waived for structures that are built on-site for gas and oil processing and storage.
- (B) Waivers of building permits and/or inspections may only be given in writing.
- (C) 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.
- (D) Waivers of building permits and/or inspections shall be granted by the Planning and Zoning Director when the Planning and Zoning Director determines that the structure's safety is adequately regulated by other government agencies, whose enforcement authority and execution the Planning and Zoning 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).
- (E) 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 and Zoning Director.
- (F) 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.
- (G) The Planning and Zoning Director's decision to deny a waiver of building permits and/or inspections may be appealed to the Board of County Commissioners.
- (H) 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 and Zoning Director or designee to determine the extent of the exception.

5-18-4 Authority

The Planning and Zoning Director or designee must carry out the directives and duties as assigned. The Planning and Zoning Director or designee is granted the authority to interpret and enforce the Building Code. Decisions may be appealed to the Board of County Commissioners.

5-18-5 Exemptions

- (A) Pursuant to the North Dakota Century Code 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 which is not a place of human habitation and is used solely for agricultural purposes is exempt from this chapter.
- (B) However, an application must still be submitted prior to construction to 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.

Sec. 5-19 Manufactured Homes Installation Program

- (A) All first-time installations of manufactured homes must comply with the North Dakota Administrative Code.
- (B) Manufactured homes within McKenzie County's jurisdiction must be installed by a State-approved, licensed installer, and inspected by a State-certified inspector. However, 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 the North Dakota Administrative Code.
- (C) An Owner or licensed installer applying to install a used manufactured home must submit a Manufactured Home Permit application to the Planning Department.
- (D) No work shall begin prior to the issuance of the Manufactured Home Permit by the Planning Department or State of North Dakota.

ARTICLE 6. SUBDIVISION REGULATION

Contents

[Section 6-1: General Provisions](#)

[Section 6-2: Exemptions](#)

[Section 6-3: Adequate Public Facilities](#)

[Section 6-4: Major Subdivisions](#)

[Section 6-5: Minor Subdivisions](#)

[Section 6-6: Lot Line Adjustments, Lot Splits, and Lot Mergers](#)

[Section 6-7: Blocks](#)

[Section 6-8: Lots](#)

[Section 6-9: Street Design Standards](#)

[Section 6-10: Easements](#)

[Section 6-11: Supremacy](#)

Sec. 6-1 General Provisions

6-1-1 Authority

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

6-1-2 Jurisdiction

This Subdivision Regulation shall govern the division, consolidation, or rearrangement of all land within McKenzie County that are subject to the County's zoning jurisdiction. It shall in no way affect land within federally recognized boundaries of tribal land, within the corporate limits of any city, or within any city's Extraterritorial Jurisdiction adopted pursuant to NDCC Ch. 40- 47-01.1.

6-1-3 Purpose

- (A) This Subdivision Regulation is adopted for the following purposes:
- (1) To ensure the orderly Development of areas subject to McKenzie County's zoning and subdivision authority.
 - (2) To provide for the proper arrangement of streets in relation to other existing and planned streets.
 - (3) To provide adequate ingress and egress for traffic, firefighting, and emergency service vehicles.
 - (4) To provide access to adequate utilities, infrastructure, schools, and services.

[Main Table of Contents](#)

[Article 6 Table of Contents](#)

- (5) To provide adequate and convenient open spaces for recreation, light, and air.
 - (6) To establish reasonable standards of design and procedures for platting, in order to further the orderly Development of land and ensure proper recording and monumenting of subdivided land.
 - (7) To avoid Development or mitigate the impacts of Development in areas with soil, slope, drainage, or other physical limitations.
- (B) 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 NDCC Ch. 11-33.2-03).

6-1-4 Platting Required

No subdivision shall take effect, nor shall any improvements be constructed except in accordance with a plat that is approved and signed by the Board of County Commissioners and recorded with the Office of the County Recorder, pursuant to NDCC Section 11-33.2-12. This requirement includes irregular tracts of land described by metes and bounds. The McKenzie County Auditor is also authorized to require platting or re-platting of irregular tracts to clarify the description of property for assessment and taxation purposes, pursuant to NDCC Section 57-02-39.

6-1-5 Plat Validity

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 article.

6-1-6 Building Permits and Sale of Land

No lot shall be eligible for the issuance of a building permit or transfer of title until the subdivision has been recorded with the Office of the County Recorder. The sale of lots or construction of buildings prior to final plat recording is a Class B misdemeanor as established by NDCC Ch. 11-33.2-15.

Sec. 6-2 Exemptions

The following land division processes shall qualify as exempt divisions of land and shall not be considered subdivisions as defined by NDCC Section 11-33.2-01 and this article.

- (A) **Court-Ordered Division.** Any division of land qualifies as exempt if the division is ordered by a court of record in North Dakota. Before a court orders any division of land, the court shall notify the McKenzie County Planning and Zoning Director and allow the County to provide written comments on the pending division.

- (B) **Mineral Interest.** Any division of land qualifies as exempt if it creates an interest in oil, gas, minerals, or water that will be severed from the surface ownership of real property.
- (C) **Correction of Error.** Any division of land qualifies as exempt if made to correct surveying errors in prior plats.

Sec. 6-3 Adequate Public Facilities

6-3-1 Intent

Development increases demand on critical services and facilities, which are necessary to maintain a high quality of life for McKenzie County residents. Therefore, Developers are obligated to assist in improving or expanding public facilities to adequately address the anticipated impacts of Development. This section is intended to ensure that adequate facilities and services are provided and maintained as Development occurs.

6-3-2 Policy

The County shall discourage the subdividing of lands that are far in advance of Development needs; that by their location cannot be efficiently served by public utilities, fire protection, or other County services; that are located in areas subject to a flood or that are topographically unsuitable for Development; or that for any other reason are unwisely or prematurely divided.

6-3-3 Roads

- (A) All roads shall be built to the [design standards for new construction or reconstruction of roads](#) approved by the Board of County Commissioners.
- (B) Prior to installation of any required road improvements, the Developer shall enter a written agreement with the County requiring the Developer to construct said improvements. The Development Agreement may include issuance of a Performance Bond to guarantee completion of all necessary improvements. The Development agreement may specify a phasing plan for the construction of improvements. Refer to Section 6-3-7 for more information pertaining to the Development agreement.
- (C) Road construction shall begin before building permits are issued. A certificate of occupancy for structures within the subdivision shall not be issued until roads are constructed and approved by the County Engineer.
- (D) New residential, commercial, and industrial subdivisions that are within five hundred (500) feet of an existing paved road shall extend the pavement to the entrance of the subdivision, at a minimum. An exception to this requirement may be granted by the County Engineer where the roadway does not fall

under the jurisdiction of the County and the jurisdiction having authority provides a waiver in writing to the paving requirement.

6-3-4 Water

- (A) All residential subdivisions, except for those within the R-5A District, and which are located within one-half (1/2) mile of existing public water service, shall extend water lines to the subdivision.
- (B) All unsafe or abandoned wells within the subdivision shall be closed and capped.
- (C) All water systems shall conform to the provisions of this Ordinance, the State Department of Environmental Quality, and the Upper Missouri District Health Unit.

6-3-5 Sewer

All sewage systems shall be designed, constructed, and maintained in accordance with standards of the North Dakota Department of Environmental Quality, and the Upper Missouri District Health Unit.

6-3-6 Parks and Open Space

- (A) Where deemed essential by the Planning and Zoning Board upon consideration of the type of Development proposed in a subdivision, but especially in large-scale neighborhood subdivisions, the Planning and Zoning Board may request the dedication, reservation, or enhancement of parks or open space.
- (B) Land which is subject to extraordinary hazards, including Flood conditions 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 increase the risk of hazard. Any property located within a Special Flood Hazard Area shall be subject to the requirements of Floodplain Overlay District (see Section 3-15).

6-3-7 Development Agreement.

- (A) Prior to installation of any required public improvements, the Developer shall enter a written agreement with the County requiring the Developer to construct said improvements and pay for any other Development costs associated with the plat. The agreement shall provide for the Development of any restrictions, covenants, Easements, signage, open space, or other conditions of the approved plat and provide for the proper execution, recording, or other action as required. Approval of the Developer's agreement shall be part of final plat approval by the Board of County Commissioners.

- (B) The Development agreement shall describe the roles and responsibilities regarding the construction of the road improvements, including provisions for the supervision of the details of construction by the County Engineer or their agent.
- (C) The Developer shall provide a financial guarantee acceptable to the County to ensure completion of all improvements as provided in this Subdivision Regulation. A Performance Bond shall be required for improvements that are not constructed prior to the recording of a final plat.
- (D) The time for completion of all work phases shall be agreed upon 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) signed copy of the Development agreement shall be submitted to and reviewed by the Planning Department and Engineering Department. The agreement must be fully executed and recoded prior to, or at the same time as when the plat is recorded.
- (F) **Financial Guarantee**
 - (1) The Board of County Commissioners may require the Developer to execute a surety Bond or other security to ensure that improvements are completed within a timeframe prescribed by the Board.
 - (2) The agreement shall include written provision to release the surety Bond upon completion of the public improvements, to be approved by all parties.
 - (3) If the Developer fails to install public improvements as required by this Ordinance or any Development agreement, the Board of County Commissioners may enforce any surety Bond by appropriate legal and equitable remedies.
 - (4) If the proceeds of the Bond are insufficient to pay the full cost of installing or repairing all improvements covered by the security, the Board of County Commissioners may elect to install a portion of such improvements in all or part of the subdivision and may institute appropriate legal or equitable action to recover the money necessary to complete the remainder of the improvements. All proceeds, whether resulting from the security or from any legal or equitable action brought against the Developer, shall be used solely for the installation of the improvements covered by such security.
- (G) **Completion of Improvements.**
 - (1) **Governmental Units.** Governmental units affected by the provisions of this section 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.

- (2) **Improvement Installation without Financial Guarantee.** For a subdivision for which no financial guarantee has been posted, the improvements must be completed prior to approval of the final plat. Note that improvements can only be installed after construction/improvement plans have been reviewed and approved by the County Engineer, following Preliminary Plat approval.
- (3) **Failure to Complete Improvements.** 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.
- (4) **Release of Financial Guarantee.** The County shall not release a financial guarantee for those improvements required until the County Engineer has agreed that all required improvements have been satisfactorily completed.

(H) **Deferral or Waiver of Required Improvements.**

- (1) 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.
- (2) Whenever it is deemed necessary by the County to defer the construction of any required improvement for any reason, the Developer shall post a financial guarantee ensuring completion of said improvement upon demand of the County.

Sec. 6-4 Major Subdivisions

Major subdivisions require a public hearing for both the preliminary plat and the final plat. A major subdivision is any subdivision that does not meet the criteria of a minor subdivision (see *Section 6-5*) or exemption from platting requirements (see *Section 6-2*) shall be classified as a major subdivision.

6-4-1 Application Process

Refer to [Section 5-10](#) regarding the application process for both steps of the major subdivision process, preliminary plat and final plat.

6-4-2 Preliminary Plat Requirements

The preliminary plat shall be prepared by a registered land surveyor and shall meet all technical specifications listed below.

- (A) Proposed name of subdivision, date of plat preparation, and indication of north point.
- (B) Scale of subdivision plat, which shall not be smaller than one (1) inch equals one hundred (100) feet. The Planning and Zoning Board may waive this requirement for large-tract subdivisions.
- (C) Location of subdivision by section, township, and range to the nearest quarter section or by other legal description.
- (D) Name(s) and address(es) of all property Owner(s) within the plat.
- (E) Name and address of licensed land surveyor who prepared the plat.
- (F) Date of field survey and date of plat preparation (if different).
- (G) Boundary lines of proposed subdivision indicated by a solid heavy line.
- (H) Total acreage within the subdivision and within each individual lot.
- (I) Name, location, and dimensions of all existing or previously platted roadways within or adjacent to the subdivision.
- (J) Name, location, and dimensions of any railroad Right-of-Way within or adjacent to the subdivision.
- (K) Name, location, and dimensions of any existing utility Easements within or adjacent to the subdivision.
- (L) Name and location of adjacent subdivisions or Owners of property, to be displayed in a print of lighter intensity than the print used to identify lots the subdivision.
- (M) Location of any corporate boundaries within or adjacent to the subdivision.
- (N) Location of section lines within or adjacent to the subdivision.
- (O) Section corners shall have surveyed coordinates recorded on the plat.
- (P) Layout, numbers, and dimensions of all lots and blocks.
- (Q) Location and width of all proposed streets, Alleys, and Easements.
- (R) Purpose of any proposed Easement shown on the plat.
- (S) 100-year floodplain and floodway elevations, as determined by FEMA, if any portion of the subdivision is within the floodplain, with indication of datum used. Reference North Dakota Century Code for additional detail regarding subdivision within the floodplain or floodway.

- (T) Location and elevation of lakes, rivers, or streams shall be indicated with a contour line denoting the present shoreline, and water elevation, and the date of the survey of water elevation.
- (U) Existing and proposed topographic contours with a minimum contour interval of two (2) feet, with indication of datum used.
- (V) Identification of any parcels of land intended to be dedicated or reserved for public use or set aside for use of Owners of property within the subdivision.
- (W) Proposed names for new streets and public areas.
- (X) A copy of the plat with current aerial imagery to indicate the location of existing buildings, wetlands, water courses, and vegetation.
- (Y) Any plans for intended Development within the proposed subdivision, such as preliminary public road plans, preliminary stormwater management plan, Site Plans, landscaping plans, and/or building plans.

6-4-3 Final Plat

The final plat shall be prepared by a registered land surveyor and shall meet all technical specifications listed below.

- (A) Lot lines, with accurate bearings and distances and lot areas for all lots. Curve segments shall be comprised of central angle, radii, and arc distances and also include arc, chord, bearing and distance for non-tangent curves. Along existing street rights-of-way, the description may utilize the existing deed lines or road centerlines; along all proposed street rights-of-way, the description shall be prepared to the right-of- way lines.
- (B) Complete description of the Right-of-Way lines for all new streets. This description shall include distances and bearings with curve segments comprised of central angle, radii, and arc distances and also include arc, chord, bearing and distance for non-tangent curves.
- (C) Easements and the purpose of each must be clearly stated. Easement dimensions must be sufficient to accurately describe their extent and boundaries.
- (D) Lot numbers and Block designations.
- (E) Final street names.
- (F) Identification of any lands to be dedicated, reserved, donated, or granted for public use or for donation to any individual, religious society, corporation, or limited liability company.
- (G) Any plat which includes lands abutting upon any lake, river, creek, or stream must show a contour line denoting the present shoreline, water elevation, and the date of survey. If any part of a plat lies within the one hundred year

floodplain of a lake, river, or stream as designated by the department of water resources or a federal agency, the mean sea level elevation of that one hundred year Flood must be denoted on the plat by numerals.

- (H) Topographic contours at a two-foot contour interval referenced to mean sea level must be shown for the portion of the plat lying within the floodplain. All elevations must be referenced to a durable benchmark described on the plat with its location and elevation to the nearest hundredth of a foot, which must be given in mean sea level datum.
- (I) The names and adjacent boundary lines of any adjoining platted lands must be dotted on the plat. The designations and adjacent boundary lines of any unplatted parcels must be dotted on the plat.
- (J) Section corners should have surveyed coordinates recorded on the plat.
- (K) The location and material of all permanent monuments and lot line markers, including a note that all monuments and lot line markers are set or indicating when they will be set.
- (L) Certificate, signature, and seal of the surveyor, to the effect that the survey is correct and certificate, signature and seal of the surveyor that prepared the plat indicating that all other information shown on the plat is accurate.
- (M) A statement, duly acknowledged before an officer authorized to take acknowledgement of deeds and signed by the landowner, to the effect that the subdivision shown on the plat is the act and the deed of the Owner, that all those signing are all the Owners of the property shown on the survey and plat and that they desire the same to be recorded as such. This statement must be dated following the last change or revision to said plat.
- (N) Street names shall not be recorded on the plat.
- (O) 911 addresses shall not be recorded on the plat.

6-4-4 Improvement Plans

Prior to the installation of any improvements associated with the subdivision, improvement plans must be submitted to and approved by the Planning and Zoning Director and the County Engineer. Review of the improvements plans must follow the process provided in the [Section 5-10](#) regarding improvement plans.

Sec. 6-5 Minor Subdivisions

6-5-1 Purpose

The purpose of the minor subdivision procedure is to simplify the requirements and review process for qualifying minor subdivisions. Minor subdivisions are exempt

from the preliminary plat process but require one (1) public hearing with the Planning and Zoning Board to review the final plat.

6-5-2 Application Process

Refer to [Section 5-11](#) regarding the application process for the minor subdivisions.

6-5-3 Application Submittal Requirements

Refer to [Section 5-11](#) regarding the application process and associated requirements.

Sec. 6-6 Lot Line Adjustments, Lot Splits, and Lot Mergers

(A) **Purpose.** The purpose of this section is to provide for the administrative approval of common lot modifications.

(B) **Application Process**

Refer to [Section 5-12](#) for application process information.

(C) **Lot Line Adjustments.**

- (1) Lot line adjustment means the adjustment of an existing platted lot line between two adjoining lots by relocation of a common boundary.
- (2) Lot line adjustments shall meet the following criteria:
 - (a) Shall not involve lots within more than one zoning district.
 - (b) Shall not be one lot line adjustment in a series of lot line adjustments proposed for contiguous lots as a way to circumvent the platting process.
 - (c) All resulting parcels conform to the minimum lot dimensional standards for the zoning district in which the property is located (see [Section 3-4](#)).
 - (d) All resulting parcels can 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). The Planning and Zoning Director may waive this requirement for lot line adjustments between irregularly-shaped parcels or to transfer an irregularly-shaped portion of a lot to an adjacent land Owner, 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).

(D) **Lot Mergers.**

- (1) Lot merger means the merger of two (2) or more contiguous, platted lots into a single lot, the boundaries of which coincide with the lot lines shown on the recorded plat of the subdivision.
- (2) Lot mergers shall meet the following criteria:
 - (a) Shall not involve lots within more than one zoning district.
 - (b) Shall not involve the vacation or modification of any existing Easement or Right-of-Way.

(E) Lot Splits.

- (1) Lot split means the division of a previously platted lot into no more than two (2) new lots.
- (2) Lot splits shall meet the following criteria:
 - (a) The lot split does not involve the creation of new utility Easements.
 - (b) The lot split does not require the dedication of public rights-of-way for the purpose of gaining access to the property.
 - (c) All parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located.
 - (d) 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 Zoning Administrator may waive this requirement for irregularly shaped lots, 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.
 - (e) The property has not previously been divided through the lot split provisions of this Code.

Sec. 6-7 Blocks

- (A) Block lengths should not exceed thirteen hundred and twenty (1,320) feet nor be less than three hundred (300) feet, except where topography or other conditions justify departure from these standards.
- (B) Block widths shall generally be sufficient to allow two (2) tiers of lots.
- (C) 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 and Zoning Board may require Easements as necessary for these purposes.

Sec. 6-8 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 area, width, and depth of lots shall not be less than that required by this Code at the time the plat is approved.
- (C) 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.
- (D) Double frontage lots, or lots with frontage on two (2) parallel streets, shall not be permitted except where residential lots back onto major collector or arterial highways. In such cases, reverse frontage lots may be utilized to maintain proper access spacing along the highway. A landscaped buffer shall be required to shield such lots from the highway, consistent with [Section 2-12](#) of this Ordinance.
- (E) For lots of irregular shape (e.g., triangular lots), the Developer shall demonstrate to the Planning and Zoning Director an ability to develop said lots under the requirements of this Ordinance.

Sec. 6-9 Street Design Standards

All major subdivisions shall meet the following standards for any streets included on the subdivision plat.

6-9-1 General Standards

- (A) The arrangement, character, extent, width, grade, and location of all streets shall be considered in relation to existing and planned streets, to topographical conditions, and to the proposed uses of lands to be served. All streets within and bordering a subdivision shall be coordinated with the County Engineer and shall meet County design standards.
- (B) The arrangement of streets in a subdivision shall either:
 - (1) Provide for the continuation of existing principal streets in surrounding areas; or
 - (2) Conform to a plan for the neighborhood approved or adopted by the Planning and Zoning Board to meet a particular situation where topographical or other conditions make continuance of existing streets impractical.

- (C) Local streets shall be arranged to minimize through traffic and discourage excessive speeds.
- (D) Half streets are prohibited.

6-9-2 Right-of-Way and Section Design

Street Right-of-Way and section design shall meet the [Design Standards and Typical Section](#) as adopted by the Board of County Commissioners except in cases where the County Engineer determines that special conditions exist to warrant adjustments from these standards. Any determination by the County Engineer that special conditions exist to warrant adjustments from these standards shall be brought before the Board of County Commissioners for approval prior to commencement of construction in the Right-of-Way.

6-9-3 Tangents and Curves

Roadway design tangents and curves shall follow North Dakota Department of Transportation and Association of State Highway and Transportation Officials (AASHTO) guidance.

6-9-4 Intersections and Sight Distance

- (A) Intersections involving the junction of more than two streets are prohibited.
- (B) Street intersection jogs with an offset of less than three hundred (300) feet shall be avoided.
- (C) Unless approved by the County Engineer, streets shall be arranged to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of an intersection shall be eighty (80) degrees.
- (D) Proper sight distance shall be provided at all new street and access drive intersections in accordance with the latest edition of the AASHTO *A Policy on Geometric Design of Highways and Streets*.
- (E) Sight Triangle requirements shall be followed as provided in [Section 2-9-2](#).

6-9-5 Maintenance of Public Streets

Dedication of streets for public use shall not constitute a requirement that the County accept and maintain the dedicated street.

6-9-6 Private Streets

- (A) Private streets may be permitted at the discretion of the Planning and Zoning Board.
- (B) Private streets must meet County road standards.

- (C) Private streets shall be constructed by the Developer.
- (D) Responsibility to maintain private streets shall be stipulated in a Development agreement between the subdivision lot Owner(s) and the County and township (if applicable). The County shall not maintain private streets.

6-9-7 Dead-End Streets

- (A) All dead-end streets, whether temporary or permanent, shall require space for turnarounds.
- (B) Dead-end roads shall not exceed 600 feet in length and must connect to a through road. A through road is a:
 - (1) State highway,
 - (2) County road, or
 - (3) Other improved paved or gravel road that connects either directly or indirectly to a state highway or County road at each end. This does not include oil/gas lease access roads.
- (C) A dead-end street 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 agencies, and the ability of the design to meet all other requirements of this Subdivision Regulation.
- (D) The terminus of dead-end streets shall meet International Fire Code requirements for adequate space and design for vehicle turn-around.
- (E) A temporary cul-de-sac may be permitted if the street is terminated pending future extension in conjunction with a planned future subdivision. 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 shall be the responsibility of the Developer making the future roadway connection.

6-9-8 Street Grade and Intersection Standards

All street grades for local and collector roads shall meet standards established by the AASHTO.

6-9-9 Approaches and Access Points

- (A) Each lot shall have access to a public road.

- (B) The County Engineer may require the applicant to provide ingress and egress to a particular lot or tract through the remainder of their property or other properties over which the applicant has control.

6-9-10 Street Names and Signs

Roads, in the context of subdivisions, provide access to multiple properties. When property is developed, the name of that access road is used in assigning a 911 address to a structure. Following state and national 911 addressing standards, the access leading to three (3) or more primary addressable sites should be named. The purpose is for emergency response.

- (A) Any details for street names and signs not stipulated herein shall follow the guidance of the County Engineer or designee.
- (B) All streets shall be marked with permanent street name signs, installed at the Developer's expense, to be located at each end of the street and every intersection with another street and shall be in a 14-point, Arial font all capital letters.
- (C) New roads outside city limits should be numbered streets or avenues following the North Dakota state-wide Burkle addressing grid system. Examples include 40th ST NW, 122M AVE NW.
- (D) New roads within a city or community should be numbered streets or avenues following the local addressing grid system. Examples include 1st ST NE, 5th AVE SE.
- (E) In most cases, roads that are now or will eventually be a continuation of an existing road shall be called by the name of the existing street.
- (F) In most cases, where a street maintains the same general direction, the same name shall continue for the entire length of the street.
- (G) It is common addressing practice for subdivision road names to deviate from numbered street or avenue names. This may occur under certain circumstances such as when:

- (1) The road is not approximately along the section line in which case the name should follow the Burkle grid system naming being a numbered street or avenue.
- (2) The suggested name should not duplicate or be confused with the name of any existing road name within McKenzie County.
- (3) The suggested name should be easy to pronounce and spell correctly in emergency situations. Unconventional spelling of words should not be allowed.
- (4) The suggested name is not generally found to be offensive to others.
- (5) The suggested name should avoid family or individual names.
- (6) The suggested name shall not include dashes, apostrophes, or other special characters as these are not recognized in the US Postal Service or 911 databases.
- (7) The road designation type (examples include drive, lane, parkway, road, loop, trail, way, etc.) must follow the required standards of the US Postal Service as described in Publication 28 Appendix C.
- (8) The suggested name should not be a directional or road type. For example, South ST SE, Milky Way Ave.
- (9) The suggested name should have a post directional that follows the local or state-wide addressing grid.
- (10) Street names shall be limited to a maximum of 15 letters and spaces.
- (11) The full suggested name (road name plus road type and post directional) has the approval of the County or city Planning and Zoning Board based on jurisdiction and the McKenzie County Sheriff's Office 911 Coordinator.

Sec. 6-10 Easements

- (A) Easements shall be included with a subdivision where they are necessary to provide for adequate and orderly future infrastructure to serve the Development or the general public, including but not limited to sanitary sewer facilities, drainage facilities, water facilities, public or private utilities, and pedestrian access.
- (B) All Easements dedicated with a subdivision shall be indicated on the plat with the proper designation.

- (C) Once approved, Easements and Right-of-Way may only be changed by approval of the Board of County Commissioners upon the recommendation of the Planning and Zoning Board.
- (D) To the fullest extent possible, Easements shall be adjacent to property lines.
- (E) Nothing shall be placed within an Easement that would adversely affect the function of the Easement or conflict with the Easement agreement. However, Easements of different types may overlap, provided their functions do not conflict. Utility companies are encouraged to use common Easements when possible.
- (F) Utility Easements shall be required along lot frontage and may be required along the back of lots. 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.
- (G) The Developer shall reserve Easements where storm water or surface water drainage facilities exist or are proposed. Easements shall be required for all conveyance systems crossing private property. Storm water drainage 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.
- (H) All Easements shall identify who has the right-of-access and responsibility for maintenance.

Sec. 6-11 Supremacy

6-11-1 Supremacy

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 are more restrictive than any such Easement, restriction, or covenant or the provision of any private agreement, the provisions of this Subdivision Regulation shall prevail.