

McKenzie County

ZONING ORDINANCE

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ARTICLE III: ZONING DISTRICTS

3.1 ZONING DISTRICT DESIGNATION

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

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

3.2 ALLOWED USES IN ALL DISTRICTS

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

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

3.3 ZONING MAP AND DISTRICT BOUNDARIES

3.3.1 Zoning Map

The zoning districts as described in this Ordinance shall be mapped. Said map shall be known as the County Zoning Map, shall have attached or be

filed with all materials necessary for the interpretation of the map, shall have the date of adoption and date of each amendment to the map printed on the map, and shall be on file in the office of the County Auditor.

3.3.2 Boundary Definition

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

3.3.3 Boundary Interpretation

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

3.3.4 Exceptions

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

3.4 AGRICULTURAL DISTRICT

3.4.1 Intent

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

3.4.2 Allowed Uses

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

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

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

3.4.3 Conditional Uses

- 1) Single-family dwellings and accessory structures on a lot greater than Five (5) acres per the provisions of section 4.17.
- 2) Commercial grain elevators and accessory structures.
- 3) Commercial feedlots subject to the provisions of section 4.3.

- 4) Livestock auction yards.
- 5) Waste management facilities, sanitary landfills and hazardous waste sites.
- 6) Facilities for the manufacturing and/or processing of agricultural products.
- 7) Railroad tracks and spurs.
- 8) Airport.
- 9) Radio, television and telephone transmission, receiving or relay towers and/or facilities.
- 10) Governmental administrative, maintenance, and research facilities.
- 11) Electric transmission facilities and powerlines.
- 12) Associated above ground facilities for transmission pipelines.
- 13) Excavation of sand, gravel, rock, stone, scoria, and clay not excepted from application of this Ordinance (reclamation bond required see section 2.13 of this Ordinance, for conditions see section 4.18 of this Ordinance.)
 - a) The Planning Commission may impose conditions and fees relating road maintenance and construction.
 - b) All sand, gravel, rock, stone, scoria, and clay operations shall be required to tarp all trucks.
- 14) Work force housing subject to the provisions of section 4.8. (reclamation bond required, see section 2.13 of this Ordinance)
- 15) Hunting lodges.
- 16) Freshwater depots, ponds and pipelines. (depots and ponds require reclamation bond, pipelines do not, see section 2.13 of this Ordinance)
- 17) Commercial truck parking and truck garages and all associated structures to service the same. (reclamation bond required, see section 2.13 of this Ordinance)

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

3.4.4 Variances

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

3.4.5 Conditional Uses with Administrative Permit

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

3.4.6 Setbacks

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

3.4.7 Minimum Subdivision Area

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

3.5 RECREATIONAL DISTRICT

3.5.1 Intent

It is the purpose of this district to make provisions to protect sensitive, unique or vulnerable lands, structures, prehistoric, historic sites and monuments, vegetation or wildlife. It is further the intent of this district to promote the wise use of lands for recreational activity and residency around rivers, lakes and other water courses in order to maintain the quality of the environment.

3.5.2 Allowed Uses

- 1) Agriculture.

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

3.5.3 Conditional Uses

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

3.5.4 Lot Area

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

3.5.5 Setbacks

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.

- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a. Front yard – twenty-five (25') feet.
 - b. Side yard – ten (10') feet.
 - c. Back yard - Ten (10') feet.

3.5.6 Parking

Parking requirements and standard – section 2.11 of this Ordinance

3.6 RESIDENTIAL DISTRICT

3.6.1 Intent

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

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

3.6.2 Residential, Low Density District (R-1)

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

3.6.2.1 Allowed Uses

- 1) Single family dwellings including modular and HUD manufactured homes.
 - a) Only one (1) dwelling unit per lot.
 - b) All dwelling units shall have access to a road dedicated for public use or have a recorded easement for access to a public road.
- 2) Churches and related facilities.

- 3) Public parks and playgrounds.
- 4) Public libraries, museums, and community centers.
- 5) Fire and police stations.
- 6) Home occupations.
- 7) Agriculture.
- 8) One (1) animal unit per full acre as described in the N.D.C.C Ch. 11-33-02.1 are allowed unless prohibited by the Homeowners Association.
 - a) One mature dairy cow, whether milking or dry, equals 1.33 animal units;
 - b) One dairy cow, heifer, or bull, other than an animal described in paragraph a) equals 1.0 animal unit;
 - c) One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
 - d) One cow-calf pair equals 1.0 animal unit;
 - e) One swine weighing fifty-five pounds or more equals 0.4 animal unit;
 - f) One swine weighing less than fifty-five pounds equals 0.1 animal unit;
 - g) One horse equals 2.0 animal units;
 - h) One sheep or lamb equals 0.1 animal unit;
 - i) One turkey equals 0.0182 animal unit;
 - j) One chicken, other than a laying hen, equals 0.008 animal unit;
 - k) One laying hen equals 0.012 animal unit;
 - l) One duck equals 0.033 animal unit; and

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

3.6.2.2 Conditional Uses

- 1) Long-term care and group home facilities.
- 2) Hospitals and clinics.
- 3) Licensed child care facilities.
 - a) Licensed family child care
 - b) Licensed group child care
 - c) Licensed child care center
 - d) Licensed preschools
 - e) Licensed school-age programs
 - f) Multiple licensed facility – as following N.D.C.C. 50-11.1
- 4) Public, private, and parochial schools.
- 5) Freshwater pipelines for industrial use.

3.6.2.3 Lot Area

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

3.6.2.4 Minimum Subdivision Area

Minimum subdivision area shall be twenty (20) acres.

3.6.2.5 Setbacks and Guidelines

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

3.6.2.6 Home Owner Association

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

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

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

3.6.3 Residential Urban Density District (RU)

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

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

3.6.3.1 Allowed Uses

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

3.6.3.2 Conditionally Allowed Uses

All conditional uses allowed in R-1

3.6.3.3 Lot Area

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

3.6.3.4 Minimum Subdivision Area

Minimum subdivision area shall be ten (10) acres.

3.6.3.5 Setbacks and Guidelines

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

3.6.3.6 Home Owner Association

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

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

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

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

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

3.6.4.1 Allowed Uses

- 1) All uses allowed in R-1, except duplexes are not allowed in this district.

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

3) Accessory structures

3.6.4.2 Conditional Uses

All conditional uses allow in R-1

3.6.4.3 Lot Area

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

3.6.4.4 Minimum Subdivision Area

Minimum subdivision area shall be forty (40) acres.

3.6.4.5 Setbacks and Guidelines

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

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

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

3.6.5.1 Allowed Uses

- 1) All uses allowed in R-5A.
- 2) One (1) animal unit per full acre as described in the N.D.C.C Ch. 11-33-02.1 are allowed in the R-10A district. For purposes of this section, animal units are determined as follows:

- a) One mature dairy cow, whether milking or dry, equals 1.33 animal units;
- b) One dairy cow, heifer, or bull, other than an animal described in paragraph a) equals 1.0 animal unit;
- c) One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
- d) One cow-calf pair equals 1.0 animal unit;
- e) One swine weighing fifty-five pounds or more equals 0.4 animal unit;
- f) One swine weighing less than fifty-five pounds equals 0.1 animal unit;
- g) One horse equals 2.0 animal units;
- h) One sheep or lamb equals 0.1 animal unit;
- i) One turkey equals 0.0182 animal unit;
- j) One chicken, other than a laying hen, equals 0.008 animal unit;
- k) One laying hen equals 0.012 animal unit;
- l) One duck equals 0.033 animal unit; and
- m) Any livestock not listed in subdivisions a through l equals 1.0 animal unit per each one thousand pounds whether single or combined animal weight.

3.6.5.2 Conditional Uses

All conditional uses allow in R-5A.

3.6.5.3 Lot Area

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

3.6.5.4 Minimum Subdivision Area

Minimum subdivision area shall be forty (40) acres.

3.6.5.5 Setbacks and Guidelines

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

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

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

3.6.6.1 Allowed Uses

- 1) Multiple-family dwellings, townhouses, condominiums, and apartments.
- 2) Hospitals, clinics, nursing homes.
- 3) Parks, playgrounds, recreational areas.
- 4) Single-family dwellings.
- 5) Schools, colleges and associated buildings.

- 6) Mobile home parks must comply with the standard as outlined in section 4.14 of this Ordinance. (reclamation bond required, see section 2.13 of this Ordinance)

3.6.6.2 Conditional Uses

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

3.6.6.3 Setbacks and Guidelines

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

3.6.6.4 Minimum Subdivision Area

Minimum subdivision area shall be five (5) acres.

3.6.6.5 Area and Density Requirements

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

- 1) Single-family and duplexes: minimum lot size of seven thousand (7,000) square feet.

- 2) Multiple-family, condominiums and townhouses may have a maximum of ten (10) dwelling units per acres.

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

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

3.6.7.1 Allowed Uses

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

3.6.7.2 Conditionally Allowed Uses

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

3.6.7.3 Minimum Subdivision Area

Minimum subdivision area shall be five (5) acres.

3.6.7.4 Area and Density Requirements

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

Minimum area required for R-2 district shall be 5 acres.

3.6.7.5 Setbacks and Guidelines

- 1) Setbacks from roads and section lines shall be as indicated in section 2.10 of this Ordinance.
- 2) Setbacks not covered by section 2.10 shall have a minimum setback as follows:
 - a) Front yard – thirty (30') feet.

- b) Side yard – ten (10') feet.
- c) Back yard – twenty-five (25') feet.
- 3) No less than fifteen (15') feet between buildings unless a one (1) hour fire wall is provided.
- 4) A landscape plan shall be submitted with any proposed development. Landscape shall be required as outlined in section 2.12.6 of this Ordinance.
- 5) Parking requirements and standard – section 2.11 of this Ordinance.

3.7 COMMERCIAL DISTRICT (C-1)

3.7.1 Intent

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

3.7.2 Allowed Uses

- 1) Agriculture.
- 2) Laundromats and dry cleaning shops.
- 3) Service station and convenience stores.
- 4) Professional offices including but not limited to, banks, insurance, real estate, medical clinics, newspaper and lawyers.
- 5) Retail and service uses, including but not limited to, grocery, pharmacy hardware, clothing, furniture stores, bakeries, restaurants, taverns, automobile service stations, used and new car lots, print shops, barber and beauty shops, and sale and service of appliances, car washes, animal shelter.
- 6) Wholesale activities not requiring yard storage.
- 7) Hotels and motels.
- 8) Theaters.

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

3.7.3 Conditional Uses

- 1) One (1) accessory residential quarters for managerial, custodial, or security personnel who must be on-site on a 24-hour basis.
- 2) Warehouses and wholesale dealerships.
- 3) Commercial grain bins or related activities.
- 4) Recreational vehicle parks that comply with the standards as set forth in section 4.15 of this Ordinance. (reclamation bond required, see section 2.13 of this Ordinance)
- 5) Outdoor retail sales.
- 6) Freshwater depots and pipelines. (requires reclamation bond for the depots but not the pipelines, see section 2.13 of this Ordinance)
- 7) Work force housing may be allowed inside a commercial structure.
 - a) A maximum of twenty five (25%) percent of the structure or a maximum of one thousand five hundred (1,500) square feet, whichever is less, may be used for living quarters which would

include all sleeping areas, halls, restroom, exercise room, or recreational areas or similar uses.

- b) Fire prevention standards including but not limited to fire sprinklers and fire walls as required by the Building and Fire codes.
- 8) Signs and Billboards as outlined in section 4.2 of this Ordinance.

3.7.4 Setbacks

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

3.7.5 Standards

- 1) Any commercial development within five hundred (500') feet of the centerline of any federal, state or paved county road shall additionally be subject to the requirements of section 3.11 the Highway Corridor Overlay District of this ordinance.
- 2) Site plans, architectural elevations, and proposed materials must be submitted to the Planning Department for design review for allowed and conditional uses.
- 3) Building design shall incorporate materials to convey permanence, substance, timelessness, and restraint. Each building shall be constructed with one or more of the following material(s) comprising at least fifty (50%) percent of the exterior materials:
 - a) Clay or masonry brick.
 - b) Customized concrete masonry.

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

3.7.6 Minimum Lot Area

Minimum area shall be one (1) acre.

3.7.7 Parking

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

3.8 INDUSTRIAL DISTRICTS

3.8.1 Light Industrial District (I-1)

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

3.8.1.1 Allowed Uses

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

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

3.8.1.2 Conditional Uses

- 1) All conditional uses in C-1.
- 2) Adult entertainment centers. (reclamation bond required, see section 2.13 of this Ordinance)
- 3) Heavy vehicle and equipment repair. (reclamation bond required, see section 2.13 of this Ordinance)
- 4) Railroad tracks and spurs.
- 5) Truck or rail freight terminal. (reclamation bond required, see section 2.13 of this Ordinance)
- 6) Work force housing subject to the provisions of section 4.8. (reclamation bond required, see section 2.13 of this Ordinance)
- 7) Excavation of sand, gravel, rock, stone, scoria, and clay not excepted from application of this ordinance (reclamation bond required, see section 2.13 of this Ordinance). Any excavation area not used for a period of one (1) year or not renewed shall be considered no long in use and shall be required to reclaim

the land.

- a) The Planning Commission may impose conditions and fees relating road maintenance.
 - b) All sand, gravel, rock, stone, scoria, and clay operations shall ~~are~~ require to tarp all trucks.
- 8) Radio, television and telephone transmission, receiving or relay towers and/or facilities.
 - 14) Storage of oil drilling rigs and related equipment for a period exceeding one (1) year. (reclamation bond required, see section 2.13 of this Ordinance)
 - 15) Medical Marijuana Manufacturing Center(s) or Distribution Center(s)

3.8.1.3 Conditional Uses with Administrative Permit

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

3.8.1.4 Performance Standards

- 1) Any commercial or industrial development within five hundred (500') feet of the centerline of any federal, state or paved county road shall additionally be subject to the requirements of section 3.11 the Highway Corridor Overlay District of this ordinance.
- 2) The open storage of material, including waste products or salvage shall not be permitted closer than five hundred (500') feet from any residential dwelling.
- 3) The entire site shall be free of trash at all times.

3.8.1.5 Lot Area and Width

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

3.8.1.6 Setbacks

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

3.8.1.7 Height Requirements

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

3.8.1.8 Parking

Parking requirements and standard – section 2.11 of this Ordinance

3.8.2 Heavy Industrial Districts (I-2)

It is the purpose of this district to provide for the development of the mineral and agricultural resources of McKenzie County; to provide for the refining and processing of unfinished and partially finished resources and products; and to isolate industrial activities in locations where conflicts with other uses will be minimized.

3.8.2.1 Allowed Uses

- 1) All allowed uses I-1.
- 2) Manufacturing requiring yard storage.

- 3) Heavy equipment storage and repair.
- 4) Truck and freight terminals.
- 5) Concrete and asphalt plants, concrete products and clay product plants.
- 6) Industrial or manufacturing operation.
- 7) Energy conversion facilities.

3.8.2.2 Conditional Uses

- 1) All conditional uses allowed in I-1 districts.
- 2) Oil and gas bulk storage, explosives and other hazardous material storage, sales and distribution not excepted from application of this ordinance. (reclamation bond required, see section 2.13 of this Ordinance)
- 3) Sewage lagoons and sediment ponds in compliance with North Dakota Department of Health standards. (reclamation bond required, see section 2.13 of this Ordinance)
- 4) Waste management facilities, sanitary landfills and hazardous waste sites in compliance with State Health standards and the provisions of section 4.4.
- 5) Salvage yards. (reclamation bond required, see section 2.13 of this Ordinance)
- 6) Stockyards and commercial livestock feedlots and slaughterhouses. (reclamation bond required, see section 2.13 of this Ordinance)
- 7) Electric transmission facilities, water, gas, oil and coal slurry transmission pipelines.
- 8) Excavation, crushing and handling sand, gravel, rock, stone, scoria, and clay. (requires reclamation bond, see section 2.13 of this Ordinance)
- 9) Electric power plants, coal gasification plants, coal liquefaction plants, oil refineries and petrochemical plants.
The applicant shall provide upon request the following:

- a) The applicant shall provide the summary portion of the application for an Energy Conversion Facility permit submitted to the North Dakota Public Service Commission for said Energy Conversion Facility as required under N.D.C.C. Ch. 49-22.
 - b) The applicant shall submit all materials which constitute a ruling by the North Dakota Public Service Commission on said Energy Conversion Facility including appropriate scale maps of the site.
- 10) Wind energy facilities. (reclamation bond required, see section 2.13 of this Ordinance)
 - 11) Radio, television and telephone and communication transmitting and/or receiving towers and facilities.
 - 12) Commercial truck parking and garages and structures to service the same. (reclamation bond required, see section 2.13 of this Ordinance)

3.8.2.3 Performance Standard

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

3.8.2.4 Lot Area and Width

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

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

3.8.2.5 Setbacks

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

3.8.2.6 Parking

Parking requirements and standard – section 2.11 of this Ordinance.

3.9 PLANNED UNIT DEVELOPMENT DISTRICT

3.9.1 Intent

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

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

A PUD may be used as an instrument to allow flexibility in areas of the county where existing structures and developments, as well as non-

conforming uses exist in an attempt to clean up areas and bring such developments into compliance.

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

The following are goal and objectives of the PUD district:

- 1) Encourage innovations and flexibility in residential, commercial, and industrial development so that greater opportunities for better housing of all types and design, recreation, shopping, and employment may extend to all citizens and residents;
- 2) Provide for necessary commercial and industrial facilities to be conveniently located near housing;
- 3) Reflect changes in the technology of land development so that resulting economies may be made available to those who need homes and to encourage more efficient use of land and public and private services;
- 4) Encourage a more creative and flexible approach in the utilization of land in order to accomplish a more efficient, aesthetic, and desirable development that may be characterized by special features of the geography, topography, size, or shape of a particular property;
- 5) Provide a compatible, stable, developed environment in harmony with that of the surrounding area; and
- 6) Insure that increased flexibility of substantive regulations be administered in such a way as to encourage the disposition of proposals for land development without undue delay.

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

3.9.2 PUD Design Principles

- 1) Residential Layout – Dwelling units in a PUD often include access to a large shared open space surrounding the house as well as a smaller private yard. These large protected open spaces are

created by the layout of the buildings and are intended for use by all residents of the developments. Different housing types including single family, duplex, and multiple-family dwellings are often mixed rather than separated as is done in standard zoning.

- 2) **Street Patterns** - Street patterns are one of the most important elements in establishing the neighborhood character of a residential community. Most non-PUD developments focus on obtaining maximum frontage for lot sizes and maximum flow of traffic on all streets. However, in order to dispel the monotony of the typical grid plan street pattern, a PUD often employ a hierarchy of street types based on usage. Local streets serve only residences and have a low traffic volume, while collector streets connect local streets to arterials, which are the major routes of travel throughout a PUD.
- 3) **Combining Design Features** - It is in the ability to design each of these components simultaneously that makes a PUD unique and effective. Each of the elements work together to enhance the whole. This represents a major advantage over traditional zoning practices that force lots to be planned in accordance with broad rules that may allow for some incompatibility.

3.9.3 PUD Application and Plan

The submittal of a PUD application requires a physical plan, images and narrative explaining and showing the location of each of the underlying zoning areas and outlining the standards and requirements that will apply to each of those zones. The PUD allows deviation from standard zoning the plan should state the underlying zoning and what standards will be followed in each of the zones and where it will deviate.

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

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

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

- 1) The physical characteristics of the site and surrounding land uses.
- 2) The proposed land uses.

- a) Allowed uses and prohibited uses.
 - b) Setbacks and heights.
 - c) Densities.
- 3) Open space quantity and amenities provided.
- 4) Design standards.
- a) Architectural standards.
 - b) Street widths.
 - c) Site furniture (manufactures' cut sheets showing proposed street furniture, lighting, playground equipment and other amenities).
 - d) Signage.
 - e) A statement addressing compatibility and impacts of the proposed development on adjacent properties.
- 5) Land use site plan.
- a) Location and size of each land uses.
 - b) Open space, parks, trails and pedestrian access.
 - c) Street layout and design.
- 6) Infrastructure.
- a) Roads, drives and access.
 - i) Internal road network.
 - ii) Road access points.
 - iii) Road construction on and off of the site.
 - iv) Road maintenance.
 - v) Paving or dust control frequency and method.

- b) Water supply.
 - c) Sewage system.
 - d) Storm water management plan.
 - e) Utility provisions for electrical, natural gas, telephone, internet, and cable services.
- 5) Phasing.
- a) Phasing plan showing each stage of development.
 - b) Timeframe for construction and installation of infrastructure and structures.
 - c) Phasing triggers for the commencement and completion of each phase.
- 6) Maintenance.
- a) A home owners association or other mechanism shall be created by the developer through covenants to insure the continued financial responsibility of the maintenance.
 - b) The developer shall prepare a budget for the annual maintenance cost of roads, open space, and other amenities provided in the PUD. Each parcel or lot owner shall pay an equitable share.
 - c) The developer shall be responsible for all maintenance until one half (1/2) plus one of the parcel or lots in the PUD are sold.

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

3.9.4 PUD as Mechanism to Legitimize and Improve Existing Developments

The PUD may be used to address areas in the County that were developed prior to zoning or areas where work force housing was approved adjacent to shops and other incompatible uses. The intent of using the PUD in these cases is to clean-up, improve and enhance the quality of existing developments. The resulting development needs to

demonstrate how the improvements are more desirable than just eliminating the incompatible and undesirable uses. The PUD is to provide enhancements to the project that could not be achieved through standard zoning. This could include greater open space, amenities or other features.

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

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

3.9.5 Minimum PUD Area

Minimum PUD area shall be five (5) acres.

3.10 FLOODPLAIN OVERLAY DISTRICT

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

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

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

3.11 HIGHWAY CORRIDOR OVERLAY DISTRICT

3.11.1 Intent

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

- 1) The establishment of enhanced standards for buildings, landscaping, and other improvements constructed on the properties bordering and within the transportation corridors; and
- 2) The establishment of development requirements which will encourage high quality of design of development of those properties and promote the quality, scale, and character of development consistent with existing and planned uses bordering and within the transportation corridors.
- 3) These standards and requirements shall apply to any parcels that are within five hundred (500') feet of the centerline of any federal, state or paved county road.

3.11.2 Exemptions

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

3.11.3 Standards

- 1) Any PUD within five hundred (500') feet of the centerline of any federal, state or paved county road shall additionally be subject to the requirements of section 3.11 the Highway Corridor Overlay District of this ordinance.
- 2) Any and all site plans, architectural elevations, and proposed materials must to be submitted to the Planning Department for design review prior to a building permit being issued.

- 3) Building design shall incorporate materials to convey permanence, substance, timelessness, and restraint. Each building shall be constructed with one or more of the following material(s) consisting of at least fifty percent (50%) of the exterior materials:
 - a) Clay or masonry brick.
 - b) Customized concrete masonry.
 - c) Architectural flat metal panels or glass.
 - d) Stucco or Exterior Finish Insulation.
 - e) Natural stone.
 - f) Residential grade permanent siding with brick decorative masonry.
 - g) Metal siding systems may be used along the corridor provided that metal is limited to fifty percent (50%) of the building face. In addition, the building must be enhanced by the application of brick, decorative masonry, or decorative stucco surfaces in combination with decorative fascia, overhangs, and trim.
 - h) Post and Beam - Log structures and/or entries.
- 3) Multi-building or Mixed Use projects
 - a) Prior to issuance of a building permit on a multi-building development, the applicant shall submit plans that demonstrate the use of consistent design elements throughout the project. Subsequent building permits shall conform to the design elements presented.
 - b) Multi-building developments shall include prominent focal points, which shall include, but not be limited to architectural structures, art, historical and/or landscape features. These features shall be located at or visible from vehicular and pedestrian entrances to the site.
 - c) Free-standing garage clusters of multiple family residential sites shall not be placed along the corridor overlay districts unless the overall appearance is similar to the primary building.

4) Site Design

- a) Trash enclosures and trash compactors shall be located such that they are not visible from the identified corridor.
- b) Outdoor storage that does not consist of display of merchandise shall be located such that it is not visible from the identified corridor, by placing the outdoor storage on the opposite side of the building from the identified corridor, or by placing outdoor storage in an enclosure that has the appearance of being integral to the building. All outdoor storage shall be fully screened from view through the use of an opaque decorative fencing material or architectural screen walls.
- c) Loading and delivery areas shall not be located along the front side of the building that fronts on the identified corridor.
- d) Contractor yards, service yards, heavy equipment, salvage, and items of a similar nature shall be located away from public street frontages and shall be screened with opaque fencing.
- e) Pedestrian walkways shall be provided between building entrances/exits and parking areas. On multi-building sites and mixed use sites, the site design shall provide functional pedestrian spaces, plazas, and seating areas between or in front of buildings. Designs shall include with weather protection, such as overhangs, awnings, and canopies to increase usefulness in a variety of weather conditions.

3.12 FIREARMS FACILITY OVERLAY DISTRICT

Preamble

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

Amendment

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

3.12 Firearms Facility Overlay District

3.12.1 Purpose

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

3.12.2 Land to Which Ordinance Applies

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

3.12.3 Warning and Disclaimer of Liability

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

3.12.4 Permitted Uses

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

3.12.5 Conditional Uses

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

ARTICLE VI: SUBDIVISION REGULATION

6.1 GENERAL PROVISIONS

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

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

6.1.1 Title

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

6.1.2 Purpose

This Subdivision Regulation is adopted for the following purposes:

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

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

6.1.3 Policy

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

6.1.4 Jurisdiction

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

6.1.5 Platting Required

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

6.1.6 Restrictions on Recording and Building Permits

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

6.2 PREMATURE SUBDIVISIONS

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

6.2.1 Conditions Establishing Premature Subdivisions

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

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

- d) The proposed subdivision fails to comply with the storm water management requirements of this Ordinance or the State of North Dakota as may be amended.
 - e) Factors to be considered in making these determinations may include: average rainfall for the area; area drainage patterns; the relationship of the land to floodplains; the nature of soils and sub-soils and their ability to adequately support surface water runoff and waste disposal systems; and the slope and stability of the land.
- 2) Lack of Adequate Potable Water Supply. A proposed subdivision shall be deemed to lack an adequate potable water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation or existing water supplies for surrounding areas.
- 3) Lack of Adequate Roads or Highways to Serve the Subdivision. A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when it is more than one half (½) mile from a paved road, and:
- a) County or local roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, sight distance and paved surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, or when said roads are inadequate for the intended use.
 - b) The traffic generated by the proposed subdivision would create or contribute to unsafe conditions on highways existing at the time of the application.
- 4) Lack of Adequate Waste Disposal Systems. A proposed subdivision shall be deemed to lack adequate waste disposal systems if there is inadequate on-site sewer capacity potential to support the subdivision if developed to the maximum permissible density allowed by this Ordinance.
- 5) Inconsistency with 2025 McKenzie County Comprehensive Plan and this Ordinance. A proposed subdivision shall be deemed inconsistent with the 2025 McKenzie County Comprehensive Plan and/or this Ordinance when the subdivision is inconsistent with the

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

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

6.2.2 Burden of Evidence

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

6.3 PLATTING EXEMPTIONS

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

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

6.4 MINOR SUBDIVISION PLATS AND RE-PLATS

6.4.1 Minor Subdivision Criteria

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

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

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

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

6.4.2 Lot Line Adjustments, Lot Split and Lot Merger

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

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

legal description of the resulting parcel(s).

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

6.4.2.1 Lot Line Adjustment

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

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

6.4.2.2 Lot Merger

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

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

6.4.2.3 Lot Split

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

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

6.5 MAJOR SUBDIVISION PLATS AND RE-PLATS

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

6.5.1 Purpose

A major subdivision plat is for the purpose of selling land and for building development. The creation of a lot, a street, a public or private easement or right-of-way requires a major subdivision plat to be prepared and approved

in accordance with this Subdivision Regulation, and N.D.C.C. Ch. 11-33.2-01, and 40-50.1.

Subdivision platting includes three basic steps:

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

6.6 PRELIMINARY PLAT

6.6.1 Pre-Application Meeting with Planning Department

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

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

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

6.6.2 Preliminary Plat Preparation and Submittal

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

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

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

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

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

6.6.4 Preliminary Plat Tentative Approval

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

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

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

6.7 IMPROVEMENT PLANS AND TECHNICAL REVIEW

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

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

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

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

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

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

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

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

6.8 FINAL PLAT

6.8.1 Final Plat Preparation and Submittal

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

6.8.2 Final Plat Approval and Recording

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

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

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

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

6.9 ADEQUATE PUBLIC FACILITIES

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

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

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

6.9.1 Public Improvement Requirements

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

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

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

6.10 DESIGN STANDARDS

All plats and improvement plans shall follow these design standards

6.10.1 General Provisions

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

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

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

6.10.2 Streets and Roadway Design Standards

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

6.10.3 General Arrangement of Streets

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

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

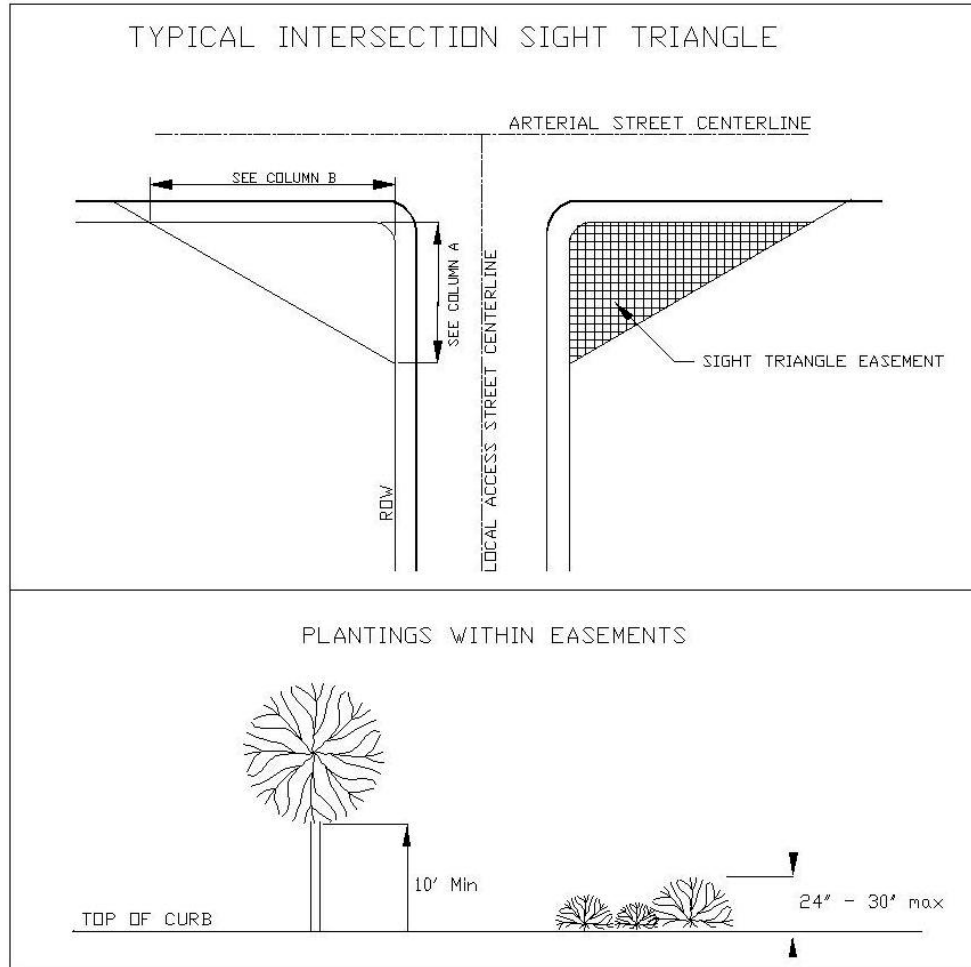
Street Class	Minimum Right-of-Way	Typical Roadway Width
Principal Arterial	150 feet	12' lanes, turning lane, 10' shoulders, ditch 4:1 slope
Minor Arterial	100 feet	12' lanes, turning lane, 10' shoulders, ditch 4:1 slope
Collector Road	80 feet	12' lanes, 10' shoulders, ditch 4:1 slope
Local Road	66 feet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

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

6.10.4 Intersections and Sight Distance

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

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



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

6.10.5 Private Streets

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

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

6.10.6 Half-Streets

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

6.10.7 Culs-de-Sac and Dead-End Streets

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

terminated pending future extension in conjunction with future subdivision.

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

6.10.8 Roadway Cross Section

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

6.10.9 Gravel Surfacing

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

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

6.10.10 Paved Surfacing

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

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

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

6.10.11 Approaches and Access Points

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

6.10.12 Easements

- 1) Easements and right-of-way, when approved, shall not thereafter be changed without the approval of the Board of County Commissioners upon the recommendation of the Planning Commission.
- 2) Easements for sanitary sewer facilities, storm water drainage facilities, public or private utilities, or pedestrian access shall meet the following standards:
 - a) To the fullest extent possible, easements shall be adjacent to property lines.

- b) Nothing shall be placed, planted, set, or put within the area of an easement that would adversely affect the function of the easement or conflict with the easement agreement.
- c) Public utility easements shall have a minimum width of twenty (20') feet and private utility easements shall have a minimum width of ten (10') feet and shall be required along lot frontage and may be required along the back of lots. All utility companies are encouraged to use common easements.
- d) The applicant shall reserve easements where storm water or surface water drainage facilities exist or are proposed, whether located within or beyond the boundaries of the property, easements shall be required for all conveyance systems crossing private property. Easements shall have a minimum width of twenty (20') feet and shall be adequately designed to provide area for the collection and discharge of water, the maintenance, repair and reconstruction of the drainage facilities and the passage of machinery for such work. The easements shall clearly identify who has the right-of-access and responsibility of maintenance.

6.10.13 Blocks and Lots

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

2) Lots

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

6.10.14 Erosion and Sediment Control

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

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

- e) Provisions are to be made to effectively accommodate the increased run-off caused by changed soil and surface conditions during and after development.
- f) Permanent final vegetation and structural development are to be installed as soon as practical in the development.
- g) The development plan is to be adapted to the topography and soils so as to create the least erosion potential.
- h) Wherever feasible, trees, shrubs, and natural vegetation are to be retained and protected to control erosion.

6.10.15 Grading

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

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

6.10.16 Storm Water Management

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

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

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

6.10.17 Improvements

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

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

plat approval by the Board of County Commissioners.

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

Completion. The County shall not release a financial guarantee for those improvements required until the County Engineer has certified that all required improvements have been satisfactorily completed.

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

6.10.18 Bond

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

6.10.19 Enforcement

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

6.11 SEVERABILITY AND SUPREMACY

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

of any provision of this Subdivision Regulation to a particular property, building, or structure, such judgment shall not affect other properties, buildings or structures.

2) Supremacy

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