REVISED
McLEAN COUNTY
ZONING ORDINANCE

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I. GENERAL PROVISIONS

1.1 TITLE

The ordinance, its regulations, and the District Zoning map shall be known as the McLean County Ordinance.

1.2 AUTHORITY

The McLean County Ordinance has been enacted pursuant to the authority granted by the North Dakota State Legislature to promote the health, safety, morals, public convenience, general prosperity and public welfare of the citizens of McLean County. It has been made and adopted in accordance with the 1978 Comprehensive Plan for McLean County.

1.3 PURPOSE AND INTENT AND JURISDICTION

The McLean County Ordinance was designed specifically to promote the sound and desirable location and use of buildings and other structures and the sound and desirable occupancy, use or condition of use of land and other natural resources found within McLean County.

It is intended that the restrictions and regulations found within the McLean County Ordinance shall govern all land and other property located within McLean County over which the McLean County Board of Commissioners is empowered by law to regulate[1].

The area within three miles adjacent to a municipality shall be a zone of coordination for development between McLean County and the municipality. The City Council or Commission in the affected city shall be given special notice at least 10 days prior to a hearing on any and all action pending on amendments to the County Zoning Ordinance and on an application for a Conditional Use Permit within the three (3) mile zone. The notice shall state the time, place and purpose of the hearing during which the city can express its objections to the amendment.

The Board of Supervisors for organized townships within McLean County shall be given notice at least 10 days prior to a hearing on any action pending on amendments of the Zoning Ordinance or on application for a Conditional Use Permit if such amendment or approval will affect any land in the organized township. The notice shall state the time, place, and purpose of the hearing during which the township supervisors can express objections or approval to the amendment.

[1]Cities within McLean County having adopted their own zoning ordinances are: Benedict, Butte, Coleharbor, Garrison, Max, Mercer, Riverdale, Ruso, Turtle Lake, Underwood, Washburn, Wilton and the Fort Berthold Reservation. No organized townships within McLean County have adopted a zoning ordinance.

1.4 INTERPRETATION

The provisions of this Ordinance shall be minimum requirements.

1.5 REPEAL

All regulations or parts of the regulations, existing ordinances, districts, district zoning maps, or resolutions in conflict with this Ordinance and its provisions are hereby repealed.

1.6 EFFECTIVE DATE AND COMPLIANCE

From this 1st day of September, 1982, each structure and use within McLean County, not otherwise excepted, shall be in compliance with the provisions of this Ordinance.

1.6.1 EXCEPTIONS

1. Non-conforming uses.

Any structure or use which was lawful before this Ordinance was passed, but would be prohibited, regulated, or restricted under the terms of this Ordinance or under amendments to this Ordinance, is a non-conforming use.

The lawful existence or use of such non-conformities which are present at the time of the adoption or amendment of this Ordinance may be continued even though such use or existence does not conform to the provisions of this Ordinance. However, the intent of this Ordinance is that while such non-conformities may continue in their present state, their survival will not be encouraged, nor shall they be enlarged upon, expanded, or extended.

If a non-conforming use ceases for a period of more than 24 months, any future use of that structure, land or other property shall be in conformity with the regulations of the district in which it is located.

If a non-conforming structure is damaged or has deteriorated and the cost of repair exceeds 50% of the assessed value of the structure, the use of such structure shall be discontinued unless permanently changed to a conforming use.

a. Certificate of Compliance Required.

A certificate of compliance is required for all non-conforming structures or uses. No non-conforming structure or use shall be maintained, renewed, or changed unless a certificate of compliance has been issued. Owners and occupiers of non-conforming structures and uses have 3 months from the date of the enactment or amendment of this ordinance to apply for said certificate of compliance.

2. Variances.

The Board of County Commissioners may adjust the application or enforcement of any provision or of a resolution in any specific case where a literal enforcement of such provision or resolution would result in a great practical difficulties, unnecessary hardship, or injustice, in an effort to avoid such consequences; provided such action shall not be contrary to the public interest or the general purposes thereof.

3. Maximum height requirements.

The following shall be exempt from maximum height requirements in all districts, with the exception of all districts within 9,000 feet of the Washburn Municipal Airport***.** Antennas, belfries, chimneys, cupolas, flag poles, ventilators, water tanks, windmills, or other appurtenances usually required to be placed above roof tops and not intended for occupancy.

The "WASHBURN MUNICIPAL AIRPORT ZONING ORDINANCE" is adopted by reference and declared to be a part of this ordinance.

*Refer to the "WASHBURN MUNICIPAL AIRPORT ZONING ORDINANCE" addendum to the Revised McLean County Zoning Ordinance on file as a separate document in the Office of the McLean County Land Use Administrator. The complete addendum may be viewed at http://www.visitmcleancounty.com/Draft-%20Zoning%20Ordinance.pdf

1.7 CONDITIONAL USES.

A conditional use is one which may be permissible within a designated district, but specific conditions must be met prior to and after approval of the conditional use. An application for approval of the conditional use must be submitted to the Planning and Zoning Commission and a public hearing held before any action is taken for approval of the conditional use. . Upon application for a conditional use permit the applicant shall submit a road use plan that must be approved by the County unless the County waives this requirement. The road use plan shall delineate the route of travel vehicles associated with the business will take, and how costs of road maintenance shall be paid by the applicant if the permitted activity will cause damage or atypical wear on roads under the County or townships jurisdiction. The County reserves the right to require a road plan for any commercial or industrial activity not subject to conditional use permitting.

1.8 SPECIAL CONDITIONAL USES.

A special conditional use is one which may be permissible within a designated district and to which specific conditions are attached.

However, unlike conditional uses, a special conditional use may be approved by the Planning and Zoning Commission, the Board of County Commissioners, the Land Use Administrator, or the County Auditor without the necessity for a public hearing prior to the approval of the application for a special conditional use permit.

1.9 FLOATING ZONES.

Districts with specified purposes which initially are established without actually being delineated on the zoning map, shall be designated as floating zones. When an opportunity arises to carry out the intended purposes on the particular tract of land, an amendment to the Ordinance and District Zoning Map will establish the actual boundaries of the district. The developer must embark upon and actually complete the project or the floating zone will disappear.

1.10 PERMITS.

A permit shall be required before construction, alteration or use begins for all new, altered, conditional and special conditional uses. No permit is required for maintenance or repair of existing structures which are in conformity with this Ordinance unless said maintenance or repair alter the strength or plan of such structure or its mechanical installations.

Building permits are specifically required by this Ordinance whenever any structure is moved onto, constructed, or altered on any property within the jurisdiction of McLean County. This section applies to trailer, mobile and modular homes as well as more permanent structures.

Application for a building permit shall be made and approved before any movement or construction begins within the County. Once secured, the building permit shall be posted in a conspicuous place during construction and remain so until the project is completed or otherwise ready for use.

No electric hookups may be made in McLean County by any utility company unless the owner or occupier has posted such permit in accordance with the above provisions.

Failure to obtain a building permit as required by this Ordinance shall be an infraction.

The McLean County Land Use Administrator and the McLean County State's Attorney shall be responsible for the enforcement of these provisions.

Note: The construction specified on the building permit shall be supported by accompanying documents illustrating elements such as sidewall height, dimensions, rooms, and the precise location of the proposed construction on the lot in relation to its boundaries; aka builder floor plans, and a site plan. If a septic system is part of the construction plan, a copy of the permit issued for the system by the First District Health Unit in Minot is required. The building permit shall grant the property owner the right to construct the specified items with reasonable variations and changes so long as the administrator is notified, and shall be valid for a period of one year after the date of issuance. If by the date of the permit's expiration, the proposed construction is not complete, the property owner will be required to obtain another building permit at a cost of 1.5 times the original amount. If proposed construction is not complete by the expiration of the second permit, the property owner will be required to obtain another building permit at a cost of 1.5 times the amount paid for the second permit. The re-issuance of permits shall continue as such until the property is complete. "Complete" is defined as "Having the appearance of being complete from the exterior, with all windows, doors, roofing, siding, and decks installed, no

exposed crawlspaces, and a finished yard free of construction waste and debris." This is put forth with the understanding that constructions projects often don't go as planned, but as a means by which this statute can help to maintain the long-term appearance and serenity of quiet and uniform rural neighborhoods. Until a plat is recorded with the county recorder, covenants will be subject to change to comply with county zoning ordinances.

1.11 AMENDMENTS.

Because no area is static and to allow for flexibility in response to circumstances and needs not foreseen at the time of the enactment of this Ordinance, the Board of County Commissioners, on its own motion or by recommendation, may amend or repeal any provision of this Ordinance or, after a public hearing is held pursuant to 11-33-09 N.D.C.C., allow conditionally permitted uses in districts where such use was not previously permissible.

1.12 APPLICATION FORMS.

All information and data to be submitted by the applicant as required by official McLean County application forms is hereby incorporated by reference into the McLean County Ordinance. Application forms are available from the McLean County Land Use Administrator or the McLean County Auditor.

II. ADMINISTRATION AND ENFORCEMENT

2.1 Who Responsible For

The McLean County Ordinance shall be administered and enforced by the McLean County Planning and Zoning Commission, the McLean County Land Use Administrator, the McLean County Auditor, the McLean County Board of County Commissioners and the McLean County State's Attorney.

2.1.1 McLEAN COUNTY PLANNING AND ZONING COMMISSION.

1. AUTHORITY

The McLean County Planning and Zoning Commission was created by the McLean County Board of County Commissioners in accordance with the provisions of the North Dakota Century Code, Chapter 11-33.

2. DUTIES

a. Establish and administer rules and procedures for conducting the zoning affairs of McLean County.
b. Recommend approval or denial of applications and permits subject to final disposition by the McLean County Board of County Commissioners.
c. Conduct hearings on conditional uses and set conditions for certain uses.
d. Establish requirements and procedures necessary for submission of applications.
e. Conduct hearings on zoning amendments.
f. Publicize and post notice of zoning hearings and amendments as required by law.
g. Establish fee schedules and accounting thereof. Said scheduling and accounting shall be subject to the approval of the McLean County Board of County Commissioners.
h. Issue Certificates of Compliance.
i. Regularly attend meetings of the Planning and Zoning Commission. Repeated absences that are unexcused shall be grounds for dismissal from the Board.

2.1.2 McLEAN COUNTY LAND USE ADMINISTRATOR AND/OR McLEAN COUNTY AUDITOR.

1. AUTHORITY.

The Planning and Zoning Commission may appoint a Land Use Administrator to carry out the directives and duties as assigned by the Planning and Zoning Commission. Said Land Use Administrator shall be responsible to the Planning and Zoning Commission and to the McLean County Board of County Commissioners.

2. DUTIES.

a. Attend all hearings conducted by the Planning and Zoning Commission.
b. Maintain current copies of the McLean County Ordinance and district map and have the same available to the public.
c. Keep copies of all pertinent records.
d. Publicize and post notice of zoning hearings and amendments.
e. Make periodic inspections to determine compliance with the provisions of this Ordinance.
f. Carry out any other duties assigned by the Planning and Zoning Commission.
g. Issue Special Conditional Use Permits and Certificates of Zoning Compliances.

2.1.3 McLEAN COUNTY BOARD OF COUNTY COMMISSIONERS.

1. AUTHORITY.

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

2. DUTIES.

The McLean County Board of County Commissioners shall hear appeals from any person, party or organization aggrieved by the actions or decisions of the Planning and Zoning Commission, provided that the proper procedure in making such appeal has been followed by the aggrieved party.

2.2 GRIEVANCES.

Any person aggrieved by any provision or resolution adopted hereunder, or any amendment thereto, may, within thirty (30) days after the first publication of such resolution or amendment, petition for a separate hearing thereon before the Board of County Commissioners.

The petition shall be in writing and shall specify in detail the grounds for the objections. The petition shall be filed with the McLean County Auditor.

A hearing thereon shall be held by the Board no sooner than seven (7) days, nor later than thirty (30) days after the filing of the petition with the County Auditor, who shall notify the petitioner, by registered or certified mail, what action, if any, it proposes to take thereon.

The Board of County Commissioners, at their next regular meeting, shall rescind or affirm such resolution or amendment.

The provisions of this section shall not operate to curtail or exclude the exercise of any other rights or powers of the Board of County Commissioners.

2.3 RIGHT TO APPEAL.

Any person, or persons, jointly or severally, aggrieved by a decision made by the Board of County Commissioners under Chapter 11-33 of the North Dakota Century Code may appeal to the District Court in the manner provided by law.

2.4 VIOLATIONS.

Any person may file a written complaint with the Land Use Administrator or the McLean County Auditor whenever a violation of this Ordinance occurs, or is alleged to have occurred. Such complaint shall state fully the cause and the basis of the complaint. The Land Use Administrator shall make a record of the complaint, inspect the site or structure complained thereof and present the complaint along with his or her findings to the Planning and Zoning Commission.

2.5 REMEDIES AND ENFORCEMENT.

If it determined that any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or if any building, structure or other property is used in violation of this Ordinance, the Land Use Administrator or the McLean County Auditor shall notify the McLean County State's Attorney of such violation. The McLean County State's Attorney shall then institute appropriate action to:

1. Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
2. Restrain, correct, or abate such violations;
3. Prevent the occupancy of the building, structure, or land;
4. Prevent the illegal act, conduct, business, or use in or about the premises;
5. And/or impose the penalties provided under Chapter 11-33 of the North Dakota Century Code[2] or under this ordinance[3].

[2]A violation of the regulations and restrictions made under the provisions of Chapter 11-33 of the North Dakota Century Code constitutes the maintenance of a public nuisance and shall be a Class B Misdemeanor. Upon conviction, a maximum penalty of thirty day imprisonment, a fine of five hundred dollars, or both, may be imposed.

[3]A violation of Section 1.10 BUILDING PERMITS of this ordinance constitutes an infraction. Upon conviction of an infraction a maximum penalty of a fine of five hundred dollars may be imposed.

2.6 SEVERABILITY.

If any provision of this Ordinance or the application thereof to any persons or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of any other part of this Ordinance which can be given effect without the invalid provision or application and to this end, the provision of this Ordinance and the various applications thereof are declared to be severable.

2.7 AUTOMATIC TERMINATION OF PERMIT FOR NON-USE.

Unless an approved conditional use, zoning change, or floating zone has begun within one (1) year after final approval is given by the McLean County Board of County Commissioners, approved Conditional Use Permits, Zoning Changes, and Floating Zones will automatically expire. Thereupon the property will revert to pre-approval use or classification.

III. SPECIAL PROVISIONS

3.1 OBJECTIVES.

Because certain activities, conditions, and uses may affect other districts and may be detrimental in certain areas unless proper safeguards are taken, the following regulations have been enacted to protect the welfare of the citizens of McLean County.

These provisions shall apply to all districts unless stated otherwise within this Ordinance.

3.2 SPECIAL CONDITIONAL USE PERMIT REQUIRED

3.2.1 SEWAGE DISPOSAL

1. LIMITATIONS FOR CERTAIN SOIL TYPES.

Certain soils in McLean County, as shown on the soil survey map of the McLean County Soil Conservation District, have severe limitations for soil absorption disposal systems (septic tanks). Soils having severe limitations shall not be used for septic tanks unless the system is designed to negate the limitations.

Anyone proposing to install a soil absorption disposal system (septic tank) in McLean County must secure prior approval from the First District Health Unit, Minot, North Dakota. The applicant must then consult the McLean County Land Use Administrator to determine the limitations of the soil on the proposed site of construction. If it is determined that the proposed location is not desirable for a septic tank, evidence must be presented to the Planning & Zoning

Commission showing that the soil classification is incorrect or it must be shown that the proposed system is designed to negate the soil limitations of that particular area before a permit for the system will be issued.

2. LOCATON REQUIREMENTS.

a. Septic tanks shall be located at a point lower than the elevation grade of any nearby water well or spring.

b. Septic tanks shall not be closer than ten (10) feet to any dwelling or cistern and shall not be closer than ten (10) feet to any property line.

c. No part of a seepage pit or drain field shall be closer than twenty (20) feet to any property line nor closer than one hundred (100) feet to any lake or drainage ditch.

3. MINIMUM LOT AREA

a. Lots with soils having slight sewage disposal limitations require 65,000 square feet (1.492 acres).

b. Lots with soils having severe sewage disposal limitations require a minimum 80,000 square feet (1.836 acres).

3.2.2 Geophysical operations – repealed – under control of North Dakota Public Service Commission.

3.2.3 TEMPORARY CREW HOUSING (Workforce Temporary Housing)

Application Procedure:

An application for a Temporary Crew Housing Permit shall be signed by the applicant or authorized representative and shall include the following information:

1) A description of the units together with a numbering system.
2) A description of how the proposed units are set/and or anchored.
3) A statement that roads to be constructed within the facility will meet county specifications.
4) The name and address and contact information of the applicant.
5) The name and address and contact information of the onsite manager.
6) A copy of lease (if applicable).
7) An occupancy list to be maintained and provided to the county 911 emergency coordinator on a current basis.
8) Plot plans drawn to scale showing housing units, additional structures, setbacks, utilities, drainage, ingress and egress, screens, buffers, and fencing.
9) Unit spacing adequate to accommodate emergency services
10) List of house rules and regulations
11) On site security plan.
12) Fire and emergency evacuation plan.
13) Copy of permit or application for a permit issued by the First District Health Unit
14) Pay a Planning and Zoning Fee in the amount of two hundred ($200) dollars per projected occupant within the crew housing units.
15) A copy of the closure plan.
16) Submit a surety bond for clean-up purposes using the following schedule:

- 0-50 person camp - $ 20,000
- 51-100 person camp - 30,000
- 101-250 person camp 50,000
- 251-500 person camp - 100,000
- 501- 1200 person camp - 250,000

17) Off-street parking shall be provided on a one-to-one ratio, one parking space per bed.
18) Any additional information deemed necessary by the County
Zoning Director, the Planning and Zoning Commission, or the County Commission.

Prohibited Housing Types

Recreational vehicles, campers, and mobile homes are prohibited as units in a crew housing facility.

Prohibited Activities

No illegal substances and the site is to be maintained free of garbage and junk. Unless a plan is submitted and approved by the County Planning and Zoning Commission, no animals are allowed on the premises of a crew housing facility, and no parking will be allowed between units.

Termination of Crew Housing Permit

A Crew Housing Permit is a conditional use permit subject to review by the Planning and Zoning Commission at any time. The permit may be revoked by the County Commission anytime the applicant is in noncompliance with any of the conditions set by the Planning and Zoning Commission or the County Commission for the issuance of the permit.

Renewal of Conditional Use Permit

Any Temporary Crew Housing Permit granted in accordance with this section shall expire two years from the date of issuance unless otherwise specified by the county. The permit may be extended by the Planning and Zoning Commission upon written application of the owner of the property or authorized representative provided that the extension is for the same use as specified in the original permit and that the applicant is in compliance with the terms and conditions specified in the original permit.

3.3 SIGNS.

Signs must be incidental to the use or approved by the appropriate authorities and shall conform to applicable State regulations.

3.4 TEMPORARY PERMITS.

3.4.1 WHEN REQUIRED.

Except for those temporary uses which require a Special Conditional Use Permit or are otherwise exempt, a temporary permit shall be obtained for all temporary uses in McLean County. Temporary permits will be issued at the discretion of the McLean County Board of County Commissioners if it is satisfied that the issuance of a permit would be in the best interests of the citizens of McLean County.

The following are examples of uses for which a temporary permit is required. The list is not, however, exclusive.

1. Public gatherings for single or multiple purpose events, such as bazaars, carnivals, fairs, musical events, races, revivals, rodeos, etc.
2. Temporary buildings and yards for construction materials and equipment. (3)Ce
3. Parking lots for public events.
4. Temporary office space.

3.4.2 Temporary permits will be valid for such (4) period of time as set by the Board of County Commissioners. Fees and renewal will also be at the discretion of the Board.

3.5 FLOOD HAZARD REGULATIONS.

3.5.1 DESCRIPTION.

The flood hazard areas of McLean County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base.

These flood losses are caused by the cumulative effect of obstructions in flood prone areas which increase flood heights and velocities, and when inadequately flood-proofed, elevated or otherwise protected from flood damage, also contribute to the flood loss.

3.5.2 METHODS OF REDUCING FLOOD LOSSES.

In order to limit flood damages in McLean County, this Ordinance has provisions for restricting, prohibiting, or guiding development activities that are subject to flood damage.

3.5.3 DISCLAIMER

This Ordinance shall not create liability on the part of McLean County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damage that results from reliance on this Ordinance or any administrative decision lawfully made thereunder.

3.5.3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of McLean County as identified by the Federal Emergency Management Agency in its latest Flood Insurance Rate Map, dated August 19, 2010. This map is adopted by reference and declared to be a part of this ordinance. It is on file at the Office of the McLean County Land Use Administrator.

3.5.3.2 PERMITS

Before any construction or development begins within a special flood hazard area, a permit shall be obtained from the McLean County Land Use Administrator, hereinafter referred to as the responsible person. The permit shall include:

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all proposed structures;

(2) Elevation in relation to mean sea level to which any structure will be flood proofed.

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 3.2(2); and,

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

3.5.3.3 USE OF OTHER BASE FLOOD DATA

When base flood elevation data has not been provided in accordance with Section 3.5.3.1, LANDS TO WHICH THIS ORDINANCE APPLIES, the responsible person shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, (known as best available data) in order to administer this section, Section 3.5.4(a), GENERAL STANDARDS, and Section 3.5.5, SPECIFIC STANDARDS.

3.5.4 PERMIT REVIEW.

All permit applications shall be reviewed to determine if the proposed development adversely affects the flood carrying capacity of a flood prone area. For the purposes of this Ordinance, “adversely affects” means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

1. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further considerations.
2. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer) for the proposed development shall be required.
3. If the proposed development is a building, then the following provisions of this Ordinance shall apply:

a. General Standards.

If a proposed building site is located in a flood prone area, all new construction and substantial improvements including the placement of pre-fabricated buildings and mobile homes shall conform to the following standards:

1. Anchoring.

All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.

2. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

3. Construction materials and methods.

(a) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(b) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during(1) I conditions of flooding.

4. Utilities.

a. All new and replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

3.5.5 SPECIFIC STANDARDS

(1) <u>Residential Construction</u>

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation.

(b) Manufactured homes shall be placed so that the lowest floor is elevated on fill to at least one foot above the base flood elevation.

(2) <u>Nonresidential Construction</u>

New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities shall:

(a) Be adequately floodproofed up to an elevation no lower than two feet above the base flood elevation

(b) Be floodproofed so that below the two feet above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design methods of construction are in accordance with accepted standards of practice.

(c) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(d) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the responsible person as set forth in Section 4.1.

3.5.6 ADMINISTRATIVE REQUIREMENTS

(1) INFORMATION TO BE OBTAINED AND MAINTAINED

The responsible person shall:

(a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, whether or not the structure contains a basement.

(b) For all new or substantially improved floodproofed structures:

(1) Obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

(2) Maintain the floodproofing certifications required in Section 3.2(2).

(c) Maintain for public inspection all records pertaining to the provisions of this ordinance.

(2) ALTERATION OF WATERCOURSES

The responsible person shall:

(1) Notify nearby communities, water resource districts and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and

(3) Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.

(3) PENALTIES FOR NON-COMPLIANCE

(1) Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants or variances or conditional uses, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be punished by a fine not exceeding $500 or by

imprisonment for each such offense, and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(2) Nothing herein contained shall prevent the McLean County Planning & Zoning Commission, the McLean County Land Use Administrator or the McLean County State's Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

IV. DISTRICTS

4.1 All land zoned agricultural

For the purpose of these regulations all land under the jurisdiction of McLean County, not previously designated otherwise is zoned as Agricultural. In order for an Agricultural District to be changed to another classification, an amendment to the zoning ordinance must be approved. Upon approval of the amendment, the affected district shall be rezoned and permitted and conditional uses allowable in the rezoned district shall be applicable.

4.2 ZONING MAP.

The location and boundaries of the various existing zoning districts within McLean County are hereby established as shown in the files of the McLean County Land Use Administrator as prepared and approved by the McLean County Planning and Zoning Commission and the McLean County Board of County Commissioners. Any changes in zoning designations or uses resulting from amendments, as well as the location of non-conforming uses resulting from the granting of a variance and the location of approved conditional uses within various districts are on record in the Office of the McLean County Land Use Administrator. Such records may be inspected in the Office of the McLean County Land Use Administrator during regular business hours.

4.3 DISTRICTS.

4.3.1 Classification

McLean County is hereby divided into the following districts:

1. Agricultural
2. Residential
3. Commercial
4. Industrial
5. Recreational
6. Conservation
7. Municipal Airport Zone

4.3.2 USES, PERMITTED AND CONDITIONAL.

1. AGRICULTURAL Districts

a. OBJECTIVES.

It is the purpose of this Ordinance to encourage the use of land in this district for agricultural activities and to discourage any use which would be detrimental to carrying out the primary function of the land for agriculture.

b. PERMITTED USES.

1. Agricultural operations and those buildings and structures incidental to agricultural operations.
2. Churches and cemeteries.
3. Schools
4. Governmental facilities.
5. Public and private conservation areas.
6. Recreational activities that do not disturb the land or agricultural operations.

c. CONDITIONAL USES.

1. Electrical power transmission lines.
2. Industrial, municipal, and commercial pipelines.
3. Radio, television, and telephone microwave transmitting stations.
4. Water reservoirs, water storage tanks, pumping stations and sewer lift stations.
5. Railway trackage and spurs.
6. Non-farm residences.
7. Livestock auction rings.
8. Animal feeding operations.
9. Coal excavation and mining.
10. Commercial sand and gravel operations.
11. Salvage and junk yards.
12. Airports.
13. Sanitary landfills, sewage lagoons and disposal plants.
14. Solid waste disposal facilities.
15. Wind energy facilities.

See section V for building standards and Section VI for conditions which must be met before approval of a conditional use will be considered.

2. RESIDENTIAL Districts

a. OBJECTIVES.

It is the purpose of this Ordinance to encourage use of the land in this district for agricultural activity and to provide regulations for the orderly development of residential use in McLean County.

b. PERMITTED USES.

1. Those permitted in District A.
2. Greenhouses and nurseries.
3. Animal hospitals and clinics.
4. Public parks and playgrounds.
5. Community centers.
6. Essential public facilities to serve the immediate area.
7. Single family dwellings.

c. CONDITIONAL USES.

1. Multi-family dwellings

See section V for building standards and Section VI for conditions which must be met before approval of a conditional use will be considered.

3. COMMERCIAL Districts

a. OBJECTIVES.

It is the purpose of this ordinance to encourage the use of land in this district for agricultural activities and to provide for the grouping of retail merchandising, light industry, and service activities into a central area. The Board of County Commissioners recognize the importance of these activities to the various cities within McLean County, and will give special notice to City Councils or Commissions in nearby municipalities whenever an amendment to the zoning ordinance is sought to establish a Commercial District.

b. PERMITTED USES.

1. Agricultural operations and those building and structures which are incidental to agricultural operations.
2. Activities which require a business or professional license or State sales tax permit.

c. CONDITIONAL USES.

1. Residential buildings.

See section V for building standards and Section VI for conditions which must be met before approval of a conditional use will be considered.

4. INDUSTRIAL Districts

a. OBJECTIVES.

It is the purpose of this ordinance to encourage the use of the land in this district for agricultural activities and to provide for the grouping of heavy commercial and industrial uses into central areas.

b. PERMITTED USES.

1. Agricultural operations and those building and structures which are incidental to agricultural operations.
2. Grain elevators and grain storage facilities.
3. Equipment sales, service or repair facilities.
4. Lumber yards.
5. Trucking and freight terminals.
6. Vocational training schools.
7. Warehouses.

c. CONDITIONAL USES.

1. Manufacturing and processing plants.
2. Sanitary landfills, sewage lagoons and disposal plants.
3. Fertilizer plants.
4. Coal gasification plants.
5. Refineries and petrochemical plants.
6. Fuel storage tanks and terminals.
7. Electrical power generating plants.
8. Airports.
9. Salvage and junk yards.
10. Livestock auction rings.
11. Animal feeding operations.
12. Electrical power transmission lines.
13. Industrial, municipal and commercial pipelines.
14. Radio, television, and telephone microwave transmitting stations.
15. Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
16. Railway trackage and spurs.
17. Coal excavation and mining.
18. Commercial sand and gravel operations.
19. Welding shops.

See section V for building standards and Section VI for conditions which must be met before approval of a conditional use will be considered.

5. RECREATIONAL Districts

a. OBJECTIVES.

It is the purpose of this Ordinance to encourage the use of land in this district for agricultural activities and to provide areas for general recreational activities.

b. PERMITTED USES.

1. Agricultural operations and those buildings and structures which are incidental to agricultural operations.
2. Recreational activities and those buildings and structures which are incidental thereto.
3. Single family permanent type seasonal dwellings.
4. Mobile homes on permanent type foundations on single lots.
5. Churches and those buildings and structures which are incidental thereto.

c. CONDITIONAL USES.

1. Commercial and retail establishments including lodging accommodations operated in conjunction with recreational uses in the district and for the convenience of the patrons and residents thereof.
2. Multi-family dwellings.
3. Water reservoirs, storage tanks and pumping stations.
4. Sewer lift stations.

See section V for building standards and Section VI for conditions which must be met before approval of a conditional use will be considered.

6. CONSERVATION Districts

a. OBJECTIVES.

To provide for the protection from potentially damaging forces, a valuable natural resource, whose characteristics are

so delicate that the slightest infringement may alter the area in such a way that it may never be returned to normal.

b. PERMITTED USES.
1. Whichever uses that are permissible under the rules and regulations of the management group.

c. CONDITIONAL USES.
1. None.

d. BUILDING STANDARDS.
1. Whatever the applicable standards are under the rules and regulations of the management group.

7. MUNICIPAL AIRPORT ZONE

(a) OBJECTIVES.
To prevent the creation or establishment of hazards to air navigation, and the elimination, removal, alteration or mitigation of hazards to air navigation.
(b) PERMITTED USES.
Refer to restrictions within the zone as defined in the Washburn Municipal Airport Zoning Ordinance, filed as an addendum to the Revised McLean County Zoning Ordinance. The addendum is on file in the office of McLean County Land Use Administrator or online at:
http://www.visitmcleancounty.com/Draft-20Zoning%20Ordinance.pdf

V. BUILDING STANDARDS AND DISTRICT REGULATIONS.

5.1 SCOPE

These standards and regulations are applicable in all districts which have not been designated as floating zones or unless otherwise required under this Ordinance.

5.2 STANDARDS

5.2.1 MINIMUM LOT SIZE

1. Lots served by public water supply and public sewer systems.
   a. Minimum width - One hundred (100) feet.
   b. Minimum area - 20,000 square feet.
2. Lots not served by public water supply and public sewer systems.
   a. Minimum width - One hundred fifty (150) feet.
   b. Minimum area - 65,000 - 80,000 square feet.
3. Septic tank sewage disposal systems shall not be allowed for multi-family dwellings.

5.2.2 MAXIMUM BUILDING INTENSITY.

1. Single family dwellings and accessory structures.
   a. Not more than 50% of the lot.
2. Buildings of three (3) or more stories.
   a. Not more than 50% of the lot.
3. Buildings other than single family dwellings or buildings of three (3) or more stories and accessory structures.
   a. Not more than 60% of the lot.

5.2.3 MAXIMUM HEIGHT.

1. Single family dwellings.
   a. Thirty five (35) feet.
2. Accessory structures.
   a. Twenty five (25) feet.
3. Principle structures other than single family dwellings.
   a. Fifty (50) feet.

EXCEPTION – refer to building height restrictions within the area defined in the Washburn Municipal Airport Zoning Ordinance, filed as an addendum to the Revised McLean County Zoning Ordinance. The addendum is on file in the office of the McLean County Land Use Administrator or online at http://www.visitmcleancounty.com/Draft-%20Zoning%20Ordinance.pdf

5.2.4 SETBACK REQUIREMENTS.

1. Adjacent to primary four (4) lane highways (i.e. US Hwy 83)
   a. Two hundred fifty (250) feet from the centerline of the nearest adjacent lane
2. Adjacent to primary two (2) lane highways (i.e. State Hwy 200)
   a. Two hundred fifty (250) feet from the centerline of the road.
3. Adjacent to secondary highways. (i.e. State Hwy 200A or Hwy 1804 or any blacktop surfaced County numbered road.)
   a. Two hundred (200) feet from the centerline of the road.
4. Adjacent to rural roads.
   a. One hundred twenty five (125) feet from the centerline of the road.
5. Adjacent to lakes, ponds, streams, rivers, etc.
   a. One hundred (100) feet from the high water mark.
6. Between structure and side lot line.
   a. Fifteen (15) feet.
7. Between structure and rear lot line
   a. Thirty (30) feet.
8. Trees or other items that could impact snow removal shall not be planted or placed within 125 feet from the centerline of a numbered county or township road, or 75 feet from the centerline of a road in a subdivision, commercial, or industrial area.

5.2.5 FENCES.

1. Recreational Districts.
   a. None within thirty (30) feet of shoreline nor may visual access to the water be restricted.
2. Other than Recreational Districts.
   a. None in sight line.

5.2.6 PARKING FACILITIES.

1. Commercial Districts.

a. Adequate off street for all employees and rolling equipment on a one to one ratio and for visitors and customers – one space per management employee.

2. Industrial Districts.

a. Adequate off street for all employees and rolling equipment on a one to one ratio and for visitors and customers – one space per management employee.

3. Districts other than Commercial and Industrial.

a. Adequate off street.

b. Permissible on setbacks and yards.

5.2.7 OUTDOOR STORAGE OF MATERIALS.

1. Commercial and Industrial Districts.

a. Prohibited on front yard and in sight lines.

2. All Districts.

a. Unsightly storage of old cars, junk, trash, etc., prohibited.

5.2.8 BUILDING CONSTRUCTION.

1. All Districts.

a. Permanent type construction.

5.2.9 BUFFER STRIPS.

1. Industrial Districts.

a. Sight and sound barrier, approved by the McLean County Planning and Zoning Commission, when adjacent to residential areas.

5.2.10 LANDSCAPING

1. Industrial Districts.

a. Front yard, except for walks, driveways and parking areas must be planted with grass or other ground cover.

VI. CONDITIONAL USES

6.1 DEFINITION.

A conditional use is one which may be permissible under this Ordinance within a designated district, but to which specific conditions are attached. However, mere compliance with the attached conditions will not guarantee approval of the conditional use. The McLean County Planning and Zoning Commission and the McLean County Board of County Commissioners must be satisfied that the granting of a conditional use permit will promote the health, safety and well being of the citizens of McLean County.

6.2 PUBLIC HEARING REQUIRED.

Application for approval of a conditional use, in addition to other pertinent information must be submitted to the Planning and Zoning Commission and a public hearing held before any action is taken for approval of the conditional use.

6.3 FEES AND NOTICE TO THE PUBLIC.

Fees are payable in advance. Included within the fee will be the cost of publishing notice of the hearing. The McLean County Land Use Administrator or the McLean County Auditor will be responsible for publishing the notice in the appropriate newspapers and will also be responsible for posting notice at the affected site.

6.4 PROCEDURE FOR APPROVAL OF A CONDITIONAL USE.

6.4.1 APPLICATION

Application for approval of a conditional use shall be submitted on an approved form to the McLean County Land Use Administrator or the McLean County Auditor.

6.4.2 ADDITIONAL INFORMATION REQUIRED.

The following information shall be submitted to the McLean County Planning and Zoning Commission for all conditional uses if the information is necessary for permit conditions or issuance. Additional information for particular conditional uses may also be required under this Ordinance. The applicant is responsible for ascertaining whether the particular conditional use for which he is seeking approval requires the submission of such additional information. However, if a state or federal agency also has a permitting or licensing process for the subject of a conditional use permit, and that process requires information prescribed in these rules, the County Planning and Zoning Commission may grant a conditional use permit subject to the approval of the other entities permitting process:

1. A description and map of the site and its relationship to the surrounding areas.
2. A boundary line survey of the site prepared by a licensed land surveyor.
3. Preliminary maps showing the location of structures to be developed or used at the site.
4. Topographic maps in five (5) foot contours of the site.
5. Classification of soils on the site.
6. The location of existing utilities and proposed utility extensions.
7. Parking plans showing off-street parking areas, loading areas, and transfer stations.
8. A schedule showing anticipated starting and completion dates.
9. Written approval of respective highway authorities for new access Roads. In addition, the County Planning and Zoning Commission may require an approved road use plan that includes routes, vehicle volume, date and time restrictions, weight and speed rules, and a road maintenance agreement.
10. Names and addresses of adjacent property owners.
11. Copies of all plans and specifications which have been submitted to governmental departments and agencies.
12. Any additional information deemed necessary by the McLean County Planning and Zoning Commission.
13. Expansion or change in use of a previously granted conditional use permit may require a new or modification of an existing conditional use permit as directed by the county commission.

14. The County Planning and Zoning Commission may require site reclamation upon closure in a conditional use permit. In addition, a bond may be required to protect against public incursions of liability, reclamation, or clean up or closure costs. Such financial assurance instruments include irrevocable letter of credit, cash surety bonds, or cash bonds. If a financial assurance instrument is required it shall be posted before final county approval of the application is completed. No financial instruments shall be required if the applicant provides proof that bonding will be adequately addressed by a state agency or permitting process

6.5 ADDITIONAL INFORMATION REQUIRED AND ADDITIONAL CONDITIONS ATTACHED TO THE FOLLOWING CONDITIONAL USES:

6.5.1 ELECTRICAL POWER TRANSMISSION LINES AND MORATORIUM RIGHTS.

1. The lines shall follow quarter section lines unless otherwise approved by the landowner and the McLean County Board of County Commissioners. All electrical power transmission lines from wind energy facilities are subject to §6.5.11(3) setbacks or avoidance zones. Any electrical power transmission line above 15 kilovolts (kV) must have a siting plan approved by the county before any installation or upgrade. Electrical power transmission sites and routes must be selected to minimize disorder and adverse human, economic, agricultural, environmental, and wildlife impacts in the county. If the county finds the site of an electrical power transmission line will unduly harm any of these specified public interests, it can deny the site permit. The county reserves the right to issue a moratorium for up to (24) twenty-four months for the siting or building of any new electrical power transmission lines, or electrical or energy generation facilities if the county needs time or information to study the impact of additional transmission lines or generation facilities on the health, safety, morals, public convenience, general prosperity, and public welfare of the citizens of McLean County. If the county exercises its moratorium rights it shall do so by written resolution of the county commission that is then published on the county website and official county newspaper. Any person has a right to appear before the county commission to protest any moratorium.

6.5.2 RESIDENTIAL OCCUPANCY IN COMMERCIAL DISTRICST.

1. Occupancy must be limited to that of the owner or the owner's employees and their families, who are employed on the premises.
2. Occupancy must be either in the same building as the employment place or in the immediate surrounding area.

6.5.3 CHEMICAL FERTILIZER PLANTS, COAL GASIFICATION PLANTS, ELECTRICAL POWER GENERATING PLANTS, REFINERIES AND PETROCHEMICAL PLANTS.

1. A preliminary public hearing shall be conducted in the County concerning site location, needs of the plant, size and location of construction crews, employees, road, housing, community facilities, and County and community services.
2. The applicant shall provide twelve (12) copies of an environmental impact statement for distribution to the appropriate agencies.
3. Written evidence of approval by any necessary state or federal permitting agency shall be provided.
4. Written evidence of approval for a water permit from the North Dakota State Water Commission shall be provided.
5. Applicants shall conform to all requirements regarding preservation, removal, or relocation of historical or archaeological artifacts.
6. The county may require an applicant for a site permit for a new electrical power generation plant to provide the following written documentation:
a. the proposed plant's greenhouse gas and other pollutant release spectrum so the public can determine the plant's impact to air quality and climate change;
b. base load power plant needs in the relevant Regional Transmission Organization (RTO), including black or brown out or reliability risks in the RTO;
c. impacts of the proposed plant on any other electrical generation plant in the county;
d. impacts of the proposed plant to any coal mining activity in the county.
7. The county reserves the right to deny or hold in abeyance any site permit until any or all lands that are under mining control are released from their bonds and returned to private ownership.

6.5.4 LIVESTOCK AUCTION RING.

1. Off street parking and storage facilities for farm implements incidental to the operation of the ring shall be provided.
2. Adequate off street facilities for parking of motor vehicles shall be provided.
3. Sufficient off street space for truck maneuvering shall be provided.
4. Use of a building or structure (temporary or permanent) for a restaurant or coffee shop shall be permitted upon written evidence of approval by the First District Health Unit in Minot North Dakota.

6.5.5 ANIMAL FEEDING OPERATIONS.

A. General Provisions.

A.1 Definitions.

Terms used in this Ordinance have the same meaning as given by the laws and rules of the State of North Dakota, specifically chapter 33-16-03 of the North Dakota Administrative Code. The definitions for these terms are:

"Animal feeding operation" means a place where: livestock have been, are, or will be confined, concentrated and fed for 45 or more days in any 12 month period; pasture, crops, or other vegetation are not normally managed or sustained for grazing during the normal growing season; and, animal waste or manure accumulates. This term does not include an animal wintering operation. Adjoining animal feeding operations under common ownership are considered to be one animal feeding operation, if they use common areas or systems for manure handling.

"Animal wintering operation" means the confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. The term includes the weaned offspring of cattle and sheep, but it does not include (1) breeding operations of more than 1,000 animal units or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes.

"Due process" involves two essential elements; (1) notice and (2) an opportunity for a hearing. The notice must adequately describe the potential action that might affect the person(s) being notified and it must provide the person(s) a reasonable time to respond. If the person(s) request(s) a hearing, the hearing must be fair and allow the person(s) to present relevant evidence and arguments.

"Existing" means in place and operating on the date this Ordinance is effective.

"Livestock" means any animal raised for food, raw materials or pleasure, including, but not limited to, beef and dairy cattle, bison, sheep, swine, poultry and horses. Livestock also includes fur animals raised for pelts.

"Manure" means fecal material and urine from livestock, as well as animal-housing wash water, bedding material, rainwater or snow melt that comes in contact with fecal material or urine.

"Operator" means an individual or group of individuals, a partnership, a corporation, a joint venture, or any other entity owning or controlling one or more animal feeding operations or animal winter operations.

"Shall" means that the requirement is mandatory, rather than optional.

"Surface water" means waters of the State located on the ground surface such as lakes, reservoirs, rivers and creeks.

"Waters of the State" means all waters within the jurisdiction of this State, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partly within or bordering upon the State, except those private waters that do not combine or effect a junction with natural surface or underground waters just defined.

A.2 Equivalent Animal Numbers.

An "animal unit equivalent" is a unit-less number developed from the nutrient and volume characteristics of manure for a specific livestock type. The term "animal units" is used to normalize the number of animals (e.g., head) for each specific livestock type which produce comparable bulk quantities of manure. The animal unit equivalents for types of livestock and the numbers of livestock for facility size thresholds of 300 animal units, (a.u.), and so forth, are listed in the following table.

		Equivalent numbers of the Livestock (head) For Four Sizes (a.u.) of Animal Feeding Operations			
Livestock type	Animal Unit Equivalent	300 a.u.	1,000 a.u.	2,000 a.u.	5,000 au
1 horse	2.0	150 head	500 head	1,000 hd	2,500 hd
1 dairy cow	1.33	225	750	1,500	3,750
1 mature beef	1.0	300	1,000,	2,000	5,000
1 beef feeder - finishing	1.0	300	1,000	2,000	5,000
1 beef feeder back - grounding	0.75	400	1,333	2,667	6,667
1 mature bison	1.0	300	1,000	2,000	5,000
1 feeder bison	1.0	300	1,000	2,000	5,000
1 swine, >55 lbs	0.4	750	2,500	5,000	12,500

1 swine, nursery	0.1	3,000	10,000	20,000	50,000
1 sheep	.01	3,000	10,000	20,000	50,000
1 chicken	0.01	30,000	100,000	200,000	500,000
1 turkey	0.0182	16,500	55,000	110,000	275,000
1 goose or duck	.02	1,500	5,000	10,000	25,000

A.3 Environmental Protection.

The operator of a new facility for animal feeding is expected to locate, construct, operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. The operator of an existing facility is expected to operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. Each operator shall comply with applicable State laws and rules, including the laws and rules administered by the North Dakota Department of Health and with any permits granted by that department.

A.4 Enforcement.

In the event of a violation of this Ordinance or a judgment on a civil action by the North Dakota Department of Health, the McLean County Board of County Commissioners, after due process, can order cessation of a facility for animal feeding within a reasonable period of time and until such time as the operator corrects or abates the cause(s) of the violation. If the cause(s) of the violation are not remedied within a reasonable period of time as set by the McLean County Board of County Commissioners, the permit may be revoked.

B. Setback Requirements.

B.1 Water Resource Setbacks.

The operator of a new animal feeding operation that has more than 1,000 animal units shall not locate or establish that operation:

a. Within a delineated source water protection area for a public water system. The source water protection areas for water supply wells include the entire wellhead protection area. For the surface-water intakes of public water systems, source water protection areas include all or portions of the surface water that supplies the water for the public water system, including all or portions of the surface-water's shoreline.

b. Within 1,200 feet of a private ground water well which is not owned by the operator or within 1,500 feet of a public ground water well which does not have a delineated source water protection area.

c. Within 1,000 feet of surface water which is not included in a source water protection area.

d. Within one (1) mile of the following Class 1 recreational surface waters:

1. The Missouri River, as measured from the edge of the River at its ordinary high water mark or, if an ordinary high water mark has not been established for that tract, from the edge of the River when the flow of the river is 20,000 cfs.
2. Lake Sakakawea, when it is filled to its maximum level.
3. Lake Audubon, when it is filled to its maximum level.

e. Within one-half (½) mile of the following Class 2 recreational surface waters at their ordinary high water marks:

Strawberry Lake; Camp Lake; Brush Lake; Blue Lake; Crooked Lake; Long Lake; Lake Brekken; Lake Holmes; Lightning Lake; Turtle Lake; Lake Peterson; or Lake Williams.

f. Within three hundred (300) feet of the McClusky Canal or any creek or intermittent stream that drains into a surface identified in d. or e., unless such animal feeding operation is operated under a permit and nutrient management plan issued by the North Dakota Department of Health that prevents the discharge of pollutants into any surface waters, or if the Board of County Commissioners finds just cause to grant a variance to this setback.

B.2 Odor Setbacks.

The operator of a new facility for an animal feeding operation shall not locate that operation within the extra-territorial zoning jurisdiction of an incorporated city.

An owner of property shall locate and establish a residence, business, church, school, public park or zone for residential use so as to provide a separation distance from any existing animal feeding operation. The separation distances, or setbacks, are listed in the following table. An owner of property who is an operator may locate the owner's residence or business within the setbacks.

Setback Distances for Animal Feeding Operations		
Number of Animal Units		Other Animal Operations

	Hog Operations	
Fewer than 300	None	None
300-1,000	0.50 mile	0.50 mile
1,001-2,000	0.75 mile	.050 mile
2,001-5,000	1.00 mile	0.75 mile
5,001 or more	1.50 miles	1.00 mile

The operator of a new animal feeding operation shall locate the site of that operation from existing residences, businesses, churches, schools, public parks and areas of property that are zoned residential so as to exceed the corresponding listed setback from these places.

If notified in writing by an operator of a planned future expansion of an animal feeding operation, the McLean County Board of County Commissioners may implement the corresponding odor setback for a temporary time period not to exceed two years, after which time the setback will remain in effect only if the expansion was completed.

The McLean County Board of County Commissioners may, upon recommendation of the McLean County Planning and Zoning Commission or Land Use Administrator, increase or decrease a setback distance for a new animal feeding operation after consideration of the proposed operation's plans, if it determines that a greater or lesser setback distance is necessary or acceptable, respectively, based upon site conditions or demonstrable safety, health, environmental or public welfare concerns.

B.3 Building Setback.

All corrals, pens, and buildings included in the animal feeding operation shall be located at least 150 feet from an adjacent property line.

B.4 Setbacks from Cities and Subdivisions.

a. The operator of a new animal feeding operation that has more than 1,000 animal units may not locate or establish that operation within one (1) mile of any incorporated city that has a population of more than 1,250 persons, or within one-fourth (¼) mile of the extraterritorial area over which that city exercises its extraterritorial zoning authority, whichever is greater.

b. The operator of a new animal feeding operation that has more than 1,000 animal units may not locate or establish that operation within one-half (½) mile of any incorporated city that has a population of 1,250 persons or less, or within one-fourth (¼) mile of the extraterritorial area over which that city exercises its extraterritorial zoning authority, whichever is greater.

c. The operator of a new animal feeding operation that has more than 1,000 animal units may not locate or establish that operation within one-half (½) mile of any platted subdivision with ten (10) or more residences.

B.5 Odor Easements.

Setback distances do not apply to any existing residences, businesses, churches, schools, or public parks, if the owner or operator of the animal feeding operation has obtained an odor easement from the owner of the affected property and any person who is leasing the property at the time that the easement is granted.

C. Conditional Uses.

C.1 Permit Procedures.

C.1.a Applicability.

The operator of a new livestock facility or an existing livestock facility, which meets the definition of an animal feeding operation and which is a conditional use of land as listed below, shall apply for and obtain a conditional use permit.

1. A new animal feeding operation that would be capable of handling, or that expands to handle, more than 1,000 animal units is a conditional use of the land.
2. An existing animal feeding operation that expands to handle more than 1,000 animal units is a conditional use of the land.
3. A new animal feeding operation that is capable of handling, or that expects to handle, or an existing animal feeding operation that expands to handle, more than 300 animal units is a conditional use of the land if it is located in any area identified in subsections d, e, or f of Section B.1, or subsections a, b or c of Section B.4.

Whenever the capacity of an animal feeding operation is expanded to handle more than 2,000 or 5,000 animal units, the operator shall apply for a new conditional use permit.

C.1.b Procedure.

1. Application for a conditional use permit shall be submitted to the McLean County Planning and Zoning Commission for tentative approval. The McLean County Land Use Administrator shall notify the Department of Health that it has received such application.
2. The McLean County Land Use Administrator shall notify by certified mail all property owners having property within the corresponding odor setback distance of a proposed new animal feeding operation. This notification must occur within 21 days of receiving the application.
3. Following tentative approval or denial of the application by the McLean County Board of County Commissioners, as submitted by the McLean County Planning and Zoning Commission, the applicant shall be notified by letter of the decision, including conditions imposed, if any.
4. The applicant shall then forward its application for a conditional use permit, together with the tentative approval by the McLean County Board of County Commissioners, to the North Dakota Department of Health.

5. Following a review by the Department of Health of the operator's application for a State permit, the Department of Health will notify the McLean County Land Use Administrator of its decision.
6. The conditional use permit will become final following the granting of a permit by the ND Department of Health.

C.1.c Application requirements.

The application for a conditional use permit to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility will handle more than 1,000 animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer or other person having comparable experience or qualifications. The McLean County Planning and Zoning Commission may require any or all of the following elements, or require additional elements, in its site plan review process when needed to determine the nature and scope of the animal feeding operation.
1. Proposed number of animal units.
2. Total acreage of the site of the facility.
3. Existing and proposed roads and access ways within and adjacent to the site of the facility.
4. Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.
5. A copy of the permit application submitted by the applicant to the ND State Department of Health.

C.2 Ownership Change.

An operator of a facility that includes an animal feeding operation having a permit granted by this Ordinance shall notify the McLean County Land Use Administrator of the sale or the transfer of the ownership of that operation.

C.3 Operating Change.

An operator of a facility that includes an animal feeding operation having a permit granted by this Ordinance shall notify the McLean County Land Use Administrator of intent to include an alternate livestock type. The notice shall be given at least 120 days prior to the anticipated date of the change.

C.4 Closure and Financial Assurance.

C.4.A Notice of Termination.

The owner, operator or permitee shall provide the County with a minimum of thirty (30) days written notice prior to permanent cessation or abandonment of the animal feeding operation or any part of the wastewater treatment system. It shall be a violation of these rules to permanently cease the use or abandon any facility or site or any part of the wastewater treatment system, including but not limited to pits, lagoons, impoundments, piping, disposal areas, storage areas, and land application sites without complying with notice and closure requirements.

C.4.B Closure and Financial Assurance Instruments.

1. The McLean County Commissioners shall establish by rule the conditions and standards for proper closure of a concentrated animal feeding operation upon cessation of operations. These shall address at a minimum; lagoon draining, cleaning and filling, removal of waste handling facilities and equipment, disposal of animal parts or carcasses and other conditions to assure public health and safety.
2. Upon proper closure, as determined by an inspection by the North Dakota State Health Department and/or by the First District Health Unit of Minot ND, any financial assurance instrument required under Section C.1.d shall be returned to the posting entity.

6.5.6 AIRPORTS.

Written evidence of approval by the Federal Aeronautics Administration and the North Dakota Aeronautics Commission shall be submitted to the McLean County Planning and Zoning Commission.

6.5.7 COAL EXCAVATION AND MINING.

1. Public Hearing Required.

Preliminary public hearings shall be conducted by local and county governments concerning site location, needs of the operation and company employees regarding roads, housing, community facilities, and county and community services. These hearings are separate from any environmental impact statement process.
2. Conditions to be met prior to the issuance of a permit.

The following material shall be submitted to the McLean County Board of County Commissioners or their designated representatives.
a. All non-confidential information concerning site operation, location, ownership patterns, site reclamation, and any other non-confidential information deemed necessary.
b. Written evidence of approval by the North Dakota Public Service Commission for the operation of the mine or excavation.
c. A copy of the bond posted with the North Dakota Industrial Commission as required by NDCC 38-14.1-13(1)(a).
3. Conditions to be met after the permit has been issued.
a. The permitee shall conform to all State and Federal laws regarding the preservation, removal, or relocation of historical or archeological artifacts and to the reclamation of mined lands.
b. Access to the mining area by any designated representative of the McLean County Board of County Commissioners shall be permitted for the purpose of inspection to insure that injury to the public will not result because of any coal excavation or mining in McLean County.

6.5.8 COMMERCIAL SAND AND GRAVEL OPERATIONS.

1. Public Hearing Required.

A preliminary public hearing shall be conducted in the County concerning site location, needs of the operation and

employees with regard to roads, housing, community facilities and county and community services.
2. Conditions to be met after a permit has been issued.
a. No excavation shall take place within thirty (30) feet of an adjacent property line unless a written agreement is made otherwise with the owner of that property. Evidence of that agreement shall be submitted to the McLean County Land Use Administrator or his designated representative.
b. No excavation shall take place within one hundred twenty five (125) feet of an existing residence unless a written agreement is made otherwise with the owner of that residence. Evidence of that agreement shall be submitted to the McLean County Land Use Administrator or his designated representative.
c. Rock crushers shall be considered accessory to sand and gravel operations, provided that the material used and processed by said crusher is limited to that found on the site of the operation.
d. Any sand and gravel pit that has been vacated for two (2) or more years will be deemed abandoned and the operator must reapply for a permit before renewing the excavation operation.
e. Any additional information deemed necessary by the McLean County Planning and Zoning Commission shall be provided before the application for sand and gravel operations is approved.

6.5.9 SALVAGE AND JUNK YARDS.

1. Salvage and junk yards shall be screened by plantings and/or fences approved by the McLean County Planning and Zoning Commission.
2. Burning of salvaged material or junk is prohibited.
3. Any information deemed necessary by the McLean County Planning and Zoning Commission shall be provided before the application for salvage and junk yard operations is approved.
4. The above conditions are in addition to any applicable State law requirements.

6.5.10 WASTE DISPOSAL FACILITY.

Waste disposal facilities, as regulated by this section, shall include all facilities for the incineration or disposal of waste residue which are required to be permitted under statute or rule by the North Dakota Department of Health and Consolidated Laboratories.
The McLean County Planning and Zoning Commission may require a preliminary public hearing to be conducted in the County concerning site location, needs of the facility, size and location of construction crews, employees, roads, housing, community facilities, and County and community services.
A waste disposal facility may be allowed in any Agricultural zone as a conditional use, following a final public hearing and approval, provided:
1. It is continuously licensed, permitted, or approved by the North Dakota State Health Department as to location and operation.
2. There is no evidence that the facility will endanger the public health or the environment.
3. The facility shall develop a comprehensive plan for controlling surface water drainage which is in compliance with North Dakota State Department of Health and Consolidated Laboratories requirements.
4. Operation of the facility shall not present any evidence of danger to surface and groundwater resources. In addition to these provisions, the McLean County Planning and Zoning Commission may require the following provisions, which will be determined on a case-by-case basis:
5. The site is located at least one-half (½) mile from any and all residences or residentially zoned area unless written approval is obtained from the owner of any residence within this area.
6. All excavation and actual disposal areas shall maintain a minimum set back of one hundred fifty (150) feet from all property lines.
7. Unauthorized entry to the site shall not be permitted. In addition, facility personnel may be required to be on site during all times of active disposal.
8. Fencing, as specified by the Commission, may be required to be installed along the boundaries of the active disposal area.

6.5.11 WIND ENERGY FACILITES

GENERAL PROVISIONS.
1. Public hearing required.
A preliminary public hearing shall be conducted in the county concerning site location, needs of the operation and company employees regarding roads, housing, community facilities and county and community services. These hearings are separate from any environmental impact statement process that may be required. 2. The county incorporates and adopts all North Dakota Public Service Commission (NDPSC) laws and rules found in NDCC chapters 49-22 and 49-22.1, and NDAC chapter 69-06 as the county wind energy generation ordinance and may enforce those rules or laws independent of the NDPSC. The county reserves the right to list rules in addition to, or more restrictive than, NDPSC rules and those reservations and restrictions are enumerated in paragraph three (3).
3. County reservations and restrictions:
a. The turbine setback from any section line, public right of way, or nonparticipating landowner's property line is one and one half the height of the turbine plus seventy- five (75) feet from the centerline;

b. The turbine setback from a nonparticipating landowner's occupied residence is twenty-five (25) hundred feet;
c. Turbine(s) and any electrical power transmission lines from NDPSC permitted wind turbines, whether they are within the county or intrastate, and whether they were installed for existing energy sources, or new or upgraded energy sources, shall be setback at least one (1) mile beyond the ordinary high water mark of the Missouri River, Lake Sakakawea, and Lake Audubon;
d. Fees. The special use permit fee is .001 (1/10th of 1%) of the value of each wind turbine. If a turbine is in an organized township this fee will be provided to that township. An application fee of $1000 shall be payable at the time of application for a special use permit, with the remainder of the special use permit fee remitted by the applicant prior to building permit application(s);
e. The County reserves the right to reject a wind turbine permit application if the project could have a material adverse impact to area property values, agriculture, or wildlife.
4. Transfer of permit.
The owner of an approved wind energy facility shall send written notice to the county auditor of any change in ownership of the facility and include the contact information of the subsequent purchaser. The purchaser of a wind energy facility shall keep the county updated with contact information and other matters pertinent to the county's zoning permit.

VII. FLOATING ZONES

7.1 DEFINITION

Floating zones are districts with specified purposes which are established by this Ordinance without actually being delineated on the zoning map. When an opportunity arises to carry out the intended purposes on a particular tract of land, an amendment to the Zoning Ordinance will establish the actual boundaries of the district. The developer must embark upon and actually complete the project or the floating zone will disappear.

7.2 THE FOLLOWING USES SHALL BE DESIGNATED AS FLOATING ZONES.

7.2.1 Mobile Home Parks

7.2.2 Recreational Vehicle Parks

7.2.3 Planned Unit Developments (P.U.DS)

7.2.4 Subdivisions

7.3 REQUIREMENTS

7.3.1 MOBILE HOME PARKS

1. Mobile home parks shall be a minimum of five (5) acres and a maximum of eight (8) mobile homes per gross area.
2. There must be a minimum of fifteen (15) feet between structures.
3. Each mobile home shall be placed on a lot at least fifty (50) feet wide with a minimum of five thousand (5,000) square feet.
4. Each mobile home shall have a minimum setback of ten (10) feet.
5. Underground utility hookups shall be provided for each lot. These utilities shall include water, sewer, gas, electricity and telephone.
6. Where the individual mobile home units in a mobile homes park are served by dedicated public streets, those public streets shall be plotted and constructed according to the applicable street standards of McLean County.
7. Where individual mobile home units are served by a private street system, those streets shall provide for the following:

a. Where parking is to be allowed on both sides of the street, there shall be a driving surface of thirty four (34) feet within an easement of forty (40) feet.

b. Where parking is to be prohibited on both sides of the street, there shall be a driving surface of twenty four (24) feet wide within an easement of thirty (30) feet.

c. There shall be an additional easement width sufficient to accommodate a four (4) foot wide pedestrian walkway on one side of the road.

d. There shall be access at all times for emergency vehicles.

e. All entrances, exits, and streets shall be lighted by electricity. At least one fifty (50) watt light shall be provided for each one hundred (100) lineal feet of street.

f. All requirements of State regulatory agencies or departments must be complied with.

7.3.2 RECREATIONAL VEHICLE PARKS.

1. Minimum camp site area shall be two thousand five hundred (2,500) square feet.
2. One comfort station shall be provided for every thirty (30) campsites.
3. Refuse disposal receptacles shall be provided no closer than fifteen (15) feet nor more than one hundred fifty (150)

feet from every campsite. Said receptacles shall not be located within fifty (50) feet of a water supply, except in permeable soils where greater distances will be required.
4. An approved water supply shall be provided within three hundred (300) feet of every campsite. Written evidence of approval by the North Dakota State Laboratory shall be provided to the McLean county Planning and Zoning Commission.
5. One sanitary flushing station shall be provided for each one hundred (100) campsites.
6. Proposed park regulations and site plans shall be submitted by the applicant for approval by the McLean County Planning and Zoning Commission.

7.3.3 PLANNED UNIT DEVELOPMENTS (P.U.D'S)

1. DEFINITION.

The other districts regulated by this Ordinance maintain that for each structure containing a permitted use, a separate lot must be maintained. P.U.D's. allow two or more structures to be maintained on the same zone lot under one or joint ownership, to allow diversification in the location of structures on the land. Any development that is not compatible with the general spirit of this Ordinance and damaging to the health, safety, and welfare of the citizens of McLean County shall not be allowed.

2. REQUIREMENTS.

A development plan shall be filed with the McLean County Planning and Zoning Commission in all cases where two or more structures containing permitted uses are to occupy a zone lot. Such filing shall include:

a. A statement certifying that the applicant or applicants are the owners of the tract.

b. An explanation of the objectives to be achieved by the planned unit, including building descriptions, sketches, or elevations as may be required to describe the objectives.

c. A site plan showing the major details of the development prepared at a scale of not less than one (1) inch equaling one hundred (100) feet. The site plan must contain the following minimum information:

1. The legal description of the land.

2. The land area included within the development plan, the zoning classification of abutting lands and all public and private rights of way and easements abutting and crossing the land area.

3. The location, lot size, and height of each existing or proposed structure within the designated area.

4. Areas which are to be dedicated or reserved as common park areas.

5. The internal traffic and circulation systems, off street parking areas, and major points of access to public rights of way.

6. A description of existing topography showing two foot contour levels.

3. STANDARDS

The McLean County Planning and Zoning Commission, in reviewing the application for a Planned Unit Development, must be satisfied that all of the following standards have been met.

a. The total structural development area is defined as forty (40) percent of the total area of the district, excluding streets and drives. The total ground area occupied by buildings and structures shall not exceed the structural development areas. The total number of dwelling units permitted in this district shall be determined by dividing the total square feet of the structural development area by two thousand (2,000) square feet.

b. Safe and efficient vehicular circulation both on the site and at entrances to the public street systems.

c. Safe play and recreational areas for residential complexes intended for family occupancy.

d. Commercial or multi-family buildings and structures in any planned unit adjacent to a low density residential use district must provide a thirty (30) foot buffer zone. The buffer zone must be landscaped and screen planted to minimize adverse effects on surrounding areas.

e. Preservation of natural features must be a part of the proposed development.

4. REVIEW AND APPROVAL

a. For a proposed Planned Unit Development, the applicant shall provide whatever additional information may be required by the McLean County Planning and Zoning Commission.

b. Upon approval and hearing of the preliminary plan by the McLean County Planning and Zoning Commission, the applicant shall prepare and submit a final development plan which shall incorporate required changes or alterations. The final development plan and the McLean County Planning and Zoning Commission's recommendations shall be forwarded to the McLean County Board of County Commissioners for their review and final approval.

7.3.4 SUBDIVISIONS.

It is the duty of the McLean County Planning and Zoning Commission to regulate the subdividing of lands that are far in advance of the needs of the community; or that by their location cannot be efficiently served by public utilities, fire protection, police protection or other municipal services; or that are located in areas subject to flooding, or that are topographically unsuitable for development; or that for any other reason are being unwisely or prematurely subdivided.

1. DEFINITION.

For the purposes of this Ordinance, unless the context otherwise requires, "subdivision" means the division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or lease for building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or rights of way, whether public or private,

for access to or from any such lot, tract, or parcel, and the creation of new or enlarged parks, playgrounds, plaza, or open spaces.

Whenever there exists two or more non-farm rural properties in close proximity to each other, it shall be presumed that any future sale of land for non-farm purposes in the immediate vicinity shall establish intent on the part of the owner to create a subdivision and subdivision approval shall be required.

2. FILING PROCEDURES AND DATA REQUIREMENTS.

Prior to filing an application for a conditional approval of the preliminary plat, the subdivider shall submit the following plans and data to the McLean County Land Use Administrator or McLean County Auditor:

2.1. Location map.

The map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. The location map shall include:

a. The development name and locations
b. Main traffic arteries
c. Public transportation lines
d. Shopping centers
e. Elementary and high schools
f. Parks and playgrounds
g. Principal places of employment
h. Other community features such as railroad stations, airports, hospitals and churches.
i. Title
j. Scale
k. North arrow
l. Date
m. Other pertinent information.

2.2. Sketch plan in topographic survey.

This plan shall show in single sketch form the proposed layout of streets, lots, and other features in relationship to existing conditions. The sketch shall include the topography and such other data as the McLean County Land Use Administrator or McLean County Auditor determines is necessary for his/her consideration of the proposed sketch plan.

2.3. General subdivision information.

The applicant shall describe or outline the existing conditions of the site and proposed development as necessary to supplement the required drawings. This information may include, but is not limited to:

a. data on existing covenants.
b. land characteristics
c. information describing the subdivision proposal such as:
1. Number of residential lots.
2. Typical lot width and depth.
3. Business area.
4. Playgrounds.
5. Park areas.
6. Other public areas.
7. Proposed protective covenants.
8. Proposed utilities and street improvements.

The pre-application procedures do not require a formal application or fee.

Within fifteen (15) days after submittal, the McLean County Land Use Administrator or McLean County Auditor shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the Land Use Administrator or McLean County Auditor finds the plans and data do not meet the objectives of the subdivision regulations, he/she shall state the reasons for its rejection and what changes are required for approval.

If it has been determined by the McLean County Land Use Administrator or McLean County Auditor that the plans and data submitted by the subdivider do meet the requirements of these regulations, the subdivider shall prepare a preliminary plat.

2.4. The following data requirements are necessary for conditional approval of the Preliminary Plat.

2.4.1 Topographic Data. Shall include the following existing conditions except when otherwise specified by the McLean County Planning and Zoning Commission:

a. Boundary lines – bearings and distance.
b. Easements – location, width and purpose.
c. Streets on and adjacent to the tract, name, right of way width and location, type, width and elevation of surfacing, any legally established center line elevations, walks, curbs, gutters, culverts, etc.
d. Utilities on and adjacent to the tract, location, size and invert elevation of sanitary and storm sewers, location and size of water mains, locations of gas lines, fire hydrants, electric and telephone poles and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to and size of those nearest. Also, show invert elevation of sewers.
e. Subsurface conditions on the tract. If required by the McLean County Planning and Zoning Commission and the County Engineer, location and results of tests made to ascertain the following;
1. Subsurface soil
2. Rock and ground water conditions
3. Depth to ground water unless test pits are dry at a depth of five (5) feet.
4. Location and results of soil percolation tests in individual sewage disposal systems are proposed.
f. Other conditions on the tract should show the following:
1. Water courses
2. Marshes
3. Rock outcrops
4. Wooded areas.

5. Isolated preservable trees 1 foot or more in diameter.
6. Houses
7. Barns
8. Shacks

9. Other significant features upon a topographic map in five (5) foot or less contours.

g. Other conditions on adjacent land should show the following:

1. Approximate direction and gradient of ground slope, including any embankments or retaining walls.
2. Character and location of buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences.
3. Owners of adjacent unplatted land.
4. For adjacent platted land refer to subdivision plat by name, recordation date, and number as well as the approximate percent that is built up, typical lot size and dwelling type.

h. Photographs, if required by the McLean County Planning and Zoning Commission should show camera locations, directions of views and key numbers.

i. Zoning on and adjacent to the tract.

j. Proposed public improvements should show highways or other major improvements planned by the public authorities for future construction on or near the tract.

k. Key plan showing location of the tract.

l. Title and certificates should show the following;

1. Tract designation according to official records.
2. Title under which the proposed subdivision is to be recorded.
3. Names and addresses of owners.
4. Notation stating acreage, scale, North arrow, datum, benchmarks, certification by a licensed land surveyor and date of the survey.

m. Submit a plat prepared according to state law by a licensed land surveyor.

2.4.2 The preliminary plat shall be at a scale of two hundred (200) feet to the inch or larger. It shall show all existing conditions required in the topographic data and shall show all proposals including the following:

a. Streets – show names, rights of way and roadway widths, approximate grades and gradients; similar data for alleys, if any.

b. Other rights of way or easements – show locations, width and purpose.

c. Location of utilities, if not shown on other exhibits.

d. Lot lines, lot numbers and block numbers.

e. Sites, if any, to be reserved or dedicated for parks, playgrounds, or other public uses.

f. Minimum building setback lines.

g. Site data, including number of residential lots, typical lot size and acres in parks, etc.

h. Title, scale, North arrow and date.

i. Protective covenants. Submit a draft of protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development. Such protective covenants must contain the following minimum requirements as set forth by the McLean County Planning and Zoning Commission:

1. The property may be used for residential purposes only. No building may be used for commercial use of any kind.

2. No subdivision of any lot shall be permitted.

3. The minimum setback requirements should be:

a. The setback from the front lot line shall be ___ (usually 25-50 feet).
b. The setback from the rear lot line shall be ___ (30 feet minimum is required by the McLean County Zoning Ordinance).
c. The setback from any side lot line shall be ___ (15 feet minimum is required by the McLean County Zoning Ordinance).
d. The Ordinance also requires 100 feet from the high water mark of any lake, pond, stream or river.

4. Lots must be limited to the construction of one detached single family dwelling along with any other customary structures accessory to the dwelling and used for residential or recreational purposes.

5. Single family dwellings should be restricted to not exceed two (2) to three (3) stories in height and should have a minimum main floor square footage. These minimums usually are 600-700 for 2 story structures and 800-1,000 for single story structures.

6. Shacks, huts, street cars, railroad cars, buses and mobile homes in disrepair are prohibited.

7.Mobile and/or manufactured homes should not be allowed unless the home is less than 10 years old at the time of placement and is not less than 24 feet wide. The home must be placed on a permanent foundation or on permanent piers. All permitted manufactured and modular homes must be skirted.

8. Unsightly storage of old cars and unlicensed vehicles, construction material, machinery, trailers, junk, trash and rubbish is prohibited.

9. Residents must contract with local operators' dumpster service for collection of household garbage.

10. No form of livestock, including birds or fowl, other than domestic dogs and cats (it is optional to restrict the number of each allowed) may be kept by an owner of any tract within the subdivision. All dogs shall be restricted to the premises of the lot owner.

2.4.3 A copy of the Preliminary Plat and supplementary material specified above shall be submitted to the McLean County Planning and Zoning Commission with written

application for conditional approval at least twenty days prior to the meeting at which it is to be considered. The McLean County Planning and Zoning Commission shall forward copies of the preliminary plat to the following agencies; McLean County Highway Superintendent, County Water Management District Board, County Board of Health, States Attorney, Land Use Administrator, the local Soil Conservation District, the affected rural fire district, and the local electric and telephone companies serving the proposed area.

2.4.4. Following a review of the preliminary plat and other material submitted for conformity to the subdivision regulations and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be make by him, the McLean County Planning and Zoning commission shall, within forty (40) days, act on the preliminary plat, as submitted, or modified, and if approved, the McLean County Planning and Zoning Commission shall express its approval as Conditional Approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefore.

2.4.5. The action of the McLean County Planning and Zoning Commission shall be noted on two copies of the preliminary plat, referenced and attached to any conditions determined by the Commission. One copy shall be returned to the subdivider and the other retained by the McLean County Planning and Zoning Commission.

2.4.6. Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather is shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparations for the final plat which shall be submitted for approval of the McLean County Planning and Zoning Commission and for recording upon fulfillment of the requirements of these regulations and the conditions of the conditional approval, if any.

3. PROCEDURE FOR APPROVAL OF THE FINAL PLAT.

1. The final plat shall be prepared by a licensed land surveyor in accordance with the laws of the State of North Dakota and the requirements of these regulations.

2. A performance bond guaranteeing the construction of the improvements by the developer shall be posted with the McLean County Auditor.

3. Submission of the final plat for approval shall be in writing to the McLean County Planning and Zoning Commission at least twenty (20) days prior to the meeting at which it is to be considered.

4. The final plat shall show the following:

a. Primary control points, approved by the McLean County Highway Superintendent, or descriptions and “ties” to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred.

b. Tract boundary lines, right of way lines of streets, easements, and others; property lines of residential lots and other sites with accurate dimensions, bearings of deflections, angles, and radii, arcs, or central angles of all curves.

c. Name and right of way width of each street or other rights of way.

d. Location, dimensions and purpose of easement.

e. Number to identify each lot or site.

f. Purpose of which sites, other than residential lots, are dedicated or reserved.

g. Minimum building setback lines on all lots and other sites.

h. Location and description of monuments.

i. Names of record owners of adjoining unplatted land.

j. Reference to recorded subdivision plats adjoining platted land by record names, date and number.

k. Certification by a licensed land surveyor.

l. Certification of title.

m. Statement by the owner dedicating streets, rights of way and any sites for public use.

n. Title, scale, North arrow and date.

o. Cross sections and profiles of streets showing grades approved by the County Highway Superintendent. The profiles shall be drawn to county scales and elevations and shall be based on a datum plane approved by the County Highway Superintendent.

p. A certificate by the County Highway Superintendent certifying that the subdivider has complied with applicable County rules and regulations relating to improvements not on the plat and attached thereto.

q. Protective covenants in form for recording that are not on the plat and attached thereto.

r. Other data such as other certificates, affidavits, endorsements, or deductions as may be required by the McLean County Planning and Zoning Commission in the enforcement of the regulations.

5. The final plat shall be submitted to the McLean County Planning and Zoning Commission within twelve months after approval of the preliminary plat. Otherwise, such approval will become null and void unless an extension of time is applied for and is granted by the McLean County Board of County Commissioners.

6. The McLean County Planning and Zoning Commission shall forward the approved final plat to the McLean County Board of County Commissioners for final approval and signatures.

7. The final plat shall not be approved by the Board of County Commissioners until the signature of the McLean County Highway Superintendent appears on the plat.

8. Upon approval of the final plat by the Board of County Commissioners, the developer shall file with the Planning and Zoning Commission for distribution to the appropriate agencies a sufficient number of copies of the

approved plat. The number of copies shall be in the amount determined by the Planning and Zoning Commission.

9. The developer shall file the final plat with the McLean County Recorder and file a certified copy of the final plat with the McLean County Auditor.

4. DESIGN STANDARDS

a. STREETS

1. The arrangements, character, extent, width, grade and location of all streets shall conform to road standards of McLean County and must be approved by the McLean County Highway Superintendent. The owner shall present the County Highway Superintendent with written plans and specifications for approval before construction. Design will consider relation to existing and planned streets, topographic conditions, public convenience and safety, and relation to the proposed uses of the land to be served.

2. The arrangement of streets in the subdivision shall either;

a. Provide for the continuation of existing principal streets in the surrounding areas, or;

b. conform to a plan for the neighborhood, approved or adopted by the McLean County Planning and Zoning Commission to meet a particular situation where topographical or other conditions make continuance of existing streets impractical.

3. Minor streets shall be so laid out that their use by through traffic will be discouraged.

4. Where a subdivision abuts or contains an existing or proposed arterial street, the McLean County Planning and Zoning Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

5. Where a subdivision borders on or contains a railroad right of way or limited access highway right of way, the McLean County Planning and Zoning Commission may require a street approximately parallel to and on each side of such right of way. Said streets shall be so located that the intervening land can be used for park purposes in residential districts, or commercial or industrial purposes in appropriate districts. The distances shall be determined with due consideration or requirements for approach grades and future grade separations.

6. Street centerline offsets of less than one hundred and twenty five (125) feet should be avoided.

7. A tangent of at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

8. When connecting street centerlines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor or collector streets, unless the McLean County Planning and Zoning Commission shall determine a greater radii.

9. Streets shall be laid out to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

10. Street right of way widths shall be not less than as follows:

Street Type	**Feet of Right of Way**
Arterial	80
Collector	80
Minor – for row apartments and houses	66
Minot for other residences	66
Marginal access	50

11. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of the regulations and where the McLean County Planning and Zoning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Both owners will have to sign the plat.

12. Permanent dead end streets shall not be longer than six hundred (600) feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least eighty (80) feet, and a street property line diameter of at least one hundred (100) feet.

13. No street names shall be used which will duplicate or be confused with the names of existing streets in this or other subdivisions. Street names shall be subject to the approval of the McLean County E-911 Coordinator.

14. All street grades, wherever feasible, shall not exceed six (6) percent.

15. No street grade shall be less than one half of one percent, unless approved by the McLean County Highway Superintendent.

b. ALLEYS.

1. Alleys or service drives shall be provided in commercial and industrial districts, except that the McLean County Planning and Zoning Commission may waive this requirement where other definite and assured provisions are made for service access, such as off street loading, unloading, and parking consistent with and adequate for the uses proposed.

2. The width of an alley shall be minimum of twenty (20) feet.

3. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

4. Dead end alleys shall be avoided where possible, but if unavoidable and approved by the McLean County Planning and Zoning Commission shall be provided with adequate turn around facilities at the dead end.

c. EASEMENTS.

1. Easements across lots or centered on rear or side lot lines shall be provided for utilities. Such easements are not to be less than ten (10) feet. The centerline of such easement may coincide with lot lines.

2. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right of way conforming substantially with the lines of such water course, and any further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

d. BLOCKS.

1. The lengths, widths and shapes of blocks shall be determined with due regard to:

a. Provision of adequate building sites suitable to the special needs of the type of use contemplated.

b. Zoning requirements as to lot sizes and dimensions.

c. Needs for convenient access, circulation, control and safety of street traffic.

d. Limitations and opportunities of topography.

e. LOTS.

1. The lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

2. Lot dimensions shall conform to the requirements of the Zoning Ordinance, and

a. Residential lots where not served by public sewer shall not be less than one hundred fifty (150) feet wide nor less than sixty five thousand (65,000) square feet in area.

b. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off street service and parking facilities required by the type of use and development contemplated.

3. Corner lots for residential use shall be of such width so as to allow any structure erected thereon to comply with setback regulations.

4. The subdividing of the land shall provide each lot with satisfactory access to an existing public street.

5. Double frontage and reverse frontage lots are not A, desirable and should be avoided. If topography or other conditions require the use of double frontage or reverse frontage lots, a planting screen easement of ten (10) feet or A,. greater with no right of access will be required along the lot abutting traffic arteries.

f. PUBLIC SITES AND OPEN SPACES. A,

1. Where a proposed park, playground, school, or other public use shown in the comprehensive plan of McLean County is located in whole or in part in a subdivision, the McLean County Planning and Zoning Commission may require the dedication or reservation of such area within the subdivision. Such reservation shall be for a period not to exceed five years at which time the McLean County Planning and Zoning Commission will re-evaluate.

2. Where deemed essential by the McLean County Planning and Zoning Commission and approved by the McLean County Board of County Commissioners, the subdivider may be required to dedicate or reserve to the public areas or sites of a character, extent, and location suitable to the needs for schools, parks, and other neighborhood purposes. Such reservation is to be for a period not to exceed three years. The purchase price shall not exceed fair market value of such land at the time of purchase. It is hereby found and declared that it is reasonable to require an amount of land, equal in value to twelve (12) percent of the land proposed to be subdivided to be dedicated for parks and recreation.

3. The subdivider may contribute an amount in cash equal to the value of land required to be dedicated by the subdivision. The cash payment shall be used only for the acquisition of land for parks and playgrounds.

g. REQUIRED IMPROVEMENTS.

1. Monuments.

a. Monuments shall be placed at all block corners, angle points, points of curves in streets, and at intermediate points as shall be required by the McLean County Planning and Zoning Commission. The monuments shall be of such material, size, and length as may be approved by the McLean County Highway Superintendent.

b. The standards and specification for general type of development shall be as follows:

STANDARD A - For apartment, row houses, and similar multi-family residential types.

STANDARD B - For single family detached dwellings with typical lot widths of sixty feet or less.

STANDARD C - For country homes with typical lot widths greater than Standard B and for commercial, industrial and other types, as determined by the McLean County Planning and Zoning Commission upon the advice the of the McLean County Highway Superintendent.

STANDARD:

A,B,C 1. Grading and centerline gradients; per plans and profiles approved by the McLean County Highway Superintendent.

A,B,C 2. Storm sewer systems and other drainage improvements: per plans approved by the McLean County Highway Superintendent.

A,B,C 3. Public water: per public health departments of the County and State.

A,B,C 4. Public sewer: per public health departments of the County and State.
A,B,C 5. Arterial streets: cross sections in accordance with the McLean County comprehensive plan and as determined by the McLean County Highway Superintendent and the McLean County Planning and Zoning Commission.
A,B 6.Collector streets: 80 foot right of way with one 44 foot pavement, 4½ foot sidewalks to abut lot line.
7. Minor streets:
A 66 foot right of way, with 36 foot pavement in single family areas.
B 70 foot right of way, with 40 foot pavement in multi-family areas.
A,B 4½ foot sidewalks abutting lot lines.
8. Marginal access streets:
50 foot right of way with minimum 7 foot setback.
4½ foot sidewalks with minimum 3 foot setback.
A,B,C 9. Streets along development boundaries and streets connecting development with existing improved street system: cross sections as determined by the McLean County Highway Superintendent and the McLean County Planning and Zoning Commission.
A,B,C 10. Alleys: paved full width per McLean County Hwy. Supt.
A,B 11. Curb: per McLean County Hwy. Supt.
A,B,C 12. Curb and gutter: per McLean County Hwy. Supt.
C 13. Valley gutter: per McLean County Hwy. Supt.
A,B,C 14. Pavement base: per McLean County Hwy. Supt.
A,B,C 15. Wearing surface: per McLean County Hwy. Supt.
A,B,C 16. Pavement: per McLean County Hwy. Supt.
A,B,C 17. Driveways: per McLean County Hwy. Supt.
A,B,C 18. Sidewalks: per McLean County Hwy. Supt.
A,B,C 19. Seeding of planting strips: per McLean County Hwy. Supt.
A,B,C 20. Street name signs: at all intersections per McLean County Hwy. Supt.

7.3.5 Regulations for Recreational Vehicle Use and Storage upon Residential Property.

As used in this section, a recreational vehicle shall also mean any vehicle commonly termed as a motor home, RV, fifth-wheel, travel trailer, pickup camper, or tent trailer. Residential property shall mean any area zoned residential. Developed residential property is a lot that has a residential dwelling unit on the premises. In addition to any other provision, the county planning and zoning commission reserves the right to require sewer system approval from the First District Health Unit before any recreational vehicle is used for occupancy on a residentially zoned lot.

Section 1: Parking/Storage of Unoccupied Recreational Vehicles on Residential Property.

(a) No more than two unoccupied recreational vehicles may be stored on any residential property at any one time.

(b) The outside parking-storage of unoccupied recreational vehicles is permitted on “developed residential property” with an established residential use. Said parking shall be within the side or rear yard and shall not extend into the public right-of-way, nor obstruct the clear vision area. An unoccupied recreational vehicle shall not be used for living quarters or business while parked or stored.

(c) Property owners with undeveloped residential lots may also park or store up to two unoccupied recreational vehicles per lot or parcel. An unoccupied recreational vehicle shall not be parked on, in, or in any way obstruct public right-of way, nor obstruct the clear vision area, and shall not be used for living quarters or business while parked or stored on any calendar day.

Section 2: Temporary Use of Recreational Vehicle on Residential Property.

One (1) recreational vehicle may be used as temporary accommodation to allow the property owner to construct a permanent residence or remodel an existing residence on the lot. The use of the recreational vehicle shall be authorized with the written approval of the McLean County Land Use Administrator upon receipt of an approved site plan, building permit, construction schedule, and such shall not exceed one (1) year in duration, unless authorized by the McLean County Zoning Commission. The unit may be placed on the site only upon receipt of a valid building permit for a single-family dwelling and must be removed from occupancy within seven (7) days of completion of the residence. The unit shall comply with all setbacks appropriate to the zone in which it is to be placed and shall not be parked on nor in any way obstruct any public right-of-way. No person other than the owner of the residential property shall occupy the unit and the unit shall not be used as a temporary rental unit. A recreational vehicle is considered occupied if it is used as living quarters on any calendar day.

Section 3: Temporary Use of Recreational Vehicle Requirements for Camping on Residential Property.

The use of one (1) recreational vehicle as temporary accommodation for guests may be allowed on “developed residential property” with an established residential use. The unit shall not be parked on nor in any way obstruct any public right-of-way, and shall be located a minimum of five (5) feet from any other structure. The unit may not be skirted, provided a deck or patio above ground level, and the discharge of any gray water or sewage is prohibited. Use of the unit shall not exceed four (4) days at any one time or sixteen (16) days in any calendar year.

Section 4: Variances from this section.

A residential subdivision that has a home owners association may agree to a covenant that is less restrictive than these provisions. Any such covenant or changes in a covenant shall

be approved by the County Planning and Zoning Commission. Additionally, a person may apply to the County Planning and Zoning Commission for a variance from these provisions.

VIII. PROCEDURE TO BE FOLLOWED WHEN A PUBLIC HEARING IS REQUIRED.

8.1 North Dakota State Law requires a public hearing whenever an application is made for any of the following:

1. Amendments to the Zoning Ordinance.

2. Approval of a Conditional Use

3. Approval of a Variance.

1. Application for the above shall be submitted on an approved form to the McLean County Land Use Administrator or the McLean County Auditor.
2. All fees are payable in advance at the time the application is submitted. Included in such fees shall be the cost of publication of the public notice of the hearing.
3. Upon receipt of the application, it shall be presented to the McLean County Planning and Zoning Commission at the next regularly scheduled meeting. At such time the Commission shall set a date for the public hearing.
4. The applicant shall be notified of the hearing date by the McLean County Land Use Administrator or the McLean County Auditor or their designated representative.
5. Prior to the hearing date, the applicant shall submit any additional information required under the Zoning Ordinance to the McLean County Land Use Administrator or the McLean County Auditor or their designated representative.
6. Notice of the public hearing shall be published once a week for two consecutive weeks in the official newspaper of the County, and in such other newspapers as the McLean County Planning and Zoning Commission shall deem necessary. The McLean County Land Use Administrator shall be responsible for publication of such notice and shall also post notice of the hearing at the affected site.
7. Following the public hearing, the McLean County Planning and Zoning Commission shall submit its recommendations concerning the proposed action to the McLean County Board of County Commissioners for a final decision.
8. Upon approval and adoption by the McLean County Board of County Commissioners of the application, notice shall be published in the official newspaper of the County once a week for two consecutive weeks. The McLean County Land Use Administrator or the McLean County Auditor shall file proof of such publication in the Office of the McLean County Land Use Administrator and shall also file a certified copy of the resolution in the Office of the McLean County Recorder.
9. If no petition for a separate hearing is filed pursuant to 11-33-10 N.D.C.C., the resolution or amendment shall take effect upon the expiration of the time for filing said petition.

DEFINITIONS

AGRICULTURAL DISTRICT. All land and areas used for cultivating the soil, producing crops and/or raising livestock, and so designated by the Board of County Commissioners on the District Zoning Map.

AMENDMENT. Any change, revision or modification of the text of this Ordinance or the District Zoning Map.

BASE FLOOD OR 100-YEAR FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) means the height of the base flood or 100-year flood usually in feet above mean sea level.

BASEMENT means any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE DATA (BAD) means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

.BUILDING HEIGHT. The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof; and to the average height between the plate and the ridge of a gable, hip or gambrel roof.

BUILDING PERMIT. A permit issued by the McLean County Land Use Administrator or the McLean County Auditor before construction, alteration or use begins for all new or altered uses.

CERTIFICATE OF ZONING COMPLIANCE. A certificate stating that a use is permissible under the zoning district regulations.

CLOSED CREW CAMP. Employee housing occupied by employees of an applicant business or premises leased to a business for the purpose of providing temporary housing to only the employees of that business.

COMMERCIAL DISTRICT. The area designated by the McLean County Board of County Commissioners on the District Zoning Map which provides for the grouping of retail merchandising, light industry and service activities.

COMMERCIAL SAND AND GRAVEL OPERATIONS. The use of land for the purpose of opening a sand and gravel pit for sale or resale of sand or gravel, or the processing of the material of a sand or gravel pit for sale or resale for non-highway uses.

CONDITIONAL USE. Any use to which the McLean County Planning and Zoning Commission shall attach specific conditions.

CONSERVATION DISTRICT. The area designated by the McLean County Board of County Commissioners as having a delicate resource base and providing for its protection from potentially damaging forces.

CONVEYANCE OR HYDRAULIC CONVEYANCE means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.

COUNTY HIGHWAYS AND ROADS. Any and all roads over which the McLean County Board of County Commissioners has authority and for which said Commissioners provide maintenance.

CREW HOUSING PERMIT. A right granted by the county to locate a crew housing facility within the jurisdiction of the county and to enjoy emergency services.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT. The areas of McLean County for which the regulations governing the use of land and the use, density, bulk, height, and location of structures and buildings, is uniform.

EASEMENT. A vested or acquired right to use land, other than as a tenant, for a specific purpose; such right held by someone other than the owner who holds title to the land.

FARM. A single tract of land or contiguous tracts of agricultural land containing a minimum of ten (10) acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than fifty (50) percent of his or her annual income.

FLOATING ZONE. A district with specified purposes which are established by this Ordinance without actually being delineated on the Zoning Map. When an opportunity arises to carry out the intended purposes on a particular tract of land, an amendment to the Zoning Ordinance will establish the actual boundaries of the district.

FLOOD INSURANCE RATE MAP (FIRM) means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A.

FLOOD OR FLOODING. A general or temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal water and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

FLOODPROOFING (Dry) means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

FLOODWAY OR REGULATORY FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

GEOGRAPHIC. The natural features, collectively of an area.

GEOPHYSICAL EXPLORATION. Any method of obtaining petroleum related geophysical surveys.

HEARING. A public meeting held before the McLean County Planning and Zoning Commission whenever the same is required by law.

INDUSTRIAL DISTRICT. The area designated by the McLean County Board of County Commissioners on the District Zoning Map which provides for the grouping of manufacturing, assembly, heavy commercial and excavation activities.

LAND USE ADMINISTRATOR. The officer appointed by the McLean County Planning and Zoning Commission to administer the zoning affairs of McLean County.

LOT. A tract of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area; and to provide such yards and other open space as are herein required.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.

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

LOWEST FLOOR means the lowest floor of a structure including the basement.

MINERAL OPERATIONS. Any operation involved in the search, exploration or prospecting of any substance or mineral which involves the penetration of the land surface by digging, drilling or excavating.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is eight (8) body feet or more in width and is thirty two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term “manufactured home” does not include a “recreational vehicle”, but does include “mobile home”.

MANUFACTURED HOME PARK. A tract of land designed and developed to accommodate two or more mobile homes, each occupying a portion of the site on a lease or rental basis, and each provided with the necessary utilities and other amenities so that the total development serves as a suitable environment for residential occupancy.

MULTI-FAMILY DWELLING. A residential building designed for occupancy by two or more families, with the number of families in residence not exceeding the number of dwelling units provided.

NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

NON-CONFORMING USE. Any building or tract of land lawfully occupied by a use, at the time of the passage of this Ordinance or amendments thereto, which does not conform with the provisions of this Ordinance or amendments thereto.

PARKING SPACE. An area for the purpose of storing one parked vehicle. For the purpose of this Ordinance, one parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet. In computing off street parking, additional space shall be required off street for access drives to parking areas.

PERMITTED USE. Any use which complies with the requirements of a zoning district.

PLANNED UNIT DEVELOPMENT (P.U.D.). An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, and commercial and industrial uses, if any; the plan for which does not correspond in lot size, bulk, or type of dwelling or commercial or industrial use,

density, lot coverage, and required open space, to the regulations established in any one or more districts created from time to time under the provisions of this Ordinance.

PLAT. Any map, plan or chart of a tract of land or subdivision indicating the location and boundaries of individual properties.

REASONABLY SAFE FROM FLOODING means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

RECREATIONAL DISTRICT. The areas designated by the McLean County Board of County Commissioners on the District Zoning Map which provide for general or specific recreational use.

RECREATION VEHICLE. A vacation trailer or other vehicular or portable unit built on a chassis which is either self-propelled or towed or is carried by a motor vehicle and which is intended for human occupancy and is designated for vacation or recreation purposes but not a residential use.

RECREATION VEHICLE PARK. A tract of land, designed and utilized, and operated on a fee or other basis as a place for the temporary parking of occupied recreation vehicles.

RESIDENTIAL DISTRICT. The area designated by the McLean County Board of County Commissioners on the District Zoning Map for development of residential dwelling units.

RIGHT OF WAY. The area, either public or private, over which the right of passage exists. The right of way shall not be considered as land area when computing lot size.

SEISMIC. Pertaining to the movement of the earth.

SEISMOGRAPH. An apparatus to register the shocks and motions of movements of the earth.

SEPTIC TANK. A soil absorption disposal system.

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

SIGHT LINE. An area of unobstructed vision at a street intersection, or other location, defined by lines of sight between points at a given distance from the intersecting street right of way lines.

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

SPECIAL FLOOD HAZARD AREA (SFHA) means an area of land that would be inundated by a flood having a one-percent chance of occurring in any given year.

START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.

SUBDIVISION. The division of land into one or more lots for the purpose, immediate or future, of sale or lease for building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from any such lot, tract, or parcel, and the creation of new or enlarged parks, playgrounds, plazas, or open spaces.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not

that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

TEMPORARY CREW HOUSING (work camp housing). Modular residential structures used to house workers on a temporary basis for a specified period of time. It may include one or more lodging units which are not mobile homes as defined in NDCC § 57- 02-04 and are not mobile homes as defined in NDCC § 57-55-01.

TEMPORARY PERMITS. Permits issued by the McLean County Board of County Commissioners for certain uses before operation of said uses are allowed in McLean County.

TOPOGRAPHY. The configuration of a surface, including its relief in detail.

TRACT. A plot, piece or parcel of land, other than a lot which is recorded in the Office of the County Recorder.

TRANSMISSION LINE. Overhead electrical lines of forty six (46) KV or larger.

USE. The specific purpose for which land or a building is used.

VAIRANCE. A relaxation of the terms of the Zoning Ordinance in any specific case where a literal enforcement of any provision or resolution would result in great practical difficulties, unnecessary hardship, or injustice.

WORK CAMP. A mobile home park designed and intended for the temporary residence of construction employees of a developer, contractor or subcontractor intended for use during the construction period of the project.

ZONING DISTRICT MAP. The map showing the zoning districts of McLean County officially adopted by the McLean County Board of County Commissioners.