

# **Killdeer Land Development Code**

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**ARTICLE I**  
**INTRODUCTION**

**1.1 Title**

This Code shall be entitled “The Land Development Code, City of Killdeer, North Dakota.”

**1.2 Purpose and Intent**

The purpose of this Code is to promote the health, safety, and welfare of the people of the City of Killdeer; to promote the sound and desirable use of land; and to guide the development with efficient provision of public improvements.

**1.3 Authority**

This Code is adopted under the authority granted by Chapters 40-47, 40-48 and 40-50 of the North Dakota Century Code (NDCC).

**1.4 Severability**

If any section, provision or part of this Code is adjudged invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected.

**1.5 Repeal**

All other regulations or parts of regulations of the City of Killdeer inconsistent or in conflict with this Code to the extent of inconsistency or conflict are hereby repealed.

**1.6 Effective Date**

This Code shall be effective after a public hearing and adoption by the City of Killdeer.

**1.7 Interpretation**

These regulations shall be held to be the minimum requirements. Whenever these requirements are at variance with other requirements, rules, regulations, deed restrictions, or covenants, the most restrictive shall govern, unless otherwise specifically stated.

**ARTICLE II**  
**RULES AND DEFINITIONS**

**2.1 Compliance**

No structure, land and building shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a building permit, and the same shall be in compliance with this Code.

**2.2 Word Use**

In the construction of this Code, the following words, rules, and definitions shall be observed and applied except when the context clearly indicates otherwise.

1. Words used in the present tense shall include the future.
2. Words used in a singular number shall include the plural number and the plural the singular.
3. Shall is a mandatory word and not discretionary.
4. May is a permissive word.
5. The word "lot" shall also mean "parcel", "piece", and "plat".
6. The word "building" includes all structures and "structure" includes buildings.

**2.3 Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. **Access:** The place or way by which pedestrians and vehicles have safe and suitable entrance and exit to a property.
2. **Accessory Building and Uses:** A subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively to the principal building or principal use and shall be located on the same zoning lot or adjoining property.
3. **Adult Bookstore:** An enclosed building having as a substantial or significant distinguished or characterized by their emphasis on matter depicting or describing sexual activities or anatomic areas, such as genitals, breasts or buttocks.

4. **Adult Cinema:** An enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks for observation by patrons in return for the payment of consideration, irrespective of the number of persons who may be able to view the presentation at one time.
5. **Adult Entertainment Center:** An adult bookstore, adult cinema, adult entertainment facility, or any combination thereof.
6. **Adult Entertainment Facility:** An enclosed building wherein an admission is charged for entrance, or food or non alcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks.
7. **Agriculture:** Activities that primarily involve raising, producing, or keeping plants or animals.
8. **Alley:** A public way which affords only secondary access to abutting property.
9. **Allowed Uses:** Those uses, buildings or structures which comply with the provision of specific zoning districts because of the similarities in nature and relationship to each other. Allowed uses are distinct from conditional uses in that they are authorized only if certain requirements of this Code are met after a public hearing and approval by the City Commission.
10. **Alteration:** As applied to a building or structure, is a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height or depth, or the moving from one location or position to another.
11. **Amendment:** Any change, revision or modification of the text of the Code or the Zoning District Map.
12. **Animal Hospital or Kennel:** A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.
13. **Appeal:** Means a request for a review of the City Administrator's (in the case of floodplain decisions) or Building Inspector's interpretation of any provision of this ordinance or a request for a variance.
14. **Base flood or 100-year flood:** Means the flood having a one percent chance of being equaled or exceeded in any given year.

15. **Base Flood Elevation (BFE):** Means the height of the base flood or 100-year flood usually in feet above mean sea level.
16. **Basement:** Means any area of the building having its floor subgrade (below ground level) on all sides.
17. **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).
18. **Block:** A segment of the city bounded by rights-of-way, intersecting streets and/or railroads.
19. **Board of Adjustment:** The body appointed by the City Commission to hear appeals on the enforcement of the provisions of this Code.
20. **Buildable Area:** The portion of a lot remaining after required yards have been provided.
21. **Building:** Any structure designed or intended for shelter or protection of persons or property.
22. **Building Area:** That portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and the side yards.
23. **Building Height:** The vertical distance from the grade to the highest point of the roof.
24. **Building Line:** A line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way. For the purposes of this Code, the building line is the same as the setback line.
25. **Campground:** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open or natural character.
26. **Certificate of Compliance:** A certificate stating compliance with the provisions of the Code.
27. **Club:** A private club or lodge which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.
28. **Code Administrator:** The administrative official designated by the City Commission to administer and enforce this Code.

29. **Commercial above-ground fuel storage:** any individual tank or group of tanks utilized for commercial purposes, storing combustible and flammable liquids as defined by NFPA 30 (National Fire Protection Association, Flammable and Combustible Liquids Code).
30. **Commercial Building:** Any structure which is not used for residential, medical, religious, or instructional purposes and which is constructed in compliance with the adopted building code.
31. **Communication Tower:** Any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals.
32. **Compassion Center:** Pursuant to the North Dakota Century Code, means a manufacturing facility or dispensary as defined in this article.
33. **Comprehensive Plan:** A guide for the management of the physical resources and development of the city.
34. **Conditional Use:** Use of a special nature not automatically permitted in a zoning district and which requires review and approval by the City Commission after a public hearing. It is a use which would not be appropriate in a particular zoning district, but, which if controlled as to the number, location, or relation to the surrounding uses and the area, would be consistent with the purpose and the intent of these zoning regulations. A conditional use is permitted in a district specifically permitting it, subject to the approval of the City Commission and only when the Commission finds that such use meets all of the requirements applicable to it as specified in the city codes including these regulations.
35. **Conforming Building or Structure:** A building or structure which complies with all requirements of this Code and other regulations adopted by the city.
36. **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.
37. **Development:** Means 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 located within the special flood hazard area.
38. **Development Plan:** A document including maps and data for physical development of an area as provided by this Code.
39. **Dispensary:** Pursuant to the North Dakota Century Code, an entity registered by the North Dakota Department of Health as a compassion center authorized to dispense



usable cannabinoid product to a registered qualifying patient and a registered designated caregiver.

40. **District Zoning:** A section or sections of the City of Killdeer for which regulations governing the use of building and premises, the building heights, the size of yards, lot area, lot width, and the use thereof are uniform.
41. **Dwelling:** Any building or portion thereof, used exclusively for human and other temporary occupancy habitation including single family and multiple family units but not including hotels or motels, or vehicles designed for camping, such as vacation vehicles.
42. **Dwelling, Manufactured Home:** A structure transportable in one or more sections which is a minimum of eight body feet in width and is thirty-two body feet or more in length and is built on a permanent metal chassis and designed to be used as a dwelling with or without a permanent foundation and additions when connected to the required utilities and includes the plumbing, heating, and air conditioning and electrical systems contained therein.
43. **Dwelling, Multiple Family:** A single building, or portion thereof, containing two (2) or more dwelling units.
44. **Dwelling, Single Family:** A building containing one (1) dwelling unit only.
45. **Dwelling Unit:** One or more rooms in a dwelling or apartment hotel designed for occupancy by one family for living purposes and having its own permanently installed cooking and sanitary facilities.
46. **Easement:** The right granted by deed or contract entitling its holder to specific use and enjoyment of a part or all of a parcel of land which is owned by another person, firm, corporation or unit of government.
47. **Encroachment:** Any fill, building, structure or use including accessory uses projecting into the adjacent yard areas or public and private properties.
48. **Establishment:** A place of business for processing, production, assembly, sales, service of goods and materials.
49. **Extraterritorial Jurisdiction:** The area outside of the corporate limits of the City of Killdeer over which the city claims authority for zoning purposes as established by the North Dakota Century Code.
50. **Family:** Persons related by blood or marriage, relatives or kinfolk.

51. **Flood Insurance Rate Map (FIRM):** Means the official map issued by the Federal Emergency Management Agency (FEMA) where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 or A-99.
52. **Flood Insurance Study (FIS):** Means the official report provided by FEMA that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.
53. **Flood or Flooding:** Means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or; from the unusual and rapid accumulation or runoff of surface waters from any source.
54. **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.
55. **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.
56. **Home Occupation:** Any occupation which: (a) is carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of the residential dwelling units; and (c) does not create a nuisance, excessive noise, traffic, or conflict with adjoining uses.
57. **Hotel or Motel:** A building with lodging accommodations, either with or without meals, which are provided for compensation.
58. **Improvements:** Street grading and surfacing with or without curbs, gutter,  
59. , crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets and landscaping.
60. **Industrial Waste:** All waste resulting from an industrial, manufacturing, or commercial activity that is managed as a separate waste stream and as defined by NDCC 23-29-03.
61. **Inert Waste:** Non-putrescent solid waste which will not generally contaminate water or form a contaminated leachate. Inert waste does not serve as food for vectors. Inert waste includes, but is not limited to construction and demolition material, such as metal, wood, brick, masonry, and concrete, asphalt concrete, tires and tree branches.
62. **Junk or Salvage Yard:** Land or buildings where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled including but not limited to scrap metal, rags, paper, hides, rubber products,

glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.

63. **Kenel:** Any premises where dogs, cats, and other household pets are boarded, bred, and maintained for compensation.
64. **Letter of Map Revision:** Means an official revision to the FIRM and FIS made by FEMA.
65. **Livestock:** 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.
66. **Lot:** A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, and having its principal frontage upon a street or road.
67. **Lot Area:** The total area within the boundary lines of the lot or parcel of land excluding public right-of-way.
68. **Lot, Corner:** A lot abutting on two or more streets other than an alley at their intersection.
69. **Lot, Depth:** The mean horizontal distance between the front and rear lot lines.
70. **Lot, Interior:** A lot bounded by a street on only one side.
71. **Lot, Line:** The property line bounding a lot.
72. **Lot, Line Adjustment:** The adjustment of one or more recorded property lines on an approved subdivision plat that modifies parcel dimensions but does not change the number of parcels in the subdivision.
73. **Lot, Through:** A lot that fronts on two public streets and is not a corner lot. Only one street shall be considered as a front lot line, as determined by the Building Inspector upon issuance of a building permit or the demarcation made on a final plat map.
74. **Lot Line, Front:** For an interior lot, a line separating the lot from the street. On a corner subdivision lot recorded after January 1, 1984, each street side shall constitute a front yard. On all other corner lots, only one street shall be considered as a front line, as determined by the Building Inspector upon issuance of a building permit or the demarcation made on a Final Plat Map.
75. **Lot Line, Rear:** On a corner subdivision lot recorded after January 1, 1984, there is no rear lot line. On all other corner lots, the rear lot line is opposite the front lot line as

determined by the Building Inspector upon issuance of a building permit or the demarcation made on a Final Plat Map.

76. **Lot Line, Side:** Any lot lines other than front lot lines or rear lot lines.
77. **Lot of Record:** A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Dunn County, or a parcel of land, the deed to which was recorded in the office of the County Recorder prior to the adoption of these regulations.
78. **Lot, Width:** The horizontal distance between the side lot lines measured at the front yard setback line.
79. **Lot, Zoning:** A tract of land occupied or to be occupied by a principal building and its accessory buildings together with such open spaces and yards as required by these regulations. A “zoning lot” need not necessarily coincide with a “lot of record” as herein defined.
80. **Lowest floor:** Means the lowest floor of a structure including the basement.
81. **Manufactured Home Park or Subdivision:** Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
82. **Manufacturing Facility:** Pursuant to the North Dakota Century Code, an entity registered by the North Dakota Department of Health as a compassion center authorized to produce and process and to sell usable cannabinoid product to a dispensary.
83. **Master Plan:** The Comprehensive Plan, or any portion thereof, made and adopted by the Planning and Zoning Commission in accordance with the laws of the state of North Dakota and regulations of the City of Killdeer indicating the general or specific locations recommended for streets, parks, public buildings, zoning districts and all other public improvements to include local policies and standards.
84. **Mobile Home (Manufactured Home):** A factory built structure that is designed as a year-round dwelling unit to be placed on a foundation to be approved by the Building Inspector. The mobile home must comply with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development. A recreational travel trailer is not a mobile home.
85. **Mobile Home (Manufactured Home) District:** The area designated by the City Commission on the District Zoning Map for development of mobile home residential dwelling units.
86. **Mobile Home Park:** A tract of land designed and developed to accommodate mobile homes (manufactured homes), each occupying a portion of the site of a purchased,

leased or rental basis and each provided with the necessary utilities and other amenities so that the total development serves as a suitable environment for long-term residential occupancy.

87. **Modular Home:** A factory-built dwelling unit, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site. A modular home is built to state code and is not designed to comply with U.S. Department of Housing and Urban Development standards.
88. **NDCC:** North Dakota Century Code
89. **New construction:** Means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
90. **Nonconforming lot:** A lot which does not conform to the location requirements or dimensional or size standards of this Land Development code for the district in which it is located, either at the effective date of this Land Development Code as a result of subsequent amendments which may be incorporated into this Land Development Code, or as a result of zoning changes.
91. **Nonconforming Structure:** A structure which does not conform to the regulations of this Land Development Code for the district in which it is located, either at the effective date of this Land Development Code as a result of subsequent amendments which may be incorporated into this Land Development Code, or as a result of zoning changes.
92. **Nonconforming Use:** The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this Land Development Code for the district in which it is located, either at the effective date of this Land Development Code as a result of subsequent amendments which may be incorporated into this Land Development Code, or as a result of zoning changes.
93. **Oil and Natural Gas Drilling:** The process of digging or boring a well for the purpose of exploring for, developing, or producing oil, natural gas, or other hydrocarbons; or for the purpose of injecting water, steam, or other fluid or substance into the earth. This includes new wells on both new well pads and existing well pads.
94. **Parking Space:** An off-street area designated for parking of automobiles accessible from a public street or alley.
95. **Permanent Foundation:** A continuous wood or masonry foundation which extends below ground level and is set on footings. The footings may be concrete or gravel depending on soil conditions.
96. **Permitted Use:** Any use which complies with the requirements of a zoning district.

97. **Person:** Any individual, firm, corporation, association, partnership, or legal entity.
98. **Plat:** A map of a subdivision.
99. **Preliminary Plat:** The preliminary plan of a subdivision and any accompanying material prepared in accordance with the requirements of this Code.
100. **Prohibited Use:** Any use or structure which is not allowed in a particular district. Any use not identified explicitly in this Code shall be considered prohibited and shall not be allowed until incorporated through the amendment procedure.
101. **Public buildings:** structures principally of an institutional nature and/or serving a public need such as: governmental buildings, public hospitals, public schools, public libraries, public museums, post offices, police and fire stations, public utilities, and other public services that do not constitute a commercial enterprise.
102. **Public Way:** Any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.
103. **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.
104. **Recreational Vehicle:** Means a vehicle which is:
- (a) built on a single chassis;
  - (b) 400 square feet or less when measured at the largest horizontal projection;
  - (c) designed to be self-propelled or permanently towable by a light duty truck;
  - (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;
  - (e) travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.
105. **Recreational Vehicle Park:** A lot which is operated on a fee or other basis as a place for the parking of occupied recreational vehicles.

106. **Regional Flood:** A flood baseline determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in Dunn County, North Dakota.
107. **Right-of Way:** A strip of land designated or dedicated for public way, including streets, sidewalks, railroads, electric transmission lines, telephone and telecommunications lines, oil or gas pipelines, sanitary sewer, storm sewer, or water systems and brown water systems.
108. **Row house:** A building which has dwelling units erected in a row as a single building on adjoining lots, each being separated from the adjoining unit or units by an approved fire-rated wall extending from the footing to and through the roof and where each dwelling unit is located upon a separate parcel. Each unit in a row house has private front and rear entrances and its own front and rear yards. Row houses are constructed side-by-side and the line(s) dividing the lot(s) is a straight line from the front lot line to the back lot line along the common wall.
109. **Service Station:** Any building or premises where automotive fuels, automotive-related services, lubricants, parts, and supplies are made-available to the motorist.
110. **Setback:** The line within a property defining the required minimum distance between the front lot line and the building line.
111. **Sign:** Any emblem, name, identification, description or illustration which is used for outdoor advertising having a permanent location on the ground or attached to or painted on a building including bulletin boards, poster boards and billboards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.
112. **Site Plan:** A detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this code.
113. **Skid Units:** A structure or group of structures, either single or multisectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or a place of business on a temporary or permanent basis.
114. **Solid Waste:** Any garbage, refuse, sludge from a waste treatment plant, water treatment plant, or air pollution control facility and other discarded waste material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. The term does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear or the by-product material as defined by the Atomic Energy Act of 1954, as amended.

115. **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.
116. **Street:** A public way for pedestrian and vehicular traffic.
- (a) Major Street: Street which gathers and distributes traffic from and to minor streets and adjacent lands.
  - (b) Minor Street: Street which is designed for low traffic volume and provides access to major streets.
117. **Structure:** Means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.
118. **Structural Alterations:** Any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.
119. **Subdivision:** The division of a lot, parcel of land, or tract, creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of 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, plaza, or open spaces.
120. **Subdivision, Major:** Any subdivision that does not meet the definition of a Minor Subdivision. A major subdivision plat includes the processing of a preliminary plat and a final plat as stipulated in Section 5.1.
121. **Subdivision, Minor:** A subdivision in which a platted, recorded lot is split into a maximum of four lots or in which a maximum of four lots are combined into three or fewer lots. Additional criteria and procedures are described in Section 5.2.
122. **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.



123. **Substantial Improvements:** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes 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:

- (a) 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
- (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

125. **Temporary:** Means one year or less.

126. **Temporary Crew Housing Facility:** A Temporary Crew Housing Facility (TCHF) is well-planned and specifically designed to provide lodging. In many cases it will also offer, meals, limited recreational activities, and other services for the benefit and well-being of its residents. Most TCHFs will utilize pre-manufactured, individual housing units which are transported to the site. Some TCHFs will utilize skid units. Others will utilize pre-manufactured modular components to assemble a housing facility at the approved location. Allowed dwelling types in a TCHF include modular homes and manufactured homes. Regardless of the structural assembly or type of construction, the majority of residents of a TCHF are typically nonresidents with jobs in cyclical or temporary industries.

A TCHF is not a hotel, motel, recreational vehicle park, mobile home park, or campground. A TCHF is not a facility that provides parking and hookups for individually owned recreational vehicles, fifth wheels, camper trailers, pop-up campers, pickup trucks with on-board campers or similar units. A TCHF is not a conventional "stick-built" on-site structure or group of structures. A TCHF is not intended for permanent or long-term habitation.

127. **Temporary Structure:** A structure that is only intended to be established for a fixed period of time.
128. **Temporary Use:** A use not involving a permanent structure. Uses established for a fixed period of time. Includes such uses as mobile vendors or semi-permanent buildings.
129. **Truckstop:** Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles.
130. **Variance:** Means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.
131. **Yard:** A required open space on the same lot with the principal building or structure.
132. **Yard, Front:** A yard that extends across the full width of the lot, as the least distance between the front lot line and the front building line.
133. **Yard, Rear:** The least distance between the rear lot line and the rear of the principal building.
134. **Yard, Side:** The least distance between the sides of principal building and the side lot line.
135. **Utility:** The basic facilities for public use such as water, sanitary and storm sewers, electricity, gas and telephone lines.
136. **Water Depot/Water Extraction Site:** A facility that involves the storage, collection, or sale of fresh water for industrial or commercial use from surface or groundwater supplies.
137. **Wind Energy Conversion System:** Any device that is designed to convert wind power to another form of energy such as electricity, mechanical or heat (also referred to by such common names as wind charger, wind turbine, and wind mill).

**ARTICLE III**  
**GENERAL PROVISIONS**

**3.1 Jurisdiction**

These regulations shall apply in all incorporated parts of Killdeer and areas within one mile of its corporate limits as authorized by NDCC, Section 40-47-01.1.

**3.2 Compliance with Ordinances, Statutes, Regulations and Plans**

Any person, firm or corporation developing land shall comply with the requirements of these regulations and:

1. The provisions of the North Dakota Century Code (NDCC).
2. The rules of the North Dakota State Health Department, North Dakota Highway Department and other North Dakota state agencies.
3. City of Killdeer Comprehensive Plan (also referred to as the City of Killdeer Land Use and Growth Management Plan).

**3.3 Exceptions**

1. These regulations shall not apply to the land and buildings for agricultural uses, as herein defined, except for setbacks from roads and floodplain regulations.
2. Every part of the required yard setback must be open and unobstructed from the ground to the sky except as set out in this subsection:
  - (a) Trees, shrubbery or other landscape features may be located within any required setback;
  - (b) Fences and walls may be located within any required setback.
  - (c) Driveways and sidewalks may be located within any required setback;
  - (d) Utility lines, wires and associated structures, such as power poles, may be located within any required setback;
  - (e) Signs, where permitted, may be located within any required setback;
  - (f) Uncovered decks, terraces, steps, earthworks and other similar landscaping or design elements placed directly on finished grade that do not exceed an average height of thirty (30) inches above the

surrounding finished grade, provided that no such wood structure shall extend closer than five feet to a property line.

- (g) Openwork fire balconies and fire escapes may extend up to 3 ½ feet into any required setback;
- (h) Sills, belt courses, cornices, buttresses, eaves and other architectural features may extend up to 3 feet into any required setback;
- (i) Off-street parking and loading areas may be located within any required setback;
- (j) Chimneys and flues may extend up to 2 feet into any required setback;

### **3.4 Amendments**

The City Commission may from time to time on its own motion or on petition or recommendations of the Planning and Zoning Commission amend, supplement or repeal provisions of this Code after a public hearing.

1. Any person, firm or corporation which owns land is entitled to submit an application for amendment to the Zoning District Map.
2. Procedure for Amendments:
  - (a) Applications for amendments shall be filed with the City Auditor.
  - (b) The City Auditor shall present the application to the City Planning and Zoning Commission at its next regularly scheduled meeting.
3. Notice of Amendment Hearings:
  - (a) Notice of the time and place of the hearing shall be published in the newspaper of general circulation once a week for two consecutive weeks prior to the hearing.
4. Public Hearing:
  - (a) Following a public hearing conducted by the Planning and Zoning Commission, said Commission shall submit its recommendations concerning the proposed amendment or development to the City Commission.
  - (b) Upon receipt of the Planning and Zoning Commission's recommendations, the City Commission shall hold a hearing for the proposed amendment or development.

- (c) Following the hearing, the City Commission shall approve or disapprove the proposed amendment or development.

5. Protests to Amendments:

- (a) If a protest against an amendment is signed by the owners of twenty (20) percent or more:
  - (i) of the area of the lots included in such proposed change; or
  - (ii) of the area adjacent, extending one hundred and fifty (150) feet from the area to be changed, excluding the width of streets, the amendments shall not become effective except by the favorable vote of three-fourth (3/4) of all the members of the City Commission of Killdeer.

### 3.5 Land Suitability

No land shall be divided for a use which is held unsuitable by the city and the Planning and Zoning Commission for the reason of flooding, or potential flooding, soil limitations, inadequate drainage, incompatible surrounding land use or any other condition likely to be harmful to the health, safety or welfare of the city.

### 3.6 Nonconformities

1. Policy

It is the policy of the City of Killdeer to allow uses, structures or lots that came into existence legally and that were in conformance with then-applicable requirements but that now do not conform to all of the applicable requirements of this Land Development Code to continue to exist and be put to productive use, but to bring as many aspects of such use into conformance with current Land Development Code as is reasonably practicable, all subject to the limitations of this Article. The limitations of this Article are intended to recognize the interests of expansion of the nonconformity and to control re-establishment of abandoned uses and limit re-establishment of buildings and structures that have been substantially destroyed.

2. Definitions

- (a) **Nonconforming Lot:** A lot which does not conform to the location requirements or dimensional or size standards of this Land Development Code for the district in which it is located, either at the effective date of this Land Development Code as a result of subsequent

amendments which may be incorporated into this Land Development Code, or as a result of zoning changes.

- (b) **Nonconforming Structure:** A structure which does not conform to the regulations of this Land Development Code for the district in which it is located, either at the effective date of this Land Development Code as a result of subsequent amendments which may be incorporated into this Land Development Code, or as a result of zoning changes.
- (c) **Nonconforming Use:** The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this Land Development Code for the district in which it is located, either at the date of this Land Development Code, as a result of subsequent amendments which may be incorporated into this Land Development Code, or as a result of zoning changes.

3. Authority to Continue

Nonconformities shall be allowed to continue in accordance with the regulations of this Article.

4. Determination of Nonconformity Status

The burden of establishing that a nonconformity lawfully exists is the owner's burden, not the City's.

5. Repairs and Maintenance

Repairs and normal maintenance required to keep nonconforming uses, structures and lots in a safe condition are permitted, provided that no alterations may be made except those allowed by this Article or required by law or ordinance.

6. Change of Tenancy or Ownership

Changes of tenancy, ownership, or management of an existing nonconformity are permitted, provided that no changes in the nature or character, extent or intensity of such nonconformity may occur except those allowed by the Article.

7. Enlargement

No nonconforming use may be enlarged, expanded or extended to occupy a greater area of land or floor area than was occupied at the date the use became a nonconformity: either at the effective date of this Land Development Code, at the effective date of a subsequent amendment to this Land Development Code, or at the effective date of a zoning change. No additional

accessory use, building or structure may be established on the site of a nonconforming use. Uses may be extended throughout any part of a nonconforming building or other structure that was lawfully and manifestly designed or arranged for such use.

8. Relocation

No nonconforming use or structure may be moved in whole or in part to any other portion of such parcel nor to another lot unless the use will be in conformance with the use regulations of the district into which it is moved.

9. Discontinuance and Abandonment

If a nonconforming use ceases for any reason for a period of more than 12 consecutive months (except where government action causes such cessation), the subsequent use of such parcel or lot must conform to the regulations and provisions set by this Land Development Code for the district in which such parcel or lot is located.

10. Damage or Destruction

If a structure devoted in whole or in part to a nonconforming use is damaged or destroyed by any means, to the extent of more than 50 percent of its structural value prior to the damage, that structure may not be restored unless the structure and the use thereof thereafter complies with all regulations of the zoning district in which it is located. The determination of reduced structural valuation shall be made by the City. If the damage or destruction represents 50 percent or less of the structure's value prior to the damage, repair and restoration is allowed, provided that a building permit must be obtained with 6 months of the damage and restoration must begin with 1 year of the date of damage.

(a) Notwithstanding the foregoing provisions of this section, if a structure devoted in whole or in part to a nonconforming use that is residential in nature is damaged or destroyed by any means, to the extent of more than 50 percent of its structural value prior to the damage, that structure may be restored, repaired or rebuilt in its entirety if all of the following conditions are met:

- i. The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure.
- ii. The building or structure will not have a greater floor area than the destroyed structure.

- iii. The building or structure will not exceed the height or number of stories contained in the destroyed structure.
- iv. The number of off-street parking spaces located on the property will not be reduced from the number available before the damage.
- v. The building permit for the repair or restoration must be obtained with 6 months of the damage and restoration must begin within 1 year of the date of the damage.

#### 11. Change in Use

A nonconforming use may be changed to a new use, provided that the new use must be of the same general character or of a less intensive character (and thus more closely conforming) than the existing, nonconforming use. The determination of whether a proposed use is a conforming use or is less intensive shall be made by the Code Administrator. A nonconforming use, if changed to a conforming use or less intensive nonconforming use, may not thereafter be changed back to a less conforming use.

#### 12. Residential Uses in Nonresidential Districts

The other provisions of this section notwithstanding, any structure that is devoted to a nonconforming residential use and located in a more intensive zoning district may be remodeled, extended, expanded, and enlarged, provided that after the remodeling, extension, expansion or enlargement, the structure may not be used to accommodate a greater number of dwelling units than the structure accommodated prior to the work.

#### 13. Accessory Uses

No use that is accessory to a principal nonconforming use may continue after the principal use ceases or terminates.

### 3.7 Conditionally Permitted Uses

- 1. Conditional Uses. Where a use is classified as a conditional use under this Code and exists at the date of the adoption of this Code, it shall be considered an allowed use. Where a use is not allowed as a conditional use or allowed use, under this Code, and exists at the date of the adoption of this Code, it shall be considered a non-conforming use.



2. Application for a conditional use permit shall be submitted to the Code Administrator.
3. The Planning and Zoning Commission shall hold a public hearing on the application. Notice of said hearing shall be published in the newspaper of general circulation at least one week prior to the hearing.
4. No application for a conditional use permit shall be granted unless the Planning and Zoning Commission shall find all of the following conditions present:
  - (a) The conditional use shall not be detrimental to or endanger the public health, safety or general welfare.
  - (b) The conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.
  - (c) The conditional use shall not impede the normal and orderly development of the surrounding property.
  - (d) Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided.
  - (e) Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the neighboring properties and traffic congestion in the public street.
  - (f) The conditional use shall conform to all applicable regulations of the district within which it is located.
5. The City Planning and Zoning Commission may stipulate conditions and restrictions upon the establishment, location, construction and operation of the proposed use in order to promote and protect public health, safety and general welfare. In all cases in which conditional uses are granted, the Planning and Zoning Commission shall prior to issuance of a Certificate of Compliance, require evidence of compliance with these provisions and with the conditions set forth.
6. The Planning and Zoning Commission, finding that the conditions or restrictions set forth are not being compiled with, may revoke the conditional use permit after a public hearing.
7. In any case where a conditional use permit has not been instituted within one year of the date of approval, the permit shall be null and void.

8. Any use, for which a conditional use permit has been issued, upon its cessation or abandonment for a period of one year, will be deemed to have been terminated and any future use of the building or premises shall be in conformity with these regulations.
9. Dedication of Land for Streets. Whenever a parcel of land to be subdivided as a subdivision contains a street or public way, such street or alley shall be dedicated to the public at the location and details shown on the final plat. All non-section line roadways shall be the responsibility of the subdivision.
10. On-Site Sewer System. To protect the public health, to control water pollution, and to reduce nuisance and odor, all new development within the city shall be connected to an approved on-site sewage system. Construction and use of privies, outhouses, and cesspools is prohibited within the city.

### **3.7.1 Temporary Crew Housing Facility**

A Temporary Crew Housing Facility (TCHF) requires approval of a conditional use permit. Subject to approval by the Killdeer Planning and Zoning Commission, a TCHF may be allowed in the A-Agricultural District and in the I-Industrial District.

#### **1. Purpose**

The purpose of this section is to provide reasonable standards for TCHFs. The compatibility of a TCHF with surrounding properties will be considered in conjunction with the health, safety, and well-being of the residents of the facility and of the community.

#### **2. Standards**

- (a) The parcel upon which a TCHF is located will meet the lot area and width requirements of the zoning district in which it is located in.
- (b) The housing facility is located along, or shall have direct access to, an improved section line roadway or other roadway classified as an arterial. If the arterial roadway is not improved, the developer/operator is responsible for construction and paving costs of said roadway to City standards, if required, based on site location, prior to occupancy of the housing facility.
- (c) A minimum of two access points are required for TCHFs with occupancies of 25 or more residents. This is to allow for alternate emergency access.
- (d) To allow emergency service providers to pinpoint the location of a victim and to speed up their response time, each dwelling unit in the

facility shall have a locator device deemed suitable by the local emergency service providers. Such device may be a colored flashing beacon or strobe light. Locations of the locator devices shall be near the doorways of individual sleeping quarters and at any other locations throughout the facility as deemed necessary by local emergency service responders.

- (e) Each structure in the facility shall have full 360-degree access around the structure for fire-fighting apparatus and emergency responders.
- (f) Roads to be constructed within the facility shall meet City specifications.
- (g) One off-street parking space is required for each resident and for each employee of the facility. No on-street parking is allowed.
- (h) Onsite structures must comply with the applicable zoning district setback requirements.
- (i) Spacing between individual units shall be in compliance with fire code and building code specifications.
- (j) A storm shelter must be provided onsite to provide adequate space for all residents and employees of the TCHF at maximum occupancy. Shelter design must be approved by the City Building Official.
- (k) A minimum of ten (10) percent of the gross area of the site shall be for a park as outdoor recreational and leisure space.
- (l) Required Facility Identification Signs. Up to sixty-four (64) square feet of sign area visible from external roadways and adjoining property is permitted onsite. No single sign shall exceed thirty-two (32) square feet in area. Signs shall not obstruct views of drivers. Signs shall be illuminated at night.
- (m) Storm Water Management. Storm water runoff must be controlled to ensure no net increase in runoff as compared to the site prior to development.
- (n) Water and Wastewater. Onsite water and wastewater systems must meet compliance with North Dakota State Health Department and Southwest Health District requirements.
- (o) For connections to an existing water supply or wastewater systems, agreements with service providers are required.

- (p) A traffic study is required for facilities with more than 100 residents. Roadway improvements (i.e. turn lanes) recommended by the traffic study shall be installed at the owner's expense.
- (q) An owner of a TCHF has the duty to remove that housing and all related above-grade and below-grade infrastructure within one hundred eighty days after the TCHF is vacated. The City of Killdeer may abate any public nuisance caused by vacated TCHFs within its jurisdiction. A TCHF owner shall provide the City with a surety bond, letter of credit, or other security instrument in the form and in an amount specified by the City. These funds must be used to cover actual expenses that may be incurred by the City in removal of the temporary work camp housing, including any above-grade or below-grade infrastructure. The owner is liable for any expenses that are reasonably incurred by the City which exceed the amount of the security.
- (r) If pets are allowed by the facility owner's policy, the site must be fenced and gated to contain any animals on the site. Perimeter fencing must be at least six feet in height.
- (s) Each TCHF is subject to compliance with the State Building Code, the State Electrical Code, and the State Plumbing Code.
- (t) The City Building Official may conduct a nondestructive walkthrough inspection of previously used temporary work camp housing to ensure compliance with applicable codes, including the State Building Code, State Electrical Code, and State Plumbing Code. If the housing is found to be compliant with these codes, the Building Official may issue a limited certificate of inspection, which is effective for the term of the conditional use permit.
- (u) A third-party certificate of inspection is required for newly manufactured housing facilities.
- (v) Residents may not be permitted to move into or live in any previously used housing units unless the housing has a current limited certificate of inspection or has been found to meet all applicable codes and requirements by any code enforcement agency having jurisdiction.

### 3. Application Submittal Requirements

- (a) Site Plan, including the following:
  - i. Existing Conditions:

- (1) Vicinity map inset showing facility location in proximity to Killdeer
  - (2) Property lines
  - (3) Public rights-of-way and public and private access easements
  - (4) Utility easements
  - (5) Width and surfacing of existing roads serving the facility
- ii. Proposed Development
- (1) Location and use of structures
  - (2) Building setback distances from property lines
  - (3) Distances between structures
  - (4) Distance from structures to internal roads/streets
  - (5) Widths and surfacing of roads/streets
  - (6) Off-street parking spaces
  - (7) Location and size of any signage
  - (8) Location, size, and type of onsite recreational amenities
  - (9) Onsite fencing location and detail
  - (10) Infrastructure locations
  - (11) Snow storage areas
  - (12) Outdoor recreation and leisure area
- iii. Storm Water Management Plan
- (1) Existing contours with existing drainage patterns
  - (2) Existing culvert sizes and locations
  - (3) Proposed contours and directions of flows
  - (4) Proposed retention facilities
  - (5) Calculations of proposed runoff and sufficient evidence to assure no net increase in offsite runoff
- iv. Any other information required by the Code Administrator to allow the Planning and Zoning Commission to make an informed decision on the request.
- (b) Approvals of TCHF's are contingent upon the following additional submittal items being deemed satisfactory and provided prior to the issuance of a certificate of occupancy and use of the facility:
- i. Letters of acknowledgement from local service providers:
    - (1) Fire protection
    - (2) Emergency medical services
    - (3) Law enforcement

- ii. Copies of any permits required by other agencies such as the Southwest District Health Unit, the North Dakota Department of Health, the North Dakota State Water Commission, South Central Regional Water District, and North Dakota Department of Transportation.
- iii. Traffic study (required for facilities of more than ~~25~~ 100 residents).
- iv. Agreements with water and sewer providers
- v. Proof of insurance
- vi. Fire and emergency operations plan
- vii. The name and contact information for the onsite manager
- viii. Policies & rules for residents of the facility
- ix. Compliance letter from Killdeer's city engineer stating the interior roadways, infrastructure, storm water drainage improvements and other features of the facility have been constructed properly and in accordance with sound engineering principles.

#### 4. Noncompliance and Permit Revocation

A conditional use permit may be revoked at any time if the TCHF is found to be in violation of any of the rules of this or other sections of the Killdeer Land Development Code or in violation of any of the conditions imposed by the Killdeer Planning and Zoning Commission in granting the conditional use permit. The City of Killdeer may abate any public nuisance caused by a vacated TCHF within its jurisdiction.

#### **3.7.2 Manufactured Home Parks**

Manufactured Home Parks require approval of a conditional use permit. Subject to approval by the Killdeer Planning and Zoning Commission, Manufactured Home Parks may be allowed in the SFR-Single Family Residential and in the MFR-Multiple Family Residential districts.

- 1. Manufactured home parks shall contain a minimum of ninety thousand (90,000) square feet of land and contain a maximum of seven (7) mobile homes per gross acre.
- 2. A minimum of ten (10) percent of the gross area of the project shall be devoted to parks and playgrounds.

3. Each manufactured home shall be placed within a lot at least fifty (50) feet wide, one hundred (100) feet in depth and with a minimum area of 5,000 square feet.
4. Each unit shall have a minimum front setback of twenty (20) feet, a minimum rear setback of ten (10) feet and a minimum side setback of six (6) feet. Permitted encroachments on setback space include carports, outdoor terraces or patios without roofs or walls, and encroachments may project eight (8) feet into any setback space. Garages shall be a minimum of six (6) feet apart from the mobile home structure.
5. Underground utility, including water, sewer, gas, electricity and telephone, shall be provided to each lot in the park.
6. All lots and streets in the park shall be accessible at all times to emergency vehicles and streets shall be so designed as to permit a minimum number of ingress and egress points to control traffic movement from the park.
7. Where the park is served by private streets, those streets shall conform to the design standards recommended by the city and streets and parking areas shall be surfaced for all weather travel.
8. All units in the park shall be served with public sewer and a water supply approved by the North Dakota State Department of Health.
9. The entire manufactured home park shall be landscaped, excluding hard-surfaced areas.
10. Application for the establishment of a manufactured home park shall include a plot plan as to location and legal description and which plan shall set forth the foregoing requirements in detail.
11. There shall be two off-street parking spaces per unit.
12. Where a Manufactured Home Park exists within the City limits, the owner, in his/her discretion, may convert or lease, from time to time, not more than 49% of the manufactured home lots for recreational vehicle use. The owner shall be responsible to appropriately install any additional utility connections necessary for the recreational vehicle hook up. Screening of recreational vehicles along street right-of-ways or adjacent residential properties will be at the discretion of the Planning and Zoning Commission. Recreational vehicles must be grouped together in a contiguous fashion within the site. Existing manufactured/mobile home parks must apply for a conditional use permit to add recreational vehicles as provided in this section.

### **3.7.3 Multi-family Dwelling Units, Hotels, and Motels**

These standards only apply to multi-family dwelling units, hotels, and motels where referenced in the C-Commercial and I-industrial districts.

#### **1. Purpose**

The purpose of this section is to provide reasonable standards to protect public infrastructure and the public from undue traffic impacts caused by hotel, motel, and multi-family dwelling unit development of unusually large size. Standards are necessary to control development design in order to preserve and enhance the unique character of the community, protect property values, and to maintain an attractive business climate.

#### **2. Standards**

- (a) A traffic study must be prepared by the applicant for individual projects with more than 100 rooms or units. This requirement is not intended to limit or replace requirements of the North Dakota Department of Transportation.
- (b) Each building is limited to 100 units or rooms, with exceptions to be allowed by the Planning and Zoning Commission if appropriate design elements are used.
- (c) Manufactured structures as allowed through Federal codes are prohibited.
- (d) Metal siding is prohibited, with exceptions to be allowed by the Planning and Zoning Commission if appropriate design elements are used.
- (e) Roof overhang/eaves must be provided along all roof lines.

### **3.7.4 Oil and Natural Gas Drilling**

Oil and natural gas drilling shall be permitted conditionally in the I-Industrial and A-Agricultural Districts, providing the following requirements are met:

- 1. The regulations and statues provided for in Chapter 38-08 of the North Dakota Century Code shall be followed by any person desiring to drill a well for oil or natural gas within the City of Killdeer or the extraterritorial jurisdiction.



2. An application must be filled with the Clerk of the Planning and Zoning Commission. The application shall consist of two drill site development plans. The first plan shall be a drill site development plan covering and including that phase of the oil well operation including drilling operations, and shall include the following information:
  - (a) Written legal description.
  - (b) Scale drawing of the property and appropriate dimensions.
  - (c) Scale, north arrow, date, and legend.
  - (d) Name, address, and telephone number of property owner and applicant.
  - (e) Location and size of existing easements, utilities, and right-of-ways.
  - (f) Location and dimension of all vehicular entrances, exits, and drives.
  - (g) General drainage system.
  - (h) Size of site.
  - (i) Location of all physical facilities to include proposed wells, structures, portable toilets, and relationship to all buildings within 660' radius.
  - (j) The site plan shall contain a statement describing all pollution prevention equipment to be utilized; it shall be the policy of the City of Killdeer to require blowout prevention devices on every drilling operation covered hereunder.
  - (k) Location of all mud pits.
  - (l) Information pertaining to how fresh water will be obtained offsite and how produced water will be handled offsite.

The second plan shall cover the completed or production well phase and shall contain the following information:

- (a) General location of tank batteries and size of tank battery site.
- (b) Any oil, gas, or water lines to be utilized.
- (c) Location of ingress and egress to be utilized by applicant and to include all vehicular entrances, exits, and drives.

- (d) Type of screening devices, or construction to be utilized around the pumping site, which screening shall be required to be of such type so as to discourage access, entry or climbing so as to endanger life and security. All screening shall be determined by the Planning and Zoning Commission and shall be a maximum of 50' in depth from the property line of a lot zoned Residential or from street right-of-way which separates a well from a residential district. The security system planned at the gates to any oil operation at all times during which the oil operation site is unattended.
  - (e) The sign shall be no more than 24" by 30"; shall contain the name, address, and emergency phone number of the oil producing company; and shall be posted at the drilling site for use in any emergency notice which might arise.
3. The applicant shall provide notice to all property owners with property directly abutting the property subject to the application. Notice must be provided at least 14 days prior to the Planning and Zoning Commission hearing. Proof of notice must be provided to the city.
  4. Any oil well or natural gas operation shall maintain roads within the premises covered by the permit and such roads shall be kept in reasonable dust-free condition.
  5. No well or drilling operation requiring the construction of a new pad shall be located, drilled, or operated within 1,000' of any Residential District, Commercial District, Recreational District, or any dwelling.
  6. No well or drilling operation involving an addition to an existing pad shall be located, drilled, or operated within 500' of any Residential District, Commercial District, Recreational District, or any dwelling.
  7. New dwellings in the Agricultural District shall be located at least 1,000' from an oil and gas well.
  8. Traffic to and from a well or drilling operation shall not be disruptive to any residential development.
  9. This section and regulations provided herein shall apply to the entire well pad if a new well is proposed on an existing pad.

### **3.7.5 Medical Marijuana Dispensaries**

1. A dispensary shall be permitted in the Commercial District only, subject to the following conditions. All setbacks are measured from the nearest lot line.

- (a) No dispensary shall be permitted within 1,250 feet of a K-12 school.
- (b) No dispensary shall be permitted within 1,000 feet of any daycare licensed by the State of North Dakota.
- (c) No dispensary shall be permitted within 1,000 feet of any public park or recreational facility property.
- (d) There must be a clear line of sight from any entry of the dispensary to adjacent rights-of-way. The proposed site plan must be submitted prior to approval which clearly indicates the location of all entries to the facility and the location of any structures, landscaping, or natural features which may obstruct visibility from the roadway.
- (e) The dispensary structure must be built to International Building Code (IBC) standards as adopted by the City of Killdeer.
- (f) The base, or the bottom visual portion of a building typically extending up a short way from the foundation, shall consist of heavy types of materials, such as stone or brick.
- (g) The conditional permit is valid indefinitely, unless dispensary operations are revoked or suspended by the State of North Dakota, or until the property is converted to another commercial use or is rezoned.

### **3.8 Residential Development & Accessory Uses**

1. No lot shall contain more than one principal single family residential building, and no dwelling unit shall be built on a lot which does not abut a dedicated public road. Accessory buildings shall be smaller than the residential building's total floor area and shall be limited to fifteen (15) feet in height and be located at least six (6) feet from all lot lines.

**ARTICLE IV**  
**ZONING DISTRICTS**

**4.1 District Map**

Zoning Districts

For the purposes of this Code the City of Killdeer is divided into the following zoning districts:

- SFR - Single Family Residential District
- MFR – Multiple Family Residential District
- C - Commercial District
- I – Industrial District
- A - Agricultural District
- F - Flood Plain
- PUD Overlay - Planned Unit Development Overlay (must have an above district as a base zone)

**4.2 Zoning Map**

The boundaries of the zoning districts established by this Land Development Code are shown on a map or series of maps designated “City and Extraterritorial Zoning” which is adopted and made a part of this Land Development Code as fully as if it were set out in this Chapter in detail. Original copies of the zoning district map are maintained in the office of the Code Administrator. In case of any dispute regarding the zoning classification of property subject to this Land Development Code, the original maps maintained by the Code Administrator will control. The Code Administrator shall be responsible for producing all updates of the zoning map.

1. The zoning classification of any land that does not appear to be classified within the corporate limits and within the extended territorial limits shall be zoned as Agricultural District property.
2. Where uncertainty exists with respect to the boundaries of the various districts hereby established and as shown on the Zoning District Map, the following rules shall apply:
  - (a) The district boundaries are the center lines of streets or alleys, unless otherwise shown.
  - (b) Where the district boundaries are not center lines of streets or alleys and where the land has been or may hereafter be divided into lots or blocks and lots, the district boundaries shall be construed to be lot lines.

- (c) Where land has not been subdivided into lots or blocks and lots, the district boundary lines on the Zoning District Map shall be determined by the Board of Adjustment.

### **4.3 SFR- Single Family Residential District**

#### **1. Permitted Uses:**

- (a) Single-family dwellings a minimum of 20 feet wide and building footprint a minimum of 600 square feet
- (b) Public parks, playgrounds and other public buildings and structures
- (c) Accessory buildings
- (d) Public and parochial schools
- (e) Churches and related facilities
- (f) Home occupation
- (g) Daycare facilities

#### **2. Conditionally Permitted Uses:**

- (a) Two or more family dwelling units; a single building or portion thereof, containing two (2) or more dwelling units.
- (b) Mobile Home (Manufactured Home) parks (see Article III, Section 3.7.2 for standards)
- (c) Manufactured homes on permanent foundations on platted lots. Manufactured homes are allowed provided that they are placed on a permanent foundation as determined by the Code Administrator.
- (d) Public facilities including public water and sewage treatment lagoons
- (e) Limited agricultural uses specified as follows:
  - (i) Chickens in Residential Districts

These standards only apply to the SFR-Single Family Residential District.

- (1) Purpose

The purpose of this section is to provide an opportunity for those in need of chickens for medical reasons to be allowed in residential districts. Standards are necessary to ensure the health, safety, and general welfare of the applicant and surrounding neighbors is maintained.

(2) Standards

- i. Any applicant wishing to apply for a conditional use permit to allow chickens within a residential district shall provide medical documentation stating the need from a licensed or certified medical professional.
- ii. No more than two (2) chickens per residential lot will be conditionally permitted within a residential district.
- iii. The enclosure for the keeping of chickens shall be placed in location that is not adjacent to any property line shared with an adjacent residential use, but rather, is placed more central to the property on which the conditional use is granted, or closer to property lines shared with adjacent non-residential uses.
- iv. The property upon which the conditional use is granted shall be continuously and regularly maintained in a manner that prevents the accumulation of animal waste.
- v. Keeping chickens is for personal use only; commercial uses such as the selling of eggs or poultry on-site shall be prohibited.
- vi. Live slaughter shall be prohibited.
- vii. Roosters shall be prohibited.
- viii. Any approved conditional use permit shall be for a period of no longer than three (3) years.
- ix. The conditional use permit shall not run with the land, but will cease when the applicant no longer occupies the premises.

3. Area Requirements

- (a) For lots in subdivision plots recorded prior to January 1, 1984:  
  
Minimum width: 50 feet  
  
Minimum area: 6,000 square feet
- (b) For lots in subdivision plots recorded after January 1, 1984:  
  
Minimum width: 65 feet  
  
Minimum area: 9,000 square feet
- (c) Lot coverage. The ground area occupied by the principal and accessory buildings shall not exceed thirty-five (35) per cent of the total area of the lot for single-family dwellings. The ground area occupied by the principal and accessory buildings shall not exceed fifty (50) per cent for multi-family dwellings. In computing lot coverage, off-street parking areas complying with Article VI, Section 6.1 hereof shall be added to the actual area of the buildings, if such space is not furnished within a building.
- (d) For lots not served by a public sanitary sewer system:  
  
Minimum width: 100 feet  
  
Minimum area: 20,000 square feet provided that the site meets the minimum standards for on-site sewage disposal by the North Dakota State Health Department.
- (e) Lot area requirements for multi-family units shall be as follows:
  - vi. For two-family (duplex) units of a total of 2,000 square feet or less the lot area requirement shall be the same as for a single family unit.
  - vii. For all other multi-family units a lot area requirement shall be the same as for a single family unit with an additional 2,000 square feet of lot area for each dwelling unit over one in number in the structure.
- (f) The minimum lot for single-family dwelling units, in areas where public water and sewer are not available, shall be 20,000 square feet provided that the site meets the minimum standards for on-site sewage disposal by North Dakota State Health Department. The minimum lot width shall be 100 feet.

4. Yard Requirements

- (a) Front yard: A minimum depth of twenty five (25) feet.
- (b) Rear yard: minimum depth of ten (10) feet from the rear property line.
- (c) Side yard - minimum width of six (6) feet and eighteen (18) feet from a garage entrance from an alley.

5. Height requirements:

No building shall exceed thirty-five (35) feet or two and one-half (2½) stories in height.

6. Off-Street Parking:

For residential uses, two parking spaces for each dwelling unit

For all other uses, one parking space for each 400 square feet of building space shall be provided.

7. Fences and Retaining Walls:

Walls, and retaining walls up to forty-eight (48) inches in height shall be permitted so as not to interfere with traffic visibility. Barbed wire or sharp-point metal fences or electrically charged fences shall not be permitted.

Chain link fences and other type fences which do not limit the visibility may be allowed up to a height of six (6) feet subject to front line setback requirements upon approval of the City Inspector. Privacy slats or foliage of over thirty (30) inches in height are not permitted in the front twenty-five (25) foot setback.

Trees will be allowed twelve and one half (12.5) feet from the curb and must be trimmed up five (5) to six (6) feet. No trees, shrubs, or hedges can be planted on the boulevards. No fences can be constructed on the boulevards.

#### **4.4 MFR – Multiple Family Residential**

1. Permitted Uses:

- (a) Multiple-family dwellings, not including manufactured or mobile housing units as defined in this code.
- (b) An office for administration of multiple-family development, located in a main building containing 10 or more dwelling units.



2. Conditionally Permitted Uses:

- (b) Retail service uses as described in section 4.5
- (c) Personal service uses as described in section 4.5
- (d) Amusement places as described in section 4.5
- (e) Hotels and motels
- (f) Single family residential
- (g) Mobile Home (Manufactured Home) parks.
- (h) Manufactured homes on permanent type foundations on platted lots.

Pre-manufactured and mobile homes are allowed provided that they are placed on a permanent foundation, permanent or properly anchored basement made of concrete. Loose blocks shall not constitute a permanent foundation. Wheels and hitches must be removed. All manufactured homes must be permitted through the city.

- (i) Public and semi-public buildings and uses

3. Area Requirements

(a) Minimum lot width

One & two family dwellings	50 feet
Three & Four family dwellings	60 feet
Five-family dwelling or more	110 feet

(b) Minimum lot area

One & two-family dwellings	6,000 sq. feet
Three & Four-family dwellings	8,000 sq. feet
Five-family dwelling or more	2,000 sq. feet per unit

- (c) Lot coverage. The ground area occupied by the principal and accessory buildings shall not exceed fifty (50) percent. All other uses are limited to fifty (50) percent.

4. Yard Requirements

- (a) Front yard: minimum depth of twenty (20) feet from the front property line.
- (b) Rear yard: minimum depth of fifteen (15) feet from the rear property line.
- (c) Side yard - minimum width of six (6) feet and eighteen (18) feet from a garage entrance from an alley.

5. Height requirements:

No building shall exceed forty-five (45) feet.

6. Off-Street Parking:

- (a) For residential uses, two parking spaces per unit must be provided and all parking spaces must be concrete, asphalt or other impermeable surface.
- (b) For all other uses, see Section 4.5, Part 3.

7. Fences and Retaining Walls:

Walls, and retaining walls up to forty-eight (48) inches in height shall be permitted so as not to interfere with traffic visibility. Barbed wire or sharp-point metal fences or electrically charged fences shall not be permitted.

Chain link fences and other type fences which do not limit the visibility may be allowed up to a height of six (6) feet subject to front line setback requirements upon approval of the City Inspector. Privacy slats or foliage of over thirty (30) inches in height are not permitted in the front twenty-five (25) foot setback. Trees will be allowed twelve and one half (12.5) feet from the curb and must be trimmed up five (5) to six (6) feet. No trees, shrubs, or hedges can be planted on the boulevards. No fences can be constructed on the boulevards.

#### **4.5 C-Commercial District**

1. Permitted uses

- (a) Retail service uses including grocery, pharmacies, hardware, clothing, bakeries, eating and drinking places, automobile service station, print shop, and repair shops.

- (b) Personal service uses including offices and clinics, barber and beauty shops, hotels and motels, financial institutions, bowling alleys and amusement centers, theaters, dry cleaners, laundries and tailor shops.
- (c) Educational, governmental, philanthropic, or charitable institution.
- (d) Sales and servicing of motor vehicles and farm implements.
- (e) Agriculture.
- (f) Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.
- (g) Automobile dealerships.
- (h) Truckstop

2. Area and yard requirements

Lot area and yard requirements for buildings used for residential purposes shall conform to the yard requirements of the MFR-Multiple Family Residential District. There is no requirement for any other building.

3. Off-street parking and loading facilities

- (a) Provide off-street parking for all employees and all rolling equipment at a ratio of one-to-one; for visitors and customers, at a ratio of one-to-employee.
- (b) For residential uses there shall be two parking spaces per unit.
- (c) Adequate loading-unloading facilities shall be provided and shall be located on the same lot as the principal use.

4. Conditionally Permitted Uses

- (a) Single-Family dwelling units
- (b) Contractor's yard and operations
- (c) Processing and packaging of materials
- (d) Warehouses and wholesale dealerships
- (e) Commercial grain bins or related activity

- (f) Animal hospitals and veterinary clinics
- (g) Commercial above-ground fuel storage setback a minimum 300 feet from the boundary of residential districts and public buildings.
- (h) Hotels and motels (see Article III, Section 3.7.3 for standards)
- (i) Multi-family dwelling units (see Article III, Section 3.7.3 for standards)
- (j) Medical marijuana dispensaries (see sections 3.7.5 and 6.13 for standards and special provisions)

#### 5. Commercial Development Submission Requirements

Any application for a development permit for construction or development within a commercial district must include construction documents prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. **Exception:** The Code Administrator or building official is authorized to waive the requirement that such documentation be prepared by a registered design professional if it is determined that the nature of the work applied for is such that a review of the construction documents is not necessary to obtain compliance with this Code.

### 4.6 I-Industrial District

- 1. Permitted uses
  - (a) Commercial district uses, except for residential uses, hotels, and motels
  - (b) Grain and feed elevator or mill
  - (c) Heavy equipment sales, service, or repair
  - (d) Lumber yard
  - (e) Trucking or freight terminal
  - (f) Warehouses
  - (g) Agriculture
  - (h) Any industrial or manufacturing operation providing that: (a) dust, fumes, odors, smoke, vapor, noise, lights, and vibrations shall be confined within the industrial district, and (b) outdoor storage,

equipment and refuse areas shall be concealed from view of abutting rights-of way. All waste-related uses are excluded.

- (i) Commercial above-ground fuel storage setback a minimum 300 feet from residential districts, commercial districts, floodplain districts, and public buildings.
- (j) Medical marijuana manufacturing facilities (see sections 3.7.5 and 6.13 for standards and special provisions)

2. Conditionally permitted uses

- (a) Chemical fertilizer plant
- (b) Coal gasification plant
- (c) Communications Towers
- (d) Electrical power generating plant, to include wind generation
- (e) Refinery
- (f) Salvage and junk yards
- (g) Fuel and explosive material storage tanks and terminals.
- (h) Adult entertainment centers
- (i) Temporary Crew Housing Facility (see Article III, Section 3.7.1 for standards)
- (j) Sewage treatment facilities
- (k) Solid waste landfill and transfer stations
- (l) All other waste-related uses
- (m) Any use involving noxious materials that may have harmful impacts to the community or environment outside of the Industrial District boundaries.
- (n) Hotel and motels (see Article III, Section 3.7.3 for standards)
- (o) Water Depot/Water Extraction Site
- (p) Oil and Natural Gas Drilling (see Article III, Section 3.7.4 for standards)

3. Performance standards

- (a) A buffer strip consisting of a solid fence, wall, tree or shrub rows of at least eight (8) feet in height shall be provided when an industrial use is abutting R-Residential District.
- (b) The open storage of materials, other than waste products or salvage, may be permitted when located at least one hundred (100) feet from any R-Residential District and at least thirty (30) feet from any street right-of-way or other lot line. All material shall be handled so as to effectively control dust. All combustible material shall be stored in such a way as to permit free access to fire-fighting equipment.

4. Lot Area, Width, and Yard Requirements

- (a) The minimum lot area for the industrial district shall be two (2) acres
- (b) The minimum lot width shall be 250 feet.
- (c) The minimum front building line, measured from the front lot line, shall be 30 feet.
- (d) The minimum rear building line, measured from the rear lot line, shall be 25 feet.
- (e) The minimum side building line, measured from the side lot line, shall be 20 feet.
- (f) No building or structure shall be located within 300 feet from the boundary of residential areas.

**4.7 A-Agricultural District**

1. Permitted Uses:

General farming activities including grazing and raising of farm animals excluding commercial feed lots.

- (a) Structures and operation incidental to the operation of a farm
- (b) Churches and related facilities
- (c) Public parks, playgrounds, public buildings and structures

- (d) Public and parochial schools
- (e) Temporary structures incidental to construction work
- (f) Utility lines and facilities for public service
- (g) Home Occupations
- (h) Commercial above-ground fuel storage setback a minimum 300 feet from residential districts, commercial districts, floodplain districts, and public buildings.
- (i) One single-family dwelling

2. Conditionally Permitted Uses:

- (a) Cemeteries
- (b) Animal hospitals and veterinary clinics
- (c) Grain elevator
- (d) Airports
- (e) Sanitary landfill operation and sewage treatment facilities
- (f) Skeet, trap and rifle ranges
- (g) Tourist and trailer camps---recreational vehicle campgrounds:
- (h) Communication towers
- (i) Campgrounds
  - i. Campgrounds shall contain a minimum of 90,000 square feet and a maximum of fifteen (15) campsites per gross acre.
  - ii. The site plan showing location of all facilities, drives and campsites shall be approved by the city.
  - iii. Water and sanitary facilities shall meet the requirements of the North Dakota State Health Department, evidence of which shall be presented to the city on or before the hearing.
- (j) Temporary Crew Housing Facility (see Article III, Section 3.7.1 for standards)

- (k) Water Depot/Water Extraction Site
  - (l) Oil and Natural Gas Drilling (see Article III, Section 3.7.4 for standards)
3. Area Requirements
- (a) Minimum lot size: 10 acres

#### **4.8 F-Floodplain District**

1. Statutory Authorization, Findings of Fact, Purpose, and Objectives
- (a) Statutory Authorization
    - (i) The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-47, 11-33 and 58-03, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
    - (ii) Therefore, the City Commission of the City of Killdeer, North Dakota does ordain as follows:
  - (b) Findings of Fact
    - (i) The flood hazard areas of the City of Killdeer are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare.
    - (ii) Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to the flood loss.
  - (c) Statement of Purpose
    - (i) It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:



- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in special flood hazard areas;
- (6) To help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in a special flood hazard area;
- (8) To ensure that those who occupy the special flood hazard areas assume responsibility for their actions.

(d) Methods of Reducing Flood Losses

- (i) In order to accomplish its purposes, this ordinance includes methods and provisions for:
  - (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
  - (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
  - (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,

- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

2. General Provisions

(a) Lands to Which this Ordinance Applies

- (i) This ordinance shall apply to all special flood hazard areas within the jurisdiction of the City of Killdeer.

(b) Basis for Establishing the Special Flood Hazard Areas

- (j) The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Killdeer, dated April 17, 1989," with an accompanying Flood Insurance Rate Map (FIRM) and the Letter of Map Revision (Case Number 15-08-0619P) that supersedes the FIRM, effective March 2, 2016 and all subsequent Letters of Map Revision are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and Letter of Map Revision are on file at 165 Railroad Street East, Killdeer, ND.

(c) Compliance

- (i) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

(d) Greater Restrictions

- (i) This ordinance is not intended to repeal, remedy, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(e) Interpretation

- (i) In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;

- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(f) Warning and Disclaimer or Liability

- (i) The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Killdeer, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

3. Administration

(a) Establishment of Development Permit

- (i) A development permit shall be obtained before construction or development begins within any special flood hazard area established in Section 4.8.2.b. Application for a development permit shall be made on forms furnished by the City Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:
  - (1) Elevation in relation to mean sea level, of the lowest floor of all structures;
  - (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
  - (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 4.8.4.b.i.2; and,

- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (b) Designation of the City Administrator
  - (i) The City Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.
- (c) Duties and Responsibilities of the City Administrator
  - (i) Duties of the City Administrator shall include, but not be limited to:
    - (1) Permit Review
      - i. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
      - ii. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
      - iii. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 4.8.4.c.i.1 are met.
    - (2) Use of Other Base Flood Data
      - i. When base flood elevation data has not been provided in accordance with Section 4.8.2.b, BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS, the City Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available data) from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with Section 4.8.4.b, SPECIFIC STANDARDS.

(3) Information to be Obtained and Maintained

- ii. 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, and whether or not the structure contains a basement.
- iii. For all new or substantially improved floodproofed structures:
  - i. Obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed;
  - ii. Maintain the floodproofing certifications required in Section 4.8.3.a.i.3.
- iv. Maintain for public inspection all records pertaining to the provisions of this ordinance.

(4) Alteration of Watercourses

- i. The responsible person shall:
  - i. 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.
  - ii. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and,
  - iii. 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.

(5) Interpretation of Flood Insurance Rate Map (FIRM) Boundaries

- i. Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.8.3.d.

(d) Variance Procedure

(i) Appeal Board

- (1) The Zoning Board as established by the City of Killdeer shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The Zoning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this ordinance.
- (3) Any taxpayer or anyone aggrieved by the decision of the Zoning Board may appeal such decision to the District Court, as provided in NDCC 40-47-11, 11-33-12, or 58-03-14.
- (4) In passing upon such applications, the Zoning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:
  - i. The danger that materials may be swept onto other lands to the injury of others;
  - ii. The danger to life and property due to flooding or erosion damage;
  - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- iv. The importance of the services provided by the proposed facility to the community;
- v. The necessity to the facility of a waterfront location, where applicable;
- vi. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

- (5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre to less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.8.3.d.i.4 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (6) Upon consideration of the factors of Section 4.8.3.d.i.4 and the purposes of this ordinance, the Killdeer City Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

- (7) The City Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(ii) Conditions for Variances

- (1) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (2) Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued upon:
  - i. A showing of good and sufficient cause;
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
  - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in Section 4.8.3.d.i.4, or conflict with existing local laws or ordinances.
- (5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

4. Provisions for Flood Hazard Reduction

(a) General Standards



(i) In all special flood hazard areas the following standards are required:

(1) Anchoring

- i. All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- ii. 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.

(2) Construction Materials and Methods

- i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- ii. All new and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- iii. 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 conditions of flooding.

(3) Utilities

- i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

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

(4) Subdivision Proposals

- i. All subdivision proposals shall be consistent with the need to minimize flood damage;
- ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

(b) Specific Standards

- (i) In all special flood hazard areas where base flood elevation data have been provided as set forth in Section 4.8.2.b BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS or Section 4.8.3.c.i.2, Use of Other Base Flood Data, the following provisions are required:

(1) Residential Construction

- i. 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.

(2) Nonresidential Construction

- i. 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 floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 4.8.3.c.i.3.ii.

(3) Manufactured Homes

- i. Manufactured homes shall be anchored in accordance with Section 4.8.4.a.i.1.ii.
- ii. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated on fill to at least one foot above the base flood elevation, and is securely anchored to an adequately anchored foundation system.

(c) Floodways

- (i) Located within the special flood hazard areas established in Section 4.8.2.b are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
  - (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments

shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) If Section 4.8.4.c.i.1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4.8.4 PROVISIONS FOR FLOOD HAZARD REDUCTION.

## 5. Penalties for Violation

- (a) 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 not to exceed 30 days or by both such fine and 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.
- (b) Nothing herein contained shall prevent the City Commission from taking such other lawful action as is necessary to prevent or remedy any violation.

## 4.9 PUD Overlay-Planned Unit Development Overlay District

### 1. Description:

A "Planned Unit Development" (PUD) is a type of overlay zoning district and a type of development plan. PUD zoning is linked to PUD plans in that no rights of development apply to a PUD zoning designation other than those of the approved PUD plan.

### 2. Purpose:

The PUD, Planned Unit Development District is an overlay zoning district that permits greater flexibility of land planning and site design than conventional zoning districts. The PUD overlay district should only be provided in unique situations for the following purposes:

- (a) Provide flexibility in site design, placement, and clustering of buildings; use of open areas and outdoor living areas; provision of circulation facilities and parking; and related site and design considerations;
- (b) Encourage the conservation of natural features;

- (c) Provide for efficient use of public services and improvements;
- (d) Permit higher density residential development in special circumstances to allow for affordable housing units.

3. Effect of Other Zoning District Standards:

Except as expressly authorized by the regulations of this section and approved as part of a PUD plan in accordance with the procedures of Article II, Section 3.4, all of the standards of this Land Development Code apply to a development within a PUD.

4. Standards Eligible for Modification:

The following otherwise applicable standards may be modified by the Board of City Commissioners during the PUD Overlay approval process. Standards not listed are not eligible for modification.

- (a) Lot Size: The minimum lot size standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.
- (b) Residential Density: The maximum density standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.
- (c) Setbacks: The minimum setback standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.
- (d) Height: The maximum height limits of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.
- (e) Building Coverage: The maximum building coverage standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.
- (f) Subdivision Design Standards: The City subdivision design standards may be modified by the Board of City Commissioners during the PUD review and approval process.

- (g) Parking: The minimum off-street parking standards of the underlying zoning district may be modified by the Board of City Commissioners during the PUD review and approval process.
- (h) Performance Standards: The minimum performance standards, including outdoor storage and buffering may be modified by the Board of City Commissioners during the PUD review and approval process.

5. Additional Requirements and Standards:

- (a) Approved PUD Plan: The PUD Plan is approved by the City Commission with the zoning map amendment to add the PUD Overlay District. The approved PUD Plan shall control development within a PUD.
- (b) Roadway Access: Unless otherwise expressly approved during the PUD approval process, principal vehicular access to PUDs must be from higher classification streets as determined by the Code Administrator. Any PUD containing over 50 dwelling units or 30,000 square feet of nonresidential floor space must provide at least 2 access points, wherever possible.
- (c) Open Space: At least 10 percent of the gross land area in PUDs must consist of open space.
- (d) Preservation of Natural Water Features: Natural watercourses, wetlands, and other natural water features must be preserved to the greatest extent possible.
- (e) Preservation of Trees: Mature trees should be preserved where viable to do so, with consideration of other site constraints.
- (f) Additional Conditions: The Planning and Zoning Commission shall recommend and the Governing Body shall impose such other conditions as are necessary to accomplish the purposes of this Land Development Code.

6. Approval Criteria

Applications for development with the PUD Overlay zone can only approved when the following criteria have been met:

- (a) The PUD Development is consistent with the Killdeer Growth Management and Land Use Plan.

- (b) The plan represents an improvement over what could have been accomplished through strict application of otherwise applicable base zoning district standards.
- (c) The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed.
- (d) If applicable, the development design considers onsite natural features and the preservation of those features.
- (e) The circulation design is sufficient to handle proposed traffic, pedestrian and other potential users.
- (f) The development proposal is consistent with the surrounding land uses.

7. Modifications:

- (a) The code administrator may approve minor plan modifications (less than fifteen percent change) to an approved PUD development plan, if the code administrator determines that the modification(s) does not constitute a substantial change in the approved project.
- (b) If modifications in land use or site plan are proposed, the applicant must submit an application for a conditional use permit which includes requirements as listed in Article III, Section 3.7, to be heard by the planning and zoning commission.

8. Exceptions

The PUD Overlay zone does not apply to the Floodplain District.

9. Submittal Requirements:

- (a) Name and address of applicant;
- (b) Name(s) and address(es) of property owner(s);
- (c) Legal description of the property;
- (d) Developer's Statement of Intent:

Applications must include a statement by the applicant describing how the proposed development provides greater

benefits to the City than would a development carried out in accordance with the existing zoning regulations on the subject property.

- (e) A site development plan drawn at the scale, which includes the following information:
  - i. Topography of the lot(s),
  - ii. Proposed street system and parking areas,
  - iii. Lot design,
  - iv. Location of buildings,
  - v. Location of other proposed uses,
  - vi. Proposed setbacks,
  - vii. Areas to be reserved for parks, schools or public or quasi-public buildings,
  - viii. Proposed landscaping,
  - ix. Building elevations,
  - x. Onsite street cross-sections,
  - xi. Water supply and distribution,
  - xii. Sewage disposal system,
  - xiii. Drainage system,
  - xiv. North arrow;
  - xv. Acres of each proposed land use;
  - xvi. Number of dwelling units per acre, if applicable;
  - xvii. A narrative description of the proposed development, including:
    - (1) A response to part 3 of this section,
    - (2) Phasing or development schedule.



- (f) As deemed necessary by the Code Administrator, additional items may be required for submittal to ensure a fair review of the proposal.

#### **4.10 Recreational District**

- 1. Permitted Uses:
  - (a) Public parks and playgrounds
  - (b) Public buildings and structures
  - (c) Public schools
  - (d) Utility lines and facilities for public service
  - (e) Community Center
  - (f) Public Land
- 2. Conditionally Permitted Uses:
  - (a) Cemeteries
  - (b) Campgrounds

## ARTICLE V

### LAND SUBDIVISION

#### 5.1 Procedure for Subdivision Approval (Major Subdivisions)

##### 1. Preliminary Plat

- (a) The subdivider shall prepare a preliminary plat and file an application for approval with the Planning and Zoning Commission. The application shall include all data required by these regulations accompanied by three copies of the plat.
  - i. The preliminary plat shall cover all contiguous lands owned or controlled by the subdivider even if only a part of it is proposed for development at that time.
  - ii. The Planning and Zoning Commission shall within thirty (30) days from the date submitted, approve, approve conditionally or reject the preliminary plat based on its determination of conformance with these regulations.
- (b) The preliminary plat shall be based upon a survey and shall be submitted in three copies on a scale of not more than one hundred (100) feet to one (1) inch and shall show correctly:
  - i. Name, address and telephone number of the person to be contacted regarding the plat.
  - ii. Date, graphic scale and north point.
  - iii. Name of the proposed subdivision.
  - iv. Location of the proposed subdivision by government lot, quarter section, section, township, range and county.
  - v. A scaled drawing of the exterior boundaries of the proposed subdivision referenced to the corner established in the U.S. Public Land Survey and the total acreages encompassed thereby.
  - vi. Names and locations of adjacent subdivisions, parks, cemeteries and other development.

- vii. Location of existing property lines, buildings, streams or water courses, marshes and wetlands, wooded areas, and other similar significant features within the parcel being subdivided.
- viii. Location, right-of-way width and names of any existing or proposed streets, alleys or other public ways; easements, and railroad and utility rights-of-way.
- ix. Contours at vertical intervals of not more than five (5) feet.
- x. Location and dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainage ways, or other public uses and open spaces not requiring subdividing of land.
- xi. Dimensions of all lots and proposed lot and block numbers.

(c) Commercial Subdivision Submittal Requirements.

In applications for a development permit for commercial subdivisions, the requirements listed in 5.1.1 (a) and (b) above must be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. **Exception:** The Code Administrator or the building official is authorized to waive the requirement that such documentation be prepared by a registered design professional if it is determined that the nature of the work applied for is such that a review of the construction documents is not necessary to obtain compliance with this Code.

2. Preliminary Plat Submission Requirements

- (a) The subdivider shall submit two (2) prints of the preliminary plat to the Code Administrator at the time the application is made. The plat shall comply with the provisions of this Code.
- (b) The subdivider may submit any instrument whereby he/she proposes to regulate land use in the subdivision for protecting the proposed development.
- (c) The subdivider shall provide other data related to drainage, soil suitability, financing of improvement and other related information which the Planning and Zoning Commission requests.
- (d) For Plats that involve the creation of three or more lots and/or the disturbance of more than 20,000 square feet, the following items must be submitted with the Preliminary Plat for City review:

- i. A brief narrative describing proposed site stormwater management;
- ii. A preliminary grading plan that shows the existing and proposed topography at one foot contours to clearly indicate the relationship of the proposed changes to existing topography and remaining features;
- iii. A preliminary drainage plan of the developed site delineating existing and proposed drainage basins and any areas reserved for stormwater detention.

### 3. Review Process

- (a) The Planning and Zoning Commission shall review the preliminary plat and may require additional information before it takes action.
- (b) The conditional approval of a preliminary plat shall clearly state the nature and extent of the conditions which shall be met before a final plat is submitted for review and approval. Tentative approval of a preliminary plat by the Planning and Zoning Commission is not an acceptance of a subdivision plat, but is an expression of approval of a general plat as a guide to preparation of a subdivision for final plat review and approval.
- (c) The Planning and Zoning Commission may require the subdivider to submit a revised preliminary plat before the subdivider proceeds with the preparation of the final plat.
- (d) Approval of the preliminary plat shall be effective for a period of two (2) years within which a final plat shall be prepared. If the final plat is not submitted within this time period, the Planning and Zoning Commission may require the subdivider to resubmit the preliminary plat for review and approval, unless the developer had provided a detailed timetable for the preparation of the final plat(s).

### 4. Final Plat

- (a) If the preliminary plat has been approved or approved conditionally the subdivider shall submit three (3) copies of the final plat to the Planning and Zoning Commission.
- (b) The final plat of the proposed subdivision shall be prepared by a registered land surveyor or engineer and shall conform to the

requirements of the preliminary plat and any conditions attached thereto by the Planning and Zoning Commission.

- (c) The Planning and Zoning Commission shall hold a public hearing as required by the North Dakota Century Code before action on the final plat is taken. Notice of the time and place of such hearing shall be published once in the official newspaper for the City one week prior to the date of the hearing. If the final plat meets the requirements of these regulations and in the case where a preliminary plat was given conditional approval and those conditions have been met, Planning and Zoning Commission shall recommend approval of the plat to the City Commission.

## 5. Final Plat Content

The final plat shall conform to all provisions of this Code and conditions set forth by the City Commission.

- (a) Name of subdivision and date of tentative approval by the City Commission.
- (b) Location by section, quarter section, township and range, or other legal description.
- (c) Names of owners and surveyor or other professional person preparing the plat.
- (d) Plat map with scale of one inch representing one hundred (100) feet or less.
- (e) Date, graphic scale and North point.
- (f) Boundary line of subdivision based on an accurate traverse, showing distances and bearings.
- (g) Exact location, width and name of all streets within and adjoining the subdivision, and the exact location of all alleys and crosswalks.
- (h) True bearing and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat.
- (i) City, township, county or section lines accurately tied to the boundary lines of the subdivision by bearing and distance.

- (j) Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
- (k) All easements for rights-of-way provided for public services and public utilities.
- (l) All lot numbers and lot lines with accurate dimensions.
- (m) Accurate location of all monuments, which shall be of material and size in accordance with the standards of the city, the county, and the state.
- (n) Accurate outlines and legal descriptions of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners.
- (o) Building setback lines, accurately shown with dimensions.
- (p) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
- (q) Building covenants.
- (r) Certification by registered surveyor to the effect that the plat represents a survey made by him, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
- (s) Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines and other improvements and of streets and other public areas.
- (t) The current title insurance policy or an attorney's opinion of title for the subject property.

## 6. Final Plat Submission Requirements

The subdivider shall apply on appropriate forms to the Planning and Zoning Commission for approval of the final plat, if he/she holds a valid approval of the preliminary plat.

- (a) The final plat shall comply with all provisions of this Code and conditions and requirements set forth as a part of review and approval of the preliminary plat. All filing fees shall be paid to the city at the time of filing the final plat for approval.

- (b) The Planning and Zoning Commission may require the subdivider to submit detailed drawings for grading of the lots, blocks, streets, detailed drawings for pavement, curb, gutter and sidewalk, drawings for installation of water, sanitary and storm sewer facilities.

7. Review Process

- (a) If the Planning and Zoning Commission finds the final plat in conformance with the requirements stipulated for approval of the preliminary plat, it shall recommend to the City Commission for approval after a public hearing.
- (b) The subdivider shall prepare an estimate of the cost of providing the required improvements based on the county design standards for street, curb, gutter, sidewalk, sanitary sewer, storm sewer and water lines.
- (c) If all conditions and requirements have been met, the Planning and Zoning Commission shall make a recommendation on the plat to the City Commission.
- (d) Within a reasonable time after receiving recommendations from the Planning and Zoning Commission, the City Commission shall review the recommendations and the final plat and approve or disapprove the proposed subdivision.
- (e) Within thirty (30) days after the final plat approval is granted, the final plat of record shall be filed with the County Recorder for Dunn County.

8. Amendment of Comprehensive Plan

Upon final approval of a subdivision involving the creation of new streets, the widening, decreasing or vacation of existing streets or alleys, or the creation, enlargement or decrease of other lands devoted to public use, the City Commission and/or Planning and Zoning Commission shall, at the same time, and with a public hearing, approve such change in streets, alleys or public lands as an amendment to the Comprehensive Plan, if deemed appropriate.

9. Filing of Subdivision Plat

The subdivider, upon approval of the final plat, shall file the plat with the County Recorder of Dunn County. Sale of any lot prior to filing of the final plat is in violation of this Code.

10. Design Standards

(a) Streets

- i. The arrangement, character, extent, width, grade and location of all streets shall be related to: existing and planned streets; topographic conditions; existing natural features including wetlands, marshes, and tree growths; public convenience and safety, existing and proposed uses of land served by the streets; and to the most advantageous development of adjoining uses.
- ii. The arrangement of streets in a subdivision shall provide, where possible, for the continuation or appropriate extension of existing and proposed streets in the city.
- iii. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way; the City of Killdeer may require a street approximately parallel to and on side of such right-of-way, at a distance suitable for the appropriate use of the intervening land.
- iv. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than seventy-five (75) degrees, and no more than two streets shall intersect at one point.
- v. Dead-end streets shall not be permitted without a suitable turnaround with a diameter of not less than 120 feet. Appropriate arrangements shall be made for those parts of temporary turnarounds outside of street rights-of-way to revert to the abutting property owners at such times as streets shall be extended.
- vi. No street names shall be used which will duplicate or be confused with the names of existing streets in the city.
- vii. Alleys shall be discouraged in residential districts but may be provided in commercial and industrial districts.
- viii. Intersections of more than two (2) streets at a point shall not be permitted.



(b) Street Standards

- i. The Killdeer Street Dimensional Standards Table shall be applied to the creation of new subdivisions through the platting process as described in Article V.
- ii. The Killdeer Street Dimensional Standards Table shall not apply to those streets under the control of the State Department of Transportation or to plats submitted to the City prior to adoption of this section.
- iii. Areas subdivided prior to April 1, 2014 may be required to comply with the Killdeer Street Dimensional Standards Table by the Planning and Zoning Commission if the improvements will not produce an unfair burden of cost and/or maintenance upon the adjacent property owners.

Killdeer Street Dimensional Standards Table

Urban Street Standards								
Street Classification	Lanes	Parking	Minimum Pavement Width*, Face of Curb (FT)	Sidewalks (FT)	Landscaping /Snow Storage/ Utilities (FT)	ROW (FT)	Zone Districts	Notes
Alley	2	None	24	none	4	32	SFR, MFR, C	
Local	2	Both Sides	40	4	4	56	SFR, MFR, C, I	
	2	One Side	32	4	4	48	SFR, MFR, C	
	2	None	24	4	4	40	SFR, MFR	
Collector	2-3	Both Sides	40	6	7	78	All	Parking restrictions at major intersections. Center turn lane can be improved as median as needed.
	2	Both Sides	40	6	7	66	All	Parking restrictions at major intersections or where center turn lane exists.

Arterial	2-5	Both Sides	40	6	12	100	All	Parking restrictions at major intersections or where center turn lane exists.
	2-5	One Side	36	6	12	100	All	Parking restrictions at major intersections or where center turn lane exists.
	2-5	None	32	6	12	100	All	

*\*Must comply with City Stormwater Requirements*

Rural Streets						
Street Classification	Lanes	Parking	Minimum Travel Way Width (FT)	ROW (FT)	Zone Districts	Notes
Rural Industrial	2	None	24	66	I	See typical section for shoulder and ditch layout.
Arterial	2	None	26	100	I, A	See typical section for shoulder and ditch layout.

(c) Utility Easements

- i. Easements of at least ten (10) feet shall be provided along the rear and exterior side of corner lots and shall be designated as "Utility Easement" on the plat.
- ii. All utility lines for electric power and telephone service shall be placed in the utility easements and shall be underground unless overhead utility lines are approved by the City Planning and Zoning Commission.

(d) Grading and Drainage

- i. When required, the subdivider shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements.

- ii. The drainage shall not discharge into any sanitary sewer facility.
- iii. The drainage facilities shall be located in street right-of-way or in drainage easements.
- iv. All developers should submit a management plan for storm water.
- v. The grading and drainage system shall be approved by the Planning and Zoning Commission.
- vi. Grading established in any subdivision shall not be changed without approval of the Planning and Zoning Commission.

(e) Drainage Way Easements

- i. Where a subdivision is traversed by a water course, drainage-way or wetland, there shall be provided an adequate drainage-way easement as required by the Planning and Zoning Commission.
- ii. The location, width, alignment and grading of such easements shall be of such a width and design to accommodate the anticipated discharge from the property being subdivided and also the anticipated run-off that may occur when property at a higher elevation in the drainage basin is developed.

(f) Blocks

The length, width and shape of blocks shall be suited to the planned use of land, zoning requirements, convenient access, control and safety of street traffic and the limitations and opportunities of topography.

- i. Residential block length shall not exceed nine hundred (900) feet. The length of blocks is considered to be the distance from one street centerline to opposite street centerline and is measured through adjacent back lot lines or through the center of the block.
- ii. Pedestrian crosswalks not less than ten (10) feet wide may be required in blocks longer than six hundred (600) feet where the crosswalks are deemed by the Planning and Zoning Commission to be essential to provide circulation, or access to schools, playgrounds or other community facilities, and handicap access (curb cuts) required.

- iii. The width of blocks shall generally be sufficient to allow two (2) tiers of lots and shall be at least two hundred and fifty (250) feet wide.
- iv. Block intended for commercial and industrial use shall be specifically designated for such purposes with adequate space set aside for off-street parking and delivery facilities. The Planning and Zoning Commission may require service drives or frontage roads along major streets for commerce and industry.

(g) Lots

- i. The size, shape and orientation of the lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing site for the building contemplated.
- ii. Every lot shall front or abut a public street.
- iii. Lot width as measured from the building setback line and lot area for residential development shall conform to the requirements of these regulations.
- iv. Side lot lines shall be substantially at right angles or radial to street lines.
- v. Lot lines shall not cross the municipal boundary lines.
- vi. Depth and width of properties reserved or laid out for commercial or industrial use shall be adequate to provide for off-street parking.

(h) Required Improvements

i. Survey Monuments

Monuments shall be placed at all block corners, single points, points of curves in streets and at intermediate points as required by the Planning and Zoning Commission.

ii. Municipal Water Supply

Water mains shall be installed so as to provide service to each lot within the subdivision.

iii. Sewage Disposal System

Municipal sanitary sewers shall be installed so as to provide service to each lot within the subdivision.

iv. Grading and Surfacing

Except in the I-Industrial, A-Agricultural, and F-Flood Plain zone districts, all public streets shall be surfaced with impervious asphalt, concrete, or similar material approved by the Planning and Zoning Commission. The surface must be intact and not composed of any loose material. The Planning and Zoning Commission may extend this requirement into any additional areas through the platting process.

v. Storm Water Drainage Facilities

The storm water drainage facilities of a size and design that will adequately accommodate design volumes of flow and that will present no hazard to life or property shall be installed in accordance with plans and specifications approved by the City.

vi. Curbs and Gutters

Concrete curbs and gutters shall be installed in all subdivisions in accordance with plans and specifications approved by the City.

vii. Sidewalks

Where the installation of sidewalks is required, it shall be in accordance with plans and specifications approved by the City.

viii. Street Lights

All local, collector, and arterial streets improved to the urban street standards as specified in this section (5.10.1.(b)) must include street lighting in accordance with plans and specifications approved by the City.

ix. Other Improvements

All other improvements as required by this code and other regulations adopted by the City shall be in accordance with plans and specifications approved by the City.

(i) Installation of Improvements

Before installation of improvements in any subdivision, the Planning and Zoning Commission shall make a determination for improvements required, based on a schedule of improvements including the standards, and class of construction.

The improvements specified herein shall be installed and approval of the final plat shall be given only after work has been completed or there shall have been filed with the City one of the following:

- i. Duly completed and executed surety bond in an amount sufficient to complete the work with surety satisfaction to the City.
- ii. Other arrangements satisfactory to the city to complete the work.

(j) Dedication of and for Streets

Whenever a parcel of land is to be divided as a subdivision or as a land division, all streets and public ways shall be dedicated to the public upon approval of the plat of subdivision.

(k) Reservation of Lands for Parks, Playgrounds, School Sites or Public Facilities

Whenever a parcel of land to be divided contains all or in part a site for a park or playground which has been designated on the city plans shall be reserved for a period of two years from the date of approval unless waived or extended by mutual agreement of the City and the developer.

## 5.2 Procedure of Subdivision Approval (Minor Subdivisions)

### 1. Purpose

- a. The purpose of a minor subdivision is to simplify the platting and public hearing procedures for a subdivision that meets the requirements of this section.

### 2. Requirements

- a. The subdivision creates four or fewer lots from a tract of record or combines a maximum of four lots into three or fewer lots.
- b. The resulting lots conform to the minimum area and dimensional standards established by zoning district requirements for the property.

- c. The subdivision does not create or modify right-of-way
- d. The subdivision will not necessitate the construction of streets, utilities, or other improvements other than to directly serve the lots created.
- e. All required easements are granted and conflicting easements are vacated.
- f. The subdivision does not land-lock or otherwise impair convenient ingress and egress to or from the subject lot(s) or any adjacent property.
- g. The property was not part of an approved minor subdivision within the past three years.

### 3. Procedures

- a. The applicant shall submit a completed application to the Zoning Administrator with required submittal items:
  - i. An application fee determined by resolution of the City Commission.
  - ii. A proposed subdivision plat meeting the criteria for a minor subdivision and the general requirements of Section X.
- b. The Zoning Administrator and City Engineer shall review the application for completeness and notify the applicant of any changes needed to process the minor subdivision.
- c. The minor subdivision shall then proceed to the final plat process (Section 5.1.4).

## 5.3 Lot Line Adjustment

### 1. Lot Line Adjustment Process

- a. A lot line adjustment does not require a public hearing. The Code Administrator is authorized to approve or deny an application for lot line adjustment.
- b. A survey of record is not required for a lot line adjustment. A lot line adjustment to an approved subdivision plat shall be memorialized in a deed of certificate filed at the office of the County Recorder of Dunn County.
- c. Any person, firm, or organization aggrieved by the decision of the Code Administrator to approve or deny a lot line adjustment shall have the right to appeal the decision to the Board of Adjustment, pursuant to Section 7.3

of this Code.

## 2. Lot Line Adjustment Submittal Items

- a. The applicant shall submit a completed application to the Zoning Administrator with the following submittal items:
  - i. Application fee determined by resolution of the City Commission
  - ii. Complete legal description of the property
  - iii. Names and contact information for all impacted property owners
  - iv. A diagram showing:
    1. Survey date, graphic scale, and north point
    2. Legal description of the property
    3. Boundaries and dimensions for all lots, both existing and proposed
    4. Name of subdivision and adjacent subdivisions
    5. The location and names of all existing streets or other public right-of-way adjacent to the lots
    6. A current aerial image or survey showing the location of all existing buildings within the vicinity of the affected lots line(s), with notations of structures to be removed, if applicable
    7. Other information as requested by the Code Administrator

## 5.4 Platting Requirement

1. Purpose
  - (a) A platting requirement is established for the purpose of providing a proper arrangement of streets and assuring the adequacy of right-of-way and easements for traffic, utilities, drainage, and access of emergency vehicles, commensurate with the intensification of land use customarily incident to a change of zoning.
2. Plat Required



- (a) Except as provided by the regulations of this title, no infrastructure improvements shall be accepted and maintained by the city, nor shall any permit be issued by a representative of the city for the construction of any building or other improvement requiring a permit on any subdivision of land unless a plat thereof has been approved by the city commission, and has been recorded by the County Recorder of Dunn County.

3. Exceptions

- (a) This requirement does not apply to any improvements or development in the A-Agricultural District.
- (b) The Planning and Zoning Commission may remove the platting requirement upon a determination that the above stated purposes have been achieved by previous platting or could not be achieved by a plat or replat. An application for exception must be heard by the Planning and Zoning Commission, noticed, and scheduled as an independent item on the Planning and Zoning Commission agenda.

**Article VI**  
**SPECIAL PROVISIONS**

**6.1 Parking**

1. An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives and not encroaching upon any public right-of-way or sidewalk.
2. Off-street parking areas with four (4) or more spaces and all loading berths shall:
  - (a) be concrete, asphalt or other impermeable surface;
  - (b) be graded to dispose of surface water run-off but not be diverted to adjoining properties; and
  - (c) contain a drive-aisle of twenty-four (24) feet in width for 90-degree parking spaces and narrower with diagonal parking spaces.
3. Any operation with truck loading, unloading, and/or parking space/facilities must accommodate truck maneuverability on site to prevent the need for trucks to use public right of way to back in or maneuver into an area onsite.

**6.2 Special Requirements**

No building shall be erected or enlarged without meeting the following parking requirements:

1. Business, professional or public office building, studio, bank , medical or dental clinic: three (3) parking spaces plus one additional space for each four hundred (400) square feet of floor space over one thousand (1,000) square feet.
2. Private club or lodge: two parking spaces for each two hundred (200) square feet of service area.
3. Restaurant, eating and drinking establishment: one parking space for each one hundred (100) square feet of floor area.
4. For industrial uses there shall be one off-street parking space for every one and one-half (1½) employees.

### **6.3 Collection of Solid Waste**

No person may collect or transport waste materials for a fee without obtaining a permit from the City of Killdeer. Storage of solid waste materials shall be confined to buildings and structures designed specifically for such purpose and shall be secured by appropriate fences and gates. The openings to the buildings and structures, including but not limited to conveyors, doors, ramps, and other points of access for use by transport or moving vehicles when not in use shall be closed air tight to minimize the impact from odor and concentration of insects and rodents.

### **6.4 Recycling Facilities**

Recycling facility by definition is the place where any material including yard waste, oil, glass, metal, plastic, paper, or cardboard is processed for an end use. Because of the nature of the recycling facilities as permanent structures, zoning approval and permits are required. The following are required to obtain a permit:

1. The facility does not abut residential and public uses.
2. The facility will be screened from the public right-of-way.
3. The facility shall not be placed in the floodplain.
4. The site shall be free of litter and other undesirable materials. Containers shall be clearly marked to identify the type of material that may be deposited.
5. There shall be pest control plan for review and approval.

### **6.5 Public Nuisances**

The maintenance of public nuisances shall be subject to the provisions of the city ordinances.

### **6.6 Noise**

Sustained noise in excess of that allowed by city ordinance is prohibited.

### **6.7 Home Occupations, Standards for Approval**

1. Home occupation:
  - (a) The occupation shall be limited to the dwelling and the area of the occupation shall not exceed twenty-five (25) percent of the main floor area, but not including basement or garage floor space.

- (b) Structural changes shall not be made in the swelling, unless a building permit is obtained.
- (c) Employees are limited to two full-time or four part-time besides owners without a special use permit.
- (d) No sign may be permitted larger than four (4) square feet.
- (e) Evidence of the occupation shall not be visible from the road.
- (f) The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.

## **6.8 Adult Entertainment Centers**

1. An adult entertainment center shall not be located within 1,250 feet of any religious institution, cemetery, school, park, or recreation area. They shall be located in an Industrial Zoning District.
2. An adult entertainment center shall not be located within 1,250 feet of any establishment that dispenses alcohol on-premises.
3. An adult entertainment center shall not be located within 1,250 of any other adult entertainment center.
4. An adult entertainment center must prohibit entrance by persons less than 18 years of age.
5. An adult entertainment center may not display any signs visible from the exterior of the adult entertainment center, except for signs identifying it as an adult entertainment center, as an adult book store, adult entertainment facility, adult cinema, or combination thereof.
6. No material depicting specified sexual activities or specifies anatomical areas shall be visible from the exterior of an adult entertainment center.
7. The business premises of an adult entertainment center that are generally open to its patrons are open equally at the same time to members of any law enforcement agency who may wish to enter thereon provided the entry is in the course of the discharge of the law enforcement officer's duties.

## **6.9 Zero Building Setback Areas**

The purpose of this standard is to provide a traditional downtown environment as historically permitted in Killdeer. New structures should be allowed to be built similar to existing structures.

1. See the Zero Building Setback Map on following page, these frontages allow a zero foot setback.



**SRE** Area Proposed for Zero-Foot Setbacks  
 Land Development Code Revisions  
 Consulting Group, Inc. City of Tallahassee

Figure X

## 6.10 Above-ground fuel storage

Above-ground fuel storage tanks utilized for commercial purposes are subject to the regulations of the State Fire Marshal and the Killdeer Land Development Code. Individual and aggregate tank size limits are determined by the State Fire Marshal. Where State and City regulations may conflict, the stricter regulation will apply. Above-ground fuel storage tanks utilized for non-commercial, onsite building heating needs are allowed in any zone district and are subject to State requirements.

## 6.11 Off-Premise Advertising

### 1. Purpose and Intent.

The City of Killdeer recognizes that billboards are, by their nature, different in scope and purpose from other types of signage in the city. The potential impact of a billboard on adjacent areas is significantly greater than other types of signage. Recently, more businesses desire to utilize advancements in technology which permit signs (including billboards) to change copy electronically (e.g., utilizing an LED or digital type of sign). These newer technologies exacerbate the potential impact of a billboard in terms of adversely dominating the environment in which they operate due to light spillover and light pollution, unless regulated in a reasonable fashion.

The intent of this section is to establish size, location and operating standards and regulations for billboards, including addressing those utilizing these newer technologies, in order to minimize the secondary effects that can accompany the unregulated display of these types of signs, preserve the character and repose of adjacent areas (with a principal focus on residential neighborhoods), protect property values in all areas of the Township, and reduce traffic and similar hazards caused by undue distractions.

### 2. Definitions

For the purpose of this Ordinance, the following definitions apply:

- (a) **Off-Premise Advertising Sign/Billboard:** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
- (b) **Digital Off-Premise Advertising Sign/Digital Billboard:** An off-premise advertising sign with a digital display of information that is capable of displaying multiple static images sequentially and is controlled by electronic communications. A sign with one digital face and one static face shall be considered a digital off-premise advertising sign.
- (c) **Sign Face:** The entire surface area of the sign that is used to identify, advertise, or communicate information for visual representation and is visible from any one direction.

### 3. General Requirements

- (a) Billboards must meet the provisions outlined in Chapter 24-17 of the North Dakota Century Code (NDCC) and a permit has been issued by the North Dakota Department of Transportation, where required.
- (b) Any double-faced billboard having back to back surface display areas, no part of which is more than two feet apart, is considered to be a single billboard.
- (c) Billboard structures having more than one surface display area which are tandem (side-by-side) or stacked (one above the other) are considered two billboards and are prohibited. Each sign face larger than three hundred thirty six (336) feet as otherwise allowed in this section (6.11) will be allowed no more than two surface displays in tandem (side-by-side) format.
- (d) The installation or use of a billboard is permitted only to the extent authorized by, and subject to, the provisions of the Land Development Code as amended from time to time.
- (e) No billboard may be installed or erected at any time when there are twenty (20) or more existing billboards located in the city.
- (f) A billboard shall not resemble or interfere, to any degree, with the effectiveness of a traffic control device, sign or signal; shall not be placed beside or behind a traffic control device in a location or at a height that makes a motorist's view of a traffic control device indistinguishable from the sign; shall not obstruct or interfere with a motorist's view of approaching, merging or intersecting traffic within the operational area of an intersection; and shall not have distracting flashing or moving lights so designed or lighted as to create a traffic hazard.
- (g) A billboard shall not obstruct any other existing sign, either off-premise or on-premise.
- (h) Billboards may only be installed in the Commercial and Industrial districts.
- (i) Billboards shall not be allowed along North Dakota Highway 22 between its intersection with Rodeo Drive and Lincoln Street.

### 4. Spacing



- (a) No billboard may be located within a radius of one thousand (1,000) feet of another billboard regardless of geographic jurisdiction or within two hundred (200) feet of existing or future residential uses. Digital billboards shall be spaced at least one thousand five hundred (1,500) feet apart.
- (b) If a billboard is illuminated, the minimum distance from an existing or future residential use shall be three hundred (300) feet.
- (c) All distances as provided for in this section shall be measured radially from where the surface display area is visible.
- (d) No billboard may be located on top of, cantilevered over or otherwise suspended above any building or structure.

5. Sign Face

- (a) Each sign face may not exceed three hundred thirty six (336) square feet in area, fourteen (14) feet height and twenty-four (24) feet in width, with the exception of billboards oriented toward North Dakota Highway 200, which may not exceed six hundred seventy two (672) square feet in area, sixteen (16) feet in height or forty-eight (48) feet in width. Sign faces up to six hundred seventy two (672) square feet may be allowed along North Dakota Highway 22 outside of the City of Killdeer's corporate boundaries, within the City's extraterritorial jurisdiction. In addition, no billboard may be less than two hundred eighty (280) square feet in area.
- (b) The sign face of a billboard shall be measured to include the entire area within a regular geometric form or combinations thereof comprising all of the display area of the billboard, including all of the elements of the matter displayed. Frames and structural members, excluding necessary supports or uprights, shall be included in computation of surface display area. In the case of a sphere, spheroid, or similarly shaped billboard (e.g. a ball), the total surface display area shall be divided by two for determining the maximum surface display area permitted.

6. Height

- (a) The height of the highest point of a billboard may not exceed 35 feet above the natural grade of the ground on which the billboard is located.

7. Illumination

- (a) A billboard may be illuminated, provided such illumination is consistent with the requirements for a digital billboard as set forth herein, or is concentrated on the surface of the billboard and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises.

8. Appearance

- (a) Except for time and temperature signs or digital billboards as otherwise regulated herein, all billboards must be stationary and may not contain any visible moving parts, alternating or moving messages or have the appearance of having moving parts or messages. Under no circumstances may any type of billboard contain a message or display that appears to flash, undulate, pulse, move, or portray explosions, fireworks, flashes of light, or blinking lights or otherwise appears to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or make other comparable movements.

9. Construction and Maintenance

- (a) A billboard shall be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity and in compliance with all applicable codes. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.

10. Digital Displays

- (a) The display or message on a digital billboard, of any type, may change no more frequently than once every seven (7) seconds, with a transition period of one second or less.
- (b) Displays or messages on a digital billboard must otherwise comply with subsection (VII) and have installed an ambient light monitor which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with terms of this Ordinance.
- (c) Digital billboards shall have a default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs.
- (d) Maximum brightness levels for digital billboards shall not exceed .2 (two tenths) foot-candles over ambient light levels measured within 150 feet of the sign. Certification must be provided to the city demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration shall be annually required

by the city, in its reasonable discretion, at the permittee's expense to ensure that the specified brightness levels are maintained at all times.

- (e) Brightness of digital billboards shall be measured as follows:
  - (i) At least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.
  - (ii) The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
  - (iii) If the difference between the readings is 0.2 foot candles or less, the brightness is properly adjusted.

#### 11. Other Applicable Laws

Billboards must comply with all applicable provisions of federal and state law.

#### 12. Permitting

- (a) Every billboard requires a Building Permit before installation or modification. Permits shall be reviewed and issued consistent with the terms of this section as well as all other applicable ordinances of the city including, without limitation, the Land Development Code as amended from time to time and applicable building codes. Every applicant for a Building Permit to erect a billboard shall file with the application a certificate of insurance, certifying that the applicant is insured against bodily injury and for property damage arising out of the erection, maintenance, repair, and replacement of the billboard. Each applicant, if the permit is granted, shall be required to maintain said insurance and keep a certificate of insurance currently effective on file with the city so long as the billboard or billboards are in existence. The certificate shall provide that the city shall receive ten days written notice in case of cancellation of the policy. Any billboard in violation of the insurance requirements of this section shall be removed immediately and the cost of such removal shall be charged against the owner of the billboard.
- (b) A change of the billboard face that does not result in the modification of the display medium (static or digital), total sign size, height, or location does not require a building permit.

#### 13. Other Requirements

Billboards must otherwise comply with all other relevant regulations and ordinances of the city.

14. Deviations to Outdoor Advertising Regulations

- (a) The Building Official shall have the authority to grant administrative approval for minor deviations to sign heights and sign size, provided:
  - (i) The deviations do not exceed ten (10) percent of the basic requirement; and
  - (ii) The deviation is based on a hardship problem with the site, existing building placements, or poor site visibility, and not based on economic factors or personal design preferences.
- (b) The Building Official will issue a written statement of approval or denial of the variation request. If a request is denied by the Building Official, the applicant may choose to file a variance pursuant to Section 7.3.
- (c) A request for adjustments beyond ten (10) percent shall be processed as a variance pursuant to Section 7.3.

**6.12 Temporary Structure (and Residence) Provisions**

1. Exemptions

Temporary structures associated with the following temporary uses are not subject to this code:

- (a) Periodic or one-time events
- (b) Christmas tree sale lots

2. Time Limit

- (a) Not Construction-related: Temporary structures not associated with a construction project are permitted for a maximum of one (1) year.
- (b) Construction-related: Temporary structures and residences associated with a construction project shall be removed within one (1) year of the date:
  - (i) A Certificate of Occupancy is issued for the permanent building;  
or

- (ii) The permit for the temporary structure or residence expires, whichever occurs first.

3. Standards

Compliance with all local and state building codes is required, as necessary.

4. Permit Process

(a) Submit Application

A Temporary Conditional Use Permit application shall be submitted to city staff in the appropriate form along with a non-refundable fee that has been established by the City Commission.

(b) Determine Application Completeness

City staff determine when an application for a Temporary Conditional Use Permit is considered complete. In addition to the required fee, see the submittal checklist provided in the application checklist for all other required items.

(c) Application Checklist

- (i) Site plan, drawn to scale, with dimensions,
- (ii) Elevations and/or photos, and
- (iii) Written description of proposed use.

(d) Review and Action

- (i) City staff will review the application for completeness and develop a recommendation for the Planning and Zoning Commission.
- (ii) The Planning and Zoning Commission may make a recommendation to the City Commission to approve, approve with conditions, or deny the application. The action upon the Temporary Conditional Use Permit application may also be tabled by the Planning and Zoning Commission in order to allow for additional information requested of the applicant.

### **6.13 Medical Marijuana Compassion Centers**

1. Any medical marijuana dispensary or manufacturing facility must comply with minimum State requirements, as promulgated in NDCC Sections 19-24. 1-01 through 19-24 1-40, except where more restrictive regulations are imposed by the City of Killdeer.
2. A medical marijuana dispensary requires a conditional use permit, and may be permitted in the Commercial District only, subject to conditions identified in Section 3.7.5. A manufacturing facility is permitted by right in the Industrial District only, subject to setback requirements established herein.

### **6.13 Livestock**

1. No person or persons shall raise or keep any domestic animals of the species of horses, cattle, sheep, goats, fowl, and other livestock within the city limits of Killdeer except as follows:
  - a. Up to 10 hen chickens (no roosters) will be allowed with a chicken license.
    - i. Initial license must be approved by 75% of the property owners within 200' of the subject property line.
    - ii. License applicants shall pay an initial license fee and annual renewal fee as set forth in the resolution of fees and schedules established by the City.
    - iii. In the event a complaint has been filed with the City of Killdeer less than a year prior to the renewal of said license, the Building Inspector will determine if the license renewal is to be issued. If no complaints have been filed, the renewal shall be considered extended for an additional year provided payment is received.
    - iv. The property on which hens are kept or maintained must be a minimum of 1 acre. The chicken run must be enclosed by a fence, and kept clean from filth, garbage, and any substances which attract rodents.
    - v. A separate coop and run is required to house the chickens. The coop must be in the rear of the premises and be setback at least five feet from the nearest property line. The coop and its surrounding area must be cleaned to control odor so as not to be

detectible on another property.

- vi. All grain and food stored for the use of the hens on the property with a chicken license shall be kept in a rodent proof container.
  - vii. Slaughtering of chickens on the property with a chicken license is prohibited.
  - viii. All applicants must notify the owner of the property if the applicant is not the owner.
  - ix. A complaint against any person owning, keeping, or harboring chickens may be filed with the City of Kildeer Building Inspector. If an investigation from the Building Inspector reveals that the use of chickens is in violation of this section or any other section of this Code, the City Building Inspector shall have authority to require the owner or user of the property to fix, abate, or alleviate the problem. If the problem is not satisfactorily abated or alleviated, the City Building Inspector shall have the authority to revoke the license.
2. The raising or keeping of horses, cattle, sheep, goats, fowl, and other species of livestock not covered by a chicken license shall be subject to provisions of City Ordinance 8.0802(b).

## ARTICLE VII

### ADMINISTRATION AND ENFORCEMENT

The administration and enforcement of this Code is hereby vested in the City Commission, Planning and Zoning Commission, the Board of Adjustment and the Code Administrator.

#### 7.1 City Commission

1. Duties
  - (a) The City Commission shall review and take action on all amendments to these regulations after a public hearing held by the Planning and Zoning Commission.
  - (b) The City Commission shall investigate all violations from the provisions of these regulations and take action.
  - (c) The City Commission shall approve conditional use permits.
  - (d) The City Commission shall hold all hearings as required herein and as required by statute.

#### 7.2 Planning and Zoning Commission

1. Membership
  - (a) The Commission shall consist of seven (7) members appointed by the City Commission in accordance with Chapters 40-47 of the NDCC.
2. Duties
  - (a) The Commission shall hold public hearings on all applications for amending this Code.
  - (b) The Commission shall report and make recommendations to the City Commission on all zoning variances, amendments, and land subdivisions for approval, denial or modification of applications.
  - (c) The Commission may investigate violations and report to the City Commission for appropriate action.



### 7.3 Board of Adjustment

1. Establishment. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided in this section. The Board shall consist of five members appointed by the City Commission.
2. Duties.
  - (a) Hear appeals of any person, firm, or organization aggrieved by the decision of or ruling of the Code Administrator or Planning and Zoning Commission.
    - (i) The Board shall fix a reasonable time for the hearing of an appeal and shall decide the appeal within thirty (30) days of the date of a public hearing.
    - (ii) Notice of the scheduled hearing must be published in the official newspaper at least one week prior to the hearing date. The notice of hearing shall include: 1) the time and place of hearing; 2) description of the property by street address for platted lands and clearly identifiable location for unplatted lands; 3) the proposed use and requested zoning district change; and 4) time and place for public inspection of the documents before the hearing.
  - (b) Hear requests for variances from the strict application of this Code.
3. Requirements for granting a variance:
  - (a) Strict application of the Code will produce an undue hardship.
  - (b) The hardship is unique to the property affected and not generally shared by other properties within the same zoning district.
  - (c) The purpose of the variance is based upon a demonstrable and exceptional hardship and not for convenience or economic gain.
  - (d) The granting of the variance will not cause substantial detriment to the public welfare nor substantially impair the intent and purpose of this Code.
4. Conditions for granting of variance:
  - (a) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permitted under the terms of this Code.

- (b) No non-conforming use of neighboring lands, structures, or buildings in the same district or other districts shall be considered grounds for the issuance of a variance.
  - (c) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Code. Violation of such conditions or safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code and punishable under Section 7.8.
5. Data Submission Requirements. Applications for variances shall be submitted with the following data:
- (a) Legal description of the property.
  - (b) A map showing the existing land uses and zoning district classification of the area.
  - (c) The reason for the variance request.
  - (d) The type of variance requested and an explanation of whether the hardship is unique to the applicant's property.
  - (e) Any other information that the Planning and Zoning Commission deems necessary.
  - (f) A fee, the amount of which shall be determined by the City Commission, plus additional costs incurred by the City in processing the applications, may be charged to offset administrative costs.
6. Appeal from Board of Adjustment Determination
- (a) A decision of the Board of Adjustment may be appealed to the City Commission. The appeal must be filed with the City Auditor within fifteen (15) days of the notice of the decision of the Board of Adjustment. The City Commission shall set a time and place for hearing the appeal within thirty (30) days of receipt of an appeal giving due notice of the hearing to the parties involved.
  - (b) A decision of the City Commission on an appeal from a decision of the Board of Adjustment may be appealed to the District Court in the manner provided in Section 28-34-01, NDCC.

#### **7.4 Code Administrator**

- 1. Appointment

- (a) The Code Administrator shall be appointed by the City Commission.

2. Duties

- (a) Receive and file all applications for plats of subdivisions, amendments to this Code, maintaining the Zoning District Map, and development permits.
- (b) Make inspections and maintain records.
- (c) Issues Certificates of Compliance and Development Permits.
- (d) Report all complaints to the Planning and Zoning Commission.
- (e) Report all zoning violations to the Planning and Zoning Commission and the City Commission for appropriate action.
- (f) In the area of special flood hazard:
  - (i) Permit Review
    - (4) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
    - (5) Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this ordinance, "adversely affect" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.
  - (ii) Use of Other Base Flood Data

When base flood elevation data has not been provided, the Code Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a Federal, State or other source.
- (g) Prepare and publish notices and notify adjoining property owners.

- (h) Notify, in writing, the property owner or uses upon finding a violation of this Code and cite the nature of the violation clearly, require compliance and provide a report of the findings to the City Commission.
  - (i) Receive, file, and forward to the Planning and Zoning Commission all applications for preliminary and final plats and the supporting documents.
3. Information to be Obtained and Maintained.
- (a) Obtain and record the actual elevation (in relation to the mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
  - (b) For all new or substantially improved floodproofed structures:
    - (i) verify and record the actual elevation (in relation to mean sea level), and
    - (ii) maintain the floodproofing certifications.
  - (c) Maintain for public inspection all records pertaining to the provisions of this ordinance.

## **7.6 Development Permit**

1. It shall be unlawful for any person to commence any development without obtaining a development permit, except buildings and activities directly used in connection with farming operations.
2. Any permit issued pursuant to these provisions shall expire one year from the date of issuance.
3. Fees: The City Auditor shall charge and collect a fee as follows;

The City Auditor shall charge and collect a fee according to the resolution of fees and schedules established by the City. The applicant for a conditional use permit and amendment to the zoning ordinance, or building permit, shall be liable for and pay to the City Auditor sufficient sums of money to pay for and cover costs incurred by the City for the processing of such application, including, but not limited to: publication costs, attorney's fees, mileage, copy expense, etc. No permit shall be issued until such costs have been paid by the applicant, unless the City Commission has otherwise provided by resolution for a particular case.

## **7.7 Certificate of Occupancy**

No building or structure shall be occupied until a Certificate of Occupancy shall have been issued by the Code Administrator for determining the conformity with the specifications for which the development permit has been issued.

## **7.8 Violations and Penalties**

1. Violation of this Code is an offense punishable by law as provided by Chapters 40-47 and 40-48 of the NDCC. All complaints for violation shall be filed with the Code Administrator who shall investigate such violation and report to the Planning and Zoning Commission and the City Commission.

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or if any building, structure, or land is used in violation of these Ordinances, the proper county authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceeding:

- (a) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
  - (b) To restrain, correct, or abate such violations;
  - (c) To prevent the occupancy of the building, structure, or land; or
  - (d) To prevent any illegal act to conduct business or use in or about such premises.
2. A violation of any provision of this ordinance or the regulations and restrictions made herein shall constitute the maintenance of a public nuisance and shall be a Class B Misdemeanor.

## **7.9 Building Code**

The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area and maintenance of buildings or structures in the City of Killdeer shall conform to the provisions of the rules and regulations of the State adopted building code(s) and any future updates and amendments to that code, copies of which are on file with the City Auditor and are hereby made part of this chapter by reference with the exception of any sections hereinafter set forth affecting local conditions in the City of Killdeer, which are amended, for use and application in the City of Killdeer, North Dakota.

## **7.10 Temporary Use Permit**

Temporary uses as defined in Section 2.3 shall be allowed with a temporary use permit as defined in this section.

1. Application for Temporary Use Permit

Any applicant for Temporary Use Permit shall file an application for such permit with the Zoning Administrator, together with the following:

- (a) A completed application form as provided by the city;
- (b) Legal description of the property where the temporary use is to be located;
- (c) A map of the property where the temporary use is to be located depicting the location of any existing structures, parking spaces, and the temporary use itself;
- (d) A complete description of the proposed temporary use, including hours of operation, proposed method of merchandise display, proposed signage, list of all goods to be sold and material and equipment to be used in the proposed operations;
- (e) A letter of permission from the property owner pertaining to the authorized use of the site, the site cannot operate within 50 feet of a business without tenant permission and any other facilities or services necessary to provide for the safe operation of the event;
- (f) For any use that includes the operation of a tent, a copy of the certificate of flame resistance;
- (g) For any use that involves the processing and/or sale of food products, a copy of the temporary food establishment permit issued by the ND State Health Department; and
- (h) Any other information deemed necessary to conduct a thorough analysis of the application.
- (i) Non-refundable, non-transferable fee of \$150.00 for a six (6) month period set by city commission.
- (j) Temporary Use Permit is for a six (6) month period, with re-submittal after six (6) months. The permit allows the operation to be located on the permitted property for a maximum of two (2) years.
- (k) Proof of general liability of \$100,000.

(l) Septic system not allowed.

2. Temporary Uses, Performance Standards

- (a) Temporary uses shall demonstrate the ability to display merchandise in a manner that does not create a nuisance, or adversely impact surrounding property or the visual quality of the city;
- (b) Signage for temporary uses shall be limited to one sign, not to exceed eight square feet. The sign shall be attached to a vehicle or structure associated with the special event;
- (c) No off-premise signs or attention attracting devices shall be allowed;
- (d) Special events shall be located in a manner that will not cause vehicle congestion or occupy required parking spaces for another use;
- (e) No temporary use permit will be issued for the areas along Central Avenue from Rodeo Drive to Lincoln Street;
- (f) Site location inspection by the Killdeer police chief, building inspector & fire chief.
- (g) Upon expiration of the permit, all associated materials and equipment shall be promptly removed from the property; and
- (h) Other reasonable conditions of approval may be imposed to ensure the protection of the public health, safety and general welfare.

## ARTICLE VIII

### WIRELESS TELECOMMUNICATIONS

#### 8.1 Purpose and Intent

The purpose of this article is to establish predictable and balanced regulations for the siting and screening of wireless telecommunication equipment in order to accommodate the growth of wireless communication systems within the city, while protecting the public against any adverse impacts on the city's aesthetic resources and the public welfare. To accomplish the above stated objectives and to ensure that the placement, construction, or modification of wireless telecommunications facilities complies with all applicable federal laws, the City of Killdeer adopts this single, comprehensive wireless telecommunications ordinance.

By enacting this Ordinance, it is the city's intent to ensure that Killdeer has sufficient wireless infrastructure to support its public safety communications and has access to reliable wireless communications services. This ordinance encourages the use of public right-of-way, stealth design, and existing structures for telecommunication infrastructure in order to minimize impacts on surrounding areas.

#### 8.2 Definitions

For the purposes of this Ordinance, the following definitions apply:

3. Abandonment: Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this ordinance.
4. Accessory Equipment: Any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
5. Antenna: Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
6. Base Station: The equipment and non-tower supporting structure at a specific site authorized to communicate between user equipment and a communications network, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.



7. Collocation: shall mean and refer to the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
8. Concealed Wireless Facility: Any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.
9. Eligible Facilities Request: A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment but does not include a substantial modification.
10. Fall Zone: The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
11. (FCC): Shall mean and refer to the Federal Communications Commission or its successor.
12. Monopole: A single, freestanding pole-type structure supporting one or more antennas. For the purposes of this Ordinance, a monopole is not a tower or a utility pole.
13. Ordinary Maintenance: Ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include substantial modifications.
14. Replacement Pole: A pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.
15. Site: For towers or monopoles other than towers or monopoles in public right-of-way, referring to the current boundaries of the leased or owned property surrounding the tower, monopole, any access, or utility easements currently related to the site, and, for other eligible support structures, shall mean and be

further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

16. Substantial Modification: The mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:
  - (a) Increases the existing vertical height of a wireless support structure by:
    - i. More than ten percent (10%) or one additional antenna array not more than twenty (20') feet higher for towers not with a public right-of way, or
    - ii. More than ten percent (10%) or ten (10'), whichever is greater, for towers within public right-of way and all base stations
  - (b) Increases the existing width of a wireless support structure by:
    - i. More than twenty (20') feet or the tower width at the level of the appurtenance, whichever is greater, for towers not with public right-of-way, or
    - ii. Six (6') feet for towers with public right-of-way and all base stations
  - (c) The request defeats the existing concealment elements of a tower or base station.
  - (d) The request violates a prior condition of approval that does not conflict with the other standards for a substantial change.
17. Tower: A lattice-type structure, guyed or freestanding, that supports one or more antennas.
18. Utility Pole: A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.
19. Water Tower: A water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.
20. Wireless Facility or Wireless Facilities: The set of equipment and network components, exclusive of the underlying wireless support structure, including,

but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

21. Wireless Support Structure: A freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility poles.
22. Wireless Transmission Equipment: Any equipment that facilitates transmission for any authorize wireless communication service including backup power.

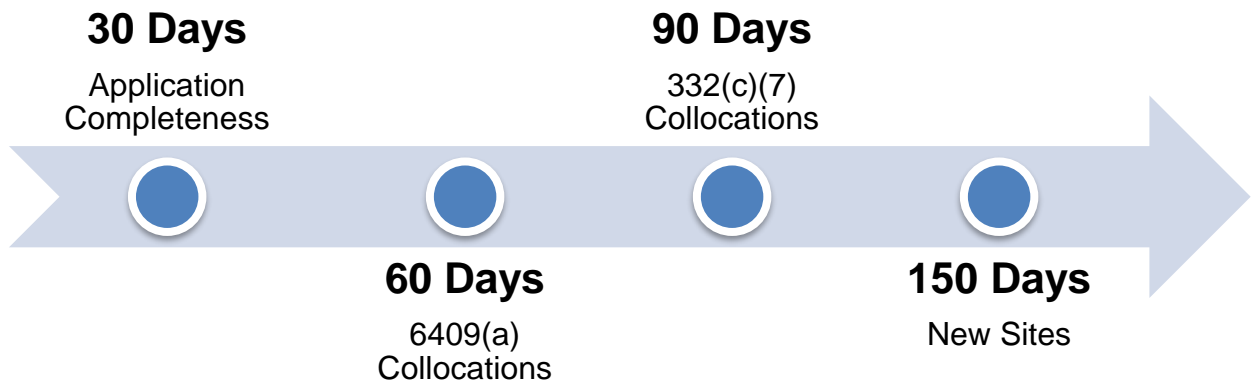
### **8.3 Approvals Required for Wireless Facilities and Wireless Support Structures**

1. *Administrative Review and Approval*. The following types of applications are subject to the review process as provided in section IV. No other type of Land Development Code review beyond what is listed in section IV is necessary:
  - (a) New wireless support structures that are less than one hundred (100) feet in height, in any Industrial District;
  - (b) Concealed wireless facilities that are forty (40) feet or less in height, in any residential or commercial district;
  - (c) Monopoles or replacement poles located on public property or within utility easements or rights-of-way, in any zoning district; and
  - (d) Collocations applied under FCC statue 6409(a) that are not substantial modifications.
2. *Conditional Use*. Any application for wireless facilities and/or wireless support structures not subject to administrative review and approval pursuant to this Ordinance shall be permitted in any district upon the granting of a conditional use permit from the City Commission in accordance with the standards for granting a conditional use permit set forth in section V. Valid conditions include but are not limited to drainage, landscaping, maintenance, lighting, fencing, access, indemnification, and compliance with all generally applicable laws. Any application submitted under 332(c)(7) shall be reviewed for a conditional use permit.
3. *Exempt from All Approval Processes*. The following are exempt from all Killdeer zoning approval processes and requirements:
  - (a) Ordinary maintenance of existing wireless facilities and wireless support structures, as defined in this Ordinance; and
  - (b) Wireless facilities placed on utility poles.

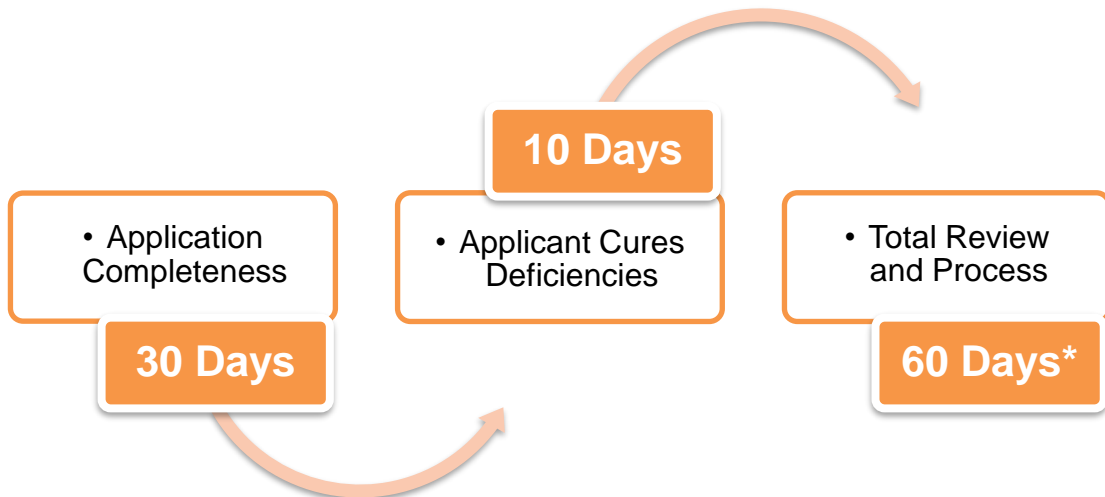
## 8.4 Administrative Review and Approval Process

1. *Content of Application Package-For New Sites.* All administrative review application packages must contain the following:
  - (a) Administrative review application form signed by applicant;
  - (b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms;
  - (c) Site plans detailing proposed improvements. Drawings must depict improvements related to the applicable requirements including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements; and
  - (d) Documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this ordinance.
  
2. *Content of Application Package-For Other Sites/Facilities.* All administrative review application packages must contain the following:
  - (a) Administrative review application form signed by applicant;
  - (b) A completed application for collocations shall identify which FCC statutory term 6409(a), the applicant is seeking approval for;
  - (c) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas; and
  - (d) For substantial modifications, drawings depicting the improvements along with their dimensions.

3. *Procedure and Timing*



- (a) Applications for New Sites That Are Subject to Administrative Review and Approval. Within one hundred fifty (150) calendar days of the receipt of an application for new sites that are subject to administrative review and approval under this Ordinance, the Building Official will:
- i. Review the application for conformity with this Ordinance.
  - ii. Make a final decision to approve or disapprove the application; and
  - iii. Advise the applicant in writing of its final decision. If the Building Official denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.
  - iv. Failure to issue a written decision within one hundred fifty (150) calendar days may result in relief to the applicant as delineated by existing FCC regulations.
- (b) Applications for a 6409(a) Collocation Subject to Administrative Review and Approval. Within sixty (60) days of the receipt of an application for a collocation, the Building Official will:



\*Note: Circumstances such as 60<sup>th</sup> day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

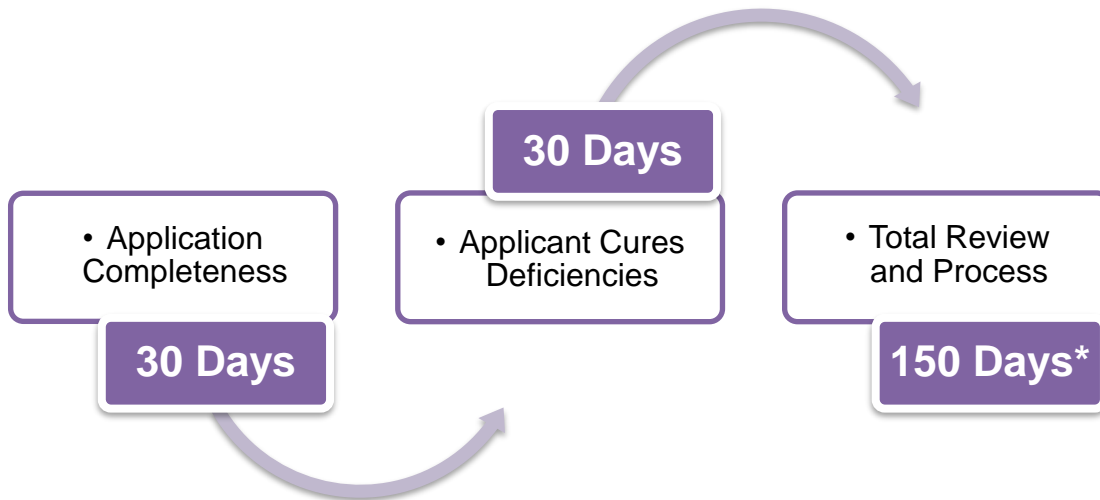
- i. Review the application for conformity with this Ordinance. An application under this section is considered complete unless the Building Official notifies in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within sixty (60) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the sixty (60) calendar days deadline for review shall be extended by the same period of time;
- ii. Make a final decision to approve or disapprove the collocation application; and
- iii. Advise the applicant in writing of its final decision. If the Building Official denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.
- iv. Failure to issue a written decision within ninety (90) calendar days may result in relief to the applicant as delineated by existing FCC regulations.

- (c) Building Permit. The Building Inspector shall issue a building permit following approval of the application under administrative review in accordance with the process and standards in this Ordinance.

## 8.5 Conditional Use Permit Process

1. Any wireless facility or wireless support structures not meeting the requirements of Section III.A or III.C above, may be permitted in all zoning districts upon the granting of a Conditional Use Permit, subject to:
  - (a) The submission requirements of Section V.B;
  - (b) The applicable standards of Section VI; and
  - (c) The requirements of conditional use permits (Article 3, Section 3.7).
2. *Content of Conditional Use Permit Application Package.* All conditional use permit application packages must contain the following:
  - (a) Conditional use permit application form signed by applicant;
  - (b) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms;
  - (c) Written description and scaled drawings of the proposed wireless support structure or wireless facility, including structure height, ground and structure design, and proposed materials;
  - (d) Number of proposed antennas and their height above ground level, including the proposed placement of antennas on the wireless support structure;
  - (e) Line-of-sight diagram or photo simulation, showing the proposed wireless support structure set against the skyline and viewed from at least four (4) directions within the surrounding areas;
  - (f) A statement that the proposed wireless support structure will be made available for collocation to other service providers at commercially reasonable rates, provided space is available and consistent with Section VI(A)(1)(a) of this Ordinance; and
  - (g) Notification of surrounding property owners and posting as required by Article 3 Section 3.7.3 of the Killdeer Land Development Code.

3. *Procedure and Timing for New Site.* Within one hundred fifty (150) calendar days of the receipt of an application under Section V. of this Ordinance, the Building Official will:



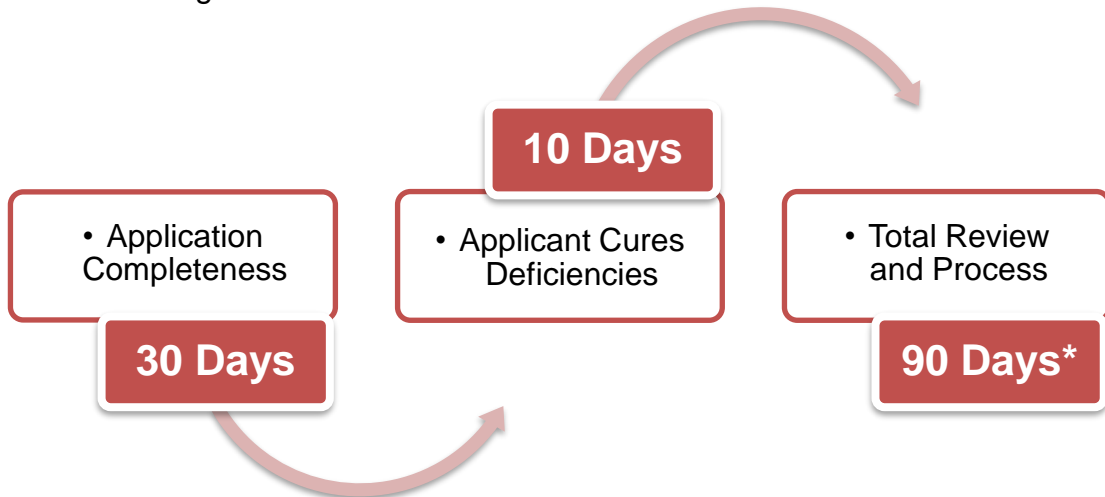
\*Note: Circumstances such as 150<sup>th</sup> day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

- (a) Complete the process for reviewing the application for conformity with ordinances applicable to conditional use permits, including conducting a hearing in accordance with Article 3 Section 3.7.3 of the Land Development Code. An application under this section is deemed to be complete unless the Building Official notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within thirty (30) calendar days, the application shall be reviewed and processed within one hundred fifty (150) calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one hundred fifty (150) calendar days deadline for review shall be extended by the same period of time;
- (b) Make a final decision to approve or disapprove the application; and
- (c) Advise the applicant in writing of its final decision. If the City Commission denies an application, it must provide written justification of the denial.



(d) Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

4. Procedure and Timing for 332(c)(7) Collocations. Within ninety (90) calendar days of the receipt of an application under Section V. of this Ordinance, the Building Official will:



\*Note: Circumstances such as 90<sup>th</sup> day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

- (a) Complete the process for reviewing the application for conformity with ordinances applicable to conditional use permits, including conducting a hearing in accordance with Article 3 Section 3.7.3 of the Land Development Code. An application under this section is deemed to be complete unless the Building Official notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within ninety (90) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the ninety (90) calendar days deadline for review shall be extended by the same period of time;
- (b) Make a final decision to approve or disapprove the application; and
- (c) Advise the applicant in writing of its final decision. If the City Commission denies an application, it must provide written justification of the denial.

- (d) Failure to issue a written decision within ninety (90) calendar days shall constitute an approval of the application.

## 8.6 General Standards and Design Requirements

### 1. *Design*

- (a) Wireless support structures shall be subject to the following:
  - i. Shall be engineered and constructed to accommodate a minimum number of collocations based upon their height:
    - a. Support structures fifty (50) to one hundred (100) feet shall support at least two (2) telecommunications providers;
    - b. Support structures greater than one hundred (100) feet but less than one hundred-fifty feet (150) shall support at least three (3) telecommunications providers;
    - c. Support structures greater than one hundred-fifty (150) feet in height shall support at least four (4) telecommunications carriers.
  - ii. The equipment compound area surrounding the wireless support structure must be of sufficient size to accommodate accessory equipment for the appropriate number of telecommunications providers in accordance with Section VI(A)(I)(a). Consideration of the required equipment area shall take into account the constraints of the surrounding built environment.
- (b) Concealed wireless facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.
- (c) Upon request of the applicant, the City Commission may waive the requirement that new wireless support structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer antennas will promote community compatibility.
- (d) A letter of intent or interest on behalf of a carrier shall be included with the design that once the support structure is constructed, it is reasonably sure that an antenna will be mounted within one (1) year after completion.

- (e) A monopole or replacement pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:
  - i. The utility easement or right-of-way shall be a minimum of sixty (60) feet in width.
  - ii. The height of the monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.
  - iii. Monopoles and the accessory equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.
  - iv. Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by Subsection (c) above.
  - v. Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.
  - vi. Consideration of traffic safety.

## 2. *Setbacks*

- (a) Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone.

## 3. *Height*

- (a) In residential districts, wireless support structures shall not exceed a height equal to one hundred (100) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the Planning and Zoning Commission shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Planning and Zoning Commission.
- (b) In commercial and industrial districts, wireless support structures shall not exceed a height equal to one hundred seventy-five (175) feet from the base of the structure to the top of the highest point, including

appurtenances. Notwithstanding the foregoing, the Planning and Zoning Commission shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Planning and Zoning Commission.

4. *Aesthetics*

- (a) Lighting and Marking. Wireless facilities or wireless support structures shall not be lightened or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- (b) Signage. Signs located at a wireless facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which wireless facilities are located (e.g., approved signage at locations on which concealed facilities are located).

5. *Accessory Equipment.* Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the wireless facility or wireless support structure. Any equipment not used in direct support of such operation shall not be stored on the site.

6. *Fencing*

- (a) Ground mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the Planning and Zoning Commission or Building Official.
- (b) The Planning and Zoning Commission may waive the requirement of Section VI.F.1 if it is deemed that a fence is not appropriate or needed at the proposed location.

**8.7 Miscellaneous Provisions**

- 1. *Abandonment and Removal.* If a wireless support structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, the City of Killdeer may require that such wireless support structure be removed only after first providing written notice to the owner of the wireless

support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the wireless support structure within ninety (90) days of receipt of said written notice. In the event the owner of the wireless support structure fails to reclaim the wireless support structure within the ninety (90) day period, the owner of the wireless support structure shall be required to remove the same within six (6) months thereafter. The city shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

2. *Multiple Uses on a Single Parcel or Lot.* Wireless facilities and wireless support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

#### **8.8 Wireless Facilities and Wireless Support Structures in Existence on the Date of Adoption of this Ordinance**

1. Wireless facilities and wireless support structures that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use.
2. *Activities at Non-Conforming Wireless Support Structures.* Notwithstanding any provision of this Ordinance:
  - (a) Ordinary maintenance may be performed on a non-conforming wireless support structure or wireless facility.
  - (b) Collocation of wireless facilities on an existing non-conforming wireless support structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the administrative approval process defined in Section IV; provided that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.
  - (c) Substantial modifications may be made to non-conforming wireless support structures utilizing the conditional use permit process defined in Section V of this Ordinance.