

SECTION 7 - “A” AGRICULTURAL DISTRICT

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Subdivision 1: Purpose

The purpose of the Agricultural District is to preserve for farming those locations that have soils which, when properly managed, are capable of high crop yields, to minimize scattered non-farm growth, and to protect from deleterious influences those farm locations that have high investments in buildings, equipment or irrigation, and to stabilize increases in public expenditures for such public services as roads and road maintenance, police and fire protection, and schools.

Subdivision 2: Permitted Uses

1. Agriculture, including the principal farm dwelling, replacement dwelling and agricultural buildings.
2. Single-family non-farm dwellings at a density no greater than one unit per Quarter-Quarter Section (approximately 40 acres), with the exceptions specified in Subdivision 5 and 6 below.
3. Flood control, watershed or erosion control structures.
4. Home occupations as regulated in Section 16 of this Ordinance, including home occupations located in accessory buildings not exceeding 2,400 square feet in size.
5. Township halls or other governmental buildings.
6. Customary accessory buildings and structures, including detached garages and sheds.
7. Electrical wind turbine generators at 40kw or less and 125 feet or less in height being measured from the generator housing unit.
 - a. As a condition for the land use permit to remain valid, within (30) days of the issuance of the permit the applicant will submit a copy of the permit, documentation or letter of acknowledgement from the electric utility company regarding the proposed construction of the wind turbine to the Planning and Zoning Office.

Subdivision 3: Conditional Uses

Land in the Agricultural District may be used for any of the following purposes only with the issuance of a Conditional Use Permit. Refer to Section 17 for a description of the requirements for each of these Conditional Uses.

1. Accessory mobile home for family members needing special care
2. Second farm dwelling unable to meet standards in Subdivision 2 above
3. Airplane landing strip
4. Any extraction, processing, washing, screening and bituminous plant operation or storage of sand, gravel, stone or other minerals subject to the provisions set forth in Section 17 of this Ordinance.
5. Bed-and-Breakfast Inn, Retreat Center
6. Commercial outdoor activities, recreation areas and accessory buildings, including organized group camps, golf courses and clubs, gun clubs, cart tracks, 4 x 4 rallies and other motorized rallies.
7. Construction and demolition landfills
8. Any educational facility which may include a residence for school employees located on the same property as the school or church, and including activities requiring rural isolation, recreational, religious or other activities.
9. Farm-related businesses
10. Confined feedlots as regulated by Section 19 of this ordinance and the McLeod County Feedlot Ordinance.
11. Home occupations in accessory buildings exceeding 2,400 square feet and/or employing more than five (5) non-residents so regulated by Section 16, Subdivision 12.
12. Churches, cemeteries, memorial gardens.
13. Essential service lines, essential service structures.
14. Extraction of minerals.
15. Facilities for the temporary holding or sale of livestock
16. Junkyards, salvage yards
17. Municipal wastewater treatment facilities
18. Publicly-owned parks or open space areas, wildlife areas, game refuges or forest preserves.
19. Sanitary landfills for municipal solid waste.

20. Sawmills, pallet manufacturing, cabinet shop or other similar woodworking uses.
21. Veterinary and animal clinics, including kennels or facilities for care and breeding of dogs, cats or other domestic pets.
22. Electrical wind turbine generators and greater than 40kw or 125 feet in height; and communication towers.
23. Highway Maintenance Building
24. Fire station
25. Customary accessory buildings and structures, including detached garages and sheds which exceed 2,400 square feet of the floor area within platted or other described lots of ten (10) acres or less.
26. Agricultural structures including livestock structures, when the entire proposed construction is more than 660 feet from the applicants existing site or farmstead.
27. Any structure located on an existing parcel or newly created parcel in which the use of that structure may be changed, altered or added onto so as to have its present usage changed from an agricultural accessory use to that of a non-agricultural primary use.
28. Automobile, farm equipment, recreational vehicles, mechanical or body shops.
29. A second farm dwelling on each farm for the use of family members or employees. The site shall meet the lot size and dimensional standards specified in Subdivision 4 below, to permit future conveyance if necessary. This second dwelling shall be within 1000 feet of the principal dwelling.

Subdivision 4: Dimensional Regulations

The following standards apply to farm and non-farm dwellings. Any residential lot must meet County requirements for primary and replacement septic systems and water wells. (See Section 16)

1. Maximum Density 1 house per Quarter-Quarter Section (approx. 40 ac.) except as provided in Subdivision 5 and 6
2. Minimum Lot Sizes:

Principal Dwelling	1 ¼ acre
Secondary (Farm) Dwelling:	1 ¼ acre
3. Minimum Lot Dimensions (All Land Uses):

Width at building line:	150
Depth:	250

4. Minimum Setbacks, Principal or Accessory Structures:

<u>Minimum Setbacks</u>	<u>Principal</u>	<u>Accessory Structures</u>
Front, from centerline of Township Road:	100	100
County Road or C.S.A.H.	130	130
State Highway:	130	130
Front, platted lots, from road right-of-way	40	40
Side:	20	20
Rear:	40	20

When a lot is located at the intersection of two or more roads or highways there shall be a front yard setback on each road or highway side of the lot.

5. Maximum Building Heights:

All nonagricultural buildings: 2 ½ stories or 35 feet, whichever is less, except as specified in Section 16, Subdivision 14.

Agricultural buildings and structures: No restriction

6. Communication Towers & Turbines Up to 200' with setbacks from property lines or roads at the same height as the tower.

7. Setback Distance to Feedlots – one quarter (1/4) mile or three (3) feet per animal unit, whichever is the greater setback distance, up to a maximum of one-half (1/2) mile from an existing registered or permitted feedlot.

Subdivision 5: Lots of Record

A lot of record of less than a Quarter-Quarter Section in size, prior to October 17, 1981, may be subdivided in accordance with the regulations of the McLeod County Subdivision ordinance to provide one (1) non-farm residential lot meeting the lot size and dimensional standards of Subdivision 4 above, provided that the parcel does not already contain a farm or non-farm dwelling and meets County septic system and water well requirements.

Subdivision 6: Higher-Density Development on Difficult-to-Farm Sites

In order to reduce the pressure for non-farm development on prime agricultural land, development of single-family non-farm dwellings shall be permitted through the platting process at a higher density on parcels that are considered difficult to farm. A tract of land may be considered difficult to farm if it has one or more of the following characteristics:

- Small size or irregular shape
- Physical isolation from other farm fields by roads, steep hills, ditches or similar features.
- Wooded, as defined herein.
- Containing steep slopes, wetlands, or other environmentally sensitive features.

That portion of a parcel that meets the criteria above may be subdivided into dwelling lots meeting the lot size and dimensional standards of Subdivision 4 above and the following requirements:

1. Maximum density shall be 4 units per Quarter-Quarter Section (approx. 40 acres.) Excepting within those areas covered by the Shoreland Management Area with lake classifications of General or Recreational Development where the maximum density shall be 6 units per Quarter-Quarter Section (approx.. 40 acres.) Permitted density may not be transferred from one Quarter-Quarter Section to another.
2. Each lot must contain adequate build-able area for construction of a house, well, and septic system meeting State and County requirements, including sufficient area for an alternate septic system site.
3. The applicant must demonstrate to the satisfaction of the County Planning Commission that lots are clustered in wooded areas or non-productive soils in order to minimize visual and physical intrusions into agricultural land and to respond sensitively to the environmental features of each site.
4. If lots are accessed by a new road, the road shall be constructed to County standards and must be accepted by the Township.
5. All new residential lots shall be platted according to the Subdivision Ordinance.
6. Any additional lands which are not included in residential lots shall be permanently restricted by a conservation easement against further subdivision or residential development. These lands may be used in one or more of the following ways:
 - A. Leased to a farmer for agricultural use.
 - B. Held in common by all landowners of the development, for open space or recreational purposes.
 - C. Conveyed to a government agency or private non-profit organization for permanent protection as parkland or wildlife preserve.
 - D. Attached to one or more of the existing residential lots.

Subdivision 7: Site Plan Required

For any non-farm dwelling or second farm dwelling, a site plan shall be provided illustrating the location of the dwelling on the site, location of the septic tank and drain field, location of the well and access from a public road. Reasonable revisions to the site plan may be required as a condition of approval.

Subdivision 8: General Regulations

1. Additional requirements for parking and other regulations are set forth in Section 16, General Regulations.

2. Any application for a new dwelling shall be required to start construction at the site within 1 year. If construction does not start within this time period, the permit will expire. A renewal application shall: 1) have a waiting period of 1-year from the date of expiration, or 2) immediate reapplication shall require payment of a renewal fee.

Subdivision 9: Purchase and Transfer of Development Rights Program

Subpart 1. Authorization and Purpose

A. Statutory Authorization. Pursuant to Minnesota Statutes, Chapter 394.25, McLeod County establishes a Purchase and Transfer of Development Rights Program for the purpose of preserving open space, including natural and scenic areas, and productive agricultural land. The program's policies, rules and official controls are adopted in this Ordinance, hereafter known as the McLeod County Purchase and Transfer of Development Rights (PTDR) Program.

B. Purpose. This Ordinance is adopted for the following purposes:

1. To establish procedures by which development rights are granted, conveyed, applied and recorded.
2. To implement the goals of the McLeod County Comprehensive Plan regarding managing growth and protecting rural areas. This PTDR Program addresses the following specific goals and objectives as stated in the McLeod County Comprehensive Plan.
 - a) **Conservation of Resources.** "To protect, preserve and enhance the County's resources, including agricultural land, wooded areas, water (both surface and groundwater), native vegetation, recreational areas, scenic areas and significant historic and archaeological sites."
 - b) **Land Use Planning.** "To establish a community-based framework as a basis for all decisions and actions related to land use."
 - c) **Sustainable Development.** "To provide a better quality of life for all residents while maintaining nature's ability to function over time by minimizing waste, preventing pollution, promoting efficiency and developing local resources to revitalize the local economy."
 - 1) Develop and enforce ordinances that set standards for environmental protection in agricultural and aggregate activities.
 - 2) Support providing open space and recreational opportunities
 - 3) Promote the preservation of land and structures that possess scenic, historic or archeological features.
 - 4) Support the acquisition and preservation of wetland areas to be preserved for groundwater recharge, surface water conservation, recreation and wildlife.

- 5) Encourage a balance and harmonious use of land consistent with natural features and socio-economic factors.
- 6) To serve additional public purposes through open space protection, including storm water management, and habitat protection.

Subpart 2. Definitions. For the purpose of Section 7, Subdivision 9, certain words and phrases are defined as follows:

Agricultural Land: Land whose use is devoted to the production of livestock, dairy animals, dairy products, poultry, poultry products, nursery plants; Christmas trees; forages and sod crops; grains and feed crops; and other similar uses and activities, including equestrian activities.

Conservation Easement: As defined in Minnesota Statutes Chapter 84C: a non-possessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, or cultural aspects of real property.

Deed Restriction: A form filed with the Recorder's Office stating that the landowner consents to not build a residence on a specific quarter-quarter section or Government Lot. The Deed Restriction is legally binding and runs perpetually with the property.

Development: An activity, which materially alters or affects the existing conditions or use of any land.

Development Rights: An interest in and the right to use and subdivide land for any and all residential, commercial and industrial purposes and activities which are not incident to agriculture and open space, in accordance with zoning and other regulations. Development rights can be used, held, terminated or transferred to build an additional residence on a receiving property (quarter-quarter section within the same township section as the sending quarter-quarter section).

Government Lot: Fractional sections in the rectangular (government) survey system that are less than one quarter-section in area (must own entire Government Lot to be eligible for this program).

Open Space: Land used for natural habitat, agriculture and/or scenic views.

Eligible Land: An undeveloped quarter-quarter section or Government Lot that meets the conditions specified in Subpart 3 of this Ordinance (Section 7, Subdivision 9).

Receiving Property: A parcel that receives a transferred development right from an undeveloped quarter-quarter section or Government Lot (referred to as the sending property.)

Sending Property: A parcel that transfers its development right to an eligible property (referred to as the receiving property) as outlined in Section 7, Subdivision 9, Subpart 5 of this Ordinance.

Subpart 3. Establishment of Development Rights

- A. Except as noted below, every quarter-quarter section as of the effective date of this Ordinance within the “A” Agricultural District is granted one (1) Development Right. Development Rights can be used, held, terminated or transferred to contiguous properties. Development Rights may not be transferred to contiguous properties. Development Rights may not be transferred if the land has anyone of the following characteristics:
1. Land that has an existing dwelling, either residential or agricultural. In these situations, the Development Right has been used; or
 2. Land that has an existing commercial use or other non-agricultural use; or
 3. Land that is less than a quarter-quarter section or government lot; or
 4. Land that does not have a suitable building site due to natural features, such as but not limited to wetlands, floodplains, high water and steep slopes.

Subpart 4. Sending Property Owner’s Process for Terminating or Transferring a Development Right

- A. Voluntary Nature.** The termination or transfer of development rights will occur only on a voluntary basis. Landowners will not be compelled in any way to either terminate or transfer their development rights. If a transfer occurs, it must be done according to Section 7, Subdivision 9, Subpart 4, Subsection C and Section 7, Subdivision 9, Subpart 5 of this Ordinance.
- B. Value of Development Right.** The monetary value of a development right is completely determined by the landowner of the development right.
- C. Landowner’s Process for Terminating or Agreeing to Transfer a Development Right.** A development right granted under **Section 7, Subdivision 9, Subpart 3** of this Ordinance may be terminated or transferred, through sale or donation, to any part, subject to the requirements stated below.
1. Title Opinion or Title Insurance. A title opinion or the title insurance policy issued within 30 days of the transfer of the tract from which the transferable development rights will be conveyed sufficient to determine all owners of the tract and all lien holders; and
 - a) A document from all lien holders approving the transfer of development rights.
 2. Deed Restriction. The property owners(s), including in all cases the fee owner, of the eligible parcel must sign and record a deed restriction to apply to the specific quarter-quarter section or Government Lot. The restriction shall limit any further residences, divisions or nonagricultural development on the quarter-quarter section or Government Lot in accord with the terms of this Program. The restriction shall be on a form provided by the Zoning Administrator and shall include the following information:

- a) Record Fee Owner(s) legal name; and
 - b) Legal Description of Restricted Parcel; and
 - c) Agreement Description stating the following:
 - 1) The land meets the criteria established in **Section 7, Subdivision 9, Subpart 3** of this Ordinance, and
 - 2) The development right is being either terminated or transferred. If transferred, provide a legal description of the receiving property on the quarter-quarter section or Government Lot; and
 - 3) The Deed Restriction shall limit any further residences, divisions or nonagricultural development on the quarter-quarter section or Government Lot in accord with the terms of this Article; and
 - d) Date and signature of Fee Owners(s); and
 - e) Date and signature of Notary Public; and
 - f) Date and signature of Zoning Administrator.
- 3. Application and handling fees as determined by the McLeod County Zoning Office.
 - 4. (Optional) A Conservation Easement that protects the quarter-quarter section or Government Lot from most types of non-agricultural development. The specific details can be unique to each Conservation Easement but shall meet all of the conditions identified in **Section 7, Subdivision 9, Subpart 4, Subsection D**, of this Ordinance.
 - 5. The landowner must file the Title Search, Deed Restriction and Conservation Easement (if applicable) with the McLeod County Recorder's Office. The Conservation Easement (if applicable) may also be required to be held by an additional party as specified in the Conservation Easement.
 - 6. The Zoning Administrator shall determine whether the provisions of this Ordinance have been followed before signing the Deed Restriction. The Zoning Administrator may execute the Deed Restriction before or after delivery of development rights by the Sending Property Owner. If approved after delivery, the date of transfer shall relate back to the date of delivery between the parties for the purposes of this Ordinance.
- D. Conditions of the Conservation Easement (if applicable).** The owner terminating or transferring a development right may perpetually restrict the use of the property by a conservation easement. The conservation easement shall comply with Minnesota Statutes Chapter 84C and shall be in a form approved by McLeod County. The conservation easement shall comply with the following conditions:
- 1. The conservation easement shall restrict future use of the property to agricultural, habitat and open space uses.

2. The conservation easement shall be held by a qualified unit of government, conservation organization, land trust or similar organization authorized to hold interest in real property (pursuant to Minnesota Statutes, Section 84C.OI-05) as approved by the McLeod County Board of Commissioners.
3. All owners of the eligible quarter-quarter section of Government Lot from which the development rights are either terminated or transferred shall execute the conservation easement.
4. All lien holders of the tracts from which transferable development rights are conveyed shall execute a subordination agreement to the conservation easement. Such subordination agreement shall be filed with the McLeod County Recorder.

Subpart 5. Process for Using a Transferred Development Right

- A. The following may be used to transfer a development right.

1. Development Rights can be used to increase a permitted density on a quarter-quarter section or Government Lot within the same township section (See Figure 1)

Figure 1

NW ¼ NW ¼	NE ¼ NW ¼	NW ¼ NE ¼	NE ¼ NE ¼
SW ¼ NW ¼	SE ¼ NW ¼	SW ¼ NE ¼	SE ¼ NE ¼
NW ¼ SW ¼	NE ¼ SW ¼	NW ¼ SE ¼	NE ¼ SE ¼
SW ¼ SW ¼	SE ¼ SW ¼	SW ¼ SE ¼	SE ¼ SE ¼

- B. The maximum number of development rights that can be transferred onto a quarter-quarter section or Government Lot is three, therefore limiting each quarter-quarter section or Government Lot to a maximum of four residential dwellings (i.e., one permitted residential dwelling per quarter-quarter section or Government Lot and up to three additional transferred “rights”).
- C. For each development right that is transferred, the said receiving property is entitled to an increase of one additional single-family residential dwelling.
- D. All building sites permitted through a transferred development right are subject to the site regulations of the “A” Agricultural District as specified in Section 7 of this Ordinance.
- E. If a Development Right is being transferred, the transferee of the receiving property must submit the following materials to the Zoning Administrator before the Development Right can be used:
 1. A copy of the transfer of development right showing that a development right has been transferred to the proposed building site from a contiguous quarter-quarter section or Government Lot.

2. A Building Permit is required. The following information must be included:
 - a) A site plan according to Section 7 of this Ordinance;
 - b) All information required by the McLeod County Zoning Official; and
 - c) An approved septic system in accordance to McLeod County Individual Sewage Treatment System Ordinance.
3. If the transfer results in the land being subdivided, the process identified in McLeod County's Subdivision Ordinance must be followed. The Subdivision Ordinance applies to the subdivision of a lot, tract or parcel of land into two (2) or more lots, tracts or other division of land for the purpose of sale and/or building development, whether immediate or future, including the re-subdivision or re-platting of land or lots (see the McLeod County Subdivision Ordinance for more details).
4. A map showing the location of the proposed building site's quarter-quarter section or Government Lot (the receiving property) and the quarter-quarter section or Government Lot from which the development right was transferred from (the sending property) on a standard 8 ½ by 11 sheet of paper.

Subpart 6. Public Acquisition of Development Rights. McLeod County may purchase, or accept by gift, a development right subject to the provisions of this Ordinance, including the requirements for a recorded Deed of Transferable Development Rights and a recorded Conservation Easement. The transfer must be voluntary and the County may hold, resell, or retire any transferable development right it has acquired.

Subpart 7. Restrictions. Lands which have a recorded Deed Restriction or Conservation Easement shall not be allowed for future residential subdivision and platting, excepting quarter-quarter property locations that are contiguous to and abutting incorporated municipal boundaries. The McLeod County Board of Commissioners has the right to review and rescind any said Deed Restriction upon written request by the Landowner, if first by public hearing, the McLeod County Planning Commission has reviewed and forwarded a recommendation to the McLeod County Board of Commissioners.