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BYLAWS OF THE McLEAN SHERIDAN RURAL WATER DISTRICT

ARTICLE I General Purposes

The purpose for which this District is formed is to act as the successor to the McLean Sheridan Joint Water Resource Board, and to provide potable water to its participating members located within the District. The powers which the District may exercise are set forth in Chapter 61-35 of the North Dakota Century Code.

ARTICLE II Name and Location

Section 2.1 - The name of the District is McLean Sheridan Rural Water District.

Section 2.2 - The principal office of this District is located at 987 17th Avenue NW, Turtle Lake, McLean County, and State of North Dakota.

ARTICLE III Seal

No seal shall be required for the District.

ARTICLE IV Fiscal Year

The fiscal year of the District is the calendar year.

ARTICLE V Membership

Section 5.1 - Member means an owner of real property that is located within the District, the tenant of the real property, or another person acting for the owner with the owner's written consent. Any city having a water distribution system may become a member of the District.

Section 5.2 - Benefit unit means the fee each member pays for each service that is planned to be connected to the water system for the privilege of using the District's facilities.

Section 5.3 - Participating member means a member who has subscribed to and paid the established fee for at least one benefit unit in the District. Participating membership shall not be denied because of the applicant's race, color, creed, or national origin. Participating membership may be denied if capacity of the District's water system is exhausted by the needs of its existing participating members, or the proposed use of the applicant is such that it would interfere with the existing uses previously authorized by the Board of Directors (Board). All participating members of McLean Sheridan Joint Water Resource Board shall become participating members upon the formation of the District without payment of any additional fee. Any city or other entity that is a participating member may designate a natural person to represent them as a participating member.

- (1) Before participating membership is allowed to one or more persons claiming an interest in the property to be served, the District shall first attempt to obtain the application for participating membership from the owner of the property.
- (2) Where participating membership is granted to one or more persons other than the owner of the property, the District, as a condition to the participating membership, may require the applicant for participating membership to post such collateral or bond as the directors determine necessary to fully protect the District from any additional risk that may be involved to the District by reason of the lack of legal ownership in the applicant.

Section 5.4 - Each participating member shall have one vote for each benefit unit subscribed to. Each benefit unit shall represent one (1) vote. When more than one person holds the interest in a property served, the vote shall be exercised by the person in whose name the benefit unit is registered, or by such person as the several owners may designate, but in no event shall more than one vote be cast with respect to any benefit unit.

Section 5.5 - Participating membership shall be transferable but the transfer will be effective only when noted on the books of the District. Such transfer will be made only to a person who obtains a qualifying interest in the property. A participating member will transfer his membership in the District to his successor-in-interest as part of the transaction whereby he disposes of his interest to said property. The secretary, upon request, will make notice of the transfer upon the records of the District.

Section 5.6 - When participating membership in the District is not transferred, it shall terminate upon the disposition or other termination of the member's interest in the property. Participating membership also may be terminated by action of the Board where the use of the property is changed so as to materially increase the amount of water consumed to the prejudice of the other existing members or to the prejudice of the orderly operation of the system.

Section 5.7 - The termination of the participating membership of any member shall not disqualify for participating membership any other person who has or obtains an interest in the property of the terminated participating member and who otherwise meets the requirements of these bylaws.

Section 5.8 - In the event a participating member's property interest is divested other than by voluntary means, such participating member's membership will pass to the trustee, receiver, executor, or the like, who will be entitled either in person or through a designated representative to exercise all the rights incident to such participating membership, but subject to such duties and liabilities also applicable to the participating membership. The trustee, receiver, executor, or the like, may terminate such participating membership by written notice to such effect delivered or mailed to the secretary or manager of the District. Upon the final disposition of such property rights, the owner thereof shall be entitled to participating membership in like manner as if the participating membership had been transferred to him by the original participating member.

Section 5.9 - Upon the transfer of a participating membership, the District will seek collection from the individual who incurred such charges or assessments, or from the property itself if a judgment lien had been duly perfected against such property. The District may collect

past due water revenue from successor in interest or users under certain circumstances or situations to protect assets of the District.

ARTICLE VI Membership Certificates

Section 6.1 - This District shall not issue participating membership certificates. Membership shall be evidenced by entry upon the books and records of the District without the issuance of a formal certificate.

ARTICLE VII Meetings of Members

Section 7.1 - The annual meeting of the participating members of the District shall be held in May at a location within the District designated by the Board. Written notice of the time and place of meeting shall be sent to all participating members of record by first-class mail directed to the address shown upon the books of the District not less than ten (10) nor more than thirty (30) days before the meeting. Notice of the meeting may be published in the area newspapers of each county served by the District not less than ten (10) nor more than thirty (30) days before the meeting. No failure or irregularity of notice of any annual meeting shall affect any proceeding.

Section 7.2 - Special meetings of the participating members may be called at any time by the action of the Board and such meetings must be called whenever a petition requesting such meeting is signed by at least five percent (5%) of the participating members and presented to the secretary or to the Board. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted except such as is specified in the notice.

Section 7.3 - Notice of special meetings of participating members of the District shall be given by notice mailed by first-class mail to each participating member of record, directed to the address shown upon the books of the District, not less than ten (10) nor more than thirty (30) days prior to such meetings. Such notice shall state the nature, time, place, and purpose of the meeting. Notice of the special meeting may also be published in the area newspapers of each county served by the District not less than ten (10) nor more than thirty (30) days before the meeting. No failure or irregularity of notice of any special meeting, regularly held, shall affect any proceedings taken thereat.

Section 7.4 - The presence at a meeting of participating members entitled to cast in their own right or by proxy five percent (5%) of the total number of votes shall constitute a quorum. All proxies shall be in writing and filed with the secretary/treasurer. Such proxies may be general or restrictive. Proxies shall be revocable and shall not be valid beyond eleven (11) months, nor after termination of the participating membership by cessation of the participating member's interest in the property.

Section 7.5 - Directors of this District shall be elected at the annual meeting of the participating members. Any participating member that wants to run for a director position must submit a petition to the water district office with at least ten (10) signatures from participating members within their director district at least sixty (60) days before the annual meeting.

Section 7.6 - The order of business at the regular meetings, and so far as possible at all other meetings, shall be:

- (3) Calling to order and proof of quorum;
- (4) Proof of notice of meeting;
- (5) Reading and action on any unapproved minutes;
- (6) Reports of officers and committees;
- (7) Election of directors;
- (8) Unfinished business;
- (9) New business;
- (10) Adjournment.

ARTICLE VIII Directors and Officers

Section 8.1 - The Board of the District shall consist of five (5) participating members. The initial Board shall consist of five (5) of the directors previously appointed by McLean County and Sheridan County who shall continue to serve until their successors are elected and qualified. The current McLean County director position from McLean County Commission District two (2) is eliminated. The initial board shall consist of two (2) directors from Sheridan County, two (2) directors from McLean County, and an at-large director that can be filled by any participating member regardless of what director district they have a benefitted unit within. The at-large position shall be up for election at the first annual meeting and is the position currently filled by the most recently appointed Sheridan County director. The director from McLean County commission district one (1) will serve until the 2009 annual meeting and then that position will be up for election and designated as "District 1" of the water district. The director from McLean County commission district three (3) will serve until the 2008 annual meeting and then that position will be up for election and designated as "District 2" of the water district. The director from a combination Sheridan County commission districts one (1) and two (2) shall serve until the 2008 annual meeting and then that position shall be up for election and designated as "District 3" of the water district. The director from Sheridan County Commission district three (3) shall serve until the 2009 annual meeting and then that position shall be up for election and designated as "District 4" of the water district. If no participating members from a director district have petitioned for a board seat, the participating members can elect that board seat at the annual meeting from any participating member within the water district. Each director shall have a three (3) year term, and every participating member may cast a vote for any board member.

McLean County and Sheridan County will be each entitled to a bulk user representative that will be allowed to participate and vote at Board meetings. If a bulk user representative is elected to the Board from either county, that director's position will also be considered the bulk user representative from that county. The water district will not pay any milage or per diem expenses for the bulk user positions.

Section 8.2 - The Board shall meet on the same day and immediately following the annual meeting of participating members and shall elect a president, vice-president, secretary/treasurer, each of whom shall hold office until the next annual meeting of the participating members and until the election and qualification of his successor unless sooner removed by death, resignation, or for cause.

Section 8.3 - If the position of director, or the office held by any director becomes vacant by reason of death, resignation, retirement, disqualification, except by removal from office, a majority of the remaining directors, though less than a quorum shall, by majority vote, choose a successor member of the Board or officer to serve until the next annual meeting unless such vacancy occurs within ninety (90) days of the annual meeting. In such case the appointment shall continue until the annual meeting of the following year.

Section 8.4 - A majority of the Board shall constitute a quorum at any meeting of the board. The affirmative vote of the majority of the directors at the meeting at which a quorum is present shall be the act of the Board.

Section 8.5 - Each member of the Board shall receive Eighty dollars (\$80.00) and actual mileage expense at the current rate prescribed by the State of North Dakota for each regular or special meeting of the Board. Additional travel or training expenses of directors may be fixed at any regular or special meeting of the Board. Compensation of directors may not be changed without approval of the members.

Section 8.6 - Officers and directors may be removed from office in the following manner: Any participating member, officer, or director may present charges against a director or officer by filing them in writing with the secretary/treasure of the District. If presented by a participating member, the charges must be accompanied by a petition signed by five percent (5%) of the participating members of the District. Such removal shall be voted on at the next regular or special meeting and shall be effective if approved by a vote of a majority of those voting if a quorum is present. The director or officer against whom such charges have been presented shall be informed, in writing, of such charges at least twenty (20) days prior to the meeting, and shall have the opportunity at such meeting to be heard in person or by counsel and to present witnesses; and the persons presenting such charges against him shall have the same opportunity. If the removal of a director is approved, such action shall also vacate any other office held by the removed director in the District. A vacancy in the Board thus created shall immediately be filled by a vote of the majority of the participating members present and voting at such meeting. A vacancy in any office thus created shall be filled by the Board from among their members so constituted after the vacancy in the board has been filled.

ARTICLE IX Duties of Directors

Section 9.1 - The Board, subject to restrictions of law and these bylaws, shall exercise all of the powers of the District without prejudice to or limitation upon their general powers. It is hereby expressly provided that the Board shall have, and are hereby given, full power and authority in respect to the matters as hereinafter set forth to be exercised by resolution duly adopted by the Board. These powers shall be in addition or supplemental to the powers granted in Section 61-35-12 of the North Dakota Century Code.

- (a) Approve participating membership applications. The Board may make binding commitments to issue participating memberships and permit the connection of properties to the system in the future in cases involving proposed construction or may issue such participating memberships prior to the commencement of the proposed construction.

- (b) Select and appoint all officers, agents and manager of the District, remove such agents or manager of the District, prescribe such duties and designate such powers as may not be inconsistent with these bylaws, fix their compensation, and pay for faithful services;
- (c) Borrow from any source, money, goods or services and to make and issue notes and other negotiable or non-negotiable instruments evidencing indebtedness of the District; make and issue mortgages, deeds of trust, pledges of revenue, trust agreements, security agreements and financing statements, and other instrument evidencing a security interest in the assets of the District; and do every act and thing necessary to effectuate the same;
- (d) Prescribe, adopt, and amend from time to time such equitable uniform rules and regulations as, in its discretion, may be deemed essential or convenient for the conduct of the business and affairs of the District and the guidance and control of its officers and employees, and to prescribe adequate penalties for the breach thereof;
- (e) Order, at least once each year, an audit of the books and accounts of the District by a competent public auditor or accountant. The report prepared by such auditor or accountant shall be submitted to the participating members of the District at their annual meeting. Copies of the audits shall be submitted to such parties as may be required by other agreements.
- (f) Fix and alter the charges to be paid by each participating member for services rendered by the District to the participating member, including connection fees where such are deemed to be necessary by the directors, and fix and alter the method of billing, time of payment, manner of connection, and penalties for late or nonpayment of the same. The Board may establish one or more classes of participating members or benefit units. All charges shall be uniform and nondiscriminating within each class participating members or benefit units.
- (g) Require all officers, agents, and employees charged with responsibility for the custody of any of the funds of the District to give adequate bonds, the cost thereof to be paid by the District. It shall be mandatory for the directors to so require that all officers, agents, and employees responsible for the custody of any funds be adequately bonded at the expense of the District.
- (h) Select one or more banks to act as depositories of the funds of the District and to determine the manner of receiving, depositing, and disbursing the funds of the District and the form of checks and the person or persons by whom the same shall be signed, with the power to change such banks and the person or persons signing such checks and the form thereof at will;
- (i) Levy assessments against the participating members of the District in such manner and upon such proportionate basis as the Board deems equitable, and to enforce collection of such assessments by the suspension of water service or other

legal methods. The Board shall have the option to suspend the service to any participating member who has not paid such assessment within thirty (30) days from the date the assessment was due, provided the District must give the member at least fifteen (15) days' written notice at the address of the participating member on the books of the District of its intention to suspend such service if the assessment is not paid. Upon payment of such assessments, any penalties applicable thereto, and a reconnection charge, if one is in effect, service will be promptly restored to such participating member.

ARTICLE X Duties of Officers

Section 10.1 - Duties of the President. The president shall preside over all meetings of the District and the Board, call special meetings of the Board, perform all acts and duties usually performed by an executive and presiding officer, and sign all papers of the District as he/she may be authorized or directed to sign by the Board. The Board, by resolution, may authorize a person other than the president to sign any or all checks, contracts, and other instruments on behalf of the District. The president shall perform such other duties as may be prescribed by the Board.

Section 10.2 - Duties of the Vice-President. In the absence or disability of the president, the vice-president shall perform the duties of the president. In case of the death, resignation, or disability of the president, the Board may declare the office vacant and elect his/her successor. The vice-president shall perform such other duties as may be prescribed by the Board.

Section 10.3 - Duties of the Secretary/treasurer. The secretary/treasurer or appointed assistant shall keep a complete record of all meetings of the District and of the Board. In addition, the secretary/treasurer shall:

- (1) Attest the president's signature on all papers pertaining to the District unless otherwise directed by the Board;
- (2) Serve, mail, or deliver all notices required by law and these bylaws;
- (3) Make a full report of all matters and business pertaining to his office to members at the annual meeting or at such other time or times as the Board may require;
- (4) Keep the participating membership records of the District showing the name of each participating member of the District and date of issuance, surrender, transfer, termination, cancellation, or forfeiture; and
- (5) Make all reports required by law and shall perform such other duties as may be required by the District or the Board. Upon the election of a successor, the secretary shall turn over all books and other property belonging to the District to the successor.
- (6) The secretary/treasurer shall perform such duties with respect to finances of the

District as may be prescribed by the Board.

ARTICLE XI
Management

Section 11.1 - **Manager.** The Board shall appoint a manager who shall actively supervise the business of the District and shall perform such other duties as the Board may require or may delegate to him/her.

Section 11.2 - **Manager's Duties.** Duties of the manager shall be to have charge of the direct management of the business of the District, in accordance with the instruction and under the supervision of the Board; to engage and discharge the employees of the District in accordance with the authority given by the Board; to cause accurate books and records to be kept of the business of the District and to submit the same, together with all files, records, inventories, and other information pertaining thereto for inspection at any time by the Board or by auditors appointed by the Board; to disburse funds of the District in payment of its debts in accordance with authority given by the Board, making proper vouchers for such disbursements; shall furnish to the Board at their meetings, a monthly report of the management; to attend to such other duties and offices as the Board may require. The manager shall treat all members on a uniform basis, without discrimination or favoritism. The manager shall be responsible for the collection of all accounts of the District.

ARTICLE XII
Benefits and Duties of Participating Members

Section 12.1 - The District will install, maintain, and operate a main distribution pipeline or pipelines from the source of the water supply and service lines from the main distribution pipeline or pipelines to the property line or curb stop valve location of each participating member of the District. At each property line, curb stop valve location, or other point designated as a delivery points, the District shall place meters or other equipment which the District will purchase, own, install, and maintain. Such meters and other equipment will be owned and maintained by the District and installed on some portion of the service line owned by the District. The cost of the service line or lines from the main distribution pipeline or pipelines of the District to the property line, curb stop valve location, or other designated delivery point of each participating member shall be paid by the District. The District shall have the sole and exclusive right to the use cut-off valve(s), meter(s) and other equipment that they install. The provisions of this section shall not be construed to require the acquisition or installation of meters or cut-off valves or other equipment installed by the District where the directors determine that the circumstances are such that the use of either or both of such devices is impractical or unnecessary to protect the system and the rights of the participating membership, or economically not feasible. A curb stop valve location shall be designated by the Board or their agent for each user. This location may be either in the proximity of the existing yard pole used for rural electrification purposes or at some other convenient point specified by the Board or their agent.

Section 12.2 - Each participating member will be required at his own expense to dig a trench for the connection of the service line or lines from the property line, curb stop valve location or other point designated by the Board or their agent to his/her dwelling or other portion

of his/her premises, and to purchase and have installed the portion of the service line or lines from his/her property line, curb stop valve location or other point designated by the Board or other agent to the place of use on his/her premises. The participating member will maintain such portion of such service line or lines which they own at his/ her expense. The cost of the participating member's portion shall be paid by the participating member. In addition, each participating member shall pay such connection charge, if any, as may have been imposed by the Board before such participating member will be entitled to receive water from the system.

Section 12.3 - Each participating member may be permitted to have additional service lines from the District's water system by obtaining an additional benefit unit. The additional service line shall be at the discretion of the Board upon proper application thereof and the tender of a benefit unit payment for the additional service. The approval by the Board of additional service lines to an existing participating member may be made conditional upon such provisions as the Board determines necessary to protect the interests of other participating members and to allow for the orderly expansion and extension of the system to serve other property that may need service along the distribution lines of the system. Each service line shall connect with the District's water system at the nearest available place to the place of desired use by the participating member. No service line will be approved if the District's water system does not have sufficient capacity to permit the delivery of water through a service line at that point without interfering with the delivery of water to existing participating members unless the additional benefit unit agrees to be assessed for additional costs of providing the additional capacity necessary to serve the line.

Section 12.4 - Each participating member may be permitted to purchase from the District, pursuant to such agreement as may from time to time be provided and required by the District, such water as is needed by him for domestic, commercial, agricultural, industrial or other purposes as a participating member may desire, subject to the provisions of these bylaws and to such rules and regulations as may be prescribed by the Board. Each participating member shall be entitled to have delivered to him/her through his/her service lines only such water as may be necessary to supply the needs of the participating member, including his/her family, business, agricultural, or industrial requirements. The water delivered through each service line may be metered separately and the charges for such water may be determined separately, irrespective of the number of service lines owned by the participating member.

Section 12.5 - In the event the total water supply shall be insufficient to meet all of the needs of the participating members or in the event there is a shortage of water, the District may prorate the water available among the various participating members' benefit units on such basis as is deemed equitable by the Board. The Board may also prescribe a schedule of hours covering use of water for commercial, agricultural, or industrial purposes by particular participating members' benefit units and require adherence thereto or prohibit the use of water for commercial, agricultural, or industrial purposes. If at any time the total water supply shall be insufficient to meet all of the needs of all of the participating members' benefit units for domestic, livestock, commercial, agricultural, or industrial purposes, the District must first satisfy all of the reasonable needs of the participating members' benefit unit for domestic purposes before supplying any water for livestock purposes and must satisfy all of the needs of all of the participating members benefit units for domestic and livestock purposes before supplying any water for commercial or industrial purposes. When a participating member has more than one (1) benefit unit, the District may cut off the flow of water to the non-domestic

benefit unit until such time as the supply of water from the system is sufficient to meet the needs of all of the participating members' benefit units for domestic, livestock, and garden purposes. During such periods of shutoff of additional benefit units, there shall be no minimum fee charged to the participating members' benefit units which were disconnected and the cost, if any, of resuming the flow of water to such additional benefit units when water becomes available shall be borne by the District.

Section 12.6 - The Board shall, with the consent of the Rural Utilities Services so long as Rural Utilities Service or their successors or assigns shall either hold any obligations or insure any financing of the system, prior to the beginning of each calendar year, determine the flat minimum monthly rate to be charged each participating member. The flat minimum monthly rate to be payable irrespective of whether any water is used by a participating member benefit unit during any month. The participating member shall pay such charges at the office designated by the District at or prior to the dates fixed by the Board. The failure to pay water charges duly imposed shall result in the automatic imposition of the following penalties:

- (a) Nonpayment within ten (10) days from the due date will be subject to a penalty of ten percent (10%) of the delinquent account. This charge shall be at the discretion of the Board.
- (b) Nonpayment within thirty (30) days from the due date will result in water being shut off from the participating member's benefit unit without any notice thereof to such delinquent participating member. When the delinquent participating member pays the past due water charges, penalties thereon, any reconnection charge for the benefit unit, he/she shall be entitled to resumption of the water service for that benefit unit. During the time of such suspension of water to a participating member's benefit unit, such participating member's right to vote for that benefit unit shall be suspended.

Section 12.7 - The Board is authorized to require each participating member to enter into a participating member's agreements which shall contain the principles and provisions set forth in these bylaws.

ARTICLE XIII Distribution of Surplus Funds

It is not anticipated that there will be any surplus funds at the District at the end of the fiscal year after provisions are made for the payment of the expenses of operation and maintenance and the funding of the various reserves for depreciation, debt retirement, and other purposes, including those required by the terms of any borrowing transaction. In the event that there should exist such surplus funds or net income, they may be placed in an existing or new reserve account to be used for the early retirement of any outstanding indebtedness or be used for the improvement or extension of the District facilities as the Board may determine is in the best interest of the District to the extent not otherwise provided for by any contractual arrangement. The occurrence of surplus funds or net income after the requirements of the District mentioned above have been considered and a reserve for improvements and extension of the facilities shall be considered by the Board in determining the water rates to be charged the participating members.

ARTICLE XIV
Amendments

These bylaws may be repealed or amended by a vote of a majority of the participating members present at any regular meeting of the District, or at any special meeting of the District called for that purpose as set forth in this article. So long as any indebtedness is held or guaranteed by the Rural Utilities Service or their successors or assigns, the participating members shall not have the power to change the purposes of the District so as to decrease its rights and powers under the laws of the State, or to waive any requirement of bond or other provision for the safety and security of the property and funds of the District or its participating members, or so to amend the bylaws as to effect a fundamental change in the policies of the District without the prior approval of the Rural Utilities Service, their successors or assigns, in writing.

- (1) The Board of Directors may propose changes or amendments to these bylaws by submitting those changes together with the annual meeting notice as set forth in these bylaws or thirty (30) days prior to a participating member meeting.
- (2) Participating members may submit a bylaw change to the Board for consideration ninety (90) days prior to the annual meeting or special called meeting. The participating members present at the meeting will then vote “up or down” whether to advance the proposed change to the next called meeting for a vote on the proposed change.

ARTICLE XV
Assumption of Liabilities

The District and assumes agrees to pay all debts, obligations and liabilities of its predecessor organization in the same manner as if the District had originally incurred the debt, obligation, or liability.

ARTICLE XVI
Directors’ and Officers’ Liability Reimbursement

Each officer, director, staff member, or person servicing on a committee of the District shall be indemnified by the District against all costs and expenses actually and necessarily incurred by him/her in connection with the defense of any action, suit, or proceedings in which he/she is made a party by reason of being or having been a director, officer, staff member or committee representative of the District, whether or not he/she continues to be such at the time of incurring such cost or expense, except in relation to matters as to which he/she be adjudged in such action, suit, or proceedings to be liable for negligence or misconduct in the performance of his/her duties. The right of indemnification hereunder shall not be exclusive of other rights to which any officer, director, staff member or committee representative shall be entitled as a matter of law. The foregoing shall not preclude the collection of insurance benefits that may be available.

ARTICLE XVII
Governing Procedures

In all proceedings of the District, its Board, or any other committee as the District may create from time to time, the most recent edition of Robert's Rules of Order applies, except to the extent that the same may be inconsistent with any of the provisions of these By-Laws or the provisions of Chapter 61-35 of the North Dakota Century Code, as amended.

ARTICLE XVIII
Changes to Established Operations

Transfer of major responsibilities to other entities such as maintenance, record keeping, office location, mergers and joint power agreements must be acted upon by the general membership.

(Adopted: _____, 2006)