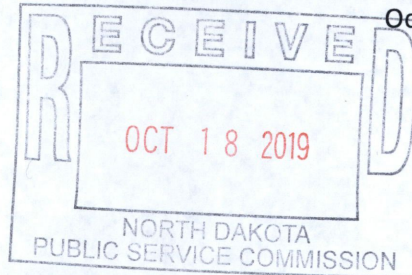


# BOWMAN COUNTY PLANNING AND ZONING COMMISSION

104 First Street NW Suite #4 Bowman, North Dakota 58623

Telephone (701) 523-3129

Executive Secretary  
North Dakota Public Service Commission  
600 E. Blvd., Dept. 408  
Bismarck, North Dakota 58505-0480



October 17, 2019

RE: Case No. PU-19-294

As a request in your Letter of Notification of Application dated October 1, 2019, political subdivisions shall provide a listing to the Public Service Commission of all zoning or building rules, regulation or ordinances. To fulfill that request, the Bowman County Zoning Administrator is sending this summary letter along with a copy of the current Bowman County Zoning Ordinance.

Bowman County is currently conducting public hearings on some proposed changes to the current zoning ordinances and a complete review of the current zoning ordinances will be undertaken over the next year.

Currently, Bowman County would have a requirement to have the following permits submitted if applicable: Conditional Use Permit, Zoning Permit, Utility Permit and Approach Permit. These permits will also be updated as a result of the zoning ordinance review and updating.

If you have any questions, feel free to contact us at any time. Thank you.

Dean A. Pearson  
Co-Zoning Director  
Bowman County

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**BOWMAN COUNTY**

**NORTH DAKOTA**

**ZONING ORDINANCE**

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Adopted: April 3, 2012

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# ARTICLE I

## INTRODUCTION

### 1.1 Title

This code shall be known as the "Bowman County Zoning Ordinance".

### 1.2 Authority

This code is adopted under the authority granted by Chapters 11-33 and 11-33.2 of the North Dakota Century Code.

### 1.3 Purpose and Intent

The purpose of these regulations is to promote public health, safety, and the general welfare of the citizens of Bowman County; to promote the orderly development of the county and to prevent conflict among land uses and structures; to regulate the use and division of land within the county and unincorporated territorial jurisdiction; to facilitate adequate provisions for water, sewer, transportation and other customary services to its county unincorporated communities; to protect existing properties against nuisances that interfere with the use and enjoyment of property, endanger personal health and safety, or is offensive to the senses; and to conserve and develop resources.

### 1.4 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.

### 1.5 Severability

If any part of these regulations is found to be invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected.

### 1.6 Repeal

The existing county ordinance together with any amendments thereto is hereby repealed.

### 1.7 Effective Date

This ordinance shall be effective thirty days following the adoption by the County Commission of Bowman County.

## 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 zoning 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

- 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.
- 3) **Adult Bookstore** – An enclosed building having as a substantial or significant portion of its stock in trade books, magazines, or other periodicals that are 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 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.
- 6) **Adult Entertainment Center** – An adult bookstore, adult cinema, adult entertainment facility, or any combination thereof.
- 7) **Affected Area** – An area having a radius of one-half mile from a proposed change.
- 8) **Agriculture** – The process of producing food and fiber customary to the family farming operation excluding commercial feed lots and the processing and manufacturing of farm-based products.
- 9) **Agricultural Districts** - All land and areas used for cultivating the soil, producing crops or the raising of livestock as designated by the Board of County Commissioners.
- 10) **Alley** – A public way which affords only secondary access to abutting property.
- 11) **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 conditional uses are authorized only if certain requirements of this code are met after a public hearing and approval by the County Commission.
- 12) **Alteration** – As applied to a building or structure, is a change or re-arrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

- 13) **Amendment** – Any change, revision or modification of the text of these regulations and the zoning district map.
- 14) **Animal Hospital or Kennel** – A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.
- 15) **Animal Unit Equivalent** – A unitless number developed from the nutrient and volume characteristics of manure from a specific livestock type. The term animal unit is used to normalize the number of animals (e.g. head) for each specific livestock type which produce comparable bulk quantities of manure.
- 16) **Area of Special Flood Hazard** – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- 17) **Automobile Repair Shop** – An area of land, including structures thereon, that is used for the repair and servicing of automobiles or trucks under one ton gross weight.
- 18) **Base Flood** – The flood having a one percent chance of being equalled or exceeded in any given year.
- 19) **Basement** – A story, partly underground with more than one-half of its height below grade.
- 20) **Bed and Breakfast Inn** – An establishment that provides overnight lodging to the public for compensation; caters to the traveling public; is located in the proprietor's residence; and serves only a limited breakfast to registered guests.
- 21) **Building** – Any structure designed or intended for shelter or protection of persons, animals 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 sidewall.
- 24) **Building Line** – A line establishing the minimum distance where 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) **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.

- 26) **Commercial Building** – Any structure which is used primarily for business activities and not used for residential, medical, religious, or instructional purposes and which is constructed in compliance with this code.
- 27) **Commercial Feed Lot** – Any building, structure, enclosure, or premises used, designed or intended for the commercial feeding of 300 or more animal units which is operated as a separate pursuit and not as incidental to farming on a given piece of land regardless of its size.
- 28) **Comprehensive Plan** – A guide for the management of the physical resources and development of the county.
- 29) **Conditional Use** – Use of a special nature not automatically permitted in a zoning district and which requires review and approval by the County Planning and Zoning 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 County Planning and Zoning Commission and only when the Commission finds that such use meets all of the requirements applicable to it as specified in the county codes including these regulations.
- 30) **County** – The Board of County Commissioners, Bowman County, North Dakota.
- 31) **Conforming Building or Structure** – A building or structure which complies with all requirements of this code and other regulations adopted by the county.
- 32) **Development** – Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures, or accessory structures, the construction of additions or alterations to buildings or structures, ditching, dredging, paving, excavation or drilling operations.
- 33) **Development Plan** – A document including maps and data for physical development of an area as provided by this code.
- 34) **District Zoning** – A section or sections of Bowman County 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.

- 35) **Dwelling** – Any building or portion thereof, used exclusively for human and habitation including single family and multiple family units but not including hotels or motels, or vehicles designed for camping, such as vacation vehicles.
- 36) **Dwelling, Multiple Family** – A single building, or portion thereof, containing two (2) or more dwelling units.
- 37) **Dwelling, Single Family** – A building containing one (1) dwelling unit only.
- 38) **Dwelling Unit** – One or more rooms in a dwelling designed for occupancy by one family for living purposes and having its own permanently installed cooking and sanitary facilities.
- 39) **Easement** – A right to the use of land for specific purposes, such right being held by someone other than the owner who holds title to the land.
- 40) **Establishment** – A place of business for processing, production, assembly, sales, service of goods and materials.
- 41) **Extraterritorial Jurisdiction** – The extension by ordinance of a city's zoning regulations to any quarter quarter section of unincorporated area within one mile of the corporate limits of the cities of Bowman County. A city has joint zoning and subdivision regulation jurisdiction from one-half mile to one mile with the adjoining political subdivision subject to the provisions of NDCC 40-47-01.1.
- 42) **Family** – A group of one or more persons occupying premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined.
- 43) **Farm** – A zoned area of Bowman County containing at least forty (40) acres, which is used for the production of agricultural crops or livestock, or the raising, feeding or producing livestock, poultry, milk, or fruit. The term does not include the production of timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services. Feed lots which are operated as a separate pursuit shall be deemed commercial feed lots and shall not be construed as farming or incidental to a farming operation.
- 44) **Flood or Flooding** – A general and temporary condition of partial or complete inundation of normally dry land areas from:  
a) The overflow of inland or tidal waters and/or  
b) The unusual and rapid accumulation or runoff of waters from any source.

- 45) **Flood Insurance Rate Map (FIRM)** – The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- 46) **Flood Insurance Study** – The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.
- 47) **Frontage or Service Road** – Minor streets which are parallel and adjacent to arterial streets and highways, which provide access to abutting properties and protection from through traffic.
- 48) **Garage** – A building used as an accessory to a main building permitted in a residential district and providing for the storage of motor vehicles and in which no business, occupation or service for profit is conducted.
- 49) **Gathering Line** – Pipelines which carry oil or gas between the well lease site and the first processing station. Said pipelines are not involved in public commerce and are not under the jurisdiction of the Public Service Commission (PSC).
- 50) **Grade** – The land elevation at the horizontal intersection of the ground and the building.
- 51) **Gravel Pit** – Any mining and extraction of earth minerals for commercial or private sale.
- 52) **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.
- 53) **Hotel or Motel** – A building with lodging accommodations, either with or without meals, which are provided for compensation.
- 54) **Improvements** – Street grading, surfacing, installation of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, and trees as may be required by the County.
- 55) **Industrial Districts** – The areas designated by the County Commission to the District Zoning Map which provides for the grouping of manufacturing, assembly and heavy commercial activities.
- 56) **Industrial Waste** – All waste resulting from an industrial, manufacturing service or commercial activity that is managed as a separate waste stream and as defined by N.D.C.C. 23-29-03.

- 57) **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.
- 58) **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.
- 59) **Kennel** – Any premises where dogs, cats, and other household pets are boarded, bred, and maintained for compensation.
- 60) **Landfill** – Specially selected, designed, and operated sites for disposal of solid waste in accordance with N.D.C.C. 23-29-03 and the provisions of this ordinance.
- 61) **Livestock** – Domestic animals customarily raised or kept on farms for profit or other purposes including fur-bearing animals.
- 62) **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.
- 63) **Lot Area** – The total horizontal area within the lot lines exclusive of streets, roads, and highways
- 64) **Lot, Corner** – A lot abutting on two or more streets other than an alley at their intersection
- 65) **Lot, Depth** – The mean horizontal distance between the front and rear lot lines.
- 66) **Lot, Line** – The property line bounding a lot.
- 67) **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 Bowman 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.
- 68) **Lot Width** – Any average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

- 69) **MET Tower** – Temporary and permanent meteorological towers used for the measurement of wind speed.
- 70) **Manufactured Home (formerly Mobile Home)** – A structure, transportable in one (1) or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.
- 71) **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 and which does not have permanently attached to its body or frame any wheel or axle and bears a label certifying that it was built in compliance with the latest standards adopted by the U.S. Department of Housing and Urban Development.
- 72) **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.
- 73) **NDCC** – North Dakota Century Code
- 74) **Nonconforming Building** – Any building or structure which does not conform to any or all of this code but existed at the time of the adoption of this code.
- 75) **Non-conforming Uses** – A use, building or structure existing at the time of the passage of these regulations or amendments thereto which does not conform to these provisions.
- 76) **Non-farmer** – A person who does not devote a major portion of their time to the activities of producing products of the soil, poultry, livestock, or dairy farming or of their annual net income from any of these farming activities. did not receive in the most recent tax year at least fifty percent (50%)
- 77) **Outlot** – A plot of land devoted to and recorded as a single principal use which has proper road and utility access.
- 78) **Parking Space** – An off-street area designated for parking of automobiles accessible from a public street or alley and which shall be no less than nine (9) feet by twenty (20) feet.

- 79) **Permanent Foundation** – A wood, concrete or masonry foundation which extends below ground level and is set on footings.
- 80) **Permitted Use** – Any use which complies with the requirements of a zoning district.
- 81) **Permittee (Wind Energy Facility)** – An individual, group of individuals, corporations, partnerships, joint venture, owners, or any other business entity, or combination thereof, that leases or owns the wind rights, wind turbines and the associated improvements, and all subsequent assignees and/or transferees of these rights, and that submits a Wind Energy Facility Siting Permit application, develops the wind energy facility, and subsequently operates such facility.
- 82) **Person** – Any natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate or government.
- 83) **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.
- 84) **Public Utility** – Any business which furnishes the general public either telephone, telegraph, electricity, natural gas, or water service, and any other business so affecting the public interest as to be subject to the supervision or regulation by any agency of the state.
- 85) **Public Way** – Any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.
- 86) **Recreational Vehicle** – A vacation trailer or other vehicular or portable unit which is either self-propelled or towed and which is intended for human occupancy and is designed for vacation or recreational purposes but not permanent residential use.
- 87) **Recreational Vehicle Park** – A lot which is operated on a fee or other basis as a place for the parking of occupied recreational vehicles.
- 88) **Regional Flood** – A flood determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in Bowman County, North Dakota.
- 89) **Residential District** – The areas dedicated by the County Commission on the District Zoning Map for development of residential dwelling units.
- 90) **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 pipelines.

- 91) **Rooming Housing** – Any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for compensation, with or without meals.
- 92) **Rotor Diameter** – The diameter of the circle formed by the swept area of the wind turbine's blades.
- 93) **Service Station** – Any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.
- 94) **Setback** – The line within a property defining the required minimum distance between the front lot line and the building line.
- 95) **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.
- 96) **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.
- 97) **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.
- 98) **Street** – A public right-of-way for vehicular and pedestrian traffic.
- 99) **Street, Local** – A public way intended for low volume traffic which provides access to major streets.
- 100) **Street, Major** – A public way, arterial or collector streets, used primarily for carrying a large volume of traffic.
- 101) **Structure** – Anything constructed or erected, which requires permanent location on the ground excluding fences.

- 102) **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.
- 103) **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.
- 104) **Substantial Improvements** – 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: (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- 105) **Temporarily Permitted Use** – A conditionally permitted use which has a definite time period as one of its conditions.
- 106) **Temporary** – Means one year or less.
- 107) **Temporary Workforce Housing** - Employee housing occupied by employees of a business on a temporary conditional basis.
- 108) **Total Height** – When referring to a wind turbine, the distance measured from the ground level to the blade extended at its highest point.
- 109) **Transmission Facility** – Any of the following:
- a) An electrical transmission line and associated facilities with a design of 40 kilovolts or more.
  - b) A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, or liquid hydrocarbon products for public commerce.
  - c) A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility, said conversion facility being the same as that defined by NDCC, Section 49-22-03 (5).

- 110) **Variance** – A relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, the literal enforcement of these regulations would result in unnecessary and undue hardship.
- 111) **Yard** – The required open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.
- 112) **Yard, Rear** – A yard that extends across the full width of the lot, as the least distance between the rear lot line and the rear building line.
- 113) **Yard, Side** – A yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line.
- 114) **Utility** – The basic facilities for public use such as water, sanitary and storm sewers, electricity, gas and telephone lines.
- 115) **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).
- 116) **Wind Energy Facility** – A facility directly generating electricity or indirectly generating electricity or energy through production of hydrogen, compressed air or other energy carrier from conversion of wind to energy and consisting of one or more wind turbines under common ownership or operating control, and includes substations, temporary and permanent MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity directly, or through wind energy conversion to another form of energy, to off-site customer(s).
- 117) **Wind Energy Facility Perimeter** – The boundary of the wind energy facility as defined by the external property lines of landowners who have a contractual relationship with the permittee and who will receive wind energy compensation payments or other forms of revenue derived from wind turbine sited within such wind energy facility.
- 118) **Wind Energy Facility Siting Permit** – A construction and operating permit granted in accordance with the provisions of this code.
- 119) **Wind Turbine** – A wind energy conversion system which converts wind energy into electricity, hydrogen, compressed air, or some other energy carrier and includes the turbine, blade, tower, base and pad transformer, if any; provided that such a system shall only be a wind turbine for the purposes of NDCC Chapter 6.11, if it has a nameplate capacity of 50

kilowatts or greater. Wind turbines of less than 50 kilowatts will be regulated as a utility.

## ARTICLE III

### GENERAL PROVISIONS

#### 3.1 Jurisdiction

These regulations shall apply to all unincorporated areas of Bowman County, except those townships which have not by resolution relinquished the power to enact zoning regulations to the county, and those areas where the incorporated cities have not elected to exercise extraterritorial zoning as authorized by NDCC Section 40-47-01.1.

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

No building, structure or land shall hereafter be occupied unless in conformity to this ordinance and:

- 1) The provisions of the North Dakota Century Code.
- 2) The rules of the North Dakota State Commissions, Boards and Agencies.
- 3) Comprehensive Plan of Bowman County.

#### 3.3 Exceptions

These regulations shall not apply to the land and buildings of agricultural uses, as herein defined, except for setbacks from roads and floodplain regulations.

#### 3.4 Non-Conforming Uses

The lawful use of a building or premises at the date of the adoption of this code may be continued. Where a non-conforming use is discontinued for a period of more than twenty-four (24) consecutive calendar months any subsequent use or occupancy of such premises shall conform to this code. Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than fifty (50) percent of its market value, it shall not be restored unless such building shall conform to the provisions of the district in which it is located. Non-conforming uses shall not be expanded to occupy a larger area of land than existed at the date of the adoption of this code unless there is an undue hardship and is approved by the County.

### **3.5 Land Suitability**

No land shall be used for seasonal or permanent non-farm uses because of inadequate drainage, soil limitation, flooding or incompatible land use, or any other condition likely to be harmful to the health and safety of the area residents and the public.

### **3.6 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 permitted use, under this code, and exists at the date of the adoption of this code, it shall be considered non-conforming and shall be subject to the provisions of Section 3.4.

### **3.7 Highway Access**

- 1) The points of access shall be limited to four (4) per mile per side of any highway or county road.
- 2) Additional access points may be provided via frontage roads where the land owner shall dedicate a suitable right-of-way by deed or easement.

### **3.8 Highway Setbacks**

- 1) The minimum set back for buildings and structures from all section lines and the center line of county roads shall be one hundred fifty (150) feet.
- 2) Within the platted limits of Rhame, Scranton, Buffalo Springs, and Gascoyne, the roads and/or street setback shall be a minimum of seven (7) feet from the property line.
- 3) The minimum set back for trees plantings from all section lines and the center line of county roads shall be one hundred twenty five (125) feet.
- 4) The minimum setback for buildings and structures from the center of state highways shall be two hundred fifty (250) feet.

### **3.9 Residential Development**

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 principal building and shall be limited to thirty five (35) feet in height and be located at least twenty five (25) feet from all lot lines.

### **3.10 Dedication of Land for Streets**

Whenever a parcel of land to be platted 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.

### **3.11 On-Site Sewer System**

To protect the public health, to control water pollution, and to reduce nuisance and odor, all new subdivision development within the county shall be connected to an approved on-site sewage system. The construction and use of privies, outhouses, and cesspools in subdivision developments in the county is prohibited.

## **ARTICLE IV**

### **ZONING DISTRICTS**

#### **4.1 Zoning Districts**

The following zoning districts are hereby established to carry out the purposes of this code and found in the following sections:

- 5.1 Agricultural District
- 5.2 Residential District
- 5.3 Mobile Home District
- 5.4 Recreational District
- 5.5 Commercial District
- 5.6 Industrial District
- 5.7 Flood Plain District

#### **4.2 Zoning Map**

The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Map" on file in the office of the County Auditor. The Zoning Administrator shall regularly update the map to show any changes in the zoning district boundary line resulting from amendments.

#### **4.3 Location of District Boundaries**

The following rules shall apply to the boundaries of the zoning districts as shown on the Zoning District Map.

- 1) Where zoning district boundary lines follow streets, highways, roads, railroad right-of-way, alleys, and extensions thereof, such boundary lines shall be the center lines, streets, highways, roads, railroad rights-of-way or alleys unless clearly shown to the contrary.
- 2) Where any uncertainty exists as to the exact location of zoning district boundary lines, the County Commissioners shall determine the location of such boundary lines.

#### **4.4 Public Streets as Boundaries**

Where zoning district boundary lines are indicated as following roads or streets and public ways or extensions thereof, such boundary lines shall be construed to be the center line of said roads or streets or public ways or extension thereof unless clearly shown to the contrary.

#### **4.5 Lot as Boundary**

Where a zoning district boundary line coincides approximately but not exactly with the lot line, the zoning boundary shall be construed to be the lot line at that location. All section lines, quarter section lines, and quarter-quarter section lines may be construed as the property lines.

#### **4.6 Zoning District Boundary Interpretation**

Where any uncertainty exists as to the exact location of the zoning district boundary lines, the County Commission shall determine the location of such boundary line.

## ARTICLE V

### ZONING DISTRICT REGULATIONS

#### 5.1 Agriculture District – Purpose

The purpose of this district is to encourage preservation and protection of agricultural lands and to discourage uses incompatible with agricultural operations or detrimental to agricultural lands.

##### 5.1.1 Permitted uses

- 1) All types of farming and ranching operations, including dairying, livestock, poultry raising, apiaries, fur farming, and truck gardening.
- 2) Truck gardening, nurseries, greenhouse and roadside stands offering for sale only those farm products which have been grown on the premises.
- 3) Accessory buildings and structures necessary to the operation of farms or ranches.
- 4) Animal hospitals and clinics not nearer than five hundred (500) feet from any residence except the residence of the owner-operator.
- 5) Cemeteries
- 6) Churches and related facilities.
- 7) Public parks and recreational facilities, wildlife and game management areas and refuges.
- 8) Public, private, and parochial schools.
- 9) Oil and Gas Exploration

No person, partnership, association, corporation shall engage in the exploration for oil or gas within the county without first providing to the Code Administrator evidence of compliance with the provisions of NDCC Chapters 38-08 and 38-08.1

- 10) Oil and Gas Drilling and Production

Oil and gas drilling and production is a permitted use in the Agricultural District provided the person engaged in such oil and gas drilling and production has met the following requirements:

- a) Provide the Code Administrator with evidence of approval by the North Dakota Industrial Commission of all permits required by NDCC chapters 38-08 and 38-08.1, including but not limited to, drilling permits of any kind, underground injection permits, tank cleaning permits, waste storage permits, and treating plant permits.
- b) Provide the Code Administrator with evidence of approval by the North Dakota Industrial Commission of a surety bond or cash bond, or alternative form of security, where such security is required by the North Dakota Industrial Commission.
- c) Obtain a County Road Approach Permit from the Code Administrator
  - i. The Code Administrator shall charge each applicant for a County Road Approach Permit a fee, the amount of which is to be determined by the Commission, to cover processing and administrative expenses, plus any mileage and expenses of the Code Administrator at the rate allowed county officials by state law, should it be deemed necessary to conduct on-site inspections. Said fee for expenses must be paid prior to the approval and issuance of the County Road Permit.
  - ii. The Code Administrator, in reviewing any application for a County Road Approach Permit, shall consider all relevant criteria, including the proposed use and the condition of the county roads and bridges at the time of the application, public safety concerns, maintenance costs to the county, weather conditions, etc.

- 11) All uses permitted in the Recreational District.
- 12) Parking of RV's and campers (less than three).

**5.1.2 Conditionally Permitted Uses**

- 1) Commercial feedlots subject to the provisions of Section 6.3.
- 2) Commercially operated air landing strip and landing field.

- 3) Manufacturing and processing of agricultural resources and products indigenous to Bowman County but not including rendering plants, fertilizer plants and the like.
- 4) Sanitary landfills subject to the provisions of Section 6.4.
- 5) High voltage transmission lines and accessory buildings used for the primary purpose of transmission of electrical energy from one area to another. These provisions shall not apply to those transmission lines which directly serve the county.
- 6) Transmitting towers and relay towers.
- 7) Coal Exploration.

The provisions of this section shall not apply to any digging, drilling, or excavation for agricultural purposes, the operation of coal mines and the digging, drilling or excavation by Bowman County and its incorporated cities. The applicant for a coal exploration permit shall meet the following requirements:

- a) A copy of the approved North Dakota State Industrial Commission Permit Application form for Coal Exploration.
  - b) A copy of the complete North Dakota State Industrial Commission Coal Exploration Compliance Bond Form.
  - c) Upon completion, the operator shall file with the County Recorder the actual location of the testing.
  - d) The duration of permit for coal exploration shall not exceed 90 days.
- 8) Coal Mining

These provisions shall not apply to excavation of coal for private non-commercial uses. The applicant shall meet the following requirements:

- a) Copies of all non-confidential information that was submitted to the Public Service Commission concerning site operations, locations, and ownership patterns.
- b) A copy of all information submitted to the North Dakota Public Service Commission concerning site reclamation.

- c) Evidence of approval by the Public Service Commission for operation of the mine or excavation, if required by state law.
- d) Conformance to all state and federal laws relating to the preservation, removal or relocation of historical or archaeological artifacts and to reclamation of strip-mined lands.
- e) To post performance bond for reclamation of the site with the County Auditor, if not already posted with the state.

9) Other Subsurface Mineral Exploration

These provisions shall not apply to any digging, drilling, or excavation for agricultural purposes, the operation of coal mines and the digging, drilling or excavation by Bowman County. The applicant for a mineral exploration permit shall meet the following requirements:

- a) Provide the Code Administrator with evidence of approval of the North Dakota State Industrial Commission of all permits required by NDCC Chapter 43-02-02 for Subsurface Mineral Exploration.
- b) A copy of the approved application of the North Dakota State Industrial Commission Mineral Exploration Compliance Bond.
- c) The duration of the permit shall be no more than 90 days.
- d) Upon completion of the operations, the operator shall file with the County Recorder the actual location of testing.

10) Other Subsurface Mineral Mining

These provisions shall not apply to private, non-commercial mining of subsurface minerals. The applicant shall meet the following requirements:

- a) Provide the Code Administrator with evidence of the approval of the North Dakota Industrial Commission of all permits required by NDCC Chapter 43-02-02 for subsurface mineral production.
- b) Provide the Code Administrator with copies of all non-confidential information that was submitted to the State

Geologist concerning site operations, location, and ownership patterns.

- c) Provide the Code Administrator a copy of all Information submitted to the North Dakota State Geologist concerning site reclamation.
  - d) Written evidence of approval by the State Geologist for operations of the mine or excavation, if required by state law.
  - e) Conformance of all state and federal laws relating to the preservation, removal, or relocation of historical or archaeological artifacts and to reclamation of strip-mined lands.
  - f) Posting a performance bond for reclamation of the site with the County Auditor if not already posted with the state.
- 11) Excavation and Mining of Sand, Gravel, Rock, Stone, Scoria, and Clay

The provisions of this section shall not apply to any excavation for agricultural purposes or excavation by Bowman County and its incorporated municipalities or for uses requiring less than 10,000 cubic yards of excavation. The applicant for a permit shall submit the following:

Permit Requirements:

Any person who operates a sand, gravel, rock, stone, scoria, or clay operation shall make application to the Planning and Zoning Commission for a permit to operate such facility. The Planning and Zoning Commission shall make recommendations to the County Commission to approve, disapprove, or approve with conditions such a permit request. Action by the County Commission is required before commencing any mining or excavation of the sand, gravel, rock, stone, scoria, or clay sites.

The applicant for a permit shall submit the following:

- a) Written evidence of reclamation agreement with the surface owner.
- b) Evidence of written agreement between the applicant and property owner that excavation or processing shall not take place within three hundred (300) feet of an adjacent property line or within five hundred (500) feet of an existing residence.

- c) The applicant shall conform to all requirements regarding preservation, removal or relocation of historical or archaeological artifacts.
- d) Evidence of meeting all site approval requirements. All excavation sites require approval by the County Commission.
- e) Data Submission Requirements:
  - i. A site plan for operation and reclamation of the mined land including maps showing the location of the land to be mined, location of roads and points of access to the site, adjacent residences within one mile of site, maps showing the existing and proposed contours with a minimum 1-to-3 slope after the land is mined and a time table for operation of the site. All top soil shall be replaced and planted to natural protected vegetation.
  - ii. Reclamation of the site shall be completed within one year of the resource being exhausted, abandoned or closure of the operation of the site.
  - iii. Proof of compatibility with the existing landform including the vegetation, surface, and ground water resources.
  - iv. Bonding required as determined by the County Commission.
- f) Proximity to Existing Uses  

The operation of sand, gravel, rock, stone, scoria, or clay sites shall not be nearer than five hundred (500) feet from any residential uses.

12) Mobile Homes (Manufactured Homes)

- a) Mobile homes on permanent type of foundations on two (2) acres or more.
- b) Temporary mobile homes belonging to less than full time or non-farm employees provided the mobile home is located within the proximity of an occupied farmstead and is

attached to the farmstead's existing sewer and water systems.

- 13) Single Family Non-Farm Residence on 2 (two) acres or more.
- 14) Wind Turbine Generators subject to Section 6.11.
- 15) Hotels, motels, bed and breakfast inns, and hunting lodges.
- 16) Restaurants including all types of eating and drinking establishments.
- 17) Public and parochial schools.
- 18) Governmental administrative, maintenance and research facilities.
- 19) Electric transmission facilities and water, gas, oil, and coal slurry transmission pipelines.
- 20) Storage treatment and landfill disposal of special wastes.
- 21) Oil, Gas, and other related gathering line systems:
  - a) The applicant must submit the following data to the Zoning Administrator prior to the placement of any lines:
    - i. A map of the line route which clearly indicates that the pipeline right-of-way does not pass within two hundred (200) feet of a building or surface water body and is not within one hundred (100) feet of a highway right-of way or section line unless perpendicular to said right-or way or line;
    - ii. An identification of pipeline origin, destination, size, minimum burial depth, road crossing methods, and product;
    - iii. An identification of areas where the pipeline right-of-way transverses a slope which exceeds 15 degrees and a plan for the construction of waterbars to reduce erosion in such areas;
    - iv. An indication of the steps that will be used to reclaim and revegetate the right-of way;
    - v. The name and address of the contractor doing the actual work;

- vi. The name of the affected landowners and written proof of their consent of placement of proposed lines;
- vii. The approximate date of commencement of operations;
- viii. A permit fee, the amount of which shall be determined by the County Commission, will be charged for each proposed project;
- ix. A certification of completion is to be submitted to the Zoning Administrator within 10 days of the completion date;
- x. As-builds may also be required.

b) Depth and Boring requirements:

A minimum depth of six (6) (feet) measured from the bottom of the ditch when crossing roads is required. A distance of 4 (four) feet is required from the shoulder of the roadway to the beginning of the boring. All county roads must be bored and cased.

## **5.2 Residential District – Purpose**

The residential district is established to promote a suitable residential environment uninterrupted by conflicting uses and incompatible activities in unincorporated communities.

### **5.2.1 Permitted Uses:**

- 1) Single family dwelling units.
- 2) Churches, schools and related facilities.
- 3) Public parks, playgrounds and other public recreational facilities.
- 4) Public libraries, museums, and community centers.
- 5) Fire and police stations.
- 6) Home occupations.
- 7) Daycare facilities.

- 8) Agriculture.

#### **5.2.2 Conditionally Permitted Uses:**

- 1) Multi-family dwelling units provided that public water and sewer are available or the dwelling units are within the existing platted areas where public water and sewer are likely to be installed.
- 2) Pre-manufactured and mobile homes 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.
- 3) Public facilities including public water and sewage treatment lagoons.
- 4) Bed and Breakfast establishments.
- 5) Nursing homes and basic care facilities.

#### **5.2.3 Yards**

- 1) Front yard - minimum depth of 70 feet (103 feet from roadway centerline).
- 2) Side yard - minimum width of 5 feet.

#### **5.2.4 Off-street Parking:**

- 1) For residential uses two parking spaces for each dwelling unit.

### **5.3 Mobile Home District – Purpose**

The Mobile Home District is established to provide orderly and economic development of mobile home parks and temporary residential facilities; to reduce conflicts between these and other uses; and to maximize the quiet and comfort of mobile home park developments.

#### **5.3.1 Permitted Uses:**

- 1) Mobile homes (now known as manufactured homes).

The applicant shall meet the following requirements for obtaining a permit for construction and operation of a mobile home park.

- a) A site plan showing location of streets, utilities, off-street parking, driveways, walkways, blocks, lots, playground and

park area, accessory buildings to be used for all park residents.

- b) The park shall contain a minimum of five (5) acres of land.
  - c) The maximum number of mobile homes in a park shall be five (5) units per gross acre.
  - d) Approval of the County Commission for access to county roads.
  - e) Each mobile home shall be placed on a lot at least 50 feet wide with a minimum area of 6,000 square feet.
  - f) A minimum of ten (10) percent of the park area shall be allocated for open space and recreational facilities.
  - g) Each unit shall be placed on a stand which provides a firm foundation for anchoring purposes to avoid accidental movement and overturning.
  - h) All lots in the park shall be accessible at all time to emergency vehicles.
  - i) Each unit shall have a minimum setback of ten (10) feet within the park and fifty (50) feet from public roads outside of the park.
  - j) Each unit shall have a minimum side yard of ten (10) feet.
  - k) Where the park is served by private streets those streets shall conform to the design standards recommended by the County Commission.
  - l) Evidence of compliance with the rules and regulations of North Dakota State Health Department and North Dakota Laboratories Department.
  - m) All units in the park shall be served by underground utilities unless waived by the County Commission.
  - n) There shall be two off-street parking spaces per unit.
- 2) Multiple family residence including rooming houses and dormitories.

- 3) Camper parks (RV Parks) which are in compliance with regulations of the North Dakota State Laboratories Department.
- 4) Planned Unit Developments.

#### **5.4 Recreational District – Purpose**

The Recreational District is established to preserve areas for developed recreational activity and residency around rivers, lakes, and other water courses and mountain areas where development is controlled in order to maintain the quality of the environment.

##### **5.4.1 Permitted Uses:**

- 1) Agriculture.
- 2) Public parks including golf courses and outdoor recreation facilities.
- 3) Churches, schools and related facilities.
- 4) Hunting, fishing and trapping.
- 5) Raising of game animals, waterfowl and fish.
- 6) Harvesting of any natural crops.
- 7) Water slides, ski slopes and resorts.
- 8) Communication and power transmission lines and other public utility lines.
- 9) Accessory buildings or structures to any permitted uses.
- 10) Golf driving range, miniature golf course, go-cart track, or race track provided:
  - a) the same not be constructed within 500 feet of a residential district.
  - b) flood lights used to illuminate the premises are so directed and shielded as not to be an annoyance to any developed residential property, highways and streets.

#### **5.4.2 Conditionally Permitted Uses:**

- 1) Recreational parks, tourist and trailer camps.

The applicant shall meet the following requirements to obtain a permit:

- a) The minimum area for campground shall be five (5) acres and minimum number of recreational trailers shall be fifteen (15) units per gross acre.
  - b) A site plan showing the boundary of property, topographic information with contour intervals of no more than 5 feet; arrangement of streets, drives and access roads; location of service buildings; location and dimension of camp sites; location of sanitary facilities; and location of water supply.
  - c) Proof of compliance with the requirements of North Dakota State Health Department and North Dakota State Laboratories Department.
  - d) Approval of the County Commission for ingress and egress to the property.
- 2) Single family dwelling units, cabins and summer residences on a minimum of one and one-half (1.5) acres of land.
  - 3) Places of amusement (parks).
  - 4) Refreshment stands.
  - 5) Commercial campgrounds and recreational vehicle parks.
  - 6) Restaurants, including all types of eating and drinking establishments.

#### **5.5 Commercial District – Purpose**

The commercial district is established to accommodate the concentration of commercial and related uses. Commercial uses must be compatible with adjoining uses and shall not negatively affect the adjoining properties.

##### **5.5.1 Permitted Uses:**

- 1) Agriculture.
- 2) Dry cleaning, pressing, tailor shops and laundromats.

- 3) Electrical and plumbing shops.
- 4) Lumber yards.
- 5) Professional offices including banks, insurance, real estate, medical clinics, newspapers and lawyers.
- 6) Retail and service uses including grocery, drugs, hardware, clothing, furniture stores, bakeries, restaurants, taverns, automobile service station, used and new car lots, print shops, barber and beauty shop and sale and service of appliances.
- 7) Sales and service of farm implements.
- 8) Wholesale establishments not requiring yard storage.
- 9) Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.
- 10) Hotels and motels.
- 11) Governmental facilities.
- 12) Clubs and lodges.

#### **5.5.2 Conditionally Permitted Uses**

- 1) Residential uses only in areas not fronted by a state highway.
- 2) Contractor's yard and operations
- 3) Processing and packaging of materials.
- 4) Warehouses and wholesale dealerships.
- 5) Grain elevators and accessory structures, commercial grain bins or related activity.
- 6) Small animal veterinary hospitals.
- 7) Dairy, locker plant.
- 8) Construction equipment sales.
- 9) Light manufacturing facilities which do not require yard storage.

### **5.5.3 Off-street parking**

- 1) A ratio of one-to-one for all rolling equipment.
- 2) A ratio of one per employee.

## **5.6 Industrial District – Purpose:**

The purpose of this district is to provide convenient access for the manufacturing and processing of the agricultural and natural resources of Bowman County and also to accommodate those uses which because of land requirements or unique features are most suitable in unincorporated areas.

### **5.6.1 Permitted Uses:**

- 1) Agriculture
- 2) Lumber yards.
- 3) Manufacturing of clay and concrete products.
- 4) Repair and storage of heavy equipment and machinery.
- 5) Sewage treatment facilities.
- 6) Truck or freight terminal.
- 7) All uses permitted in commercial district except residential.
- 8) Oil and gas exploration, oil and gas drilling and production subject to the provisions of Section 5.1 (9) and (10).
- 9) Public utility buildings including water and waste water facilities and accessories.
- 10) Petroleum storage facilities.
- 11) Warehouses requiring yard storage.
- 12) Cement and ready mix facilities.
- 13) 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.

- 14) Dry bulk storage.

### **5.6.2 Conditionally Permitted Uses**

- 1) Coal gasification and liquefaction plants.
- 2) Electric power generating plants, transmission lines and accessory structures.
- 3) Exploration, drilling, excavation and mining for, coal, sand, gravel, clay and other subsurface minerals as provided by Sections 5.1.2 (7), (8), (9), and (10) of these regulations.
- 4) Fuel and bulk storage plants.
- 5) Oil refineries and petrochemical plants.
- 6) Radio, television and microwave towers.
- 7) Salvage and junk yards.
- 8) Adult entertainment centers.
- 9) Noxious waste disposal sites.
- 10) Wind energy generation.
- 11) Sanitary landfills and hazardous waste sites in compliance with State Health Standards.
- 12) Livestock slaughter facilities.
- 13) Temporary workforce housing subject to the provisions of Section 6.13.

### **5.6.3 Off-Street Parking**

Adequate off-street parking shall be provided pursuant to the provisions of Section 6.1.

### **5.6.4 Performance Standard**

- 1) A buffer strip, acceptable to the County Commission, shall be provided.
- 2) The open storage of material, including waste products or salvage shall not be permitted closer than 100 feet from any residence. All

combustible material shall be stored in such a way to permit free access to firefighting equipment.

#### **5.6.5 Lot Area, Width, and Yard Requirements**

- 1) The minimum lot area for the industrial district shall be five (5) acres.
- 2) The minimum lot width shall be 600 ft.
- 3) There shall be at least 30 ft. setback from the centerline of the front public road or access.
- 4) The minimum rear building line, measured from the rear lot line, shall be 30 ft.
- 5) The minimum side building line, measured from the side lot line, shall be 30 ft.
- 6) No building or structure shall be located within 1,250 ft from the boundary of residential districts.

### **5.7 Floodplain District – Purpose**

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

#### **5.7.1 Land to Which Ordinance Applies**

Applicability – The floodplain district consists of the lands which have been or may be covered by flood waters as delineated on maps of Bowman County prepared by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program or other maps and information provided by the State of North Dakota. The areas delineated as floodplain shall be an overlay for all zoning districts.

#### **5.7.2 Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Bowman County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages

that result from reliance on this ordinance or any administrative decision lawfully made there under.

### **5.7.3 Permitted Uses**

- 1) General building uses including general farming, pasture, and grazing and related uses provided that the buildings and structures for residential uses are flood-proofed above the 100-year floodplain as established by FEMA.
- 2) Non-structural uses including ponding of run-off water and treated waste water.
- 3) Public utilities including railroads, roads and highways, channels, and pipelines.
- 4) Outdoor recreational uses including golf courses, bicycle trails, picnic areas, and boat launching ramps.

### **5.7.4 Conditional Uses**

Temporary buildings and structures not related to flood control and farming such as stands, fences, shelters, signs, and temporary parking.

### **5.7.5 Additional Permit Requirements**

Before construction or development begins within any area of special flood hazard, a permit shall be obtained from the Code Administrator. The permit shall include all the information required in this ordinance. In addition, the permit shall specifically include:

- 1) Elevation in relation to mean sea level of the lowest floor (including basement) of all proposed structures;
- 2) Elevation in relation to mean seal level to which any structure will be flood-proofed;
- 3) Certification by registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 5.7.8;
- 4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

### 5.7.6 General Standards

In all areas of special flood hazards the following standards are required:

- 1) Anchoring
  - a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - b) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
    - i. over-the-top ties be provided at each of the corners of the mobile home, with two additional ties per at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
    - ii. frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
    - iii. all components of the anchoring system be capable of carrying a force of 4,800 pounds and;
    - iv. any additions to the mobile homes be similarly anchored.
- 2) Construction Materials and Methods
  - a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- 3) Utilities
  - a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- b) 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
  - c) On-site waste disposal systems shall be located to avoid impairment to the systems or contamination from them during flooding.
- 4) Subdivision Proposals
- a) All subdivision proposals shall be consistent with the need to minimize flood damage;
  - b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
  - d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less.
- 5) Encroachments

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

#### **5.7.7 Specific Standards**

In all areas where base flood elevation data is available, the following provisions are required:

1) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above one foot above base flood elevation.

2) Non-residential Construction

New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

- a) be flood-proofed so that below the base flood level 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; and
  - c) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.
- 3) Mobile Homes
- a) Mobile homes shall be anchored in accordance with Section 5.7.6.
  - b) For new mobile home parks and subdivisions; expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision, require that:
    - i. stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
    - ii. adequate surface drainage and access for a hauler are provided; and,
    - iii. in the instance of elevation on pilings, that:
      - lots are large enough to permit steps,
      - piling foundations are placed in stable soil no more than ten (10) feet apart, and
      - reinforcement is provided for pilings more than six (6) feet above the ground level.

4) Crawlspace

Below-Grade Residential Crawlspace Construction

New construction and substantial improvement of any below-grade crawlspace shall:

- a) Have the interior grade elevation that is below base flood elevation no lower than two (2) feet below the lowest adjacent grade;
- b) Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall not exceed four (4) feet at any point;
- c) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
- d) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
- e) Be constructed with materials and utility equipment resistant to flood damage;
- f) Be constructed using methods and practices that minimize flood damage;
- g) 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;
- h) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - i. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

- ii. The bottom of all openings shall be no higher than one (1) foot above grade;
- iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### **5.7.8 Flood Proofing Measures**

Permitted and conditional uses proposed for the Flood Plain District that incorporate flood-proofing techniques must comply with Section 209 through 1406 of the 1972 Edition of "Flood Proofing Regulations" (FPR), as developed by the Office of the Chief of Engineers, U.S. Army, Washington, DC, a copy of which is hereby incorporated herein by reference and declared to be a part of this code. Where definition of terms as set forth in Section 301 of FPR conflict in meaning with the definition of terms as set in this code, the latter shall prevail. Appropriate conditions may be attached to the granting of a Conditional Use Permit, including, but not limited to, the following:

- 1) Anchorage to resist flotation and lateral movement.
- 2) Installation of watertight doors, bulkheads, or similar methods of construction.
- 3) Reinforcement of walls to resist water pressure.
- 4) The usage of paints, membranes, or mortar to reduce the seepage of water through walls.
- 5) The construction of water supply and waste treatment systems which will prevent the entrance of flood waters.
- 6) The addition of mass or weight to structures to reduce flotation.
- 7) The installation of pumps to lower water levels in structures.
- 8) The location of all electrical equipment, circuits, and installed appliances in a manner which will insure they are not subject to flooding and to provide protection from inundation by the regional flood.
- 9) The location of all structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety, and welfare above the flood protection elevation or the provision of

adequate flood-proofing to prevent flotation of storage containers which could result in the escape of toxic materials into flood waters.

**ARTICLE VI**  
**SPECIAL PROVISIONS**

**6.1 Off-Street Parking**

**6.1.1 General Requirements**

- 1) An off-street vehicle parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.
- 2) All open off-street parking areas with four (4) or more spaces and all loading berths shall be: (a) gravel, concrete, or asphalt surfaces; (b) graded to dispose of all surface water run-off but not be diverted to adjoining properties.

**6.1.2 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 three (3) persons of seating capacity.
- 4) For industrial uses there shall be one off-street parking space for every one and one-half (1½) employees.

**6.2 Junk or Salvage Yards**

**6.2.1 Site Approval Requirements**

All sites for salvage and junkyards require approval by the County Commission.

### **6.2.2 Location Standards**

- 1) No salvage or junk yard shall be located within one thousand two hundred and fifty (1,250) feet of a residential district and two hundred (200) of commercial buildings and structures.
- 2) No salvage or junk yard shall be located in areas which due to high water-table, flooding, and soil conditions may affect the quality of surface and ground water.
- 3) No salvage or junk yard shall be located nearer than five hundred (500) feet off all road and highway rights-of-way.
- 4) All salvage yards and operations shall be screened from public view. Such screening shall be by natural vegetation, fences of at least ten (10) feet in height, building and or land form.
- 5) Storage items shall not be higher than fences.

### **6.3 Commercial Feed Lots – Purpose**

These regulations are designed to allow feedlots for feeding of livestock, furbearers, and poultry at the same time to protect the adjoining uses against odor, run off, and other incompatible characteristics associated with feed lots.

#### **6.3.1 General Requirements**

- 1) All feed lots as defined by this code are only permitted as conditional uses subject to the provisions of this code and the requirements of the North Dakota State Health Department.
- 2) All feed lots shall be designed and constructed with all reasonable preventative measures to avoid surface run-off including construction of sealed collection and retention ponds.
- 3) Where appropriate, there shall be sufficient drainage to avoid pollution of the ground and surface water from the standing effluents.
- 4) Feed lots shall not be placed in the floodplains.
- 5) The applicant, as part of the site approval application, shall submit a plan for removal and disposal of the liquid solid waste generated by the feed lot.

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

**Equivalent Numbers of Livestock (hd)**

**For Four Sizes (a.u.) of Animal Feeding Operations**

<b>Livestock Type Equivalent</b>	<b>Animal Unit</b>	<b>300 a.u.</b>	<b>1,000 a.u.</b>	<b>2,000 a.u.</b>	<b>5,000 a.u.</b>
1 horse	2.0	150 hd	750 hd	1,000 hd	2,500 hd
1 dairy cow	1.33	225	750	1,500	3,750
1 mature beef	1.0	300	1,000	2,000	5,000
1 beef feeder-finishing	1.0	300	1,000	2,000	5,000
1 beef feeder-backgrounding	.75	400	1,333	2,667	6,667
1 mature bison	1.0	300	1,000	2,000	5,000
1 bison feeder	1.0	300	1,000	2,000	5,000
1 swine>55 lbs	0.4	750	2,500	5,000	12,500
1 goose or duck	0.2	1,500	5,000	10,000	25,000
1 sheep	0.1	3,000	10,000	20,000	50,000
1 turkey	0.2	1,500	5,000	10,000	25,000
1 chicken	0.1	3,000	10,000	20,000	50,000

- 7) No feed lot shall be located nearer than one-half mile from a residence, residential development in an unincorporated area or city limits in the county, park, cemetery, church, or school other than the owner/operator’s residence.

**Setback Distances for Animal Feeding Operations** (from a residence, residential development in an unincorporated area, park, cemetery, church, or school)

<b>Number of Animal Units</b>	<b>Hog Operations</b>	<b>Other Operations</b>
100-299	1 mile	0.50 mile
300-999	1.5 miles	1 mile
1,000 or more	2.5 miles	2 miles

### **6.3.2 Water Resource Setbacks**

The owner of a new animal feed lot operation that has more than 300 animal units shall not locate or establish that operation:

- 1) Within a delineated source water protection area for a public water system.
- 2) Within 1,200 feet of a private ground water well which is not owned by the operator or within 1,500 feet of a public ground water well which does not have a delineated source water protection area.
- 3) Within 1,000 feet of surface water which is not included in a source water protection area.

### **6.3.3 Application Procedure and Requirements**

The application for a conditional use permit to operate a facility for a commercial feeding operation shall include a scaled site plan. If the facility will handle more than 300 animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer, or other person having comparable experience or qualifications. The application shall also list or provide:

- 1) The proposed number of animal units.
- 2) Total acreage of the site of the facility.
- 3) Existing and proposed roads and access ways within and adjacent to the site of the facility.
- 4) Surrounding land uses and ownership, if the operation will have the capacity to handle more than 300 animal units.
- 5) A copy of the permit application submitted by the applicant to the North Dakota State Department of Health.

## **6.4 Sanitary Landfills and Solid Waste Sites**

### **6.4.1 Solid Waste Disposal Facility**

Solid waste disposal facilities as regulated by this section shall include all facilities for the incineration of disposal of solid waste or solid waste residue which are required to be permitted under statute or rule by the North Dakota Department of Health and Consolidated Laboratories. A solid waste disposal facility may be allowed in any Agriculturally Zoned District as a Conditionally Permitted Use provided:

- 1) It is located at least one-half (1/2) mile from any residence or residentially zoned area unless written approval is obtained from the owner of any residence within this area.
- 2) It is continuously licensed and approved by the State Health Department as to location and operation.
- 3) There is no substantive evidence that the facility will endanger the public health or the environment.
- 4) The Conditional Use Permit will be valid for a period of time set by the Board of County Commissioners. For the permit to be approved, sixty percent (60%) of all property owners within one mile of the proposed location must agree to the proposed facility.

### **6.4.2 County Code and Procedures**

The County hereby adopts the solid waste provisions of NDCC 11-33-20, to assure meeting the purposes of this code.

### **6.4.3 Site Approval Requirements**

All solid waste sites require a review and approval by the County Commission.

### **6.4.4 Collection of Solid Waste**

No person may collect or transport waste materials for a fee without obtaining a permit from Bowman County. 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.

## **6.5 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 permit 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.

## **6.6 Public Nuisances**

The maintenance of public nuisances including, but not limited to noxious weeds, smoke, gases, odors, radio interference, blighted structures or buildings, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall be subject to the provisions of the county ordinances.

## **6.7 Noise**

Sustained noise of over 80 dB during the day and 70 dB at night is not allowed.

## **6.8 Fences**

- 1) No site-obscuring fence over 48 inches in height shall be erected within the front yard of any lot used for residential purposes.
- 2) No permanent fence shall be constructed on a road right-of-way or within the confines of the ditch backstop.
- 3) Electrical fences shall conform in all respects to the State of North Dakota regulations for electrical wiring, and shall be energized only with Underwriters Laboratories approved equipment.

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

### **6.9.1 A home occupation in an unincorporated community and the communities of Gascoyne, Rhame, and Scranton :**

- 1) 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.
- 2) Structural changes shall not be made in the dwelling, unless a zoning permit is obtained.
- 3) Employees are limited to two full-time or four part-time personnel besides owners without a conditional use permit.
- 4) No sign may be permitted larger than four (4) square feet.
- 5) Evidence of the occupation shall not be visible from the road other than the sign described above.
- 6) The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.

### **6.9.2 Rural Home Occupations:**

Rural home occupations shall conform to the requirements for homes subject to the provisions of Section 6.9.1 except:

- 1) Rural home occupations may be located in a separate non-residential or farm building provided any building principally used for the home occupation shall not exceed one thousand two hundred eighty (1,280) square feet. The minimum lot size for a separate non-residential building shall be one (1) acre.
- 2) Employees are limited to two full-time or four part-time personnel.
- 3) Structural additions may be made to a dwelling provided the alterations shall not exceed twenty-five (25) percent of the main floor area of the dwelling, but not including basement or garage floor area. A zoning permit is required.

## **6.10 Adult Entertainment Centers**

- 1) An adult entertainment center shall not be located within 1,280 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 1,280 feet of any establishment that dispenses alcohol on-premises.
- 3) An adult entertainment center shall not be located within 1,280 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.

## **6.11 Wind Energy Facility**

### **6.11.1 Purpose**

The purpose of the provision is to provide a regulatory framework for the siting, construction and operation of Wind Energy Facilities in the county, subject to reasonable restrictions, which will preserve the safety and well-being of the residents, while allowing equitable and orderly development of Wind Energy Facilities.

### **6.11.2 Regulatory Framework**

#### **1) Zoning**

Wind energy facilities constructed within the county are subject to the restrictions and conditions of this ordinance.

2) Principal or Accessory Use

A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this code shall not be deemed to constitute expansion of a nonconforming use or structure.

3) Applicability

The requirements of this code shall apply to all wind energy facilities with one or more wind turbines rated at fifty (50) kilowatts nameplate capacity or larger constructed after the effective date of this code. No operation of an existing wind energy facility shall be allowed without full compliance with this code and its Wind Energy Facility Siting Permit, and no modification or alteration of an existing wind energy facility shall be allowed without issuance of a new Wind Energy Facility Siting Permit pursuant to Section 6.11.3.

### **6.11.3 Wind Energy Facility Siting Permit**

1) Application for Permit

No work, except for wind monitoring, soil testing and other survey work, may commence to construct a wind energy facility until a County Wind Energy Facility Siting Permit ("permit") has been issued by the County Commission. The prospective permittee shall submit an application for said Permit to the County Planning Commission. The application shall be signed by an authorized representative of the prospective permittee, include a fee to be determined by the County Commission for each proposed wind turbine, and the following information:

- a) The complete name, legal address and phone number of the prospective permittee and responsible contact person.
- b) A USGS topographical map of the wind energy facility and five hundred (500) feet of all adjoining properties along the wind energy facility perimeter, which map shall show all existing features, including property boundaries, structures, improvements, roads, utility lines, public facilities and natural features. The map shall also show location of all proposed improvements for the wind energy facility, including wind turbines, MET towers, electrical lines and roads. Each proposed wind turbine shall be numbered and fully described in technical details, including rotor diameter, model, and

manufacturer, and distances, measured in feet, from property lines and from existing improvements for each proposed wind turbine.

- c) Details as to how the prospective permittee will comply with each item in Section 6.11.6.
- d) A schedule for the proposed start and completion of construction of the wind energy facility.
- e) Copies or signed summaries of all leases and easements for wind turbines and associated equipment and infrastructure to be sited within the county and any written agreements between the prospective permittee and affected parties holding associated wind rights on adjoining properties established for the purpose of seeking a setback variance(s).

#### **6.11.4 Public Hearings**

Upon receipt of the application, the Planning and Zoning Commission and any experts it may retain shall review the application and hold a public hearing on the application giving notice of which shall be published at least two weeks prior to the hearing in the official newspaper of the county. The notice shall include: 1) the time and place of hearing; 2) description of the property to be affected; and 3) the time and place for public inspection of the documents prior to the hearing. Notice of the hearing shall be mailed to property owners within five hundred (500) feet of the proposed wind energy facility.

1) Deliberation and Decision

If the Planning and Zoning Commission, following the public hearing, shall make recommendation to the Commission for the approval or denial, modification, and/or imposition of conditions of each application. Upon approval by the Commission, the Planning and Zoning Commission shall issue such Wind Energy Facility Siting Permit.

**6.11.5 Demonstration of Compliance**

The permit issued pursuant to Section 6.11.3 shall be contingent upon the permittee's final demonstration of compliance with the requirements of the permit following completion of construction of the wind energy facility. Within ninety (90) days of wind energy facility construction, the permittee shall submit to the Planning and Zoning Commission an updated and final USGS topographical map, or survey if available, providing all information pursuant to Section 6.11.3. (a) and demonstrating actual compliance with the requirements and conditions of the Permit.

**6.11.6 General Requirements for Wind Energy Facilities**

1) Appearance, Lighting, Facility Footprint, Agricultural Operations, Roads and Power Lines

- a) Wind turbines shall be painted a non-reflective, non-obtrusive color.
- b) Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
- c) Each wind turbine shall be marked with a visible identification number to assist with provision of emergency services, and the permittee shall file with local fire departments, law enforcement and the county emergency management coordinator a wind energy facility map identifying wind turbine locations and numbers.
- d) Wind turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- e) At wind energy facility sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend

the wind energy facility into the natural setting and existing environment.

- f) At wind energy facility sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within the county. Prior to construction, the applicant shall make satisfactory arrangements (including obtaining permits) for road use, access road intersections, maintenance and repair of damages with governmental jurisdiction with authority over each road. The applicant shall notify the county road superintendent on his request.
- g) The permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the wind energy facility's life, unless otherwise negotiated with the affected landowner. When the permittee installs a gate where electric fences are present, the permittee shall provide for continuity in the electric fence circuit.
- h) The permittee shall ensure that, following completion of construction of a wind energy facility, county roads will be repaired or restored to a condition at least equal to the condition prior to construction of such facility.
- i) The permittee shall place electrical lines, known as collectors, and communication cables underground when located on private property. Collectors and cables shall also be placed within or adjacent to the land necessary for wind turbine access roads, unless otherwise negotiated with the affected landowner. [This paragraph does not apply to feeder lines.]
- j) The permittee shall place overhead feeder lines on public rights-of-way, if a public right-of-way exists, or the permittee may place feeder lines on private property. A change of routes may be made as long as the feeders remain on public rights of way and approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the permittee shall place the feeder in accordance with the easement negotiated with the affected landowner.

## 2) Setbacks

The following setbacks and separation requirements shall apply to all wind turbines in a wind energy facility.

- a) **Occupied Structures and Facilities:** Each wind turbine shall be set back from the nearest occupied dwelling, commercial building or publicly-used structure or facility at a distance not less than two thousand (2000) feet.
- b) **Public Roads and Above Ground Communication and Electrical Lines:** Each wind turbine shall be set back from the nearest public road or above ground communication and electrical lines at a distance not less than two hundred (200) feet, determined at the center of the existing right-of-way.
- c) **Wind Energy Facility Perimeter:** Each wind turbine shall be set back from the Wind Energy Facility Perimeter at a distance not less than two and one half (2.5) times the Rotor Diameter of the wind turbine. A variance may be granted if an authorized representative or agent of the permittee and those affected parties on adjoining properties with associated wind rights sign a formal and legally-binding agreement expressing all parties' support for a variance that waives or reduces the setback requirement.

### **6.11.7 Minimum Ground Clearance**

The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.

### **6.11.8 Restoration of Property**

Within one hundred and eighty (180) days of termination or abandonment of leases or easements for a wind energy facility in the county, the permittee shall, at its expense, comply with the following decommissioning requirements:

Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, and overhead cables; removal of underground cables to a depth of twenty-four inches; removal of foundations, buildings and ancillary equipment to a depth of four feet and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction of the commercial wind energy conversion facility or wind turbine. The site must be restored and reclaimed to the same general topography that existed prior to the

beginning of the construction of the wind energy conversion facility. Areas disturbed by the construction of the facility and decommissioning activities must be graded, topsoiled, and reseeded according to natural resource conservation service technical guide recommendations and other agency recommendations, unless the landowner requests in writing that the access roads or other land surface areas be retained.

#### **6.11.9 Transfer of Wind Energy Facility Siting Permit**

In the event of a change in ownership or controlling interest in a wind energy facility and the transfer of the permit, any successors and assigns of the original permittee shall comply with the requirements and conditions of such permit for the duration of operation of a wind energy facility permitted in the county. Within thirty (30) days of such change in ownership or controlling interest of any entity owning a wind energy facility, the parties to the transaction shall notify the Commission by letter and provide information pursuant to Section 6.11.3. The letter shall be signed by the authorized representatives or agents of both the original permittee and the entity to which the permit is being transferred.

### **6.12 Signs**

#### **6.12.1 Purpose**

The purposes of regulating signs in the county are to provide for a visually pleasant environment and minimize potentially unsafe conditions, but yet offer opportunities for public and private information and advertizing.

#### **6.12.2 General Requirements**

- 1) Directory signs shall not be larger than twenty (20) square feet in area for allowed uses.
- 2) Directory signs for conditional uses shall not be larger than forty (40) square feet.
- 3) Advertising signs shall not be larger than ninety-six (96) square.

### 6.12.3 Special Requirements

- 1) Signs in a residential district shall be limited to: (a) one sign per dwelling structure not exceeding twelve (12) square feet in an area which may be wall, pedestal, ground or projecting type; (b) one temporary sign, such as "For Sale", or "For Rent", not exceeding twenty (20) square feet in area.
- 2) Signs in the commercial and industrial districts shall be limited to: (a) one general identification sign per business not exceeding fifty (50) square feet in area which may be wall, pedestal, ground, or projecting type; (b) temporary signs including "For Sale" signs, political campaign signs, greeting signs, and rally signs not exceeding fifty (50) square feet in area; (c) directory and advertising signs in agricultural, commercial, and industrial districts shall not be larger than ninety-six (96) square feet in area and placed nearer than six hundred (600) feet apart.

## 6.13 Temporary Crew Housing (Workforce Temporary Housing)

### 6.13.1 Definitions

- 1) **Temporary Crew Housing (work camp housing):**  
Modular residential structures used to house workers on a temporary basis for a specified period of time. It may include one or more lodging units which are not mobile homes as defined in NDCC Section 57- 02-04 and are not mobile homes as defined in NDCC Section 57-55-01.
- 2) **Crew Housing Permit:**  
A right granted by the county to locate a crew housing facility within the jurisdiction of the county and to enjoy attendant services and facilities provided by the County Commission.
- 3) **Skid Units:**  
A structure or group of structures, either single or multi-sectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters, or a place of business, on a temporary basis.
- 4) **Closed Crew Camp:**  
Employee housing occupied by employees of an applicant business or premises leased to a business for the purpose of providing temporary housing to only the employees of that business.

### **6.13.2 Conditional Use Permit**

A Temporary Closed Crew Camp Housing Permit authorizes a conditional use, the issuance of which is subject to the procedures contained within Section 8.3 of this code. It is allowable as a conditional use in Industrial Districts but in no case within three miles of the jurisdictional boundary of any incorporated city within this county unless the Planning and Zoning Board receives written approval from a jurisdiction to the siting of a facility within that area.

### **6.13.3 Application Procedure:**

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

- 1) A description of the units together with a numbering system.
- 2) A description of how the proposed units are set and/or anchored.
- 3) A statement that roads to be constructed within the facility will meet county specifications and if the facility is within three miles of a city, the city's road specifications, if any.
- 4) The name and address and contact information of the applicant.
- 5) The name and address and contact information of the on-site manager.
- 6) A copy of lease (if applicable).
- 7) An occupancy list to be maintained and provided to the county 911 emergency coordinator on a weekly basis, including a unit numbering system where appropriate.
- 8) Plat plans drawn to scale showing housing units, additional structures, setbacks, utilities, drainage, ingress and egress, screens, buffers, and fencing.
- 9) Unit spacing adequate to accommodate emergency services
- 10) List of house rules and regulations
- 11) On-site security plan.

- 12) Fire and emergency evacuation plan.
- 13) Copy of permit issued by the North Dakota State Health Department and Southwest Health Department including fresh water, refuse disposal plan, and septic or sewer discharge plan.
- 14) Pay an annual Planning and Zoning Fee in an amount to be determined by the County Commission.
- 15) A copy of the closure plan.
- 16) Submit a surety bond for clean-up purposes, the amount of which is to be determined by the County Commission based upon the recommendations county's designated engineering firm. The amount of the bond shall include a sum sufficient to clean the premises upon abandonment together with an escalator clause to cover anticipated increases in costs for such purpose. The bond posted must continue in effect for two years after the facility is abandoned.
- 17) Off-street parking shall be provided on a one-to-one ratio, one parking space per bed.
- 18) Any additional information deemed necessary by the zoning director, the planning and zoning board, or the county commission.

#### **6.13.4 Prohibited Housing Types**

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

#### **6.13.5 Prohibited Activities**

No illegal substances or animals are allowed on the premises of a crew housing facility. No parking will be allowed between units. The site is to be maintained free of garbage and junk.

#### **6.13.6 Termination of Crew Housing Permit**

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

### **6.13.7 Renewal of Conditional Use Permit**

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

### **6.14 Area Requirements**

Front, side, rear yard and total lot area minimum requirements shall be set for each district except for PUD's

- 1) Recreation District lots shall be a minimum of forty (40) acres and shall have front, side and rear lots setbacks of not less than one hundred (100) feet.
- 2) Agricultural District lots shall be a minimum of two (2) acres and shall have front, side and rear lot setbacks of not less than one hundred (100) except for Buffalo Springs and Gascoyne where the minimum setback shall be the same as those specified in Residential Districts.
- 3) Residential Districts shall have a minimum lot size of 7,000 square feet and shall have front lot setbacks of not less than seven (7) feet from the property line, side setbacks of not less than five (5) feet from the property line to the nearest sidewall of the building; rear lot setbacks of not less than fifty (50) feet from the lot line, where soil absorption sewage systems (septic tanks) are not needed. Boundary fences and /or hedges shall be exempt from side and rear lot minimum setbacks. Small (less than 200 square foot base area) accessory structures shall be exempt from rear lot minimum setbacks.
- 5) Mobile Home Districts shall have a minimum lot size of 6,000 square feet and shall have rear lot setbacks of not less than ten (10) feet where septic tanks are not needed. Mobile Home Parks shall not exceed a density of five (5) mobile homes per acre of land.
- 6) Commercial Districts shall have a minimum lot size of 20,000 square feet and shall have rear lot setback requirements of not less than thirty (30) feet.
- 7) Industrial Districts shall have a minimum lot size of five (5) acres and front, side and rear lot setbacks of not less than thirty (30) feet.

## ARTICLE VII

### SUBDIVISION REGULATIONS

#### 7.1 Intent

- 1) To insure the orderly development of the county and its unincorporated planning area.
- 2) To provide for proper arrangement of streets in relation to other existing and planned streets.
- 3) To provide for adequate and convenient open spaces for traffic, utilities, fire fighting, recreation, light and air.
- 4) To facilitate adequate provisions for access, placement of public non-profit and for profit utilities, schools, and public open spaces.
- 5) To avoid development of unsuitable areas because of soil, drainage and other physical limitations.
- 6) To facilitate subdivision of larger parcels into smaller parcels and lots.
- 7) To implement the Comprehensive Plan of the county.

#### 7.2 Compliance with Chapter

All subdivisions made within the county and not located in any municipality or its extra-territorial jurisdiction shall be subject to and shall conform to the three-step requirements of this chapter.

#### 7.3 Minor Subdivision

Where a proposed subdivision does not entail the establishment of any required street or road easements nor does it require any utility easements nor does the subdivision require any grading or re-contouring of the land surface, then said subdivision may be defined as a minor subdivision and may follow the guidelines of these regulations developed for minor subdivisions.

#### 7.4 Sketch Plan

##### 7.4.1 Submission

- 1) Prior to the filing of an application for tentative approval of the preliminary plat, the subdivider shall submit for review by the Planning and Zoning Commission sketch plans.

- 2) Such sketch plans will be considered as submitted for informal discussion between the subdivider and the Planning and Zoning Commission. Submission of a subdivision sketch plan shall not constitute formal filing of a plat.
- 3) Prior to presentation of the sketch plan to the Planning and Zoning Commission, the subdivider should contact the Zoning Administrator to ensure that the proposed subdivision conforms to the design standards of this chapter, the county comprehensive plan, street or utility master plans, and discuss any possible modifications necessary to ensure conformance.

#### **7.4.2 Data Required for Sketch Plan**

- 1) Tract boundaries;
- 2) North point;
- 3) Description of nature and purpose of street(s) on and adjacent to the tract;
- 4) Proposed general street layout;
- 5) Significant topographical and physical features;
- 6) Proposed general lot layout;
- 7) Existing and proposed land use: and
- 8) Land uses of adjacent tracts.

#### **7.5 Preliminary Plat**

The preliminary plat shall be prepared by a registered land surveyor and shall be submitted to the Planning and Zoning Commission for review and recommendation to the County Commission. The preliminary plat shall cover the entire contiguous area owned or controlled by the subdivider if it is under twenty (20) acres even though only a small portion of it is proposed for the development at the time. The subdivider may be required to submit a development plan if he/she owns or controls more than twenty (20) contiguous acres of land.

##### **7.5.1 Preliminary Plat Content**

The preliminary plat shall include the following requirements, data and information.

- 1) The preliminary plat drawn at a scale of not smaller than one (1) inch representing one hundred feet (1" = 100'). This requirement may be waived by the Planning and Zoning Commission for large tract subdivisions.
- 2) Name and location of the subdivision.
- 3) Date, graphic scale and North point.
- 4) Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
- 5) Total acreage within the subdivision.
- 6) Location, right-of-way width and names of any existing or proposed streets including type and width of surfacing or public ways, easement, railroad, utility right-of-way, parks and other public open spaces, permanent buildings or structure, corporate boundaries and section lines within or adjacent to the subdivision.
- 7) Location of existing property lines, buildings, drives, streams, watercourses, wooded areas and drainage ways.
- 8) Existing water mains, storm sewers, sanitary sewers, culverts, bridges and other utility structures within the tracts, indicating pipe size, grades and location as obtained from public records.
- 9) Existing zoning of the proposed subdivision and the zoning of the adjacent tracts of land.
- 10) Boundary line of adjacent tracts of land or lots showing owner's name.
- 11) Contour at vertical intervals of not more than two (2) feet.
- 12) Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.
- 13) Layout of the proposed streets, alleys, crosswalks and easements, showing widths and street names.
- 14) Layout, number and dimensions of all lots and blocks.
- 15) Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision,

- 16) Building setback lines, showing dimensions,

### **7.5.2 Preliminary Plat Submission Requirements**

- 1) The subdivider shall apply to the Planning and Zoning Commission on appropriate forms provided by the Code Administrator at least two (2) weeks prior to its regularly scheduled or special meeting.
- 2) 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.
- 3) The subdivider may submit any instrument whereby he/she proposes to regulate land use in the subdivision for protecting the proposed development.
- 4) 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.

### **7.5.3 Development Plan**

Where a development plan is required for a tract of land, the following shall be included in the plan.

- 1) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- 2) General layout of proposed streets and location of blocks for designated uses.
- 3) Location of open spaces and facilities for public uses.
- 4) Existing drainage pattern based on the available topographic information from the U.S. Geological Survey maps and other similar information.
- 5) The development plan shall be drawn at a scale of one (1) inch representing four hundred (400) feet.
- 6) The Planning and Zoning Commission may require other information as a part of the development plan.

### **7.5.4 Review Process**

- 1) The Planning and Zoning Commission shall review the preliminary plat and may request additional information before it takes action.

- 2) 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.
- 3) 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.
- 4) 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 County 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).

#### **7.6 Data Omitted on Minor Subdivision Plats**

The following may be omitted from any preliminary plat for a minor subdivision:

- 1) Location and approximate sizes of sidewalks, curbs, and gutters.
- 2) Topographic contours at a two foot interval or a maximum interval of five feet if the latter is acceptable to the reviewing authority.
- 3) Location and extent of problem soil types and results of all percolation tests, if required.
- 4) Location, widths and functions of all alleys, pedestrian walkways, easements and other areas to be dedicated for public purposes.
- 5) Layout of public and private utility service lines and easements to include sewer and water, gas, electric, telephone, and communication lines.
- 6) Stream and drainage structures, sedimentation basins, altered drainage profiles and culvert or bridge specifications.

#### **7.7 Final Plat**

The final plat shall cover the area which is realistically designated for transfer or sale of lots.

### **7.7.1 Final Plat Content**

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

- 1) Name of subdivision and date of tentative approval by the County Commission.
- 2) Location by section, township and range, or other legal description.
- 3) Names of owners and surveyor or other professional person preparing the plat.
- 4) Plat map with scale of one inch representing one hundred (100) feet or less.
- 5) Date, graphic scale and North point.
- 6) Boundary line of subdivision based on an accurate traverse, showing distances and bearings.
- 7) Exact location, width and name of all streets within and adjoining the subdivision, and the exact location of all alleys and crosswalks.
- 8) True bearing and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat.
- 9) City, township, county or section lines accurately tied to the boundary lines of the subdivision by bearing and distance.
- 10) Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
- 11) All easements for rights-of-way provided for public services and public utilities.
- 12) All lot numbers and lot lines, with accurate dimensions in feet and hundredths.
- 13) Accurate location of all monuments, which shall be of material size in accordance with the standards of the city, the county, and the state.
- 14) 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.

- 15) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
- 16) Building or property covenants.
- 17) Certification by registered surveyor to the effect that the plat represents a survey made by him/her, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
- 18) 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.

#### **7.7.2 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.

- 1) The subdivider shall submit the final plat to the Planning and Zoning Commission at least two weeks before the regularly meeting of the Planning and Zoning Commission.
- 2) 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 county at the time of filing the final plat for approval.
- 3) 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.

#### **7.7.3 Review Process**

- 1) If the Planning and Zoning Commission, after a public hearing, finds the final plat in conformance with the stipulations as presented in the preliminary plat, it shall make a recommendation for action to the County Commission.

- 2) 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.
- 3) After receiving recommendations from the Planning and Zoning Commission, the County Commission shall review the recommendations and the final plat and approve or disapprove the proposed subdivision.
- 4) Within thirty (30) days after the final plat approval is granted, the final plat of record shall be filed with the County Recorder for Bowman County.

### **7.8 Amendment of Any Project Development 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 County Commission and/or Planning and Zoning Commission shall approve such change in streets, alleys or public lands as an amendment to any project development plan, as it finds appropriate.

### **7.9 Filing of Subdivision Plat**

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

### **7.10 Design Standards – Conformance**

The subdivider shall prepare the preliminary and final plat in conformance with the standard set forth herein.

### **7.11 Street Design**

- 1) The arrangement, character, classification, extent, width, grade, and location of all streets shall be designed in relation to existing and planned streets, topographic conditions, existing natural features, public convenience and safety and the proposed uses of land served by such streets and to the most advantageous development of adjoining uses.
- 2) Where it is not shown on the Development Plan, the arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing streets in surrounding areas or

conform to a plan approved by the Planning and Zoning Commission to meet a particular situation.

- 3) Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning and Zoning Commission may require service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
- 4) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning and Zoning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.
- 5) Reserve strips in private ownership controlling access to streets are prohibited.
- 6) Street with centerline offsets of less than one hundred fifty (150) feet shall be avoided.
- 7) A tangent at least one hundred (100) feet long shall be introduced between reverse curves on major streets.
- 8) When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than four hundred (400) feet for local and collector streets, and of such greater radii as the Planning and Zoning Commission shall determine for special cases.
- 9) 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 eighty (80) degrees.
- 10) Curb radii on all block corners shall be ten (10) feet and a five (5) foot radius shall be used at intersections of streets and alleys.

11) Street rights-of-way shall be not less than the following table:

<b>Street Type</b>	<b>Minimum Right-of-Way Width (lot line to lot line)</b>	<b>Minimum Roadway Width</b>	<b>Maximum Gradient</b>	<b>Minimum Gradient</b>
Arterial Streets	100 feet	48 feet	4%	0.7%
Collector and Industrial Use Streets	70 feet	40 feet	6%	0.7%
Local Streets	60 feet	34 feet	10%	0.5%

- a) Cul-de-sac, one hundred (100) feet in diameter for a turnaround.
  - b) Alleys, residential district, twenty (20) feet.
  - c) Sidewalks, four (4) feet.
  - d) Bike paths (per DOT standards).
- 12) Half-streets are prohibited except where essential to the reasonable development of the subdivision and in conformity with the other requirements of this code and where the Planning and Zoning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever an existing half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
- 13) Cul-de-sacs shall not be longer than five hundred (500) feet.
- 14) General considerations for intersection design are that:
- a) Intersections of more than two (2) streets at a point shall not be permitted.
  - b) Alleys shall be discouraged in residential districts but may be provided in commercial and industrial districts.
- 15) Dead-end streets without a suitable turnaround are prohibited.

### 7.12 Block Design

The length, width, and shape of blocks shall be suited to the planned use of land, zoning requirements, needs for convenient access, control of safety of street traffic, and the topographic conditions.

- 1) 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.
- 2) 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 or where handicap access (curb cuts) is required.
- 3) 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.
- 4) Blocks 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.

### **7.13 Lot Design**

- 1) The shape, size and orientation of the lots shall be appropriate for the location of the subdivision. Residential lot dimension within the county shall be subject to Section 5.2.3.
- 2) For non-residential lots, the provisions of appropriate zoning district stipulated in Sections 5.4.2 and 5.5.6 of this code shall apply.
- 3) Residential lots abutting major streets shall have extra depth of at least twenty (20) feet to allow for proper setbacks.
  - a) All lots shall front a public street.
  - b) Side lot lines shall be substantially at right angles.
- 4) Residential corner lots shall have an extra width of ten (10) feet to permit adequate building setbacks from the side streets.
- 5) Double frontage lots shall be avoided except where essential to provide separation of development from arterial streets.
- 6) Depth and width of lots reserved or laid out for commercial or industrial uses shall be adequate to provide for off-street parking

and service facilities required by the type of use a development and the provisions of the appropriate zoning district.

#### **7.14 Street Names**

- 1) The Planning and Zoning Commission may disapprove of the name of any street shown on the plat which does not conform to existing naming patterns, has already been used elsewhere in the area, or because of a similarity that may cause confusion.
- 2) Where a street maintains the same general direction, except for curvilinear changes for a short distance, the same name shall continue for the entire length of the street.

#### **7.15 Utility Easements**

- 1) Easements across lots or along rear or side lot lines shall be provided for utilities where necessary and shall be a minimum of five (5) feet wide on each side of the lot line and shall be designated as "utility easement".
- 2) All lots shall be served by underground electric, cable television, natural gas and telephone lines unless waived by the Planning and Zoning Commission due to topographic conditions or excessive costs.
- 3) All utility lines for electric power, cable television and telephone services carried overhead shall be placed in utility easement.
- 4) Utility lines installed in the utility easement shall not be closer than one foot to the property line or three (3) feet to any survey monument.

#### **7.16 Grading and Drainage**

- 1) When required, the subdivider shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements.
- 2) The drainage shall not discharge into any sanitary sewer facility.
- 3) The drainage facilities shall be located in street right-of-way or in drainage easements.
- 4) All developers should submit a management plan for storm water.

- 5) The grading and drainage system shall be approved by the Planning and Zoning Commission.
- 6) Grading established in any subdivision shall not be changed without approval of the Planning and Zoning Commission.

#### **7.17 Drainage Way Easement**

Where a subdivision is traversed by a water course or drainage way, an adequate grading of such easement shall be set by the Planning and Zoning Commission to accommodate the anticipated discharge from the property being subdivided and also the anticipated run-off from the adjoining properties.

#### **7.18 Tree Planting**

The planting of trees of an appropriate species and at appropriate locations may be required by the Planning and Zoning Commission. Trees must be placed at a minimum setback of one hundred fifty (150) feet from county road centerlines.

#### **7.19 Street Lights**

Street lights and their location shall be in accordance with the minimum standards to be established by the Planning and Zoning Commission.

#### **7.20 Required 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.

- 1) **Completion Assurance**

To cover the cost of improvements, as determined by the Planning and Zoning Commission, the subdivider may be required to post a bond or submit a letter of credit from an acceptable financial institution in an amount sufficient to construct such improvements and submit a plan of financial responsibility of unpaid improvement assessments.

- 2) **Survey Monuments**

The subdivider shall install survey monuments in all lot and block corners in the subdivision in accordance with the requirements of the State of North Dakota.

- 3) Public Water
  - a) Where appropriate, watermains shall be installed so as to provide individual service to each lot within the subdivision.
  - b) Watermains shall extend to the boundary of the subdivision, except where in the opinion of the Planning and Zoning Commission it is deemed impractical.
  - c) A rural water supply shall comply with the requirements of the State of North Dakota.

#### **7.21 Sanitary Sewer**

- 1) All subdivisions shall be provided with sanitary sewers to each lot. On an individual case review, an on-site sewage system may be allowed.
- 2) Private septic systems may be approved by the county sanitarian or Health District on lots of a minimum of one (1) acre.
- 3) Sanitary sewer shall be extended to the boundary of the subdivision, except where in the opinion of the Planning and Zoning Commission it is deemed impractical.
- 4) All sanitary systems shall be reviewed and approved by county sanitarian or Health District.

#### **7.22 Storm Sewer**

The storm sewer drainage facilities shall be installed in accordance with the plans and specifications approved by the Planning and Zoning Commission.

#### **7.23 Grading and Surfacing**

The full width of all rights-of-way shall be graded in accordance with the Bowman County street and road standards.

#### **7.24 Curbs, Gutters and Sidewalks**

Concrete curb and gutters, where appropriate, may be installed in all subdivisions in accordance with the county standards. Where the county requires construction of a sidewalk, it shall be in accordance with the design standards established by the Planning and Zoning Commission.

### **7.25 Installation of Improvements**

Construction of all improvements is contingent on approval by the Planning and Zoning Commission. The subdivider shall be responsible for furnishing the necessary data required for such approval.

## **ARTICLE VIII**

### **ADMINISTRATION AND ENFORCEMENT**

The administration and enforcement of this code is hereby vested in the County Commission and the County Zoning Inspector.

#### **8.1 County Commission**

##### **8.1.1 Duties**

- 1) The County Commission shall appoint the Zoning Director.
- 2) The County Commission shall review and take action on all proposed amendments to this code.
- 3) The County Commission or its designee shall review and decide all applications for zoning modifications.
- 4) The County Commission or its designee shall hear and decide all requests for variances or other relief from the provisions of this code.
- 5) The County Commission or its designee shall review all applications for conditional use permits.
- 6) The County Commission shall hear and decide all appeals of decisions of the Planning and Zoning Commission.
- 7) The County Commission or its designee shall investigate all violations of these regulations and shall determine and take appropriate remedial action.

#### **8.2 Planning and Zoning Commission**

- 1) Membership
  - a) The Planning and Zoning Commission shall consist of no more than nine members appointed by the County Commission in accordance with Chapter 11-33 of the NDCC.

## 2) Duties

- a) The Planning and Zoning Commission shall hold public hearings on and make recommendations to the County Commission with respect to all proposed amendments to this code.
- b) The Planning and Zoning Commission shall hold public hearings on applications for zoning modifications and make recommendation to the County Commission for the approval or denial of such applications.
- c) The Planning and Zoning Commission shall hold public hearings on applications for conditional use permits and approve, deny or, modify such applications with the imposition of conditions for the issuance of such permits.
- d) The Planning and Zoning Commission shall hold public hearings on applications for variances from the provisions of this code and make recommendations to the County Commission for the approval, denial, modification, and/or the imposition of conditions upon such applications.
- e) The Planning and Zoning Commission shall report all zoning violations to the County Commission for appropriate action.

### 8.3 Conditional Use Permits

The development and administration of this code is based on the division of the county into districts within which the uses of land and buildings are mutually compatible. However, there are certain uses which, because of their unique characteristics, cannot be classified as unrestricted permitted uses in any particular district or districts without consideration in each particular case of the impact of those uses upon adjoining lands or public facilities. Such uses, nevertheless, may be necessary or desirable in a particular district provided that due consideration is given to location, development and operation of such uses.

- 1) In order to promote and protect public health, safety and the general welfare, the Planning and Zoning Commission may stipulate conditions and restrictions upon the establishment, location, construction and operation of the proposed use. 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.
- 2) No conditional use permit shall be recommended by the Planning and Zoning Commission or approved unless the applicant shall have met all the following criteria:

- a) The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.
  - b) The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.
  - c) The proposed conditional use shall not impede the normal orderly development of the surrounding property.
  - d) Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.
  - e) Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.
  - f) The proposed conditional use shall conform to all applicable regulations of the district within which it is located.
- 3) The Planning and Zoning Commission shall hold a public hearing on any request for a conditional uses permit, a notice of which shall be published at least two weeks prior to the hearing in the official newspaper of the county. The notice of hearing shall include: 1) the time and place of hearing; 2) description of the property to be affected; 3) the proposed use; and 4) time and place for public inspection of documents prior to the hearing.
  - 4) If the Planning and Zoning Commission finds that the conditions or restrictions set forth in a conditional use are not being complied with, it may revoke the conditional use permit after a public hearing.
  - 5) In any case where a conditional use has not been instituted within one year of the date of approval of the conditional use, the permit shall be null and void without further action of the Planning and Zoning Commission or the County Commission.
  - 6) Upon the cessation or abandonment for a period of one year of any use, for which a conditional-use permit has been issued, such conditional use permit is deemed to have been terminated and any future use of the land, building(s), or premises shall be in conformity with this code.

## 8.4 Variance

- 1) Where a literal enforcement of the provisions of this code would result in great difficulties, unnecessary hardship, or injustice, the County Commission may adjust the application and enforcement of these regulations provided that such action shall not be contrary to the public interest or general purposes thereof. No variance shall be approved unless the applicant shall have met the following conditions:
  - a) The particular physical surroundings, shape or topographic condition of the specific property should result in unnecessary hardship.
  - b) The purpose of the variance is not based on a desire for economic gain.
  - c) The variance shall not be detrimental to the public welfare or injurious to other properties in the area; and
  - d) The unique character of the property upon which the request for variance is made is not the result of actions of the applicant.
  
- 2) Public Hearing Notice
  - a) The Planning and Zoning Commission shall hold a public hearing, a notice of which shall be published at least two weeks prior to the hearing in the official newspaper of the county. The notice of hearing shall include: 1) the time and place of hearing; 2) description of the property to be affected; 3) the proposed use and requested variance; and 4) time and place for public inspection of the relevant documents before the hearing.
  
  - b) Data Submission Requirements Applications for variances must include following data:
    - i. Legal description of the property;
    - ii. A map showing the existing land uses and zoning district classification of the area;
    - iii. The reason for the variance request;
    - iv. The type of variance requested and an explanation of whether the hardship is unique to the applicant's property;
    - v. Any other information that the Planning and Zoning Commission deems necessary; and

- vi. A fee, the amount of which shall be determined by the County Commission, plus any additional costs to be paid in accordance with the schedule established by the County Commission.
- 3) The Planning and Zoning Commission, following a public hearing, shall make recommendation to the County Commission for the approval or denial, modification, and/or imposition of conditions of each application for a variance.

## **8.5 Code Administrator**

### **8.5.1 Appointment**

- 1) The County Commission shall appoint the Code Administrator.

### **8.5.2 Duties**

- 1) Receive and file all applications for amendments to this code, the "Zoning District Map," and development permits.
- 2) Make zoning inspections and maintain records.
- 3) Issue permits.
- 4) Provide written report all zoning violations to the Planning and Zoning Commission and the County Commission for appropriate action.
- 5) Prepare and publish required notices.
- 6) Prepare written notices to property owners of any violation of this code, citing the nature of the violation and demanding compliance.
- 7) Receive, file, and forward to the Planning and Zoning Commission all applications for sketch plans, preliminary and final plats and the supporting documents.
- 8) In the area of special flood hazard:
  - a) Permit Review
    - i. Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local

government agencies from which prior approval is required.

- ii. Review all development permit applications to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this code "adversely affects" 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 (1) foot at any point.

b) Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with ordinance, obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Section 5.6.7, GENERAL STANDARDS.

c) Information to be Obtained and Maintained.

- i. 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.
- ii. For all new or substantially improved flood-proofed structures:
  - verify and record the actual elevation (in relation to mean sea level), and
  - maintain the flood-proofing certifications required in Section 5.6.
- iii. Maintain for public inspection all records pertaining to the provisions of this code.

d) Alteration of Watercourses

- i. Notify adjacent communities and the North Dakota State Engineer prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

- ii. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

- e) Interpretation of FIRM Boundaries

Make Interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions),

## **8.6 Amendments**

The County Commission may from time to time on its own motion, by petition, or on recommendation of the Planning and Zoning Commission amend, supplement or repeal the provisions of this code following a public hearing.

Any person, firm or corporation which owns land is entitled to submit an application for amendment to the Zoning District Map.

### **8.6.1 Procedure for Amendments:**

- 1) Applications for amendment shall be filed with the Code Administrator.
- 2) Notice of a time, place, and purpose of the public hearing must be published once a week for two consecutive weeks in the official newspaper of the county.
- 3) Upon receipt of the recommendations of the Planning and Zoning Commission, the County Commission shall approve, deny, approve with modification the proposed amendment or remand to the Planning and Zoning Commission for further hearing.

## **8.7 Board of Adjustment**

The County Commission shall act as a Board of Adjustment.

### **8.7.1 Duties**

- 1) The Board shall hear appeals from any person, party, firm, or organization aggrieved by the actions or decisions of the Planning and Zoning Commission.

## **8.8 Permits and Fees**

### **8.8.1 Zoning Permit**

- 1) It shall be unlawful for any person to commence construction, alteration, or conversion of any building or structure without first obtaining a building permit from the Code Administrator.
- 2) This section does not apply to those buildings or structures directly used in connection with agricultural operations and constructed by farmers as defined herein.
- 3) A building permit issued pursuant to these provisions shall expire one year from date of issuance.

### **8.8.2 Fees**

The Code Administrator shall charge and collect a fee as follows;

The Code Administrator shall charge and collect a fee according to the resolution of fees and schedules established by the County Commission. The applicant for a conditional use permit, variance, or building permit, shall be liable for and pay to the Code Administrator sufficient sums of money to pay for and cover costs incurred by the county for the processing of such application, including, but not limited to: publication costs, attorney's fees, mileage, copying expense, etc. No permit shall be issued until such costs have been paid by the applicant, unless the Code Administrator has otherwise provided for good cause shown.

## **8.9 Violations and Penalties**

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 this code, the proper county authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceeding:

- 1) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- 2) To restrain, correct, or abate such violations;
- 3) To prevent the occupancy of the building, structure, or land; or
- 4) To prevent any illegal act to conduct business or use in or about such premises.

A violation of any provision of this code or the regulations and restrictions made herein shall constitute the maintenance of a public nuisance and shall be a Class B Misdemeanor.

Adopted this 3<sup>rd</sup> day of April, 2012

By: Lynn Brockel  
Chairman, Board of County Commissioner

BY: Jonathan K. Fisher  
Bowman County Auditor