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# **BOWMAN COUNTY NORTH DAKOTA PLANNING AND ZONING ORDINANCE**



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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 N.D.C.C. Chapters 11-33.

### 1.3 Material Adverse Impact

#### I. Citizen Petition for Avoidance Zone

A landowner or group of landowners may petition the county commission through the Planning and Zoning Commission to create an avoidance zone where certain defined land uses would not be allowed. Written documentation must include a site map, explanation for the proposed zone and input from any impacted Township Boards. A preliminary public hearing shall be conducted by the county planning and zoning board within sixty (60) days of receiving a proposed project map and application materials and petition signed by the majority of landowners within a proposed avoidance zone unless good cause is shown to extend that time. The purpose of the hearing is to review the site location(s), purpose for the proposed avoidance zone, impact of the proposed zone on roads, housing, community facilities, tax base of the county and county and community services. The Planning Board recommendation at the conclusion of the hearing shall be promptly forwarded to the County Commission for review and action. The county may create avoidance zones after considering input from organized townships within the project area, the projects road plan, impacts to other economies, impacts to other electrical generation sources, residential property use and rights, and impacts to mine-able lignite deposits. Through an avoidance zone, the county may deny siting locations that materially adversely impact these

specified interests within the zone. The intent of an avoidance zone is not to adjudicate individual concerns or annex isolated locations out of a project area. Instead, an avoidance area can be implemented if the commission finds inadequate constituent support to conditional use zone site locations within a proposed renewable energy project area, or the commission finds conditional use zoning a renewable energy project in a location would materially adverse impact other interests listed in this section. Any person with interests in land included within an avoidance zone may petition the county commission and be heard regarding removing it from their land within thirty (30) days of a commission decision to create an avoidance zone.

## II. County Material Adverse Impact Determination

The County reserves the right to reject an application for a conditional use permit or Alternative Use Energy Permit if the project could have a material adverse impact to area property values, agriculture, or wildlife when weighed against the projects impact or contributions to interstate commerce.

### **1.4 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.

### **1.5 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.

### **1.6 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.

### **1.7 Repeal**

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

### **1.8 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 follow this code.

### **1.9 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 of the singular.
- 3- Shall is a mandatory word and is 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.

### **1.10 Effective Date**

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

## ARTICLE II

### DEFINITIONS & AGENDA POLICY

#### 2.3 Definitions

**Abandonment**- will mean to give up, discontinue, and withdraw from any energy producing facility or system that ceases to produce energy on a continuous basis for 12 months. Any facility or system that ceases to produce energy on a continuous basis for 12 months will be considered abandoned.

**Access** – The place or way by which pedestrians and vehicles have safe and suitable entrance and exit to a property.

**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.

**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.

**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.

**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.

**Adult Entertainment Facility Center** – An adult bookstore, adult cinema, adult entertainment facility, or any combination thereof.

**Alternative Energy Construction Permit (AECPP)** – A permit needed for project construction. See Wind (6.11) and Solar (6.17)

**Affected Area** – An area having a radius of radius of one-half mile from a proposed change.

**Agricultural** – The process of producing food and fiber customary to the family farming operation, excluding commercial feed lots and processing and manufacturing of farm-based products.

**Agricultural District** – All land and areas used for cultivation of the soil. Producing crops or the raising of livestock as designated by the Board of County Commission.

**Alley** – A public way which affords only secondary access to abutting property.

**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.

**Alteration** – As applied to a building or structure, is a change or re-arrangement of 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.

**Amendment** – Any change, revision, or modification of the text of these regulations and the zoning district map.

**Ancillary Solar Equipment**- See Solar (6.17) Ordinance

**Animal Hospital or Kennel** – A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

**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.

**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.

**Arc Second**- A unit of measurement when finding the exact point of Latitude and Longitude.

**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.

**Base Flood** – The flood having a one percent chance of being equaled or exceeded in any given year.

**Basement** – A story, partly underground with more than one-half of its height below grade.

**Bed and Breakfast Inn** – An establishment that provides overnight lodging to the public for compensation; caters to the traveling public; is in the proprietor's residence; and serves only a limited breakfast to registered guests.

**Building** – Any structure designed or intended for shelter or protection of persons, animals, or property.

**Building Area** – That portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and the side yards.

**Building Height** – The vertical distance from the grade to the highest point of the sidewall.

**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.

**Building Mount SES**- See Solar (6.17) Ordinance

**Club** – A private club or lodge which is a nonprofit association of people for the purpose of gatherings and entertaining members including consumption of food and beverages.

**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.

**Commercial District**- An area devoted to commercial use, as determined by the County Commission.

**Commercial Feed Lot** – See North Dakota Administrative Code Section 33.1-16-03.1-03

**Comprehensive Plan** – A guide for the management of the physical resources and development of the county.

**Conditional Use** – Use of a special nature not automatically permitted in a zoning district, and which requires review, public hearings, and approval by the County Planning and Zoning Board and County Commission.

**County** – The Board of County Commissioners, Bowman County, North Dakota.

**Conforming Building or Structure** – A building or structure which complies with all requirements of this code and other regulations adopted by the county.

**Decibel**- A unit of sound measurement, abbreviated db. dBA is a frequency weighting that relates to the response of the human ear. The weighted sound pressure level using the A metering characteristic and weighting specified by the American National Standards Institute (ANSI) specification of Sound Level Meters.

**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.

**Development Plan** – A document including maps and data for the physical development of an area as provided by this code.

**Dike**- A bank, usually but not limited to, earth construction to control or confine water or undesirable runoff.

**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.

**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.

**Dwelling, Multiple Family** – A single building, or portion thereof, containing two (2) or more dwelling units.

**Dwelling, Single Family** – A building containing one (1) dwelling unit only.

**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.

**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.

**Electric Line** - A set of conductors used to transmit and/or distribute electrical energy.

**Establishment** – A place of business for processing, production, assembly, sales, service of goods and materials.

**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.

**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.

**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.

**Fence**- A barrier intended to prevent escape or intrusion or to mark a boundary.

**Flood or Flooding** – A general and temporary condition of partial or complete inundation of normally dry land areas from: The overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff or waters from any source.



**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.

**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.

**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.

**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.

**Gate** – a door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed forms a continuous barrier as a part of the fence to which it is attached.

**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).

**Grade** – The land elevation at the horizontal intersection of the ground and the building.

**Gravel Pit** – Any mining and extraction of earth minerals for commercial or private sale.

**Ground Mounted SES**- See Solar (6.17) Ordinance

**Height (of turbine)** – See Wind (6.11) Ordinance

**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.

**Hotel or Motel** – A building with lodging accommodations, either with or without meals, which are provided for compensation.

**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.

**Improved Area**- See Solar (6.17) Ordinance

**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. Section 5

**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.

**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.

**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. Section 6.2

**Kenel** – Any premises where dogs, cats, and other household pets are boarded, bred, and maintained for compensation.

**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.

**Livestock** – Domestic animals customarily raised or kept on farms for profit or other purposes including fur-bearing animals.

**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. See Section 7

**Lot Area** – The total horizontal area within the lot lines exclusive of streets, roads, and highways.

**Lot, Corner** – A lot abutting on two or more streets other than an alley at their intersection.

**Lot, Depth** – The mean horizontal distance between the front and rear lot lines.

**Lot, Line** – The property line bounding a lot.

**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.

**Lot Width** – An average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

**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.

**Meat Processing Facility** – A plant or premises, where animals are slaughtered for human consumption, or where meat or meat products are processed, but not including rendering plants.

**MET Tower** – Temporary and permanent meteorological towers used for the measurement of wind speed. See Wind Ordinance (6.11)

**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 axel 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.

**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.

**N.D.C.C** – North Dakota Century Code

**Non-conforming 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.

**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.

**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%).

**Non- Participating Property** – A parcel of real estate that is not a participating parcel.

**Occupied Structure**- A building in which people live, work or frequent.

**Outlot** – A plot of land devoted to and recorded as a single principal use which has proper road and utility access.

**Parking Space** – An off-street area designated for parking automobiles accessible from a public street or alley and which shall be no less than nine (9) feet by twenty (20) feet. Section 6.1

**Participating Property** – A parcel of real estate on which a participation agreement or contract has been executed.

**Permanent Foundation** – A wood, concrete or masonry foundation which extends below ground level and is set on footings.

**Permitted Use** – Any use which complies with the requirements of a zoning district.

**Permittee** – A individual or group of individuals who is given a permit or other authorization to do something.

**Person** – Any natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, or government.

**Personal Scale SES** – See Solar (6.17) Ordinance

**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.

**Public** – will mean belongings or open to, enjoyed and used by and/or maintained for the public generally, but no limited to, a facility the control of which is wholly or partially exercised by some government agencies.

**Public Road** - will mean any road, highway or section line which is now or hereafter designated and maintained by Bowman County, or

organized townships, as part of the county or township road system, whether primary or secondary, hard-surfaced, or other dependable road. Setbacks will be measured from the road right-of-way.

**Public Utility** – Any business which furnishes the 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.

**Public Way** – Any dedicated and recorded right-of-way including public alleys, bikeways, sidewalks, streets, roads, or highways.

**Recreation** – areas designated for the refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, swimming, hunting, or hiking, or be passive, such as enjoying the natural beauty of the shoreline or area wildlife.

**Recreation District**- An area devoted to recreational use, as determined by the County Commission.

**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.

**Recreational Vehicle Park** – A lot which is operated on a fee or other basis as a place for the parking of occupied recreational vehicles.

**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.

**Residence**- Will mean a building used as a dwelling for one or more families or persons.

**Residential Area** – Will mean an area zoned for residential use.

**Residential District** – The areas dedicated by the County Commission on the District Zoning Map for development of residential dwelling units.

**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.

**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.

**Rotor Diameter** – See Wind (6.11) Ordinance

**Service Station** – Any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.

**Setback** – The line within a property defining the required minimum distance between the front lot line and the building line.

**Sewage Disposal**- approved method to dispose sewage.

**Shooting Range** – is defined as an area for the discharge of weapons for sport under controlled conditions where the object of shooting is an inanimate object such as, but not limited to paper, metal or wooden targets.

**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.

**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.

**Solar Collector Surface**- See Solar (6.17) Ordinance

**Solar Energy** – See Solar (6.17) Ordinance

**Solar Energy System (SES)** – See Solar (6.17) Ordinance

**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.

**Street** – A public right-of-way for vehicular and pedestrian traffic.

**Street, Local** – A public way intended for low volume traffic which provides access to major streets.

**Street, Major** – A public way, arterial or collector streets, used primarily for carrying a large volume of traffic.

**Structure** – Anything constructed or erected, which requires permanent location on the ground excluding fences.

**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.

**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.



**Substantial Improvements** – Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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.

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

**Temporary** – Means one year or less.

**Temporary Workforce Housing** - Employee housing occupied by employees of a business on a temporary conditional basis.

**Total Height** –See Wind (6.11) Ordinance

**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).

**Utility Scale- SES** – See Solar (6.17) Ordinance

**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.

**Waterfowl Rest Area** – Those areas declared by proclamation of the Governor of North Dakota to be “Waterfowl Rest Areas”

**Wildlife Management Area** – An established area set forth by a state or federal agency for the protection of wildlife.

**Wind Energy Facility** – A facility directly generating electricity or indirectly generating electricity of 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, 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). See Wind Ordinance (6.11)

**Wind Turbine** – A wind energy conversion system converts wind energy into electricity, hydrogen, compressed air, or some other energy carrier and includes the turbine, bases, tower, base, and pad transformer, if any; provided that such a system shall be a wind turbine for 50 kilowatts or greater capacity, per Wind Ordinance (6.11). Wind turbines of less than 50 kilowatts will be regulated as a utility.

**Yard** – The required open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.

**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.

**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.

**Zoning Administrator** – is charged with the responsibility of interpreting the Bowman County Zoning Code and Ordinances. See Section 8

**Zoning Permit** – A permit to determine appropriate zone classification as determined by the County Commission. See Section 8

## **2.2 Agenda Policy**

All Agenda items must be submitted to the Bowman County Planning and Zoning Office for regularly scheduled meetings. All items are due the week of the meeting on Tuesday at 4:30 pm for the Thursday meeting at 6:00 pm. No other items will be discussed unless approved by the Bowman County Planning and Zoning Board. No topics will be discussed that are not on the agenda unless said topic constitutes an emergency action.

## **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 N.D.C.C. 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 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 another 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 undue hardship 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 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 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 Roadway Access**

The points of access shall be limited to four (4) per mile per side of any highway or county road. 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 Roadway Setbacks**

- 1- The minimum setback for structures from all section lines and the center line of county roads shall be one hundred fifty (150) feet, outside of city limits.
- 2- Within the platted limits of Rhame and Gascoyne, a structure setback shall be a minimum of seven (7) feet from the property line,

facing a road and/or street. Unless specified by each city.

3- The minimum setback for trees plantings from all section lines and the center line of county roads shall be one hundred fifty (150) feet.

4- The minimum setback for buildings and structures from the center of state highways shall be two hundred fifty (250) feet, per Department of Transportation (DOT) specs.

### **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, out houses, 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 Zoning Administrator. The Zoning Administrator shall regularly update the map, if available, 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, if available.

1- Where zoning district boundary lines follow streets, highways, roads, rail right of way, alleys, and extensions thereof, such boundary lines shall be the center lines, streets, highways, roads, rail right 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 Commission 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 line.

#### **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 Agricultural 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**

All types of farming and ranching operations, including dairying, livestock, poultry raising, apiaries, fur farming and truck gardening.

- 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- All uses permitted in the Recreational District.

10- Parking of RV's and campers (less than three).

### **5.1.2 Conditional Permitted Uses**

1- Commercial feedlots subject to local and state provisions-  
See North Dakota Administrative Code Section  
33.1-16-03.1-03

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 local and state provisions.

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- see wind and solar ordinances.

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 the 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 an application to the Planning and Zoning Board for a permit to operate such facility. The Planning and Zoning Board 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 five hundred (500) feet of an adjacent property line or within two thousand six hundred forty (2,640) feet of an existing occupied 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:

- 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 timetable for operation of the site. All topsoil shall be replaced and planted to natural protected vegetation.

- Reclamation of the site shall be completed within one year of the resource being exhausted, abandoned or closure of the operation of the site.

- Proof of compatibility with the existing landform including the vegetation, surface, and ground water resources.

- 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 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- Shooting Ranges- as permitted by the County See Section 6.18

## **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 sewers 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 if 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 Off- street parking**

1- For residential uses two parking spaces for each dwelling unit (unless specified in other ordinances).

## **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 development.

### **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 times 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 following the regulations of the North Dakota State Laboratories Department.

4- Mobile, Manufactured Homes-Planned Unit Development

a- Mobile homes on a permanent type of foundation 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 system.

## **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 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 racetrack 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- Recreation 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 maximum 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 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 two (2) 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.

7- Shooting ranges- as permitted by the County- see Section 6.18.

## **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.
- 10- Alternate energy uses- Wind and Solar
- 11- All Commercial feedlot operations.
- 12- Shooting Ranges

13- Any special usage determined by Planning & Zoning Board

14- Medical Marijuana Facilities

### **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 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- Public utility buildings including water and waste water facilities and accessories.

9- Petroleum storage facilities.

- 10- Warehouses requiring yard storage.
- 11- Cement and ready mix facilities.
- 12- 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.
- 13- Dry bulk storage.

#### **5.6.2 Conditionally Permitted Uses**

- 1- Coal gasification and liquefaction plants.
- 2- Electric power generating plants and their associated transmission lines and accessory structures.
- 3- Exploration, drilling, excavation, and mining for coal, sand, gravel, clay, and other subsurface minerals provided by Sections 5.1.2 of these regulations.
- 4- Fuel and bulk storage plants.
- 5- Radio, television, cellular and microwave towers.
- 6- Salvage and junk yards.
- 7- Adult entertainment centers or facilities.
- 8- Noxious waste disposal sites.
- 9- Alternate energy uses- Wind and Solar
- 10- Sanitary landfills and hazardous waste sites in compliance with State Health Standards.



11- Livestock slaughter facilities

12- Temporary crew housing subject to the provisions of Section 6.12.

13- Commercial feedlots subject to local and state provisions-See North Dakota Administrative Code Section 33.1-16-03.1-03

14- Medical Marijuana- Section 6.16

### **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 one hundred (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 damage. 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 include ponding of run-off water and treated wastewater.
- 3- Public utilities include railroads, roads and highways, channels, and pipelines.
- 4- Outdoor recreational uses include 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 Zoning 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 because of a 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:

-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;

-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;

- all components of the anchoring system be capable of caring a force of 4,800 pounds and;

- 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.

- a. All new constructions 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:

-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;

- adequate surface drainage and access for a hauler are provided; and,

- 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 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 does 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:
  - 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;



- The bottom of all openings shall be no higher than one (1) foot above grade;
- Openings may be equipped with screens, louvers, or other coverings or devices if 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 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: gravel, concrete, or asphalt surfaces; 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(1) additional space for each four hundred (400) square feet of floor space over one thousand (1000) square feet.
- 2- Private club or lodge: two (2) parking spaces for each two hundred (200) square feet of service area.
- 3- Restaurant, eating and drinking establishment: one (1) parking space for each three (3) persons of seating capacity.
- 4- For industrial uses there shall be one (1) off- street parking space for everyone and one-half (1 ½) 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, following recommendations of the Planning and Zoning Board.

### **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) feet of commercial buildings and structures.
- 2- No salvage or junk yard shall be 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 (10) feet in height, building and or landform.
- 5- Storage items shall not be higher than fences.

## **6.3 Commercial Feed Lots- See ND Administrative Code 33-16-03.1**

## **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 ( $\frac{1}{2}$ ) mile from any residence or residentially zoned area unless written approval is obtained from the owner or any residence within the 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 County Commissioners. For the permit to be approved, sixty (60) percent of all property owners within one (1) 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 NDAC 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, following recommendations from the Planning and Zoning Board.

#### **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 uses. Because of the nature of recycling facilities are 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 shall 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 a 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 County Ordinance provisions.

### **6.6.1**

#### **Waste Storage-**

- 1- All waste material shall be stored in a manner that complies with state and federal regulations and shall meet the requirements of the County.
- 2- Solid waste materials shall not be stored on public or private

property for more than forty-five (45) days without approval of the County.

- 3- Storage of solid waste shall be confined to buildings and structures designed specifically for such purposes 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 to minimize the impact from odor and concentration of insects or rodents.

### **Asbestos Waste-**

- 1- Asbestos waste shall be disposed of in accordance with the applicable rules and regulations of the State Health Department and the hazardous waste requirements of this ordinance.

### **Hazardous Waste-**

- 1- Any waste or combinations of waste of a solid, liquid, contained gaseous or semi- solid form as defined in N.D.C.C Section 23-20.3-02 and N.D.C.C. 33-24-02.
- 2- Containers containing hazardous waste shall be dated and marked to designate the content as toxic, explosive, or otherwise hazardous.
- 3- No person engaged in the operation of solid waste landfills, resource recovery or solid waste processing facilities may knowingly store, treat, handle, or dispose of hazardous waste in amounts more than quantities normally found in household waste unless approved by the State Health Department.
- 4- No person shall place hazardous waste or dispose of hazardous waste within the County without the approval of the county.

### **Industrial Waste-**

- 1- Any person who handles industrial waste shall comply with all applicable state and federal regulations governing industrial waste.

2- Industrial waste may not be discarded in any manner including landfilling that endangers humans, animals, and the environment.

### **Radioactive Waste-**

1- A solid waste material containing radioactive materials and subject to N.D.A.C. 33-10.

### **Special Waste-**

1- Solid waste that is not hazardous waste and includes waste generated from energy conversions facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction and waste generated by surface coal mining operations. The term does not include municipal or industrial waste (N.D.C.C. Section 23-29-03.16).

### **Waste Management Facility-**

1- Any plant or facility engaged in the treatment, storage, or disposal of solid wastes.

### **General Standards-**

1- A minimum horizontal separation of fifty (50) feet must be maintained between new or lateral expansion of solid waste management units and any above ground or underground pipeline or transmission lines.

2- No person shall dispose of waste of any type in the following areas:

a- Aquifers, channels, ravines, or other waterways

b- Critical habitats for endangered or threatened species of plants, fish, or wildlife.

c- In an area that could adversely impact an aquifer recharge area horizontally from the ordinary high-water elevation of any surface water or wetland, any local, state, or national park.



- d- Public water supply designated wellhead protection area.
- e- Where geological or man- made features may result in failure of the structural integrity of the facility.
- f- Within a one-hundred-year floodplain.

3- No solid waste facility or lateral expansion shall be located within ten thousand (10,000) feet of any commercial airport runway or five thousand (5000) feet of any general aviation runway.

4- No solid waste facility shall be in areas that result in impacts on human health or environmental resources or in areas unsuitable because of reason of topography, geology, hydrology, or soils.

5- Sites for new solid waste facility or for lateral expansion of, or for municipal waste landfills, or industrial waste landfills shall have favorable physical conditions. Sites shall have low permeability to prevent movement of contaminants.

#### **6.6.2 -Sewage Disposal and Soil Absorption**

Certain soil types in Bowman County have severe limitations for soil absorption disposal systems (septic tanks), as is indicated in the maps and tables of the Natural Resources Conservation Service survey of Bowman County soils. Said soil shall be avoided when designing a septic tank system. If said soils cannot be avoided, proof that adequate precautionary steps shall be taken and shall be provided to the Planning and Zoning Board before construction commenced. All soil absorption systems shall adhere to the rules and regulations of the Southwest Health and North Dakota Department of Health guidelines.

#### **6.7 Noise**

Sustained noise of over eighty (80) dB during the day and seventy (70) dB at night shall not be allowed.

## **6.8 Fences and Gates**

- 1- No site- obscuring fence over forty-eight (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.
- 4- Gate- a door or another device attached to a fence which, when opened provides a means of ingress and egress of persons and things for which it was intended, and which when closed forms a continuous barrier as a part of the fence to which it is attached.
- 5- See Wind, Solar and Feedlots

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

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

- 1- The occupation shall be limited to the dwelling and 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 (2) full-time or four (4) part-time personnel besides owners without a conditional use permit.
- 4- No signs 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 Occupation**

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 (1280) square feet. The minimum lot size for a separate non-residential building shall be one (1) acre.
- 2- Employees are limited to two (2) full-time or four(4) 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 one thousand two hundred eighty (1280) feet of any religious institution, cemetery, school, park, or recreation area. They shall be located in an industry zoned district.
- 2- An adult entertainment center shall not be located within one thousand two hundred eighty (1280) feet of any establishment that dispenses alcohol on- premises.
- 3- An adult entertainment center shall not be located within one thousand two hundred eighty (1280) feet 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 said center, except for signs identifying it as an adult entertainment center, as an adult bookstore, 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 such center.
- 7- The business premises of such center that are open to its patrons are open equally at the same time to members of any law enforcement agency who wishes to enter thereon provided the entry is in the course of their duties.

## 6.11 WIND ENERGY FACILITY ORDINANCE

### DEFINITIONS-

**Abandonment** - will mean to give up, discontinue, and withdraw from any wind energy facility or system that ceases to produce energy on a continuous basis for 12 months. Any facility or system that ceases to produce energy on a continuous basis for 12 months will be considered abandoned.

**Alternate Energy** - will mean any energy generated or produced from solar or wind.

**Alternate Energy Construction Permit (AECPP)** - Permit needed for construction.

**Arc second** - A unit of measurement when finding the exact point of Latitude and Longitude.

**Decibel** - A unit of sound measurement, abbreviated db. dBA is a frequency weighting that relates to the response of the human ear. The weighted sound pressure level using the A metering characteristic and weighting specified in American National Standards Institute (ANSI) specification of Sound Level Meters.

**Electric Line** - A set of conductors used to transmit and/or distribute electrical energy within the wind energy facility or with outside transmission lines.

**Gate** - a door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

**Height (of turbine)** - The vertical distance from the construction grade of the property to the highest point of a turbine rotor blade when in the upright position.

**MET Tower** - Temporary or permanent meteorological towers used for the measurement of wind speed.

**Non-Participating Property** - A parcel of real estate that is not a participating parcel.

**Occupied Structure** - A building in which people live, work or frequent.

**Participating Property** - A parcel of real estate on which any turbine of the wind energy facility will be constructed, or for which a participation agreement or contract has been executed.

**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 application, develops the wind energy facility, and subsequently operates such facility.

**Public** - will mean belonging to or open to, enjoyed and used by and/or maintained for the public generally, but not limited to, a facility the control of which is wholly or partially exercised by some government agencies.

**Public Road** - will mean any road, highway or section line which is now or hereafter designated and maintained by Bowman County, or organized townships, as part of the county or township road system, whether primary or secondary, hard-surfaced, or other dependable road. Setbacks will be measured from the road right-of-way.

**Recreation** - areas designated for the refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, swimming, hunting, or hiking, or be passive, such as enjoying the natural beauty of the shoreline or area wildlife.

**Residence** - will mean a building used as a dwelling for one or more families or persons.

**Residential Area** - will mean an area zoned for residential use.

**Rotor Diameter** - The diameter of the circle formed by the swept area of the wind turbine blades.

**Shooting Range** - Is defined as an area, for the discharge of weapons for sport under controlled conditions where the object of the shootings is an inanimate object such as, but not limited to paper, metal, or wooden targets.

**Site Plan** - A detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this ordinance.

**Total Height**- When referring to wind turbine, the distance measured from the ground level to the blade extended at its highest point.

**Variance** - A relaxation of the terms of these regulations where such variance will not be to the 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.

**Waterfowl Rest Area** - Those areas declared by proclamation of the Governor of North Dakota to be “Waterfowl Rest Areas” as of the date of an application for a Conditional Use Permit for a wind energy facility.

**Wildlife Management Area** - An established area set forth by a state or federal agency for the protection of wildlife.

**Wind Energy Facility** - A facility directly generating electricity or indirectly generating electricity of 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, 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).

**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, bases, tower, base and pad transformer, if any, provided that such a system shall only be a wind turbine for the purposes of section 6.11, if it has a nameplate capacity of 50 kilowatts or greater.

### **6.11.1 PURPOSE**

The purpose of this provision is to provide a regulatory framework for the siting, construction, and operation of Wind Energy Facilities in Bowman 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 Bowman County are subject to the restrictions and conditions of this ordinance.

#### **2. Principal of Accessory Use**

A different existing use or an existing structure on the same parcel will not preclude the installation of a wind energy facility or a part of such a facility or 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 non-conforming 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 facility will be allowed without full

compliance with this code and an approved Conditional Use Permit, and no additions or expansions of an existing wind facility will be allowed without issuance of a new Conditional Use Permit application pursuant to Section 6.11.3. Agricultural applications are exempt from this ordinance if rated less than fifty (50) Kilowatts.

Modifications or alterations to the turbine locations set forth in the final site plan approved when issuing the Alternate Energy Construction Permit may be completed through a Change Order, which if approved, will allow movement of a tower by one arc second of latitude and longitude. Setbacks still apply.

Modifications or alterations to the turbine locations set forth in the final site plan approved when issuing the Alternate Energy Construction Permit of more than one arc second will require an amendment, and approval by the Planning and Zoning Board, to the Alternate Energy Construction Permit for the turbine location(s) affected.

#### **4. Archaeology Resource Surveys**

Unless the project is under the purview of the North Dakota Public Service Commission (PSC), and an Archaeological Resource Survey is being prepared as a part of that process, the applicant will work with the State Historic Preservation Office (SHPO) at the State Historical Society of North Dakota at the beginning of the planning process for the wind energy facility to determine whether an archaeological survey is recommended for any part of the proposed project. If recommended, the applicant will contact a qualified archaeologist to complete such surveys and shall submit the results to the Planning and Zoning Board and the SHPO. The SHPO will make recommendations for the treatment of any significant archaeological sites which are identified. Any issues in the implementation of these recommendations will be resolved by the County Commissioners in consultation with SHPO. All information provided/submitted under this provision is subject to North Dakota Century Code 55-02-07.1.

In addition, if any archaeological sites or human remains are found during construction, the applicant shall follow standard operating procedures as established by the SHPO and in accordance with the NDCC Section 23-06-27 and associated North Dakota Administrative



Code 40-02-03.

### **6.11.3 Fees**

The Wind Energy Facility Fee will be One-thousand Dollars (\$1,000.00) per megawatt and prorated accordingly. The appropriate Fee amount of seventy-five (75) percent (non-refundable) of the total project amount must accompany the Conditional Use Permit. The remaining twenty-five (25) percent will be due and payable upon approval of the Alternate Energy Construction Permit. The fee payment must be payable to Bowman County.

### **6.11.4 WIND ENERGY FACILITY**

#### **1. Conditional Use Permit**

The Planning and Zoning Board must receive the following items prior to approval of a Conditional Use Permit:

- A.** The applicant must submit a payment of seventy-five percent (75%) (non-refundable) of the total project amount with the Conditional Use Permit application. The remaining twenty-five percent (25%) will be due and payable upon approval of the Alternative Energy Construction Permit and prior to construction beginning.

#### **2. Conditional Use Permit Application Requirements**

##### **A. Twelve (12) copies of a Map (to scale) showing:**

- 1.** A USGS Topographical Map (to scale) of the wind energy facility and all adjoining properties along the wind energy facility perimeter and internal boundaries, which show all existing features, including property boundaries, structures, improvements, roads, utility lines, restricted areas, public facilities, and natural features.

- 2.** The detailed map (to scale) must also show the location of

all proposed improvements for the wind energy facility, including wind turbines, MET towers, electrical lines (both buried and above ground) and roads. All wind turbines must have associated Global Positioning System (GPS) positions identified.

3. Locations of recreational properties, game and fish wetlands and conservation lands and all PLOTS lands within or adjacent to the wind energy facility internal boundaries and external perimeter.

4. Ingress and egress routes from the site as proposed during construction and operations thereafter indicating:

- a. Locations of all roadways
- b. Widths and lengths of roadways
- c. Proposed roadway surface and cover

**B. Twelve (12) copies of:**

1. Name of wind energy facility.

2. Name and address of wind energy facility owner.

3. Name and address of wind energy facility current operator.

4. Legal description(s) of the wind energy facility (all properties located within the wind energy facility perimeter).

5. Name, dimensions and location of any parks, public land, historic resources, churches, multi-use trails, or areas of recreational significance, as available from public documents, within two thousand six-hundred and forty (2,640) feet of all proposed wind turbine locations.

6. Names of property owners, identified as participating or non-participating, within 2.5 times rotor diameter distance of proposed turbine locations.

7. All affected public or private airstrips with their FAA Identification Number.

**C. Twelve (12) copies of the following must also be provided:**

**1. Product Description:** A description of the proposed technology to include the type of generator, rotor diameters, model numbers, height, and support systems to include manufacturers' numbers and identifications. Measurement in feet from all property lines and from any existing improvements must be presented for each proposed wind turbine.

**2. Owner Agreement(s):** A notarized affidavit as evidence of an agreement between the property owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the wind energy facility and the removal of vegetation, if necessary.

**3. Documents to Provide Proof of Easement with Adjacent Property and Easement Owners:**

Evidence of covenants, easements or similar documentation with abutting property owners to allow the crossing of their property with any part of the wind energy facility infrastructure, to include but not limited to, output and utility lines.

**4. Airport Notification Proof:** Proof of delivery to Bowman County Airport Authority, of location of each tower plus tower and blade tip heights. A Letter of Approval from the Bowman County Airport Authority is required.

**5. Environmental Impact Documentation:** The applicant will have a third party, who is a qualified professional, conduct an analysis to identify and assess any potential impacts on the natural environment including wetlands and other fragile ecosystems, historical or cultural sites, antiquities, and adjacent agricultural uses such as rotating crops. The applicant will

respond appropriately to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant will identify and evaluate the significance of any effects or concerns that will remain after mitigation efforts. In addition, a water usage or impact study must be completed that will indicate any impact that the wind energy facility will have on township resources.

**6. Avian and Wildlife Impact documentation:** The applicant will have a third party, who is a qualified professional, to conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant will respond appropriately to minimize, eliminate, or mitigate adverse impacts identified in the analysis. The applicant will identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts, to include effects on pollinators.

**7. Operation and Maintenance Plan:** A plan for the operation and maintenance of the wind energy facility, which will include measures for maintaining safe access to the installation, as well as general procedures of operational maintenance of the wind energy facility.

**8. Emergency Plan:** The applicant or owner/operator of the wind energy facility will cooperate with local emergency management in developing an Emergency Response Plan and/or Emergency Operation Plan must be submitted with the application. A means of shutting down the wind energy facility must be clearly identified. The current owner/operator will identify a responsible person for public inquiries throughout the life of the wind energy facility. An information sign must be posted and maintained at all entrance(s), which lists the name(s) and phone number(s) of the current owner/operator.

**9. Complete Decommissioning Plan:** The Decommissioning Plan must contain the following information that provides for the removal and reclamation of the facility or site(s) within nine (9) months:

- a. All wind towers and components, aboveground improvements and outside storage.
- b. All foundations, pads, and underground electric wires removed to a depth of four feet.
- c. Restoring the site to its original, pre-construction, condition.
- d. Hazardous material(s) from the property must be disposed of in accordance with Federal, State and Local Laws.
- e. A Reclamation Plan for the site.
- f. On-site buildings may remain if a notarized Bill of Sale is provided to the Planning & Zoning Board from the landowner, showing a change in ownership.

**10. Shadow Flicker Analysis:** A shadow flicker analysis, assuming typical meteorological conditions, will be submitted for all occupied residences of non-participants within one (1) mile of a wind turbine. The maximum acceptable level of shadow flicker exposure for homes in this study will be 30 hours per year. The applicant will provide commercially reasonable efforts to remedy shadow flicker complaints from any non-participating owners of an occupied residence with a window view of a wind turbine on a case-by-case basis by undertaking measures such as trees or vegetation plantings, awning installations or providing light-blocking curtains or shades.

**11. Road Use Agreement:** The applicant, permittee or current owner and the county, will enter into a road use agreement governing the use, improvement, maintenance and repair of county, township, and public roads to be used by the applicant, permittee, or current owner. The road use agreement will require the applicant, permittee, or current owner to provide the county with a letter of credit, bond, or other form of financial security for road repair in the event repairs are not completed by the applicant, permittee, or current owner per the terms of the agreement.

**12. Storm Water Pollution Prevention Plan (SWPPP):** Watershed Assessment Plan for drainage disposal and erosion

control approved by the Bowman/Slope Soil Conservation District Office, all costs of which will be incurred by the applicant.

### **3. General Requirements for Wind Energy Facilities**

- 1.** Wind turbines must be painted a non-reflective, non-obtrusive color.
- 2.** Wind turbines will not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
- 3.** Each wind turbine will be marked with a visible identification number to assist with the provision of emergency services, and the applicant, permittee or current owner will file with the local fire departments, law enforcement, emergency medical services and the County Emergency Management a wind energy facility map, (to scale), identifying all wind turbine and facility locations and numbers.
- 4.** Wind turbines will not be artificially lit, except to the extent required by FAA or other applicable authority and the current law.
- 5.** At all wind energy sites, the design of the buildings and related structures will, to the extent reasonably possible, use materials, colors, textures, and locations that will blend with the wind energy facility into the natural setting and existing environment.
- 6.** At all wind energy facility sites, the location and construction of access roads and other infrastructure will, to the extent reasonably possible, minimize disruption of rangeland, agricultural land, the landscape, and agricultural operations within Bowman County. All access roads will be low-profile roads within slopes and backslopes of 5:1 or flatter so that farming equipment can cross them if needed. Prior to construction, the applicant

or current owner, will make satisfactory arrangements (including obtaining permits) for road use, access road intersections, approach construction, maintenance, and repair of damages with governmental jurisdiction with authority over each road. If the applicant wishes to build an access road on a section line, in accordance with North Dakota Century Code (NDCC) Section 24-07-05, the applicant shall first petition the Township Board or the County Commissioners (for unorganized townships). If the petition is granted, the applicant must build the road to township or county standards under the supervision of the township or county road foreman or supervisor, whom the applicant or current owner must notify for each road request.

7. The permittee, applicant, or current owner will promptly replace or repair all fences or gates removed or damaged during all phases of the wind energy facilities' construction and/or life, unless otherwise negotiated with the affected landowner. When the permittee, applicant or current owner installs a gate where electric fences are present, the permittee, applicant or current owner will provide continuity in the electric fence circuit.

8. The applicant, permittee or current owner will place all electric lines and communications cables underground to a four-foot depth. All county roads must be bored and cased, as defined in the Bowman County Boring Permit Application.

9. The applicant, permittee or current owner will only place overhead electric lines on public right-of-way if approval or the required permits have been obtained from the governmental jurisdiction responsible for the affected right-of-way. When placing electric lines on private property, the applicant, permittee, or current owner, will place the electric lines in accordance with the easement negotiated with the affected landowner(s). All underground electric lines must be placed at a depth of at least four (4) feet.

**10.** The applicant, permittee or current owner will be responsible for compliance with all federal, state, and local laws applicable to the generation, storage, transportation, clean-up, and disposal of any hazardous wastes generated during any phase of the wind energy facilities life.

The applicant, permittee or current owner shall remove all waste and scrap that is the product of construction, operations, restoration, and maintenance from the facility and properly dispose of it upon completion of each task. Personal litter, bottles, and paper products deposited by facility personnel shall be removed daily.

The use of chemicals on or in the wind energy facility is limited to those herbicides and methods approved by the North Dakota Department of Agriculture and the North Dakota Department of Health. The applicant, permittee or current owner must contact the affected landowners prior to application.

**11.** All noxious weeds must be controlled as per the Bowman County Weed Board requirements.

**12.** The applicant, permittee or current owner will pay for any documented damage caused by ice thrown from a turbine.

**13. Setbacks-**

**A. Occupied Structures and Facilities:** Each wind turbine will be setback from the nearest occupied dwelling, commercial building or publicly used facility at a distance not less than two thousand six hundred forty (2,640) feet. Setbacks will be measured as the horizontal distance between the Monopole of the turbine and any object. A Variance may be granted if an authorized



representative or agent of the applicant, permittee or current owner and those affected parties on adjoining properties with associated wind rights sign a formal, notarized and legally binding agreement expressing all parties support for a Variance that waives or reduces the setback requirements.

**B. Public Roads and Above Ground Communications and Electric Lines:** Each wind turbine will be set back from the nearest public road or above ground communications or electric line at a distance not less than five hundred (500) feet or 1.1 times the rotor diameter, whichever is the greater of the two as measured from the edge of the existing right-of-way. Setbacks will be measured as the horizontal distance between the monopole of the turbine and any object. A Variance may be granted if an authorized representative or agent of the applicant, permittee, or current owner and those affected parties on adjoining properties with associated wind rights sign a formal, notarized and legally binding agreement expressing all parties support for a Variance that waives or reduces the setback requirements.

**C. Non-Participating Parcels:** Each wind turbine will be set back from the property line between the participating property and any non-participating property that adjoins the participating property at a distance not less than 2.5 times the rotor diameter of the wind turbine. Public roads, above ground communications and electric lines are excepted from this 2.5 times rotor diameter requirement. A Variance may be granted if an authorized representative or agent of the applicant, permittee, or current owner and those affected parties on

adjoining properties with associated wind rights sign a formal, notarized and legally binding agreement expressing all parties support for a Variance that waives or reduces the setback requirements.

**D. Recreational Setbacks:** A one-quarter (1/4) mile or one thousand three hundred twenty (1,320) foot setback will be required from recreational areas to provide an adequate buffer zone between recreation areas that are private and/or open to the public and a wind turbine.

1. Public Recreation Areas:

- a. North Dakota Game and Fish private lands open to sportsmen (PLOTS Lands).
- b. North Dakota Game and Fish Wildlife Management Areas.
- c. US Fish and Wildlife Service National Wildlife Refuges.
- d. US Fish and Wildlife Service Waterfowl Production Areas.
- e. US Army Corps of Engineers Lands and Lakes.
- f. Waterfowl Rest Areas.
- g. Community Centers.
- h. Public Parks.
- i. Public Playgrounds.
- j. Golf Courses.
- k. Fairgrounds.
- l. Sports and/or Rodeo Arenas
- m. Bars, Saloons or Taverns
- n. Dance Halls or Community Centers

2. Churches and Cemeteries

3. Shooting Ranges: For established, permanent shooting ranges, the wind energy facility must be

located at a minimum of five thousand two hundred eighty (5,280) feet from the shooting position, as measured down range.

4. Extra-Territorial Areas: No wind turbine will be erected within one (1) mile, extending outward from a city limits boundary.

14. Minimum Ground Clearance- The blade tip of any wind turbine will, at its lowest point, have a ground clearance of no less than seventy-five (75) feet.

15. Sound Levels- Sound levels of wind turbines within one hundred (100) feet of any non-participating residence will not exceed 45 dBA. Construction noise or reasonable and necessary maintenance activities are allowed to exceed the sound limit except between the hours of 10 PM to 6 AM local time. This sound standard does not apply to participating dwellings.

#### **4. Review and Inspections**

The Zoning Administrator(s) or designee will review the Site Plan and inspect the facilities to insure conformity with the requirements of this ordinance. Inspections will occur during construction and may occur periodically during operations.

#### **5. Variances**

The Planning and Zoning Board may grant a variance to these requirements based upon good cause, if shown. Applicants for such variance must be made to the Planning and Zoning Board through the Zoning Administrator(s). Completed and notarized variance request forms must accompany the permit, if needed.

#### **6. Appeals**

Appeals of a Planning and Zoning Board decision must be made to the County Commissioners.

### **6.11.5 PUBLIC HEARINGS**

Upon receipt of the Conditional Use Permit application, the Planning and Zoning Board, and any experts it may retain, will review the application, and hold a public hearing on the application giving notice of which shall be published a least two (2) weeks prior to the hearing in the official newspaper of the county. The notice shall include the time, date and place of the hearing, description of the property to be affected and the time and place for the public inspection of the documents prior to the hearing.

**1. Deliberation and Decision:** The Bowman Planning and Zoning Board, following the public hearing for the Conditional Use Permit, will make a recommendation to the County Commissioners for the approval or denial, modification, and/or imposition of conditions on the application.

**2. Remaining Application Fee Due:** Remaining Application Fee due upon final approval of the Alternative Energy Construction Permit, the remaining twenty-five (25) percent of the total application fee will be due and payable to Bowman County. The receipt of which will be required prior to the Alternate Energy Construction Permit being issued.

### **6.11.6 ALTERNATIVE ENERGY CONSTRUCTION PERMIT (AECPP)**

**Twelve (12) copies of the following must be provided:**

**A.** A copy of the site plan with the name, address, and registration number of the professional surveyor involved in preparing the site plan and the final blueprint to scale.

**B.** Name, dimensions, and locations of any above-ground utility easements, as available from public documents, within 2,640 feet of all proposed wind turbine locations.

**C.** A copy of the SWPPP approved by the Bowman/Slope Soil Conservation office.

**D.** Proof of financial surety for decommissioning: the applicant or current owner of a wind energy facility must provide a form of surety that can be assessed by the County Commissioners and is agreeable to the County Commissioners. This is to cover the cost of decommissioning in the event Bowman County must remove the installation.

The form of surety for decommissioning will be one hundred twenty-five (125) percent of the estimated removal and restoration costs. A professional engineer or contractor who has expertise in the removal of a wind energy facility will prepare a cost estimate for the decommissioning of the facility. The County Commissioners reserves the right to hire their own engineer to determine cost estimates and facts of decommissioning on an annual basis. The form of surety must be in place before and construction can begin.

The decommissioning cost estimate shall explicitly detail the cost before considering any project salvage value of the wind energy facility. The amount shall include a mechanism for calculating and providing increased removal costs due to inflation.

The County Commissioners have the right to revisit decommissioning costs annually to determine the inflation calculated costs.

**E.** The owner/operator of the wind facility must show proof of the form of surety to the County Commissioners annually, or within 30 days of a transfer of ownership after construction has begun. Any form of surety required by the state would be credited towards the Bowman County surety amount if the amount is greater.

**F.** A copy of the approved Water Acquisition, Reclamation, and Disposal Plan.

**G.** Utility Permit- All county roadways will need to be bored for all electrical lines buried between the wind energy facilities

or sites. Prior to the start of construction, a completed application must be received and approved for each occurrence/incident by the County Road Superintendent and the County Commissioners. Proof of all Utility Permits approved by the County Commissioners prior to the start of construction. Failure to do so may be considered grounds of revocation of the Alternative Energy Construction Permit due to non-compliance.

**H.** A copy of the State Historical Preservation Officer (SHPO) report of approval must be submitted, in addition to any other relevant studies, reports or certificates for approval as maybe reasonably required by the Planning and Zoning Board.

**I.** The applicant will have a third party, who is a qualified professional, and approved by the Planning and Zoning Board to conduct an analysis to identify and assess any potential impacts on the natural environment including wetlands and other fragile ecosystems, historical or cultural sites, antiquities, and adjacent agricultural uses such as rotating crops. The applicant will respond appropriately to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant will identify and evaluate the significance of any effects or concerns that will remain after mitigation efforts. In addition, a water usage or impact study must be completed that will indicate any impact that the wind energy facility will have on township resources.

**J.** Upon final approval of the Alternative Energy Construction Permit, the remaining twenty-five (25) percent of the total application fee will be due and payable to Bowman County. The receipt of which will be required prior to the Alternate Energy Construction Permit being issued.

**K.** Prior to the start of any construction, the applicant will conduct a pre-construction meeting with the Planning and Zoning Board to coordinate field monitoring of the construction activities. The pre-construction meeting shall be open to the public and all interested parties and shall address staging, schedules, complaints, emergency plans and other pertinent

issues. Proof that a permit issued by the state, in accordance with all applicable state laws, has been issued will be required to be submitted to the Planning and Zoning Board.

**L.** The Planning and Zoning Board must vote on granting the Alternative Energy Construction Permit. Upon a determination of compliance with the Alternative Energy Construction Permit (AECP) any additional requirements stipulated in the approved Conditional Use Permit, construction of the project may proceed. If the Planning and Zoning Board finds that the conditions or restrictions set forth in the AECP are not being complied with the Planning and Zoning Board may revoke the Alternative Energy Construction Permit after a public hearing.

If substantial construction has not been instituted within three years of the date of approval of the AECP, the permit shall be null and void.

#### **6.11.7 DEMONSTRATION OF CONSTRUCTION COMPLIANCE**

The Application issued pursuant to Section 6.11.3 will be required upon the applicant(s) or current owner(s), final demonstration of compliance with the requirements of the permit following completion of the wind energy facility. Within ninety (90) days from the start and within ninety (90) days of completion of the wind energy facility construction, the applicant, permittee, or current owner, must submit to the Planning and Zoning Board all updated and final USGS Maps (to scale), surveys, or blueprints, if available, providing all the information pursuant to Section 6.11.3 and demonstrating actual compliance with the requirements and conditions set forth for the Conditional Use Permit and Alternative Energy Construction Permit.

#### **6.11.8 LIABILITY INSURANCE**

The applicant, permittee, or current owner and/or operator of the wind energy facility will defend, indemnify, and hold harmless Bowman County and its officials from and against all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorney's fees, without limitation, arising out of unlawful acts or

missions of the applicant, permittee, current owner and/or operator associated with the construction and/or operation of the wind energy facility.

The current owner and/or operator of the wind energy facility will maintain a current general liability policy covering bodily injury and property damage and name Bowman County, its employees, officers, agents, and contractors as additional insured with limits of at least two million (\$2,000,000) dollars per occurrence and five million (\$5,000,000) dollars in aggregate with a deductible of no more than five thousand (\$5,000) dollars. Any loss of coverage, an expired insurance certificate or failure to maintain the minimum coverage amount will be considered grounds for revocation of the Wind Energy Facility Application.

Certificates evidencing required insurance must be provided to Bowman County upon approval of the Wind Energy Application and prior to commencement of any construction. A letter indicating continued annual coverage must be submitted to the Bowman County Auditor annually.

## **6.11.9 RESTORATION OF PROPERTY**

### **1. Decommissioning Plan and Bonding Requirements:**

The wind facility project will develop a wind turbine Decommissioning Plan in accordance with NDCC 49-02-27 and NDAC 69-09-09 and this plan and be submitted as a part of the Wind Facility application. The bond must be submitted upon approval of the Conditional Use Permit prior to construction.

Within nine (9) months of termination of operations or abandonment of the wind energy facility, leases, or easements for a wind energy facility in the county, the permittees or current owner(s) and/or operators will, at its expense, comply with the following decommissioning requirements:



- A. Dismantling and removal of all towers, turbine generators, transformers and overhead cables.
- B. Removal of all underground cables to a depth of twenty-four (24) inches and backfill all trenches.
- C. Removal of all foundations, buildings, and ancillary equipment to a depth of four (4) feet.
- D. Removal of surface road materials and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction of the commercial wind energy facility and wind turbines, unless prior arrangement has been made in writing, with a notarized signature from the current landowner, to keep the roadways in place.
- E. All sites must be restored and reclaimed to the same general topography that existed prior to the beginning of construction of the wind energy facility. Areas disturbed by the construction of the facility and decommissioning activities must be graded, top soiled and seeded according to the Natural Resources Conservation Services Technical Guide recommendations and other agency recommendation, unless the landowner requests, in writing, that the land surface areas be maintained. An established stand is required within three (3) years. If not established, re-seeding is required.

#### **6.11.10 TRANSFER OF WIND ENERGY FACILITY OR PROJECT**

Prior to any change in ownership or assignment of a controlling interest of any entity owning a wind energy facility or project permitted in Bowman County, including any assignment or transfer of a controlling interest to any corporation, partnership or other entity controlled by or a subsidiary or affiliate of the wind energy facility or project permitted in Bowman County, notification will be made to the Planning and Zoning Board, requesting transfer of the Wind Energy

Facility or project. Such transfer will be conditioned upon explicit agreement by the new applicant to comply with the requirements and conditions of this ordinance, as amended, in the permit, if applicable. The notification will also include the new applicant's agent and contact information. A change in ownership that results in the inability, unwillingness, or failure to abide by the conditions of this ordinance will be the basis for revocation of the project or permit, if applicable. [This limitation will apply to all transfers by operation of law and any transfers by trustee in bankruptcy, receivers, administrators, executors, and legatees.]

#### **6.11.11 PREEMPTION**

The regulations for Wind Energy Facilities must follow county and state regulations and the government with the greater or stronger regulation will apply to the project.

#### **6.11.12 SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable and if any provision, section or part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such decision will only affect those particular provisions, section or part involved in such decision and will not affect or invalidate the remainder of such Ordinance, which will continue in full force and effect.

#### **6.11.13 ENFORCEMENT AND PENALTIES**

Any person, firm or corporation violating any of the provisions of this Ordinance will be subject to the following penalties:

A. Violations of this Ordinance will be a Class B Misdemeanor, punishable upon conviction by a fine not to exceed \$1,000.00 or by imprisonment for a period not to exceed 30 days, or by both. Each day the violation exists will constitute a separate offense. In addition, to the forgoing penalties, anyone convicted of violating this Ordinance under this provision will be assessed

the costs of prosecuting, including all attorney fees that have been, or will be, incurred.

**B.** The Zoning Administrator, and/or their designee will enforce this Ordinance.

**C.** Bowman County will have the right to petition the District Court for an injunction prohibiting the continuing violation of this Ordinance. Anyone found to be in violation of this Ordinance and enjoined by said Court will be assessed the cost and attorney fees incurred by Bowman County in seeking said injunction.

## **6.12 TEMPORARY CREW HOUSING (WORK FORCE HOUSING)**

### **6.12.1 Definitions**

1- Temporary Crew Housing (Work Camp Housing)-

Modular residential structures used to house workers on a temporary basis for a specified period. 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.

### **6.12.2 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 this code. It is allowable as a conditional use in Industrial Districts, but in no case within three (3) 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,

### **6.12.3 Application Procedures**

An application for a temporary crew housing permit shall be signed by the applicant or authorized representative and shall include the following:

- 1- A description of the units together with a numbering system.
- 2- A description of how the proposed units is 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 (3) miles of a city, the roads specifications, if any.
- 4- The name and address and contact information of the applicant.
- 5- The name and address and contact information of the applicant.
- 6- A copy of the lease (if applicable) pay the annual County Zoning fee.
- 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.
- 14-Submit a surety bond for clean-up purposes.
- 15-Any additional information deemed necessary by the Planning and Zoning Board, or County Commission.

#### **6.12.4 Prohibited Housing Types**

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

#### **6.12.5 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.

#### **6.12.6 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 Commissioners anytime the applicant is in non-compliance with any of the conditions set by the Planning and Zoning Board or County Commissioners for permit issuance.

#### **6.12.7 Renewal of Conditional Use Permit**

Any temporary closed crew housing permit granted in accordance with this section shall expire two (2) years from the date of issuance. The Planning and Zoning Board may extend the permit 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.

### **6.13 Area Requirements**

Front, side, rear yard, and total lot area minimum requirements shall be set for each district, unless specified by each city.

- 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) feet, except for Gascoyne and Rhame where the minimum setback shall be the same as those specified in Residential Districts.
- 3- Residential Districts shall have a minimum lot size of seven thousand (7000) 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 twenty (20) 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 two hundred (200) square foot base area, accessory structures shall be exempt from rear lot minimum setbacks. See appropriate Residential District City Ordinances for updated setbacks.
- 4- Mobile Home Districts shall have a minimum lot size of six thousand (6000) 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.
- 5- Commercial Districts shall have a minimum lot size of twenty thousand (20,000) square feet and shall have a rear lot setback requirements of not less than thirty (30) feet.
- 6- 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.

## **6.14 Signs**

### **6.14.1 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 advertising.

### **6.14.2 General Requirements**

- 1- Directory signs shall not be larger than twenty (20) square feet in area for allowed use.
- 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 feet
- 4- Signs in a residential district shall be limited to one sign per dwelling structure not exceeding twelve (12) square feet in an area which may be a wall, pedestal, ground or projecting type; one temporary sign, such as “for sale” or “for rent”, not exceeding twenty (20) square feet in area.
- 5- 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 industry zoned districts shall not be larger than ninety-six

(96) square feet in area and placed nearer than six hundred (600) feet apart.

## **6.15 SPECIAL PROVISIONS**

Talbot Township and the portions of Grainbelt and Scranton Townships within the conical surface map shall be subject to all regular Bowman County Zoning Ordinances. In addition to those promulgated by the Bowman County Airport Authority and subject to the same penalties as the Bowman County Zoning Ordinance.

## **6.16 MEDICAL MARIJUANA**

The purpose of this subsection pertaining to Medical Marijuana is to provide a regulatory framework for the siting, construction, and operation in Bowman County of “compassion centers” as defined by North Dakota Century Code 19-24.1 which will allow the operation of such facilities while minimizing the impacts of such facilities on the County’s resources, protecting the morals, health, safety, and well-being of Count residents, and protecting property values. Nothing in this subsection is intended to authorize, legalize, or permit operations that violate any County, State of North Dakota, or federal law.

1. Zoning- Compassion centers may be constructed within the county, subject to the restrictions and conditions of this Ordinance and compliance with all applicable State laws, and any additional conditions and requirements which may be established during the review and approval process for a proposed compassion center.
2. Additional Conditions and Requirements- The Planning and Zoning Commission and the Board of County Commissioners may at their discretion require additional standards, requirements, and assurances as they may determine appropriate to meet the purpose of this subsection pertaining to compassion centers.



3. Definitions- The following terms shall, in this subsection, have the meaning of such terms as they are decided in the North Dakota Century Code 19-24.1 and the North Dakota Administrative Rules 33-44-01: Compassion Center, Dispensary, Manufacturing Facility.
4. Applicability- The requirements of this Ordinance shall apply to all compassion centers located in Bowman County, excluding the Cities of Bowman and Scranton and the disposal of waste marijuana plants and substances involved in the development of medical marijuana products as they are allowed under NDCC 19-24.1.
5. Application for Permit- No building permit for any development pertaining to a compassion center may be issued until after said compassion center has received a conditional use permit to operate as a compassion center by the Bowman County Board of County Commissioners and authorization from the North Dakota Department of Health. The prospective permittee shall apply for a conditional use permit to the Planning and Zoning Commission. The application shall be signed by an authorized representative of the prospective permittee. An application fee as established by the Planning and Zoning Commission shall be paid at the time the application is submitted. The application shall include the following information:
  - a. The complete name, legal address, and phone number of the prospective permittee and responsible contact person.
  - b. The name, legal address, and phone number of all persons having any ownership interest in the proposed compassion center.
  - c. Details as to how the prospective permittee will comply with each requirement of this Ordinance.
  - d. A schedule for the proposed start and completion of construction of the compassion center.
  - e. A detailed operations plan that includes a description of all products and services to be produced or sold by the facility.

- f. A detailed security plan.
  - g. A detailed waste management plan that includes all marijuana plants and substances involved in the development of medical marijuana plants, and substances involved in the development of medical marijuana products as they are allowed under NDCC19-24.1.
  - h. The applicant shall sign a notarized affidavit acknowledging applicant understands applicable federal laws and marijuana is a “controlled substance” under federal law.
  - i. Appropriate financial assurances in accordance with this Ordinance.
  - j. The applicant shall sign an affidavit certifying that the operation of the facility will comply with all requirements of North Dakota Century Code 19-24.1 and North Dakota Administrative Code 33-44.
6. Upon receipt of the application, the Planning and Zoning Commission shall review the application and at such time as the Planning and Zoning Commission may determine that it has sufficient information in hand to consider recommending, approval or denial of the application, it shall hold formal public hearing on the application. Notice of a formal public hearing providing 2 consecutive weeks’ notice in the official newspaper of Bowman County.
7. Deliberation and Decision- If the Planning and Zoning Commission finds that the prospective permittee will comply with all requirements, it may submit a recommendation for a Conditional Use Permit to the Board of County Commissioners. The Board of County Commissioners shall make all final decisions as to the disposition of the application for a compassion center.

8. Annual Renewal- An application for a Conditional Use Permit to operate a compassion center must be submitted to the Board of County Commissioners annually for renewal.
9. Annual Fees- A compassion center shall pay an annual fee to offset the costs of policing, site inspections, monitoring, storage of media, regulation, and any other administration or enforcement activities associated with the compassion center. The Board of County Commissioners shall establish the amount of the annual fee. This fee shall include costs associated with training law enforcement officers in Bowman County to determine the physical signs of drug impairment.
10. General Requirements for a compassion center functioning as a Dispensary-
  - a. A Dispensary may not be located within 1250 feet of the property boundary of any existing residence except the residence of the owner or operator of the Dispensary. A Dispensary may not be located within 2640 feet of the property boundary of any public or private school, public outdoor recreation facility, public indoor recreation facility, park, church, bar, adult entertainment center, or daycare center.
  - b. A Dispensary may only be located within a Municipal Development Zone.
  - c. A Dispensary may not be located within 1250 feet of a residential or commercial zoning district of a municipality located in Bowman County.
  - d. A Dispensary may operate only between the hours of 8:00 a.m. and 5:00 p.m.
  - e. A Dispensary must have a security camera system that provides continuous coverage of all spaces within the site on which the Dispensary is located. The security camera system shall

provide a continuous live feed to the applicant's security personnel, and all footage of all security cameras shall be recorded. The security camera system shall have a power supply backup system that ensures continuous power to the system will always be maintained. The recordings of all security cameras shall be kept for a minimum of 90 days.

- f. All medical marijuana products and waste products must be locked in a vault or equally secure space whenever the dispensary is not open for business. The construction of a Dispensary shall be designed to prevent theft of any medical marijuana products and waste products.
- g. All medical marijuana products sold in Bowman County must be packaged in childproof packaging.
- h. The County Sheriff or their designee and the County Zoning Administrator must be granted entrance to a compassion center at all reasonable times to ensure compliance.
- i. Where applicable, an 8-foot-high continuous chain link fence with a lockable gate of similar material shall surround the entire facility. The fence shall be topped with 1 foot long 45-degree angled arms facing both in and out from the fence, each of which is strung with at least three strands of barbed wire. Alternatively, barbed wire may be installed in coils at least 1-foot-high above the chain link fencing. The chain link fence shall be buried at least 1-foot-high into the ground to reduce the potential for intruders to crawl under the fence.
- j. The physical design and security system for the facility shall be approved by a licensed private security service or consultant of the applicant.
- k. Upon approval by the North Dakota Department of Health, an applicant with an approved Conditional Use Permit to operate a compassion care center by Bowman County must submit a copy

of the entire application and all documentation of approval by the North Dakota Department of Health to the Bowman County Zoning Administrator before authorization will be granted to begin construction or operation of said compassion care center.

11. General Requirements for a compassion center functioning as a Manufacturing Facility-

- a. A Manufacturing Facility may not be located within 1250 feet of the property boundary of any existing residence except the residence of the owner or operator of the Manufacturing Facility. A Manufacturing Facility may not be located within 2640 feet of the property boundary of any public or private school, public outdoor recreation facility, church, bar, adult entertainment center, or daycare center.
- b. A Manufacturing Facility may not be located within 1250 feet of residential or commercial zoning district of a municipality located in Bowman County.
- c. A Manufacturing Facility must have a security camera system that provides continuous coverage of all spaces within Manufacturing Facility structures and that provides continuous coverage of all exterior areas within the site on which the Manufacturing Facility is located. The security system shall provide continuous live feed to the applicant's security personnel, and all footage of all security cameras shall be recorded. The security camera system shall have a power supply backup system that ensures continuous power to the system will always be maintained. The recordings of all security cameras shall be kept for a minimum of 90 days. Additionally, the Manufacturing Facility shall always have on-site security personnel.
- d. All medical marijuana products and waste products must be locked in a vault or equally secure space except when manufacturing facility staff are producing medical marijuana

products. The construction of a Manufacturing Facility shall be designed to prevent theft of any medical marijuana plants, products, and waste products.

- e. All marijuana plants being grown at a manufacturing facility must be identified in accordance with North Dakota Century Code 19-24.1-26.
- f. The County Sheriff or their designee and the County Zoning Administrator must be granted entrance to a compassion center at all reasonable times to ensure compliance.
- g. An 8-foot-high continuous chain link fence with a lockable gate of similar material shall surround the entire facility. The fence shall be topped with 1 foot long 45-degree angled arms facing both in and out from the fence, each of which is strung with at least three strands of barbed wire. Alternatively, barbed wire may be installed in coils at least 1-foot-high above the chain link fencing. The chain link fence shall be buried at least 1-foot-high into the ground to reduce the potential for intruders to crawl under the fence.
- h. The physical design and security system for the facility shall be approved by a licensed private security service or consultant of the applicant.
- i. Upon approval by the North Dakota Department of Health, an applicant with an approved Conditional Use Permit to operate a compassion care center by Bowman County must submit a copy of the entire application and all documentation of approval by the North Dakota Department of Health to the County Zoning Administrator before authorization will be granted to begin construction or operation of said compassion care center.

## **6.17 Ordinance Regulating the Application for, and the Operation and Maintenance of, Solar Energy Systems (SES) in Bowman County, North Dakota**

### **DEFINITIONS-**

**Abandonment** - will mean to give up, discontinue, and withdraw from any solar energy facility or system that ceases to produce energy on a continuous basis for 12 months. Any facility or system that ceases to produce energy on a continuous basis for 12 months will be considered abandoned.

**Alternate Energy** - will mean any energy generated or produced from solar or wind.

**Alternate Energy Construction Permit (AECPP)** - Permit needed for construction.

**Ancillary Solar Equipment** - will mean any accessory part or device of a solar energy system that does not require direct access to sunlight, such as batteries, electric meters, converters or water heater tanks.

**Building** - will mean any structure having a roof supported by columns or walls and designated or intended for the shelter, support, enclosure or protection of persons, animals, or chattels.

**Building-mounted SES** - will mean a solar energy system affixed to a permanent principal or accessory building (i.e., roof or wall).

**Decommissioning Plan** - will mean a document that details the planned shut down and/or removal of a solar energy facility or system from operation or usage.

**Dike** - will mean a bank, usually but not limited to, earth construction to control or confine water or undesirable runoff. The height of which must be not less than (2) feet and of a size to be able to contain all runoff originating on the solar energy site.

**Electric Line** – A set of conductors used to transmit and/or distribute electrical energy within the solar energy system or with outside transmission lines.

**Gate** - a door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

**Ground-mounted SES** - will mean a freestanding solar energy system that is NOT attached to and is separate from any building on the parcel of land on which the solar energy system is located.

**Improved Area** - will mean any area containing solar panels, electrical inverters, storage buildings and access roads.

**Non-Participating Property** - A parcel of real estate that is not a participating parcel.

**Occupied Structure** - A building in which people live, work or frequent.

**Participating Property** - A parcel of real estate on which any solar energy system will be constructed, or for which a participation agreement or contract has been executed.

**Public** - will mean belonging to or open to, enjoyed and used by and/or maintained for the public generally, but not limited to, a facility the control of which is wholly or partially exercised by some government agencies.

**Public Road** - will mean any road, highway or section line which is now or hereafter designated and maintained by Bowman County, or organized townships, as part of the county or township road system, whether primary or secondary, hard-surfaced, or other dependable road. Setbacks will be measured from the road right-of-way.

**Permittee** - An individual, group of individuals, corporations, partnerships, joint venture, owners, or any other business entity, or combination thereof, that leases or owns the solar energy system(s) and the associated improvements, and all subsequent assignees and/or transferees of these rights, and that submits Conditional Use and Alternate Energy Construction Permits, develops a solar energy system, and subsequently operates such a facility.



**Personal-Scale SES** - will mean a solar energy system that is an accessory to the principal use on the site. The total surface area of all solar collector surfaces within a Personal-scale SES shall NOT exceed 1,000 square feet. The sale and distribution of excess available energy, if permitted, to an authorized public utility for distribution shall be incidental to this type of system and NOT its primary purpose. Sale of excess energy to anything other than an authorized public utility shall be prohibited.

**Recreation** - areas designated for the refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, swimming, hunting or hiking, or be passive, such as enjoying the natural beauty of the shoreline or area wildlife.

**Residence** - will mean a building used as a dwelling for one or more families or persons.

**Residential Area** - will mean an area zoned for residential use.

**Shooting Range** - Is defined as an area, for the discharge of weapons for sport under controlled conditions where the object of the shootings is an inanimate object such as, but not limited to paper, metal, or wooden targets.

**Site Plan** - A detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this ordinance.

**Solar Collector Surface** - will refer to any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports and mounting hardware.

**Solar Energy** - will mean radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

**Solar Energy System (SES)** - will mean a system (including solar collectors and ancillary equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, or generating electricity. Solar energy systems include both systems for private use as well as those specifically for generating and selling power.

**Utility-scale SES** - will mean a solar energy system that meets one or more

of the following:

1. Is primarily used for generating electricity for commercial sale and distribution on the electrical grid.
2. Has a manufacturer rating of greater than 20 Kilowatts (KW).
3. The total surface area of all solar collector surfaces exceeds 1,000 square feet.
4. Is not an accessory use or structure.
5. Occupies an area larger than 2 acres.

**Variance** - A relaxation of the terms of these regulations where such variance will not be to the 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.

**Waterfowl Rest Area** - Those areas declared by proclamation of the Governor of North Dakota to be “Waterfowl Rest Areas” as of the date of an application for a Conditional Use Permit for a solar energy system.

**Wildlife Management Area** - An established area set forth by a state or federal agency for the protection of wildlife.

### **6.17.1 PURPOSE**

The purposes and objectives for which this ordinance was established are as follows:

- A.** To preserve the dignity and aesthetic quality of the environment in Bowman County.
- B.** To preserve the physical integrity of land near residential areas.
- C.** To preserve and protect the health and welfare of the citizens of Bowman County.
- D.** To protect and enhance the economic viability and interests of the citizens and residents of Bowman County who have made substantial

financial investments in homes, businesses, and industry in Bowman County.

- E.** To facilitate the construction, installation, and operation of solar energy systems in Bowman County in a manner that minimizes the adverse impacts to agricultural, commercial, and residential lands. This ordinance is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of Local, State or Federal Law.

## **6.17.2 REGULATORY FRAMEWORK**

### **1. Zoning**

Solar energy systems constructed within Bowman County are subject to the Restriction and conditions of this ordinance.

### **2. Principal of Accessory Use**

A different existing use or an existing structure on the same parcel will not preclude the installation of a solar energy system or a part of such a system on the parcel. Solar energy systems that are constructed and installed in accordance with the provisions of this code shall not be deemed to constitute expansion of a non-conforming use or structure.

### **3. Applicability**

The requirements of this code shall apply to all solar energy systems within the county, outside of the Extra-Territorial Areas and city limits that are constructed after the effective date of this code. No additions or expansions of an existing solar energy system will be allowed without issuance of a new Alternate Energy Construction Permit pursuant to this ordinance.

Modifications or alterations to any solar energy system(s), approved when issuing the Alternate Energy Construction Permit, may be completed through a Change Order, upon approval. Setbacks still apply.

Modifications or alterations to a solar energy system approved when issuing

the Alternate Energy Construction Permit will require an amendment, approved by the Planning and Zoning Board, to the Alternate Energy Construction Permit for the solar energy system(s) and/or location(s) that are affected.

#### **4. Archaeology Resource Surveys**

Unless the project is under the purview of the North Dakota Public Service Commission (PSC), and an Archaeological Resource Survey is being prepared as a part of that process, the applicant will work with the State Historic Preservation Office (SHPO) at the State Historical Society of North Dakota at the beginning of the planning process for the solar energy system to determine whether an archaeological survey is recommended for any part of the proposed project. If recommended, the applicant will contact a qualified archaeologist to complete such survey's and shall submit the results to the Planning and Zoning Board and the SHPO. The SHPO will make recommendations for the treatment of any significant archaeological sites which are identified. Any issues in the implementation of these recommendations will be resolved by the County Commissioners in consultation with SHPO. All information provided/submitted under this provision is subject to North Dakota Century Code 55-02-07.1.

In addition, if any archaeological sites or human remains are found during construction, the applicant shall follow standard operating procedures as established by the SHPO and in accordance with the NDCC Section 23-06-27 and associated North Dakota Administrative Code 40-02-03.

### **6.17.3 STANDARDS FOR PERSONAL-SCALE SOLAR ENERGY SYSTEMS**

Personal-scale solar energy systems may be permitted as an accessory use or structure in all zoning districts, subject to the following standards:

#### **A. Ground-mounted Personal-Scale Solar Energy Systems**

Ground-mounted, Personal-scale solar energy systems will be subject to the following standards:

- 1. Setbacks:** Within city limits, ground-mounted solar

energy systems will be located only in the rear or side yard and will correspond with the setbacks for the city in which it will be located. All Personal-scale solar energy systems located outside of city limits will correspond with the setbacks established for the county or those for the Extra-Territorial Area (ETA).

**2. Height:** Ground-mounted solar energy systems will NOT exceed twenty (20) feet in height, measured from the ground at the base of such equipment to the highest point of the system.

**3. Attachment:** Solar energy systems will be permanently and safely attached to the ground.

**4. Visual Impact:** The solar energy system will not have a significant adverse visual impact on the natural features or neighborhood character of the surrounding area and will be located to minimize glare on adjacent properties and roadways.

**5. Compliance with Additional Codes:** Solar energy systems and the installation and use thereof, will comply with the County/State construction code, the electrical code and other applicable County and State codes. Installation of a solar energy system will not commence until all necessary permits have been issued.

## **B. Building-mounted Personal-Scale Solar Energy Systems**

Building-mounted, Personal-scale solar energy systems will be subject to the following standards:

**1. Height:** Solar energy systems that are mounted on the roof of a building will not project more than five (5) feet above the highest point of the roof and, in any

circumstances, will NOT exceed the maximum building height limitation for the zoning jurisdiction in which it is located, and will NOT project beyond the eaves of the roof.

**2. Weight:** Solar energy systems mounted on the roof of a building will be only of such weight as can safely be supported by the roof. Proof thereof, in the form of certification by a professional engineer or another qualified person, must be submitted to the Planning and Zoning Board along with the permit application.

**3. Attachment:** Solar energy systems that are roof-mounted, wall-mounted or are otherwise attached to a building or structure must be permanently and safely attached to the building or structure. Proof of the safety and reliability of the means of such attachment will be submitted to the Planning Zoning Board along with the permit application.

**4. Wall-Mounted Solar Energy Systems:** Solar energy systems that are wall-mounted will NOT exceed the height of the building wall to which they are attached.

**5. Visual Impact:** All solar energy systems must not have any significant adverse visual impact on the natural features or neighborhood character of the surrounding area and will be located to minimize glare on adjacent properties and roadways. Solar energy systems that are visible from the street or road must be either composed of building-integrated components (such as solar shingles) that are not readily evident, or be designed and mounted to match the shape, proportions, and slope of the roof.

**6. Compliance with Additional Codes:** Solar energy systems, and the installation and use thereof, will comply with all State and Local construction codes, the electrical code and other applicable State and Local codes.

Installation of a solar energy system will NOT commence until all necessary permits have been issued and copies of each are on file with the Planning and Zoning Board.

### **C. Ancillary Solar Equipment**

Where feasible, ancillary solar equipment will be located inside of a building or be screened from public view. All ancillary solar equipment such as, but not limited to, water tanks, supports, batteries and plumbing will be screened to the maximum extent possible without compromising the effectiveness of the solar collectors. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of State, County, Township or City Codes and when no longer in use will be disposed of in accordance with applicable laws and regulations.

### **D. Application Requirements for Personal-scale Solar Energy Systems:**

An application will include the following:

1. Photographs of the property's existing conditions.
2. Renderings or catalog cuts of the proposed solar energy system.
3. Plot/Sketch plan (to scale) to indicate where the solar energy system is to be installed on the property (or if building mounted, the system's location on the

permanent building), including property setbacks and the total solar collector surface area.

4. Elevations showing the height of the solar energy system.
  - a. For ground-mounted solar systems, the height of the system above ground.
  - b. For pitched roof-mounted solar systems, the elevation must show the highest finished height of the system and the height of the finished roof surface on which it is mounted.
  - c. For flat roof-mounted solar energy systems, the elevations will show the highest finished height of the system and the highest point of the roof, including any parapets on the building.
5. Description of the screening to be provided for ground or building-mounted solar energy equipment.
6. Proof of notification and date of delivery of airport notification of solar system locations and a copy of Bowman Regional Airport Board Letter of Approval, if required.
7. Other certifications may be required.

#### **E. Fees for Personal-scale Solar Energy Systems**

The Solar Energy Facility fee will be \$1/watt and prorated accordingly. The appropriate fee amount of seventy-five (75) percent (non-refundable) of the total project amount must accompany the Conditional Use Permit Application. The remaining twenty-five (25) percent will be due and



payable upon approval of the Alternate Energy Construction Permit. The fee payment must be payable to Bowman County.

**F. Exclusions from Zoning Permit for Personal-scale Solar Energy Systems**

The following situations do not require a Zoning Permit but must still comply with all other standards of this Ordinance:

1. The total installation consists of only one (1) building-mounted solar energy system with a total solar collector surface area of less than eight (8) square feet.
2. The total installation consists of only one (1) ground-mounted and/or portable solar energy system with a height of less than six (6) feet and a solar collector surface of less than eight (8) square feet.
3. Repair and replacement of existing solar energy equipment, provided there is no expansion of the size or coverage area of the solar energy system.
4. Installations specifically for agricultural use.

**6.17.4 STANDARDS FOR UTILITY-SCALE SES**

All Utility-scale solar energy systems will be located outside of city limits and the Extra-Territorial Area (ETA), which extends, from organized cities located in Bowman County, out to one (1) mile.

**A. Ground-mounted Utility-scale Solar Energy Systems**

1. **Permits:** All applications for Utility-scale solar energy systems will be required to submit both a Conditional Use Permit as well as an Alternate Energy Construction Permit and have them approved prior to the start of any construction.

**2. Fees:** The solar energy system fee will be \$1000/MW and prorated accordingly. The appropriate Fee amount of seventy-five (75) percent (non-refundable) of the total project amount must accompany a Conditional Use Permit Application. The remaining twenty-five (25) percent will be due and payable upon approval of the Alternate Energy Construction Permit. The fee payment must be payable to Bowman County.

**3. Setbacks:**

**a. Public Roads:** Utility-scale solar energy systems will be set back at least one hundred fifty (150) feet from all public roads, highway rights-of-way and section lines.

**b. Adjacent Non-Participating Property Lines:** Utility-scale solar energy systems will be set back at least one hundred fifty (150) feet from the adjacent non-participating property line.

**c. Buildings and Structures:** Utility-scale solar energy systems will be set back at least five hundred (500) feet from any building or structure. For an established shooting range, the Utility-scale solar energy systems must be located at least 5,280 feet from the shooting position, as measured down-range.

**4. Height:** Utility-scale ground-mounted solar energy systems will have a maximum height of twenty (20) feet above ground.

**5. Electrical Interconnections:** All electrical interconnection or distribution lines will comply with all

applicable Federal, State and Local codes and standard commercial utility requirements. Electric solar system components must have an Underwriters Laboratory (UL) listing. Power and communications lines running between banks of solar panels and to nearby electrical sub-stations or interconnections with buildings will be buried underground to a minimum depth of two (2) feet within the Utility-scale solar energy system(s) perimeter fence and to a minimum depth of four (4) feet outside the Utility-scale solar energy system(s) perimeter fence. All county road crossings must be bored and sleeved. If it is necessary to bore county roadways or bury electrical cable outside of the solar energy system boundary, a Utility Permit will also need to be submitted for approval prior to applying for an Alternate Energy Construction Permit.

**6. Minimum Lot Area:** Minimum lot area for a Utility-scale solar energy system will be twenty (20) acres.

**7. Fences:** Any security or perimeter fence placed at a Utility-scale solar energy system will be constructed from metal chain-link material, will be a minimum of six (6) feet in height and not exceed eight (8) feet in height. Electric fencing will not be permitted.

**8. Lighting:** Lighting will be limited to that required for safety and operational purposes, except for lighting that is required by the FCC and/or FAA, and will be directed downward and shielded so that no glare extends substantially beyond the boundaries of the solar energy system or facility.

**9. Waste:** Any solid or liquid waste or any hazardous waste generated by the project will be properly disposed

of.

**10. Sound Pressure Level:** No Utility-scale solar energy system shall exceed forty-five (45) dBA as measured at the property line.

**11. Roads:** Any material damages to a public road located within Bowman County resulting from the construction, maintenance or operation of a Utility-scale solar energy system or facility will be repaired at the applicant's expense. The applicant shall abide by all Federal, State or County requirements regarding the use of and/or repair of the roadways.

**12. Signage:** Signs will comply with the requirements described In the Bowman County Zoning Ordinance (see Section 6.12). Further, Utility-scale solar energy system installations will not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system. An information sign will be posted and maintained at the entrance(s), which lists the name and phone number of the operator.

**a. Warning Signage:** Signs warning of the high voltage associated with the solar farm will be posted at every entrance to the facility and at the base of all pads mounted transformers and substations. A sign that provides emergency contact information, such as phone number, will be posted near the entrance and at any operations and/or maintenance buildings

### 13. Landscaping:

**a. Vegetation:** Topsoil's will not be removed during development, unless part of a remediation effort. Soils will be planted to, and maintained in, perennial vegetation using approved NRCS seeds to prevent erosion, manage runoff and build soil. A Watershed Assessment must be completed and approved by the Bowman Slope Soil Conservation District, and paid for by the developer, prior to the start of construction. It is required that any vegetation or crops planted must follow all federal and state laws protecting endangered species, including pollinators such as bees. Dead or diseased vegetation will be removed and must be replanted at the next appropriate planting time until such time that it is considered established. Established vegetation must be maintained and if unable to do so must be replanted. No land assets, i.e., topsoil, trees, and lumber, etc. will be removed from the premises without the written approval of the landowner. A copy of this permission letter must be attached to the Conditional Use Permit application.

**b. Runoff:** Each owner, operator, or maintainer a of a solar energy system to which this Ordinance applies must regulate and control erosion and sediment runoff. If the topography of the site indicates this may be a problem, it is required that dikes be installed to control runoff. A plan for runoff, containment and reclamation, along with dike- engineered blueprints, if required, must be included with the Conditional Use Permit application.

**c. Weed Control:** Applicant will keep all areas within the solar facility neat, clean and free of refuse or waste and unsightly, hazardous or

unsanitary conditions. Bowman County has a Noxious Weed Ordinance, which will be followed. Only approved and labeled chemicals for weed control will be applied and no sterilant will be used. All plants or grasses present on site will be maintained by the facility operator and will not exceed twelve (12) inches in height.

**14. Airport Authority Review:** For consideration of potential impacts to low-altitude airport flight paths, within 5 miles of the reference point of the Bowman Airport, notification of intent to construct a solar farm will be sent to the Bowman County Airport Authority for their review of applicable requirements and approval before review of applicable requirements and approval before the Planning and Zoning Board's acceptance. Notification will include location of the solar facility or site (i.e. map, coordinates, address, and structure placement), the type of solar technology being used and the area of the system (e.g., 20 acres). A copy of the Bowman County Airport Authority approval letter must be included with the Conditional Use Permit application.

## **B. Building-mounted Utility-scale Solar Energy Systems**

Utility-Scale building-mounted solar energy systems will be subject to the following standards:

**1. Height:** Solar energy systems that are mounted on the roof of a building will not project more than five (5) feet above the highest point of the roof and, in any circumstances, will NOT exceed the maximum building height limitation for the zoning jurisdiction in which it is located, and will NOT project beyond the eaves of the roof.

**2. Weight:** Solar energy systems mounted on the roof of a building will be only of such weight as can safely be supported by the roof. Proof thereof, in the form of

certification by a professional engineer or other qualified person, must be submitted to the Planning and Zoning Board along with the Conditional Use Permit application.

**3. Attachment:** Solar energy systems that are roof-mounted, wall-mounted or are otherwise attached to a building or structure must be permanently and safely attached to the building or structure. Proof of the safety and reliability of the means of such attachment will be submitted to the Planning and Zoning Board along with the Conditional Use Permit application.

**4. Wall-Mounted Solar Energy Systems:** Solar energy systems that are wall-mounted will NOT exceed the height of the building wall to which they are attached.

**5. Visual Impact:** All solar energy systems must not have any significant adverse visual impact on the natural features or neighborhood character of the surrounding area and will be located to minimize glare on adjacent properties and roadways. Solar energy systems that are visible from the street or road must be either composed of building- integrated components (such as solar shingles) that are not readily evident, or be designed and mounted to match the shape, proportions, and slope of the roof.

**6. Compliance with Additional Codes:** Solar energy systems, and the installation and use thereof, will comply with all State and Local construction codes, the electrical code and other applicable State and Local codes. Installation of a solar energy system will NOT commence until all necessary permits have been issued and copies of each are on file with the Planning and Zoning Board.

**7. Airport Authority Review:** For consideration of potential impacts to low-altitude airport flight paths, within 5 miles of the reference point of the Bowman Airport, notification of intent to construct a solar farm will be sent to the Bowman County Airport Authority for their review of applicable requirements and approval before the Planning and Zoning Board's acceptance. Notification will include location of the solar facility or site (i.e. map, coordinates, address, and structure placement), the type of solar technology being used and the area of the system (e.g. 20 acres). A copy of the Bowman County Airport Authority approval letter must be included with the Conditional Use Permit application.

### **6.17.5 ANCILLARY SOLAR EQUIPMENT**

Where feasible, ancillary solar equipment will be located inside a building be screened from public view. All ancillary solar equipment such as, but not limited to, water tanks, supports, batteries and plumbing will be screened to the maximum extent possible without compromising the effectiveness of the solar collectors. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure. Meeting the requirements of the State and Local Building Codes and when no longer in use must be disposed of in accordance with all applicable laws and regulations.

### **6.17.6 UTILITY-SCALE SOLAR ENERGY SYSTEM APPLICATION**

#### **1. Application and Pre-Construction Requirements**

The Planning and Zoning Board must receive the following items prior to giving approval to construct a Utility-Scale solar energy system:

**A.** The Conditional Use Permit Application and the non-refundable 75 percent fee must be received and approved prior to the Planning and Zoning Board accepting a request for an Alternate Energy Construction Permit.

**B.** Utility Permit Application and appropriate payment must be



submitted to County Commission if county roadways will need to be bored or electrical lines buried outside of the solar energy system(s) site. The completed application must be received and approved prior to the Planning and Zoning Board accepting a request for an Alternate Energy Construction Permit.

C. Prior to the start of any construction, the applicant will conduct a pre-construction meeting with the Planning and Zoning Board to coordinate field monitoring of the construction activities. The pre-construction meeting shall be open to the public and all interested parties and shall address staging, schedules, complaints, emergency plans and other pertinent issues.

D. Prior to final inspection, proof that a permit issued by the state, in accordance with all applicable state laws, has been issued will be required to be submitted to the Planning and Zoning Board.

**2. The following items must accompany all applications for a Conditional Use Permit:**

A. **Fees** The appropriate fee amount of seventy-five (75) percent non-refundable) of the total project amount must accompany the Conditional Use Permit Application. The remaining twenty-five (25) percent will be due and payable upon approval of the Alternate Energy Construction Permit. The fee payment must be payable to Bowman County.

B. **Twelve (12) copies of the Site Plan** which conforms to the standards of this Ordinance and the Planning and Zoning Board and includes:

1. Setbacks, designated panel area, location of property lines, buildings and road rights-of-way.
2. Existing structures (if any) on subject property.
3. All existing and proposed underground and above ground utilities.

4. To scale, detailed plot map.

The Planning and Zoning Board will review the site plan to insure conformity with the requirements of this Ordinance.

The Planning and Zoning Board may grant a variance to these requirements based upon good cause, if shown. Applications for such Variance will be made to the Planning and Zoning Board through the Zoning Administrator. Completed and notarized Variance request form(s) must accompany the permit, if needed.

Appeals of a Planning and Zoning Board decision must be made to the County Commissioners.

**C. Twelve (12) copies of a Map (to scale) showing:**

1. A USGS Topographical Map (to scale) of the solar energy system and all adjoining properties along the solar energy system perimeter and internal boundaries, which show all existing features, including property boundaries, structures, improvements, roads, utility lines, restricted areas, public facilities and natural features.

2. The detailed map (to scale) must also show the location of all proposed improvements for the solar energy system, and including electrical lines (both buried and above-ground) and roads. All pertinent facilities, utility connections, structures and ingress and egress points must have associated Global Positioning System (GPS) positions identified.

3. Locations of recreational properties, game, and fish wetlands and conservation lands and all PLOTS lands within or adjacent to the solar energy systems internal boundaries and external perimeter.

4. Ingress and egress routes from the site as proposed during construction and operations thereafter indicating:
  - a. Locations of all roadways
  - b. Widths and lengths of roadways
  - c. Proposed roadway surface and cover

**D. Twelve (12) copies showing Contact Information and Legal Description(s) of the Solar Energy System(s):**

1. Name of solar energy facility.
2. Name and address of solar energy system owner.
3. Name and address of the solar energy system current operator.
4. Names of property owners and legal descriptions identified as participating or non-participating landowners, located within the solar energy system perimeter.
5. Name, dimensions and location of any parks, public land, Historic resources, churches, multi-use trails, or areas of Recreational significance, as available from public Documents within two thousand six-hundred and forty (2,640) feet of a proposed solar energy system location.

**E. Twelve (12) copies of the following must also be provided:**

1. **Product Description:** A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, number and size of each panel, angles of orientation, etc.
2. **Owner Agreement(s):** A notarized affidavit or evidence of an agreement between the property owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar energy

system and the removal of vegetation, if necessary.

**3. Documents to Provide Proof of Easement with Adjacent Property and Easement Owners:** Evidence of covenants, easements, or similar documentation with abutting property owners to allow the crossing of their property with any part of the solar energy system, to include but not limited to output and utility lines.

**4. Airport Notification Proof:** Proof of delivery of notification and date of delivery to all affected airports and owners and the Bowman County Airport Authority, of location and product glare test results or proof of non-applicability of all affected airports, public or private, (identified by their FAA Identification Numbers). A Letter of Approval from the Bowman County Airport Authority is also required.

**5. Storm Water Pollution Prevention Plan (SWPPP):** Watershed Assessment Plan for drainage disposal and erosion control approved by the Bowman/Slope Soil Conservation District Office, all costs of which will be incurred by the applicant.

**6. Avian and Wildlife Impact Documentation:** The applicant will have a third party, who is a qualified professional, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant will respond appropriately to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant will identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts, to include effects on pollinators.

**7. Operation and Maintenance Plan:** A plan for the operation and maintenance of the Utility-scale system, which will include measures for maintaining safe access to the installation, storm water controls, weight, and safety limitations on buildings, as

well as general procedures of operational maintenance of the installation.

**8. Emergency Plan:** The owner/operator of the solar energy system will cooperate with local emergency services in developing an Emergency Response Plan and/or Emergency Operation Plan must be submitted with the application. All means of shutting down the solar energy system will be clearly marked. The owner/operator will identify a responsible person for public inquiries throughout the life of the installation. An information sign will be posted and maintained at the entrance(s), which lists the name and phone number of the operator.

**9. Complete Decommissioning Plan:** The Decommissioning Plan must contain the following information that provides for the removal and reclamation of the facility or site(s) within 9 months:

- a. All solar energy system components, aboveground improvements, and outside storage.
- b. All foundations, pads, and underground electric wires were removed to a depth of four feet.
- c. Restoring the site to its original, pre- construction, condition, unless prior arrangement has been made in writing, with a notarized signature from the current landowner.
- d. Hazardous material(s) from the property must be disposed of in accordance with Federal, State and Local Laws.
- e. The removal of all access roads or driveways by the applicant, unless the property owner(s) requests, in writing, a desire to maintain any access roads or driveways. The Township or County will not be assumed to take ownership of

any access road or driveways.

f. On-site buildings may remain if a notarized Bill of Sale is provided to the Planning and Zoning Board from the landowner, showing a change in ownership.

If the State of North Dakota enacts a law with regards to the decommissioning of a solar energy system, the strictest requirements will prevail.

**10. Road Use Agreement:** The applicant, permittee or current owner and the county, will enter into a road use agreement governing the use, improvement, maintenance and repair of county, township, and public roads to be used by the applicant, permittee or current owner to transport equipment or materials during the project construction. The road use agreement will require the applicant, permittee or current owner to provide the county with a letter of credit, bond or other form of financial security for road repair in the event repairs are not completed by the applicant, permittee, or current owner per the terms of the agreement.

**F. Other Required Documents:**

1. Any other relevant studies, reports, certificates, and approval as may be reasonably required by the Planning and Zoning Board.
2. Prior to final inspection, proof that a permit issued by the State in accordance with all applicable State Laws has been issued will be required.
3. The applicant will construct no new or additional solar energy system(s) in Bowman County until the Planning and Zoning Board and the County Commissioners have approved this Conditional Use Permit.

**3. The following items must accompany all applications for a Alternate Energy Construction Permit:**

**Twelve (12) copies of the following must be provided:**

- A.** A copy of the site plan with the name, address, and registration number of the professional surveyor involved in preparing the site plan and the final blueprint to scale.
- B.** Name, dimensions, and locations of any above ground utility easements, as available from public documents, within 2,640 feet of all proposed solar energy system components.
- C.** A copy of the SWPPP approved by the Bowman/Slope Soil Conservation District Office.
- D.** Proof of financial surety for decommissioning: the applicant or current owner of a solar energy system must provide a form of surety that can be assessed by the County Commissioners and is agreeable to the County Commissioners. This is to cover the cost of decommissioning in the event Bowman County must remove the installation.

The form of surety for decommissioning will be one hundred twenty-five (125) percent of the estimated removal and restoration costs. A professional engineer or contractor who has expertise in the removal of a solar energy system will prepare a cost estimate for the decommissioning of the system. The County Commissioners reserves the right to hire their own engineer to determine cost estimates and facts of decommissioning on an annual basis. The form of surety must be in place before construction can begin. The decommissioning cost estimate shall explicitly detail the cost before considering any project salvage value of the solar energy system. The amount shall include a mechanism for calculating and providing increased removal costs due to inflation.

**The County Commissioners have the right to revisit decommissioning costs annually to determine the inflation calculated costs.**

**E.** The owner/operator of the solar energy system must show proof of the form of surety to the County Commissioners annually, or within 30 days of a transfer of ownership after construction has begun. Any form of surety required by the state would be credited towards the Bowman County surety amount if the amount is greater.

**F.** A copy of the approved Water Acquisition, Reclamation and Disposal Plan.

**G.** Remaining Application Fee due: Upon final approval of the Alternate Energy Construction Permit requirements, the remaining twenty-five (25) percent of the total application fee will be due and payable to Bowman County. The receipt of which will be required prior to the Alternate Energy Construction Permit being issued.

**H.** Utility Permit- All county roadways will need to be bored for all electrical lines buried between the solar energy facilities or sites. Prior to the start of construction, a completed application must be received and approved for each occurrence/incident by the County Road Superintendent and the County Commissioners. Proof of all Utility Permits approved by the County Commissioners prior to the start of construction. Failure to do so may be considered grounds of revocation of the Alternative Energy Construction Permit due to non-compliance.

**I.** A copy of the State Historical Preservation Officer (SHPO) report of approval must be submitted, in addition to any other relevant studies, reports or certificates for approval as maybe reasonably required by the Planning and Zoning Board.

**J.** The applicant will have a third party, who is a qualified professional, and approved by the Planning and Zoning Board to conduct an analysis to identify and assess any potential impacts on the natural environment including wetlands and other fragile ecosystems, historical or cultural sites, antiquities, and adjacent agricultural uses such as rotating crops. The applicant will respond appropriately to minimize, eliminate or mitigate adverse impacts identified in the analysis. The



applicant will identify and evaluate the significance of any effects or concerns that will remain after mitigation efforts. In addition, a water usage or impact study must be completed that will indicate any impact that the solar energy system will have on township resources.

**K.** Routes of ingress and egress from all sites as proposed during Construction and thereafter, indicating:

1. Proposed Road surface and cover.
2. Dust control.
3. Width and length of access route(s).
4. Road maintenance progress or schedule for proposed land.

Upon a determination of compliance with the Alternative Energy Construction Permit (AECPP) and any additional requirements stipulated in the approved Conditional Use Permit, construction of the project may proceed. If the Planning and Zoning Board finds that the conditions or restrictions set forth in the AECPP are not being complied with, the County Commissioners may revoke the AECPP after a public hearing.

If substantial construction has not been instituted within three years of the date of approval of the AECPP, the permit shall be null and void without further action of the Planning and Zoning Board or the County Commissioners.

**L.** Upon a determination of compliance with the Alternative Energy Construction Permit (AECPP) any additional requirements stipulated in the approved Conditional Use Permit, construction of the project may proceed. If the Planning and Zoning Board finds that the conditions or restrictions set forth in the AECPP are not being complied with the Planning and Zoning Board may revoke the Alternative Energy Construction Permit after a public hearing.

If substantial construction has not been instituted within three years of the date of approval of the AECP, the permit shall be null and void.

#### **4. Review and Inspections**

The Planning and Zoning Board, Zoning Administrator(s) or designee will review the Site Plan and inspect the solar energy system and any facilities to insure conformity with the requirements of this ordinance. Inspections will occur during construction and may occur periodically during operations.

#### **5. Variances**

The Planning and Zoning Board may grant a variance to these requirements based upon good cause, if shown. Applicants for such variance must be made to the Planning and Zoning Board through the Zoning Administrator(s). Completed and notarized variance request forms must accompany the Conditional Use Permit, if needed.

#### **6. Appeals**

Appeals of a Planning and Zoning Board decision must be made to the County Commissioners.

### **6.17.7 PUBLIC HEARINGS**

Upon receipt of the Conditional Use Permit, the Planning and Zoning Board, and any experts it may retain, will review the application, and hold a public hearing on the application giving notice of which shall be published a least two (2) weeks prior to the hearing in the official newspaper of the county. The notice shall include the time, date and place of the hearing, description of the property to be affected and the time and place for the public inspection of the documents prior to the hearing.

**1. Deliberation and Decision:** The Planning and Zoning Board, following the public hearing for the Conditional Use

Permit, will make a recommendation to the County Commissioners for the approval or denial, modification, and/or imposition of conditions on the application.

**2. Remaining Application Fee Due:** Upon final approval of the Alternate Energy Construction Permit, the remaining twenty-five (25) percent of the total application fee will be due and payable to Bowman County. The receipt of which will be required prior to the Alternate Energy Construction Permit being issued.

### **6.17.8 DEMONSTRATION OF CONSTRUCTION COMPLIANCE**

The Application issued pursuant to Section 6.17.6 will be required upon the applicant(s) or current owner(s), final demonstration of compliance with the requirements of the Conditional Use Permit following completion of the solar energy system. Within ninety (90) days from the start and within ninety (90) days of completion of the solar energy system(s) construction, the applicant, permittee, or current owner, must submit to the Planning and Zoning Board all updated and final USGS Maps (to scale), surveys, or blueprints, if available, providing all the information pursuant to Section 6.17.6 and demonstrating actual compliance with the requirements and conditions set forth for the Conditional Use Permit and Alternate Energy Construction Permit.

### **6.17.9 LIABILITY INSURANCE**

The applicant, permittee, or current owner and/or operator of the solar energy system will defend, indemnify, and hold harmless Bowman County and its officials from and against all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including attorney's fees, without limitation, arising out of unlawful acts or missions of the applicant, permittee, current owner and/or operator associated with the construction and/or operation of the solar energy system.

The current owner and/or operator of the solar energy system will maintain a current general liability policy covering bodily injury and property damage and name Bowman County, its employees, officers, agents, and contractors as additional insured with limits of at least two million

(\$2,000,000) dollars per occurrence and five million (\$5,000,000) dollars in aggregate with a deductible of no more than five thousand (\$5,000) dollars.

Any loss of coverage, an expired insurance certificate or failure to maintain the minimum coverage amount will be considered grounds for revocation of the solar energy system(s) application(s) and permit(s).

Certificates evidencing required insurance must be provided to Bowman County upon approval of the Alternate Energy Construction Permit and prior to commencement of any construction. A letter indicating continued annual coverage must be submitted to the Bowman County Auditor annually.

#### **6.17.10 RESTORATION OF PROPERTY**

##### **1. Decommissioning Plan and Bonding Requirements:**

The solar energy system project will develop a Decommissioning Plan in accordance with NDCC 49-02-27 and NDAC 69-09-09 and this plan must and be submitted as a part of the solar energy system application. The bond must be submitted upon approval of the Conditional Use Permit and prior to construction.

Within nine (9) months of termination of operations or abandonment of the solar energy system, leases, or easements for a solar energy system in the county, the permittees, or current owner(s) and/or operators will, at its expense, comply with the following decommissioning requirements:

**A.** Dismantling and removal of all solar panels and support structures, distribution and or collection cables and transformers and overhead cables.

**B.** Removal of all underground cables to a depth of twenty-four (24) inches and backfill all trenches.

**C.** Removal of all foundations, buildings, and ancillary equipment to a depth of four (4) feet.

**D.** Removal of surface road materials and restoration of the roads and Solar facility sites to substantially the same physical condition that existed immediately before construction of the commercial solar energy system, unless prior arrangement has been made in writing, with a notarized signature from the current landowner, to keep the roadways in place.

**E.** All sites must be restored and reclaimed to the same general topography that existed prior to the beginning of construction of the solar energy system. Areas disturbed by the construction of the solar energy system and decommissioning activities must be graded, top soiled and seeded according to the Natural Resources Conservation Services Technical Guide recommendations and other agency recommendations, unless the landowner requests, in writing, that the land surface areas be left in its current state. An established stand is required within three (3) years. If not established, re-seeding is required.

#### **6.17.11 ABANDONMENT**

Any Utility-scale solar energy system that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the solar energy system provides substantial evidence, (updated every 6 months after a 12-month period of no energy production), to the Planning and Zoning Board of the intent to maintain and reinstate the operation of that Solar energy system.

Upon determination of abandonment, the Planning & Zoning Board will notify the party (or parties) responsible of such determination and the responsible party or parties must respond within 30 days.

If the responsible party (or parties) fails to comply, the Planning and Zoning Board may remove the solar energy system, sell any removable materials, make use of the funds provided by the financial surety agreement, initiate judicial proceedings, or take any other steps legally authorized against the responsible parties to recover the costs required to remove the solar energy

system and restore the site to a non-hazardous, pre-development condition.

#### **6.17.12 TRANSFER OF OWNERSHIP**

Prior to any change in ownership or assignment of a controlling interest of any entity owning a solar energy system or facility permitted in Bowman County, including any assignment or transfer of a controlling interest to any corporation, partnership, or other entity controlled by or a subsidiary or affiliate of the solar energy system or facility permitted in Bowman County, notification shall be made to the Planning and Zoning Board requesting transfer of the solar energy system's Conditional Use Permit and Alternate Energy Construction Permit.

Such transfer will be conditioned upon explicit agreement by the new applicant to comply with the requirements and conditions of this ordinance, as amended, and the original solar energy system Conditional Use Permit. The application will also include the new applicant's agent and contact information. A change of ownership that results in inability, unwillingness, or failure to abide by the conditions of this ordinance can be a basis for revocation of the solar energy system(s) Conditional Use Permit. (This limitation will apply to all transfers by operation of law and any transfers by trustee in bankruptcy, receivers, administrators, executors, and legatees).

#### **6.17.13 PREEMPTION**

The regulations for solar energy systems must follow county and state regulations and the government with the greater or stronger regulation will apply to the project.

#### **6.17.14 SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable and if any provision, section or part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such decision will only affect those particular provisions, section or part involved in such decision and will not affect or invalidate the remainder of such Ordinance, which will continue in full force and effect.

## **6.17.15 ENFORCEMENT AND PENALTIES**

Any person, firm or corporation violating any of the provisions of this Ordinance will be subject to the following penalties:

- A.** Violations of this Ordinance will be a Class B Misdemeanor, punishable upon conviction by a fine not to exceed \$1,000.00 or by imprisonment for a period not to exceed 30 days, or by both. Each day the violation exists will constitute a separate offense. In addition, to the forgoing penalties, anyone convicted of violating this Ordinance under this provision will be assessed the costs of prosecuting, including all attorney fees that have been, or will be, incurred.
- B.** The Zoning Administrator, as designated by the County Commissioners will enforce this Ordinance.
- C.** Bowman County will have the right to petition the District Court for an injunction prohibiting the continuing violation of this Ordinance. Anyone found to be in violation of this Ordinance and enjoined by said Court will be assessed the cost and attorney fees incurred by Bowman County in seeking said injunction.

## **6.18 Shooting Range Ordinance**

Ranges shall be built with safety in mind. This ordinance is to serve only as a base outline of the minimum requirements of the Bowman County Planning and Zoning Commission. The Planning and Zoning Commission may, at their discretion, enact more requirements if the need arises. If this occurs, then all permitted shooting ranges will be required to comply with the updated requirements, unless a variance is requested and granted by the Bowman County Planning and Zoning Commission.

### **6.18.1 Requirements**

- A.** A shooting range will have a fixed shooting pad no smaller than 10' x 10' with a depth of 4" and made from concrete or similar immovable material.
  - 1.** A dynamic range may be built but will still have to comply

with the fixed pad minimum requirements.

**B.** A shooting range will be built with a backstop of adequate size and composition that will stop and contain any projectile that will be fired at it.

**1.** A range built for shotgun use only will be exempted from the backstop requirement, however, if slugs or sabot rounds are going to be utilized, the backstop shall still be required.

**C.** Hours of operation will be posted visibly at the range but will not exceed the hours of sunrise to sunset as defined by the North Dakota Game and Fish.

**1.** The range may be used at other times, if the hours it will be used are advertised at least two (2) weeks in advance.

**D.** A contact number for emergencies will be posted along with the hours of operation.

**E.** The shooting range will be located so that the fixed shooting position is no closer than 1,320 feet from a neighboring or adjacent residence and no structures are located within 5,280 feet (1-mile) downrange as measured from the shooting position.

**F.** The name of the range owner/organization, along with the physical address, must be posted at the entrance.



## **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 adequate and convenient open spaces for traffic, utilities, firefighting, 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 Board sketch plans.
- 2) Such sketch plans will be considered as submitted for informal discussion between the subdivider and the Planning and Zoning Board. 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 Board, 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 Board 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 was 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 Board 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 Board on appropriate forms provided by the Zoning 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 Zoning 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 Board 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 use.
- 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 up at a scale of one (1) inch representing four hundred (400) feet.
- 6) The Planning and Zoning Board may require other information as a part of the development plan.

### **7.5.4 Review Process**

- 1) The Planning and Zoning Board shall review the preliminary plat and may request additional information before it acts.
- 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 Board 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 Board 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 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 another 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 Board 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 Board at least two weeks before the regularly meeting of the Planning and Zoning Board.
- 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 Board 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 Board, 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 Board, 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 Board 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 Board to meet a particular situation.

- 3) Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning and Zoning Board 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 Board 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 ensure 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 Board shall determine for special cases.
- 9) Streets shall be laid out to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than eighty (80) degrees.
- 10) Curb radius 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 Board 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 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 Board 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 Board 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.
- 2) 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.

- 3) Residential corner lots shall have an extra width of ten (10) feet to permit adequate building setbacks from the side streets.
- 4) Double frontage lots shall be avoided except where essential to provide separation of development from arterial streets.
- 5) 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 Board 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 Board 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 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 Board.
- 6) Grading established in any subdivision shall not be changed without approval of the Planning and Zoning Board.

### **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 Board to accommodate the anticipated discharge from the property being subdivided and 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 Board. Trees must be placed at a minimum setback of one hundred fifty (150) feet from county road centerlines.

## **7.19 Street Lights**

Streetlights and their location should be in accordance with the minimum standards established by the Planning and Zoning Board.

## **7.20 Required Improvements**

Before installation of improvements in any subdivision, the Planning and Zoning Board shall decide on 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 Board, 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 lots and block corners in the subdivision in accordance with the requirements of the State of North Dakota.

### **3) Public Water**

- a) Where appropriate, water mains should 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 Board 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 sewers shall be extended to the boundary of the subdivision, except where in the opinion of the Planning and Zoning Board 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 Board.

## **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 curbs 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 Board.

## **7.25 Installation of Improvements**

Construction of all improvements is contingent on approval by the Planning and Zoning Board. 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 Zoning Administrator.

#### **8.1- DUTIES**

- 1- The County Commission shall appoint the Zoning Administrator.
- 2- The County Commission shall review and act 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 Board.
- 7- The County Commission, or its designee shall investigate all violations of these regulations and shall determine and take appropriate remedial action.

#### **8.1.2 Planning and Zoning Board- Duties**

- A- Chairperson; Vice- Chairperson. The Zoning Board shall elect a Chairperson and a Vice-Chairperson. The Chairperson shall have the duty and responsibility for the overall administration of the Planning and Zoning Board's activities. The Vice-Chairperson shall preside at meetings and perform the other duties of the Chairperson when the Chairperson is unable to preside.

- B- Voting; Quorum- A majority of the Planning and Zoning Board, i.e., at least 5 members constitute a quorum. A quorum shall be present before the Board can hold a hearing.
- C- Legal Advisor- The County Legal Advisor, or designee shall attend all The Planning and Zoning Board public hearings, meetings, and work sessions as requested by the Chairperson. The Legal Advisor shall provide advice and assistance to the Board desiring to publish an independent or minority opinion.
- D- Planning and Zoning Subcommittees). A Planning and Zoning Subcommittee may be appointed by the Chairperson to perform various duties pertaining to County Planning and Zoning activities. Upon completion of these duties, the subcommittee shall report their findings to the Chairperson.

## **8.2 Planning and Zoning Board**

### **1- Membership**

- a- The Planning and Zoning Board shall consist of no more than nine (9) members appointed by the County Commission in accordance with Chapter 11-33 of the NDCC.

### **2- Duties**

- a- The Planning and Zoning Board shall hold public hearings on and make recommendations to the County Commission with respect for all proposed amendments to this code.
- b- The Planning and Zoning Board shall hold public hearings on applications for zoning modifications and make recommendation to the County Commission for approval or denial of such applications.
- c- The Planning and Zoning Board 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 Board 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 Board 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 district 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- To promote and protect public health, safety and the general welfare, the Planning and Zoning Board 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 Board 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 Board or approved unless the applicant shall have met all the requirements for the following criteria:  
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 another 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 Board shall hold a public hearing on any requests 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; 4) time and place for public inspection of documents prior to the hearing.
- 4- If the Planning and Zoning Board 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 (1) 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 Board or County Commission.
- 6- Upon the cessation or abandonment for a period of one (1) 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 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.
- 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 Board 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:
  - b) The time and place of hearing; 2) description of the property to be affected; 3) the proposed use and requested variance; 4) time and place for public inspection of the relevant documents before the hearing.
  - c) Data Submission Requirements- Applications for variances must include the 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 Board deems necessary;

vi. A fee, for which shall be determined by the County Commission, plus any additional costs be paid in accordance with the schedule established by the County Commission.

3- The Planning and Zoning Board, following a public hearing, shall make recommendation to the County Commission for approval or denial, modification, and/or imposition of conditions of each application for a variance.

## **8.5 ZONING ADMINISTRATOR**

### **8.5.1**

- 1) The County Commission shall appoint the Zoning Administrator.
- 2) Job Summary: The Zoning Administrator is charged with the responsibility of interpreting the Bowman County Zoning Code and Ordinances.

#### Duties

- 1) Receive and file all applications for amendments to this code, the “Zoning Map”, and development permits.
- 2) Make zoning inspections, unless third party required, and maintain records.
- 3) Issue permits.

- 4) Provide written report all zoning violations to the Planning and Zoning Board and 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 Board all applications for sketch plans, preliminary and final plats and the supporting documents.
  - 7.a) The Zoning Administrator shall have the authority to render interpretations of this code and to adopt policies and procedures to clarify the applications of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code. The Zoning Administrator is charged with enforcing the code provisions, concerning violations and penalties of such code. This duty description is not intended and should not be construed to be a complete list of duties, but intended to be a reasonable outline of those principle job elements of the County Zoning Administrator.
  - 7.b) Prepare, implement and monitor Zoning budget, oversee the Bowman County Planning and Zoning office.
- 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 relating to the mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

ii. For all new or 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.

## **8.6 Amendments and Resolutions**

The County Commission may from time to time on its own motion, by petition, or on recommendation of the Planning and Zoning Board 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 Zoning Administrator.
- 2) Notice of 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 Board, the County Commission shall approve, deny, approve with modification the proposed amendment or remand to the Planning and Zoning Board for further hearing.

## **8.7 Board of Adjustment**

The County Commission shall function as a Board of Adjustment.

- 8.7.1 Duties**      The Board of Adjustment shall hear appeals from any person, party, firm, or organization aggrieved by the actions or decisions of the Planning and Zoning Board.

## **8.8 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 zoning permit from the Zoning 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. See City Ordinances to determine if a permit is required.

- 3) A zoning permit issued pursuant to these provisions shall expire one(1) year from date of issuance.

### **8.8.1 Fees**

The Zoning Administrator shall charge and collect a fee as follows:

The Zoning Administrator shall charge and collect a fee according to the fees and schedules established by the County Commission. The applicant for all permits shall be liable for and pay to the Zoning Administrator sufficient sums of money to pay for and cover costs incurred by the county for processing of such application, including but not limited to publication costs, attorney fees, mileage, copying expense, etc. No Permit shall be issued until costs have been paid by the applicant, unless the Zoning Administrator has otherwise provided for good cause shown. A fee schedule may be obtained from the Zoning Administrator.

### **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.

## **8.10 Floodplain Administrator**

Zoning Administrator will function as Floodplain Administrator for Bowman County and will oversee adherence to State and Federal guidelines and ensures compliance with State and Federal regulations regarding floodplain management. In the area of special flood hazard:

### **A- Permit Review**

1-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.

2- 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 foot.

### **B- Use of Other 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 the general standards.

### **C- Information to be Obtained and Maintained**

1- 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.

2- For all new or improved flood- proofed structures:

a- Verify and record the actual elevation (in relation to

mean sea level)

b- Maintain the flood- proofing certifications required.

3- Maintain for public inspection all records pertaining to the provisions of this code.

#### D- Alteration of Water Courses

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

2- Require that maintenance is provided within the altered or relocate 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).

### **8.11 Job Qualifications- Experience and Education**

1- A minimum of four (4) years of professional experience in planning and land use regulations, or four (4) years of experience in building inspections.

2- Must have computer skills.

3- Must possess a valid North Dakota driver's license with a clean driving record.

4- Must have the ability to read and interpret plans, specifications and ordinances and be skilled at written and verbal communications.

5- Must have reasonable interpersonal communications skills and be able to interact with the public.

**Clarification Clause-**

This job description is not intended and should not be construed to be a complete list of skills, duties, responsibilities or working conditions associated with the job. It is intended to be a reasonable outline of the job. The job description is not a contract. The County reserves the right to modify job descriptions at any time.

## **ARTICLE IX**

### **CITIES**

#### **9.1- City of Rhame**

The following guidelines are for the City of Rhame, North Dakota

#### **Setbacks -**

##### **Residential-**

1. All Structures -
  - Front Yard- 7 feet (minimum) from property line (Measuring from the bottom step)
  - Side Yard & Rear Yard- 5 feet (minimum) from property line including the eaves
  
2. Fences-
  - Minimum Setback- 2 feet from property line
  - Front Yard- 5 feet (minimum) from property line
  - Side Yard & Rear Yards- 7 feet (minimum) from property line
  
3. Trees-
  - 10 feet from all property lines
  
4. Mobile Homes- Must meet insurance code & be anchored
  - 5 feet (minimum) within the property lines with a side facing door
  - 10 feet (minimum) within the property lines if door faces the alley

##### **Commercial-**

- Will be on a case-by-case basis, determined by the City of Rhame

## **9.2- City of Gascoyne**

The following guidelines are for the City of Gascoyne, North Dakota

### **Setbacks -**

#### **Residential-**

5. All Structures -
  - Front Lot- No less than 7 feet from property line
  - Side Lots- No less than 5 feet property line to the nearest sidewall of the building
  - Rear Lot- No less than 20 feet from the property line
  
6. Fences-
  - Allowed on property line (side or rear)
  
7. Trees- including hedges
  - Allowed on property line (side or rear)

#### **Commercial-**

1. All Structures-
  - Minimum lot size 20,000 square feet
  - Rear lot- no less than 30 feet

#### **Industrial-**

1. All Structures-
  - Must have at least 5 acres
  - Front, Side and Rear lot- no less than 30 feet from property line

#### **Mobile Home District-**

- Lot size- No less than 6,000 square feet
- Rear lots- No less than 10 feet where septic tanks are needed



- No more than 5 mobile homes per acre of land

**Recreational District-**

- No less than 40 acres
- Front, Side, and Rear Setbacks no less than 100 feet

**Agricultural District-**

- Same as City requirements