DEVELOPMENT CODE

ZONING – SUBDIVISION REGULATIONS

BARNES COUNTY, NORTH DAKOTA

2020

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Barnes County, North Dakota

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ZONING AND SUBDIVISION REGULATIONS

1. INTRODUCTION

1.1 Title

This chapter shall be known as the "Development Code" for the County of Barnes, North Dakota.

1.2 Authority

These regulations are adopted under the authority of chapters 11-33 and 11-33.2 of the North Dakota Century Code.

1.3 Purpose

These regulations are adopted to promote the health, safety, morals, public convenience and general prosperity and public welfare of the County of Barnes.

1.4 Intent

It is the intent of these regulations to implement the plans and policies of the County of Barnes for the use and enjoyment of land resources.

1.4.1 To promote orderly development of the county and to prevent conflict among land uses and structures.

1.4.2 To secure safety from fire, panic, noxious fumes, and other dangers.

1.4.3 To facilitate adequate provisions for water, sewer, transportation and other customary services to its county unincorporated communities.

1.4.4 To regulate the use and division of land within the county and unincorporated territorial jurisdiction.

1.4.5 To regulate the proper arrangement of streets, alleys and roads for convenient and efficient access to the adjoining properties.

1.4.6 To protect the value of land and buildings and maintain harmony and consistency among land uses.

1.4.7 To protect the existing properties against nuisances that interfere with the use and enjoyment of property, endanger personal health or safety or is offensive to the senses.

1.5 Jurisdiction

These zoning regulations shall apply to all areas within the County of Barnes County, North Dakota, with the exception of those areas within the civil boundaries and extraterritorial zoning boundaries of

organized cities in Barnes County and those townships that have elected to have their own zoning. Those areas will retain the opportunity to exercise their own zoning authority.

1.6 Interpretation

These regulations shall be held to be the minimum requirements. Whenever these requirements conflict with other requirements, rules, regulations, deed restrictions or covenants, the most restrictive shall govern, unless otherwise specifically stated. The county may, from time to time, amend, supplement or repeal any part of this code upon like proceedings as in the case of the adoption of a resolution.

1.7 Severability

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

1.8 Exceptions

These regulations shall not apply to the land and buildings for agricultural uses, as herein defined, except for building permits, set backs from roads, new septic system permits and inspections, and flood plan regulations.

1.9 Repeal

The existing County code together with any amendment thereto is hereby repealed.

1.10 Effective Date

This code shall be effective upon adoption by the County Commission of the County of Barnes, as provided by the North Dakota Century Code.

2. RULES AND DEFINITIONS

2.1 Compliance

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

2.2 Word Use

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

2.2.1 Words used in present tense shall include the future.

2.2.2 Words used in singular number shall include the plural number and the plural the singular.

2.2.3 Shall is a mandatory word and not discretionary.

2.2.4 May is a permissive word.

2.2.5 The word “lot” shall also mean “parcel,” “piece” and “plat.”

2.2.6 The word “building” includes all structures and “structure” includes all buildings.

2.3 Definitions

2.3.1 **"Accessory Building and Uses"** means 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.

2.3.2 **"Adult Bookstore"** means 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.

2.3.3 **"Adult Cinema"** means 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 therein return for the payment of consideration, irrespective of the number of patrons who may be able to view the presentation at one time.

2.3.4 **"Adult Entertainment Facility"** means an enclosed building wherein an admission is charged for entrance, or food or nonalcoholic 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.

2.3.5 **"Adult Entertainment Center"** means an adult bookstore, adult cinema, adult entertainment facility or any combination thereof.

2.3.6 **"Agriculture"** means the process of producing food and fiber customary to the family farming operation, excluding commercial feed lots, processing and manufacturing of the farm-based products.

2.3.7 **"Alley"** means a minor street providing access to the back or side of two (2) or more parcels or lots.

2.3.8 **"Allowed Uses"** means those uses, buildings or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Allowed uses are distinct from conditional uses in that they are authorized only if certain requirements of this code are met after a public hearing and approval by the County Commission.

2.3.9 **"Animal feeding operation"** means a place where: livestock have been, are, or will be confined, concentrated and fed for 45 or more days in any 12 month period; pasture, crops, or other vegetation are not normally managed or sustained for grazing during the normal growing season; and, animal waste or manure accumulates. This term does not include an animal wintering operation. Adjoining animal feeding operations under common ownership

are considered to be one animal feeding operation, if they use common areas or systems for manure handling. **This term does include Ag Waste Systems.**

2.3.10 "Animal Hospital or Kennel" means a building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

2.3.11 "Animal Unit Equivalent" means a unitless number developed from the nutrient and volume characteristics of manure for 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.

2.3.12 "Animal wintering operation" means the confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. The term includes the weaned offspring of cattle and sheep, but it does not include(1) breading operations of more than 1,000 animal units or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes.

2.3.13 "Auditor's Lot" means an irregular tract of land described by metes and bounds that is not exclusively comprised of ninety-degree angles.

2.3.14 "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

2.3.15 "Building" means any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property. A building is any structure built on, above or below ground. This term is interchangeable with the term "structure."

2.3.16 "Building Area" means that portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and side yards.

2.3.17 "Building Height" means vertical distance from the grade to the highest point of the roof.

2.3.18 "Building Line" means a line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way. For the purposes of this code the building line is the same as setback line.

2.3.19 "Building, Principal" means a building, the principal use of which is single family and multi-family dwellings, and offices, shops, stores and other uses.

2.3.20 "Bunkhouse" means a structure used only for sleeping quarters but which may contain a bathroom.

2.3.21 "Campground" means any parcel of land containing three or more lots intended for occupancy by motor homes, travel trailers or tents.

2.3.22 "Channel" means a natural or man-made watercourse for conducting the flowing water.

2.3.23 "Club or Lodge" means a private club or lodge which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.

2.3.24 "Comprehensive Plan" means a guide for management of the physical resources and development of the county.

2.3.25 "Conditional Use" means use of a special nature not automatically permitted in a zoning district and which requires review and approval of the County Commission after a public hearing. It is a use which would not be appropriate in a particular zoning district, but which if controlled as to the number, location, or relation to the surrounding uses and the area, would be consistent with the purpose and intent of these regulations. A conditional use is permitted in a district specifically permitting it, subject to the approval of the County Commission and only when the Planning Commission finds that such use meets all of the requirements applicable to it as specified in the county codes including these regulations. Use converts back if discontinued for 24 months of longer.

2.3.26 "Conforming Building or Structure" means a building or structure which complies with all requirements of this code and other regulations adopted by the county.

2.3.27 "County" or **"County Commission"** means the governing body of the County of Barnes.

2.3.28 "Developer" means the owner, or agent of the land interest to be subdivided.

2.3.29 "Development" means 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, lagooning, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.

2.3.30 "Development Plan" means a document including maps and data for physical development of an area as provided by this code.

2.3.31 "District Zoning" means a section or sections of Barnes County for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width and the use are uniform.

2.3.32 "Dwelling" means any building or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels, or vehicles designed for camping and other temporary occupancy such as recreational vehicles, travel trailers, motor homes, or other vacation vehicles.

2.3.33 "Dwelling, Multiple Family" means a single building or portion thereof, containing two (2) or more dwelling units.

2.3.34 "Dwelling, Single Family" means a building containing one dwelling unit only.

2.3.35 "Easement" means a right to the use of land for specific purpose, such right being held by someone other than the owner who holds the title to the land.

2.3.36 "Encroachment" means any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.

2.3.37 "Establishment" means a place of business for processing, production, assembly, sales, service of goods and materials.

2.3.38 "Extraterritorial Jurisdiction" means areas surrounding the cities in Barnes County within designated miles of the city corporate limits in all directions, where the city has zoning and platting control under the provisions of the North Dakota Century Code.

2.3.39 "Farming or Ranching" means cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include producing timber or forest products, nor does the term include a contract where by a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

2.3.40 "Feed Lot" is a parcel of land which contains an operation for feeding or raising animals.

2.3.41 "Final Plat" means the map, plan, or record of a subdivision and any accompanying material prepared in conformance with this code.

2.3.42 "Frontage" means the front part of a lot abutting a public right-of-way, or road or highway.

2.3.43 "Grade" means the land elevation at the horizontal intersection of the ground and the building.

2.3.44 "Gravel Pit, Commercial" means any mining and extraction of earth materials for commercial or private sale.

2.3.45 "Gravel Pit, Private" means for private use, incidental to farming, which is not for sale, the mining and extraction of earth materials.

2.3.46 "Home Occupation" means any occupation which: (a) carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of residential dwelling units and (c) does not create excessive noise, traffic or conflict with adjoining uses.

2.3.47 "Hotel" or "Motel" means a building with lodging accommodations, either with or without meals which are provided for compensation.

2.3.48 "Improvements" means street grading, surfacing, installations of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, trees as may be required by the county.

2.3.49 "Industrial Waste" means 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.

2.3.50 "Inert Waste" means 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.

2.3.51 "Junk or Salvage Yard" means an open area where waste or scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled or handled.

2.3.52 "Kennel, Animal" means any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.

2.3.53 "Landfill" means especially 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.

2.3.54 "Livestock" means any animal raised for food, raw materials or pleasure, including, but not limited to, beef and dairy cattle, bison, sheep, swine, poultry and horses. Livestock also includes fur animals raised for pelts.

2.3.55 "Lot" means a piece, parcel, lot or area of land established by survey, plat or deed, which meets the yard requirements and fronts on a street.

2.3.56 "Lot, Corner" means a lot abutting two (2) public streets at their intersection.

2.3.57 "Lot Coverage" means the total surface area of a lot which is covered by any type of structure.

2.3.58 "Lot Depth" means the average horizontal distance between the front lot line and the rear lot line.

2.3.59 "Lot Lines" means the property lines bounding the lot.

2.3.60 "Lot of Record" means a lot, which is a part of a subdivision or parcel of land which has been recorded in the office of Barnes County Register of Deeds.

2.3.61 "Lot Width" means the horizontal distance between the side lot lines of a lot measured at the front building setback line.

2.3.62 "Lot, Zoning" means a single lot, parcel, or tract of land within a zoning district developed or to be developed.

2.3.63 "Major Appliance" means an air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, water heater, humidifier, dehumidifier, garbage disposal, trash compactor, computer, or other similar appliance.

2.3.64 "Major Plat" means a plat of subdivision containing five (5) or more lots.

2.3.65 "Manufactured Home" means a factory-built structure that is to be used as a place for human habitation, that is not constructed with or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, that does not have permanently attached to its body or frame any wheels or axles, and that bears a label certifying it was built in compliance with the Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280) that became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.

2.3.66 "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale or which a detailed plan indicating the location of lots, block, street, facilities and utilities subject to the requirements of this code is approved by the County Commission.

2.3.67 "Manure" means fecal material and urine from livestock, as well as animal-housing wash water, bedding material, rainwater or snow melt that comes in contact with fecal material or urine.

2.3.68 Marijuana: any species in the genus Cannabis, including but not limited to Cannabis sativa, Cannabis indica, and Cannabis ruderalis. Means all parts of the plant of the genus cannabis; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin extracted from any part of the plant.

2.3.69 Medical Marijuana: Means a product intended for human consumption or use which contains cannabinoid concentrate containing, derived from, or containing a derivative of Marijuana in any form, including but not limited to plants, seeds, and resins or any Medical Marijuana Product.

2.3.70 Medical Marijuana Distribution Center: an entity or facility registered with the North Dakota Department of Health to engaged in the acquiring, possession, storage, delivery, transfer, transport, sale, supply, or dispensing of Medical Marijuana or related products to a Medical Marijuana Qualifying Patient or Medical Marijuana Registered Designated Caregiver as dictated by state law.

2.3.71 Medical Marijuana Manufacturing Center: an entity or facility registered with the North Dakota Department of Health for the cultivation, growing, cloning, manufacturing, acquiring, possession, storage, delivery, transfer, transport, sale, supply of Medical Marijuana or related products to a North Dakota registered Medical Marijuana Distribution Center.

2.3.72 "Minor Plat" means a plat of subdivision containing less than five (5) lots.

2.3.73 "Mobile Home" means a single or multi-sectional structure which is built on a permanent chassis and is either attached to utility services or is twenty-seven (27) feet or more in length. The structure must ordinarily be designed for human living quarters, either on a temporary or permanent basis, and owned or used as a residence or place of business by the owner or occupant. The term "mobile home" includes "Park Models," but does not include a "recreational vehicle," "motor home" or "travel trailer."

2.3.74 "Motor Home" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:

a. Cooking facilities.
b. Icebox or mechanical refrigerator.
c. Portable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
e. Heating or air-conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.
f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.

2.3.75 "Municipal" means City, County or Township.

2.3.76 "Municipal Waste" means solid waste that includes garbage, refuse, and trash generated by households, motels, hotels, and recreation facilities, by public and private facilities, and by commercial wholesale and retail businesses, excluding special waste.

2.3.77 "Nonconforming Building" means any building or structure, which does not conform to any or all of this code but existed at the time of adoption of the code.

2.3.78 "Nonconforming Use" means any principal use of land or building which does not conform to any or all parts of this code but existed at the time of adoption of the code.

2.3.79 "Nonresidential Plat" means a plat whose intended use is other than residential such as commercial or industrial.

2.3.80 "Nursing Home or Convalescent Home" means a home for the aged or infirm which unrelated persons are accommodated for compensation.

2.3.81 "Operator" means an individual or group of individuals, a partnership, a corporation, a joint venture, or any other entity owning or controlling one or more animal feeding operations or animal wintering operations.

2.3.82 "Park Model" means a recreational vehicle not to exceed forty feet in length; is built on a single chassis; has a gross trailer area not exceeding four hundred square feet of enclosed living space in the setup mode; and is certified by the manufactures as complying with A119.5 Recreational Park Trailer Standard of the American National Standards Institute.

2.3.83 "Parking Space" means an off-street area designated for parking of automobiles accessible from a public street or alley and which shall be no less than nine (9) feet by twenty (20) feet.

2.3.84 "Person" means any individual, firm, corporation, partnership or legal entity.

2.3.85 "Planned Development" means a grouping of buildings and structure on a site of two (2) or more acres in single ownership which is not limited by the yard or building height limitations but is based on a detailed development plan and recorded in the Office of Barnes County Register of Deeds upon approval by the County Commission.

2.3.86 "Planning Commission" means a citizen group appointed by the County Commission under the authority of North Dakota Century Code chapter 11-33, as an advisory group only.

2.3.87 "Preliminary Plat" means the preliminary plan of a subdivision and any accompanying material prepared in accordance with the requirements of this code.

2.3.88 "Pre-Manufactured Home" means "manufactured home" or "mobile home."

2.3.89 "Public Roads" means any dedicated and recorded streets, roads, or highways.

2.3.90 "Public Way" means any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.

2.3.91 "Recreational Vehicle" means any motorcycle not qualified for registration, off-highway vehicle, snowmobile, vessel, or personal watercraft.

2.3.92 "Regional Flood" means a flood determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in Barnes County, North Dakota.

2.3.93 "Replat" means a change in approved or recorded plat requiring changes in street layout, lot lines, or blocks.

2.3.94 "Right-of-Way" means a strip of land designated or dedicated for public way, including streets, sidewalks, railroads, electric transmission line, telephone and telecommunication lines, oil or gas pipelines, sanitary sewer, storm sewer, or water systems and brown water systems.

2.3.95 "Service Station" means any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.

2.3.96 "Setback" means the minimum horizontal distance between the building line and the related front, side, or rear property line.

2.3.97 "Sign" means any emblem, name, identification, description or illustration which is used for outdoor advertising having permanent location on the ground or attached to or painted on a building including bulletin boards, billboards and poster boards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.

2.3.98 "Solar Energy Conversion Facility (Solar Farm)" means solar farm includes the use of land where a series of solar collectors are placed for the purpose of generating photovoltaic power which generates 15kW direct current or more when operating at maximum efficiency. The term solar farm shall not be construed to prohibit the installation of a solar collector that gathers solar radiation as substitutes for traditional energy for water heating, active space heating and cooling, or generating electricity for individual residential, agricultural, or commercial buildings.

2.3.99 "Solar Power" means solar power is the conversion of energy from sunlight into electricity, either directly using photovoltaics indirectly using concentrated solar power, or a combination.

2.3.100 "Site Plan" means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this code.

2.3.101 "Solid Waste" means 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 material in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 if 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.

2.3.102 "Street" means a dedicated public way which affords traffic circulation and a principal means of access to abutting properties.

2.3.103 "Street, Local" means a public way intended for low volume of traffic which provides access to major streets.

2.3.104 "Street, Major" means a public way, arterial or collector streets, used primarily for carrying a large volume of traffic.

2.3.105 "Structural Alterations" means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.

2.3.106 "Structure" means anything built, constructed or erected, the use of which requires permanent location on the ground, e.g., advertising signs and billboards, in the ground, e.g., underground pipelines, or above the ground. This term is interchangeable with the term "building."

2.3.107 "Subdivider" means any person, group, corporation, entity or agency dividing or proposing to divide land so as to create a subdivision.

2.3.108 "Subdivision" means the division of a lot, tract, or parcel of land, 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.

2.3.109 "Subdivision Road' means a road that is platted within a subdivision.

2.3.110 "Temporary" means one year or less except otherwise noted in a specific section of this ordinance.

2.3.111 "Trailer park" means any parcel of land containing three or more lots intended for occupancy by travel trailers.

2.3.112 "Travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.

2.3.113 "Variance" means the relaxation of the terms of the Development Code in relationship to building height, size of the front, rear and side yards, where the literal enforcement of this code would create an undue hardship, but it is not contrary to the purposes of the Barnes County Comprehensive Plan and this code. The variance shall not be contrary to the public interest.

2.3.114 "Yard" means an open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.

2.3.115 "Yard, Front" means a yard that extends across the full width of the lot, as the least distance between the front lot line and the front building line.

2.3.116 "Yard, Rear" means 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.

2.3.117 "Yard, Side" means a yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line.

2.3.118 "Wind Energy Conversion Systems" means any device designed to convert wind power to another form of energy such as electricity, mechanical or heat (also referred to by such common names as wind charger, wind turbine, wind generator, wind mill).

3. GENERAL PROVISIONS

3.1 Comprehensive Plan

This code is administered and enforced to implement the Comprehensive Plan of the County of Barnes. It is a document adopted by the County Commission as a policy guide to protect the county's resources and accommodate the type of development deemed appropriate including but not limited to the following:

3.1.1 To conserve and enhance the taxable value of land and buildings.

3.1.2 To encourage the most appropriate use of land in the county and its unincorporated area.

3.1.3 To regulate and restrict the location and intensity of use of buildings and land.

3.1.4 To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.

3.1.5 To facilitate traffic movement and promote development of compatible uses.

3.2 Non-conforming Uses

The lawful use of a building or premises existing 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 that premises shall conform to this code. Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than fifty percent (50%) of its market value, it shall not be restored unless that building conforms to the provisions of the zoning 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 adoption of this code unless there is an undue hardship and the use is approved by the County.

3.3 Land Suitability

No Warranty of Suitability. Barnes County, by approving a subdivision, auditor's lot, conditional use permit, variance, or by issuing a building permit does not warrant that the property in question is suitable for any particular purpose, including but not limited to improvements to real property. No land shall be used for a purpose which is held unsuitable for the reason of flooding, soil limitations, inadequate drainage, incompatibility with adjoining uses or any condition likely to be harmful to the health, safety or welfare of the people in the area.

It is incumbent upon the landowner to ensure that the land on which the landowner intends to build or the structure that the landowner intends to build conforms with any and all county, state and federal regulations.

3.4 Conditional Uses

Where a use is classified as a conditional use under this code and exists at the date of adoption of this code, it shall be considered an allowed use. Where a use is not allowed as a conditional use or allowed use, under this code, and exists at the date of adoption of this code, it shall be considered non-conforming and shall be subject to the nonconforming buildings and use provision, Section 3.2.

3.5 Dedication of Land for Streets

Whenever a parcel of land to be subdivided as subdivision contains a street or public way, such a street or alley shall be dedicated to the public at the location and details shown on the final plat. All non-section lines roadways shall be the responsibility of the subdivision.

3.6 On Site Sewer System

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

4. ZONING DISTRICT BOUNDARIES AND MAP

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 Commercial District

5.4 Industrial District

5.5 Recreation District

5.6 Floodplain Ordinance

4.2 Zoning District Map

4.2.1 Zoning District Map

The location and boundaries of the zoning districts are hereby established as shown on the official Zoning District Map on file in the office of the Zoning Administrator. The zoning district maps, together with all information shown thereon and all amendments thereto, shall be an integral part of this code.

4.2.2 Public Streets as Boundary

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 on the contrary.

4.2.3 Lot Line as Boundary

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

4.2.4 District Description for Unsubdivided Land

For unsubdivided property, zoning district boundaries are determined by metes and bounds description or by a legal description as deemed necessary

SUMMARY OF ZONING DISTRICT REQUIREMENTS

District Lot Area	Lot Width in FT	Lot Requirements (Feet)		
		Front Setback for Buildings	Rear	Side
Agricultural				
5 acres minimum for residential	No minimum	200 ft from maintained roads	NA	NA
For Residential 5 acres min				
For Non-residential 5 acres min		200 ft from section line		
Residential				
5 acres minimum for single family	75 ft. min.	200 ft from maintained roads	25	25
(not including subdivisions)		200 ft from section line		
1 acre per unit for multi-family	75 ft. min.	200 ft from public roads; 75 ft from subdivision roads	25	25
2 acres if no public sewer	150 ft. min.		25	25
Commercial				
10 acres minimum for commercial	150 ft. min.	200 ft from maintained roads	30	25
		200 ft from section line		
2 acres for single family	150 ft. min.	200 ft from maintained roads	25	25
		200 ft from section line		
1 acre per unit for multi-family, 2 acres if no public sewer	150 ft. min.	200 ft from maintained roads	25	25
		200 ft from section line		
		75 ft from Subdivision roads		
Industrial				
10 acre minimum	1,250 ft. min.	200 ft from maintained roads	50	25
	600 ft. min. with variance	200 ft from section line		
		75 ft from Subdivision roads		
Recreational District				
5 acre minimum	75 ft. min.	75 ft from subdivision road	Flood plain plus 1 foot	10
1 acre with recreational subdivision		200 ft from section line		

4.2.5 Vacated Areas

Where a street, road or public way is vacated by the official action of the County Commission, the zoning district boundaries shall be extended to the center of the vacated street, road or public way.

4.2.6 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 lines.

4.2.7 Certification

The zoning district map shall bear a certificate with the signature of the County Chairperson and certification of the County Auditor and date of adoption of the zoning map as an integral part of this code.

5. ZONING DISTRICT REGULATIONS

5.1 Agricultural District

5.1.1 Purpose

The purpose of this district is to provide for preservation and protection of agricultural uses while in existence in the county and its unincorporated territorial planning area. All undeveloped lands or farmlands are in agricultural district, regardless of acreage or dimensions, unless noted otherwise on the zoning district map.

5.1.2 Allowed Uses – Agricultural District

(1) All types of farming and ranching operations including dairying, but excluding commercial feed lots, poultry, fish and fur farming.

(2) Accessory buildings and structures.

(3) Churches and cemeteries.

(4) Golf courses, parks and play fields.

(5) County public and private schools, public buildings and facilities.

(6) Construction and maintenance of drainage systems to manage the water run-off and water reservoirs

(7) General utility lines and pipelines including substations for transformers, pumping stations, lift stations, and wind generators. Subject to 6.17(8).

(8) Animal units on single family non-farm residents are subject to provision 6.12.

(9) Trees and tree planting subject to provision 6.13.

(10) Fuel containment structure

5.1.3 Conditional Uses

(1) Home occupations are subject to provision 6.15.

(2) Feedlots, poultry, fish and fur farming subject to provisions of Section 6.4.

(3) High voltage transmission lines and accessory structures.

(4) Manufacturing and processing of agricultural products produced in the area but not including rendering plants and fertilizer plants.

(5) Radio, TV stations and towers.

(6) Sale and services of agricultural equipment and machinery.

(7) Salvage and junk yards, subject to provisions of Section 6.3.

(8) Sewage lagoons and waste water treatment facilities.

(9) Skeet, trap and rifle ranges.

(10) Storage of farm related chemicals.

(11) Boarding and rooming houses.

(12) Hotels and motels.

(13) Professional offices for businesses and services without limitation.

(14) State and federal public buildings and facilities.

(15) Restaurants including all types of eating and drinking establishments.

(16) Veterinary clinic, animal hospitals and domestic animal kennels not nearer than 500 feet from any residence except the residence of the owner or operator.

(17) Sanitary landfills shall be subject to the provisions of Section 6.7.

(18) Mining of sand and gravel shall be subject to the provisions of Section 6.5.

(19) Single family non-farm residential units.

(20) A mobile home or modular home on a permanent foundation.

(21) Medical Marijuana Manufacturing Center

(22) Solar Energy Conversion Facilities

5.1.4 Lot Area and Lot Width

(1) There shall not be more than two (2) dwelling units within any contiguous forty (40) acre tract within the same quarter section of land.

(2) For residential uses, the lot area shall not be less than five (5) acres.

5.1.5 Yard Requirements

(1) There is no minimum area requirement for the size of an agricultural parcel. However, there is a five (5) acre minimum for a parcel that contains a residence.

(2) Buildings and structures shall be set back from maintained roads a distance of 200 feet from the center of the road. A variance is required to erect a building or structure less than 200 feet from the center of a maintained road. All buildings and structures shall be set back from a section line a minimum distance 200 feet. A variance is required to erect a building or structure less than 200 feet from a section line.

5.1.6 Building Height

(1) The building height for residential buildings shall not exceed forty (40) feet.

(2) The building heights for manufacturing of agricultural products, radio and TV towers shall be determined by the Planning Commission after application and approval of a variance.

(3) The building height, for all other uses, excepting the radio, TV and high voltage electrical transmission towers, church steeples, ag buildings and water tanks, shall not exceed forty (40) feet.

5.1.7 Parking Requirements

For non-farm uses the parking requirements shall be subject to the provisions of Section 6.1.

5.1.8 Sign Requirements

Sign requirements shall be subject to the provisions of Section 6.2.

5.2 Residential District

5.2.1 Purpose

The residential district is primarily established to promote a suitable residential environment and to accommodate low density detached single family residential units uninterrupted by conflicting uses and incompatible activities in unincorporated communities.

5.2.2 Allowed Uses – Residential District

(1) Single family detached dwelling units including double wide and manufactured units placed on a permanent foundation or basement, but not including mobile homes. Animal units are subject to provisions in 6.4.

(2) Churches, schools and public facilities including libraries, parks, schools, golf courses, and post offices.

(3) Accessory buildings and structures.

(4) Home occupations are subject to provisions in 6.15.

(5) Day care facilities.

(6) Tree plantings are subject to provisions in 6.13.

(7) Residential land not used as residential land may be cropped or hayed.

(8) Fences are subject to provisions in 6.14.

5.2.3 Conditional Uses

(1) Public facilities including public water and sewerage treatment lagoons.

(2) Multi-family dwelling units including two (2) or more units per building.

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

(4) Bunkhouse

(5) Recreational Vehicles, Motor Home and Travel Trailers – no more than 2 per lot

(6) Mobile home parks, where public sewer is available, with the following requirements:

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

(b) The mobile home park shall contain a minimum of three (3) acres of land.

(c) Each mobile home shall be placed on a lot at least fifty (50) feet wide with a minimum area of 5,000 square feet.

(d) Each unit shall be placed on a stand and anchored to provide a firm foundation.

(e) Each unit shall have a minimum setback of ten (10) feet within the private park and thirty (30) feet from the public streets.

(f) Each unit shall have a minimum side yard of ten (10) feet and a rear yard of twenty (20) feet.

(g) The design and construction of the private streets within the park shall conform to the design standards of the county.

(h) All units shall be served by underground utilities unless waived by the County Commission.

(i) There shall be two (2) off-street parking spaces per mobile home.

5.2.4 Lot Area, Lot Width and Coverage

(1) The minimum lot area for a single-family unit is five (5) acres. If an existing parcel, established before 1965, is less than 5 acres the owner of the parcel before 1965 is not required to meet this minimum requirement. If the residence is removed or destroyed and a new residence is built in its place, the owner must apply for a variance for new construction. If the parcel is conveyed to a new owner who is unable to acquire more land surrounding the existing parcel to meet the minimum requirement, the new owner must apply for a variance.

(2) The minimum lot width is seventy-five (75) feet. If there is no public sewer the minimum lot width is 150 feet.

(3) Buildings and structures for a single-family parcel shall be set back from maintained roads a distance of 200 feet. A variance is required to erect a building or structure less than 200 feet from a maintained road. Multi-family parcels shall not be closer than 200 feet to a township, county or state road or 75 feet from a subdivision road.

5.2.5 Yard Requirements

(1) The minimum front yard, measured from the center line of public roads, shall be no less than 200 feet, depending on set back.

(2) The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.

(3) The minimum side yard, measured from the side lot line, shall not be less than twenty-five (25) feet on each side of a lot.

5.2.6 Building Height

No building shall be more than forty (40) feet high, excepting church steeples.

5.2.7 Parking Requirements

(1) There shall be a minimum of two (2) off-street parking spaces for each residential dwelling unit.

(2) The parking needs for the conditionally permitted uses and non-residential uses shall be subject to the requirements of Section 6.1.

(3) A single parcel may not have more than three (3) unlicensed vehicles parked on the parcel.

5.2.8 Sign Requirements

(1) There shall be not more than one (1) identification sign per residential dwelling structure not exceeding twelve (12) square feet in area. The sign may be wall, pedestal, ground, or projecting type but it shall not project into the public right-of-way or public property.

(2) Temporary signs including "For Sale," "For Rent," political campaign signs, greeting signs and realty signs are permitted.

(3) For non-residential uses, the provisions of Section 6.2 shall apply.

5.3 Commercial District

5.3.1 Purpose

The commercial district is primarily 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.

5.3.2 Allowed Uses – Commercial District

(1) Accessory uses, including fences subject to provisions in 6.14.

(2) Advertising signs and billboards.

(3) Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.

(4) Automobile accessory stores and automobile dealerships.

(5) Banks and financial institutions.

(6) Boarding and rooming houses.

(7) Fraternal and philanthropic organizations.

(8) Hotels and motels.

(9) Professional offices for businesses and services without limitation.

(10) Public buildings and facilities.

(11) Restaurants including all types of eating and drinking establishments.

(12) Retail stores of all types including but not limited to food, drug, clothing, parts, materials and the like.

(13) Multiple family dwelling units and single-family units.

(14) Commercial land not used as commercial may be cropped or hayed.

(15) Storage Units

5.3.3 Conditional Uses

(1) Contractor's yards and operation.

(2) Processing and packaging of materials.

(3) Single family dwelling units, sleeping rooms.

(4) Storage and sale of chemicals, explosives and the like.

(5) Warehouses and wholesaling distributorships.

(6) Commercial grain bins or related activity.

5.3.4 Lot Area and Lot Width

(1) The minimum area for a Commercial District shall be ten (10) acres. The minimum lot area for commercial use shall be two (2) acres.

(2) The minimum lot area for a multi-family unit is one (1) unit per acre. If there is no public sewer the minimum lot area for a multi-family unit is two (2) acres

(3) The minimum lot width for commercial district shall be 150 feet.

5.3.5 Yard Requirements

(1) The minimum front building line, measured from the front lot line or center of a subdivision road, shall be 75 feet. There shall be a 200-foot set back from centerline of any township, county or state road.

(2) The minimum rear building line, measured from the rear lot line, shall be thirty (30) feet.

(3) The minimum side building line, measured from the interior side of the lot shall be twenty-five (25) feet.

(4) The minimum set back from residential uses shall be 1,000 feet for all commercial grain bins or related activity.

5.3.6 Building Height

The building height requirements in commercial district shall not be more than thirty-five (35) feet excepting farm related buildings and communication towers.

5.3.7 Parking Requirements

(1) The front yard and the rear yard spaces may be used for parking.

(2) Parking shall be subject to the provisions of Section 6.1.

5.3.8 Sign Requirements

Signs in commercial district shall be subject to the provisions of Section 6.2 shall apply.

5.4 Industrial District

5.4.1 Purpose

The industrial district is primarily established to accommodate industrial uses and facilities appropriate to the county. It is planned to encourage grouping of related industrial uses for preventing intrusion on other uses, specifically residential areas and to maintain an orderly, functional and efficient industrial land use system.

5.4.2 Allowed Uses – Industrial District

(1) Accessory uses, including fences subject to provisions in 6.14.

(2) Agricultural chemical production and storage.

(3) Any industrial or manufacturing operation provided that: (a) dust, fumes, odors, smoke, vapor, noise, lights and vibration shall be confined within the industrial district, and: (b) outdoor storage, equipment and refuse areas shall be concealed from view abutting rights-of way.

(4) Any production, processing and treatment of products such as battery and tire service, concrete and asphalt products, dairy processing, bottling works, ice and cold storage plants, machine and sheet metal shops provided that all operations be conducted entirely in enclosed buildings.

(5) Building material and supply establishments.

(6) Contractor's yards and construction shops.

(7) Electric power production, substations, and wind generators.

(8) Fuel sales establishment including bottle gas.

(9) Public utility buildings including water and waste water facilities and accessories.

(10) Radar stations and towers.

(11) Radio and TV stations and studios.

(12) Industrial land not used for industrial purposes may be cropped or hayed.

5.4.3 Conditional Uses

(1) Adult Entertainment Center

(2) Local and regional sanitary landfills, compost sites and incinerators.

(3) Salvage or junk yards.

(4) Storage and sale of chemicals, explosives and the like.

(5) Commercial grain bins.

(6) Conditional uses shall not be located nearer than 1,250 feet from any residential area.

(7) Medical Marijuana Manufacturing Center(s) or Distribution Center(s)

5.4.4 Lot Area and Lot Width

(1) The minimum area for an Industrial district shall be ten (10) acres. The minimum lot area for industrial shall be five (5) acres.

(2) The minimum lot width area for industrial district shall be 1,250 feet.

(3) A variance for a minimum lot area width may be granted provided the minimum width is not less than 600 feet.

5.4.5 Yard Requirements

(1) The minimum front building line, measured from the front lot line, or center of a subdivision road, shall be 75 feet. There shall be at least a 200-foot set back from centerline of any township, county or state road.

(2) The minimum rear building line, measured from the rear lot line, shall be fifty (50) feet.

(3) The minimum side building line, measured from the side lot line, shall be twenty-five (25) feet.

(4) No building or structure shall be located within 1,250 feet from the boundary of residential area.

5.4.6 Building Height

The building height requirement in industrial district shall not be more than sixty (60) feet, except elevated water supply tanks, TV and transmission towers.

5.4.7 Parking Requirements

Parking in the industrial district shall be subject to the provisions of Section 6.1.

5.4.8 Sign Requirements

Signs in the industrial district shall be subject to the provisions of Section 6.2.

5.5 Recreational District

5.5.1 Purpose

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

5.5.2 Allowed Uses – Recreational District

(1) Cabins
(2) Year-round residences
(3) Mobile homes & Park Models
(4) Seasonal homes
(5) Churches
(6) Boathouses, storage buildings, or garages up to 1,200 square feet
(7) Public picnic areas and playgrounds
(8) Outdoor recreation facilities
(9) Fences subject to provisions in 6.14
(10) Utility lines and pipe lines as required to provide service
(11) Recreational Vehicles, Motor Home and Travel Trailers – no more than 2 per lot

Trees and tree plantings subject to Section 6.13

5.5.3 Conditional Use

(1) Places of amusement
(2) Refreshment stands
(3) Commercial campgrounds and recreational vehicle parks

(4) Restaurants, including all types of eating and drinking establishments
(5) Bunkhouse

5.5.4 Lot Area and Yard Requirements

(1) Setbacks from normal high water (Minimum):
   a. Residential garages, accessory buildings: 1 foot above 100-year floodplain
   b. Boathouses: none
   c. Fences: 50 feet

(2) Yards (Minimum):
   a. Side: 10 feet
   b. From subdivision roads: Structures - 75 feet, Trees – 50 feet

(3) Lots (Minimum):
   a. Size: Five (5) acre minimum, one (1) acre minimum with recreational subdivision
   b. Width: 75 feet
   c. Depth: 75 feet

(4) Building heights (Maximum):
   a. Residential: 40 feet
   b. Storage buildings: 16 feet
   c. Boathouses: 16 feet at high water mark
   d. Fences: 6 feet
   e. Garages: 40 feet

5.6 Floodplain Ordinance – See Appendix B

6. SPECIAL PROVISIONS

6.1 Off-Street Parking

6.1.1 Purpose

The purpose of this section is to provide for the off-street parking regulations to increase the safety and capacity of public roads by requiring off-street parking or loading facilities.

6.1.2 General Requirements

(1) An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.

(2) All open off-street parking areas with four (4) or more spaces and all loading berths shall be: (a) gravel, concrete or asphalt surfaces; (b) graded to dispose of all surface water run-off but not be diverted to adjoining properties.

(3) No vehicle shall park upon the right-of-way of a county road in such a way that impedes traffic. Any vehicle that violates this provision shall be removed by the County with costs assessed to the owner of the vehicle.

(4) No vehicle shall be parked along a road for more than forty-eight (48) hours. Any vehicle that violates this provision shall be removed by the County with costs assessed to the owner of the vehicle.

6.1.3 Special Requirements

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

a) Business, professional or public office building, studio, bank, medical or dental clinic: three (3) parking spaces plus one additional space for each 400 square feet of floor area over 1,000 square feet.

b) Private club or lodge: two (2) parking spaces for each 200 square feet of service area.

c) Restaurant, eating and drinking establishment: one parking (1) space for each 100 square feet of floor area.

d) For industrial uses, there shall be one (1) off-street parking space for everyone and one-half (1 ½) employees.

6.2 Signs

6.2.1 Purpose

The purposes of regulating signs in the county is to provide for a visually pleasant environment and minimize potentially unsafe conditions for all age groups, but yet offer many opportunities for public and private information and advertising.

6.2.2 General Requirements

(1) Directory signs shall not be larger than twenty (20) square feet in area for allowed uses.

(2) Directory signs for conditional uses shall not be larger than forty (40) square feet.

(3) Advertising signs shall not be larger than ninety-six (96) square feet.

6.2.3 Special Requirements

(1) Signs in the residential district shall be limited to: (a) One (1) sign per dwelling structure not exceeding twelve (12) square feet in area which may be wall, pedestal,

ground or projecting type; (b) One (1) temporary sign such as “For Sale,” or “For Rent,” not exceeding twenty (20) square feet in area.

(2) Signs in the commercial and industrial districts shall be limited to: (a) One (1) 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,” “For Rent,” political campaign signs, greeting signs and rally signs not exceeding fifty (50) square feet in area; (c) Directory and advertising signs in agricultural, commercial and industrial districts shall not be larger than ninety six (96) square feet and not placed nearer than 600 feet apart.

(3) Signs at intersections, either permanent or portable, in rural areas shall be limited to nine (9) square feet in size and the top no further than three feet (3’) from the ground. The sign must be 100’ from the center of any public road at the intersections, except for approved highway signs. No signs are allowed in any road right-of-way.

6.3 Junk or Salvage Yards

6.3.1 Purpose

The purpose of these requirements is to preserve and protect the visual and other environmental amenities of the rural areas while allowing the salvage or junkyards as business places.

6.3.2 Site Approval Requirements

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

6.3.3 Locational Standards

(1) No salvage or junkyard shall be located within 1,000 feet of a residential district and 200 feet of commercial buildings and structures.

(2) No salvage or junkyard shall be located in areas, which due to high water table, flooding and soil conditions may affect the quality of surface and ground water and are subject to the provisions of Section 5.6.

(3) No salvage or junkyard shall be located nearer than 200 feet off all road and highway rights-of-way.

(4) All salvage yards and operations shall be screened from the public view. Such screening shall be by natural vegetation, and fences ten (10) foot minimum, building, and/or land form.

(5) Storage items shall not be higher than fences.

6.3.4 Enforcement

The Planning Commission, County Commission, or any private citizen may seek to enforce this section through the remedies available in Section 6.3 and North Dakota Century Code Title 42.

6.4 Animal Feeding Operation

6.4.1 Purpose

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

6.4.2 General Requirement

(1) All Animal Feeding Operation as defined by this code are only permitted as conditional uses subject to the provisions of this code and the requirements of the North Dakota Department of Environmental Quality **and approval by the commission**.

(2) Animal Feeding Operations shall not be placed in the floodplains **unless flood protection is provided**.

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

Equivalent Numbers of the Livestock (hd)
for Four Sizes (a.u.) of Animal Feeding Operations

Livestock Type	**Animal Unit Equivalent**	300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	1.0	300 hd	1,000 hd	2,000 hd	5,000 hd
1 dairy cow	1.33	225	750	1,500	3,750
1 mature beef	1.0	300	1,000	2,000	5,000
1 beef feeder - finishing	1.0	300	1,000	2,000	5,000
1 beef feeder - backgrounding	0.75	400	1,333	2,667	6,667
Livestock Type	**Animal Unit Equivalent**	300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 mature bison	1.0	300	1,000	2,000	5,000
1 bison feeder	1.0	300	1,000	2,000	5,000
1 swine, >55 lbs.	0.4	750	2,500	5,000	12,500
1 swine, nursery	0.1	3,000	10,000	20,000	50,000
1 goose or duck	0.2	1,500	5,000	10,000	25,000
1 sheep	0.1	3,000	10,000	20,000	50,000
1 turkey	**0.0182**	**16,500**	**55,000**	**110,000**	**275,000**
1 chicken	**0.01**	**30,000**	**100,000**	**200,000**	**500,000**

SETBACK DISTANCES FOR ANIMAL FEEDING OPERATIONS

ADD: (FROM RESIDENCE, RESIDENTIAL DEVELOPMENT IN AN UNINCORPORATED AREA, PARK, CEMETERY, CHURCH, OR SCHOOL)

NUMBER OF ANIMAL UNITS	HOG OPERATIONS	OTHER OPERATIONS
0-299	**None**	**None**
300 – 1000	**.75 mi.**	**.75 mi.**
1001 or more	**1.125 mi.**	**.75 mi.**
2001 or more	**1.5 mi.**	**1.125 mi.**
5001 or more	**2.25 mi.**	**1.5 mi.**

The operator of a new animal feeding operation shall locate the site of that operation from existing residences, businesses, churches, schools, public parks and area of property that are zoned residential so as to exceed the corresponding listed setback from these places.

If notified in writing by an operator of a planned future expansion of an animal feeding operation, the local unit of government may implement the corresponding odor setback for a temporary time period not to exceed two years, after which time the setback will remain in effect only if the expansion was completed.

The Board of Commissioners may, upon recommendation of the zoning commission or land use administrator, increase or decrease a setback distance for a new animal feeding operation after consideration of the proposed operation's plans, if it determines that a greater or lesser setback distance is necessary or acceptable, respectively, based upon site conditions or demonstrable safety, health, environmental or public welfare concerns.

6.4.3 Water Resource Setbacks

The owner of an animal feeding operation that has more than one thousand (1,000) animal units shall not locate or establish that operation:

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

6.4.5 Application Procedure and Requirements

The application for a conditional use permit to operate a facility for a animal feeding operation shall include a scaled site plan. If the facility will handle more than one thousand (1,000) animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer, or other person having comparable experience or qualifications. The application shall also list or provide:

1) Proposed number of animal units.

2) Total acreage of the site of the facility.
3) Existing and proposed roads and access ways within and adjacent to the site of the facility.
4) Surrounding land uses, if the operation will have the capacity to handle more than one thousand (1,000) animal units.

6.5 Mining of Sand, Gravel, Clay and General Ground Excavation

6.5.1 Purpose

The purpose of these provisions is to provide for mining and extraction of materials for commercial uses, and to protect and preserve agricultural land by guiding such operations, and to minimize the traffic, noise, dust, fume and vibration impact on the adjoining uses and the city. Any sand, gravel, clay or other excavation pit must be in compliance with state and federal law, where applicable.

6.5.2 Site Approval Requirements

All excavation sites require approval by the County Commission. See definitions of "gravel pit, commercial" and "gravel pit, private."

6.5.3 Data Submission Requirements

(1) A site plan for operation and reclamation of the mined land including maps showing location of the land to be mined, location of roads and point of access to the site, adjacent residences within one (1) mile of site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site. There will be a minimum 1 to 3 slope. All top soil shall be replaced and planted to natural protected vegetation.

(2) Reclamation of the site shall be completed within one (1) year of the resource being exhausted, abandoned or closure of the operation of the site. Please refer to North Dakota Century Code Title 38.

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

(4) Bonding required as follows:

Less than 20 acres	No Bond
20 – 40 acres	$50,000
40 + acres	$100,000

6.5.4 Proximity to Existing Uses

Operation of sand and gravel sites shall not be nearer than 500 feet from any residential uses.

6.5.6 Permit Requirements

Any person who operates a sand and gravel operation shall obtain a conditional use permit from the Planning Commission before starting any mining or excavation of the sand and gravel sites, and

after review by the Planning Commission and approval by the County Commission. Please refer to Sections 5.1.3(18) and 11.2. A permit must be obtained to operate any new pit or any commercial pit which has been reopened after reclamation of the site.

6.6 Wellhead Protection

6.6.1 Purpose

The purpose of this regulation is to preserve and maintain the integrity of the municipal ground water supplies, both as to quantity of ground water and quality of ground water.

6.6.2 General Requirements

A conditional use permit shall be required to use ground water for purposes other than home and farm livestock. A conditional use permit is required for commercial feed lots and irrigation, by water well or otherwise. The following conditions must apply before a permit is issued:

1. Must be in compliance with North Dakota State Law, the Health Department and the State Water Commission regulations.

2. Must be located at least 1,320 feet from a municipal well or rural water system well.

6.6.3 Special Requirements – Irrigation Systems, Mining, Extraction of Gravel/or Clay

Before a conditional use permit may be issued for irrigation systems, the following conditions must apply, in addition to the general requirements in 6.6.2, as follows:

1. For irrigation on land overlaying an unconfined aquifer of high vulnerability, as defined by the North Dakota State Department of Health, the following conditions will apply within 2,640 feet of public water systems wells.

2. The applicant will install monitoring wells up gradient and down gradient of the irrigated land at the applicant's expense.

3. The applicant will provide monthly reports twice a year, in the spring and fall, of nitrate as nitrogen concentration to the Zoning Administrator from a state-approved laboratory.

4. The nitrate as nitrogen level will be reported as the moving average of the past three (3) readings. The compliance monitoring well will be screened at the depth of twenty (20) feet below the water table.

   If the nitrate level (nitrate as nitrogen) at the compliance monitoring well exceeds the concentration of 4.0 mg/l, the producer must submit a letter to the county municipal or rural district describing management changes that will be implemented.

   If the nitrate level (nitrate as nitrogen) at the compliance monitoring well exceeds 6.0 mg/l, irrigation will cease until the concentration level falls below the concentration of 4.0 mg/l.

A conditional use permit shall be obtained for mining, extraction of gravel or clay within a municipal or rural water supply well zone of contribution.

The following conditions must apply before a permit is issued:

1. Must be in compliance with North Dakota State Law, the North Dakota Health Department and the State Water Commission regulations.

2. Must be located at least 2,640 feet from a municipal or rural water system well, or outside the zone of contribution as established by the planning documents of the system and the North Dakota State Health Department, whichever is furthest away from the well.

6.7 Sanitary Landfills and Solid Waste Sites

6.7.1 Compliance with State Laws and Rules

Any person who operates sanitary landfills or solid waste sites shall comply with all North Dakota state laws and administrative rules set forth by the state agencies.

6.7.2 County Code and Procedures

The county hereby adopts solid waste provisions, subject to the provisions of N.D.C.C. § 11-33-20, to assure meeting the purposes of this code and the County Comprehensive Plan.

6.7.3 Purpose

The purpose of these provisions is to protect public health, ground and surface water, conflict with present land uses and preservation and protection of natural resources in the county.

6.7.4 Site Approval Requirements

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

6.7.5 Collection of Solid Waste

1. Non-farm commercial and industrial businesses must have a solid waste disposal plan.

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

3. Every hauler shall provide for the collection of solid waste and recyclable materials appropriate vehicles, receptacles, containers meeting the requirements of Barnes County, and the requirements of the State of North Dakota. Such vehicles shall have leak-resistant bodies of easily cleanable construction, completely covered with metal, heavy canvas or other suitable covering.

4. All recyclable materials shall be transported to an approved recycling facility.

5. Regulated infectious waste may not be subject to compaction during loading, unloading and transit and must be handled carefully.

6. All vehicles or containers used to haul solid waste must be clean and free of residues of the waste material in order to minimize problems of odor, insects and rodents.

7. No person shall collect or transport solid waste that is smoking, smoldering, or burning, except in a container designed and approved by Barnes County.

8. No solid waste collection or transportation vehicle which is not free of waste residue may be parked outdoors within 100 feet of a commercial or residential structure not owned by the owner or operator of the vehicle.

6.7.6 Littering and Open Burning

1. No person shall discard and abandon any litter, furniture, or major appliance upon public property or upon private property not owned by that person, unless the property is designated for the disposal of litter, furniture, or major appliances and that person is authorized to use the property for that purpose.

2. No person may engage in open burning of solid waste, unless the burning is conducted in accordance with the rules of the State of North Dakota and Barnes County.

3. A person violating this section is guilty of an infraction, except if the litter discarded and abandoned amounted to more than one cubic foot in volume or if the litter consisted of furniture or a major appliance, the offense is a class B misdemeanor.

4. Any natural person who resides on unplatted land in unincorporated areas of the county is not prevented from disposing of that person's normal household wastes on that person's property, so long as no health hazard or nuisance is created thereby.

6.7.7 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 Barnes County.

2. Solid waste materials shall not be stored on public or private property for more than two (2) weeks without approval of Barnes County.

3. Storage of solid waste 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 or rodents.

6.7.8 Asbestos Waste

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

6.7.9 Hazardous Waste

(1) 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 in excess of quantities normally found in household waste unless approved by the State Health Department and Barnes County.

(2) Containers having hazardous waste in excess of normal household quantities, shall be dated and marked to designate the content as toxic, explosive, or otherwise hazardous.

(3) No person shall place hazardous waste in municipal solid waste or dispose of hazardous waste without approval of Barnes County.

6.7.10 Incineration and Energy Recovery

1. All incinerators shall meet the requirements of the State Health Department and standards set forth by Barnes County.

2. No person shall install, operate, or incinerate without obtaining a permit from Barnes County.

3. Applicant shall meet the requirements of these regulations and all applicable rules of the state.

4. During operation, the operator shall comply with the following requirements:

    a. Maintain permanent records for inspection on the quantity and type of material incinerated, the quantity of ash residue and schedule of plant operation.

    b. Any discharges to the air, or to surface or ground water shall meet all applicable state and federal regulations.

6.7.11 Major Appliances (White Goods)

Disposal of major appliances will be in accordance with State Health Regulations.

6.7.12 Pesticide Waste

1. Surplus pesticides may not be discarded in any manner, including land filling, that endangers humans, animals, and the environment.

2. Any person who handles surplus agricultural pesticides and pesticide containers shall comply with applicable rules and regulations of the State Health Department.

6.7.13 Problem Materials

1. Disposal of lead, batteries or used oil will be in accordance with State law.

2. Any person selling lead-acid batteries at retail or wholesale is required to accept lead-acid batteries from customers as trade-ins for new lead-acid batteries.

3. No person shall dispose of regulated infectious waste in a solid waste landfill.

6.7.14 Waste Tires

1. Waste tire collectors and processors shall meet all requirements of these regulations and the State Health Department.

2. Waste tire collectors and processors, excluding the following persons, shall obtain a permit from Barnes County:

    a. Retail tire sellers

    b. Tire retreading operations

3. No person shall dispose of waste tires in the municipal solid waste landfills.

4. Waste tires shall be stored in a manner that will not create a nuisance, blight, health hazard or fire hazard.

5. Waste tires shall not be stored or disposed of in any stream, wetland, gully, flood plain or shoreland.

6.7.15 Industrial Waste

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

2. Any person who handles industrial waste shall comply with applicable rules and regulations of the State Health Department.

3. No person shall place industrial waste in a solid waste landfill or dispose of industrial waste without approval of Barnes County.

6.7.16 General Standards

1. No solid waste facility shall be located in areas which result in impacts on human health or environmental resources or in areas unsuitable because of reasons of topography, geology, hydrology, or soils.

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

3. No person shall dispose of waste of any type in the following areas:

   a. Aquifers

   b. Public water supply designated wellhead protection area.

   c. Within 100-year floodplain.

   d. Where geological or man-made features may result in failure of the structural integrity of the facility.

   e. Channels, ravines, or other waterways.

   f. Critical habitats for endangered or threatened species of plant, fish, or wildlife.

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

4. No solid waste facility or lateral expansion shall be located within 10,000 feet of any commercial airport runway or 5,000 feet of any general aviation airport runway.

5. 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.

6.7.17 Design Standards

1. Municipal Waste Landfills

   a. Any new or lateral expansion of a municipal solid waste landfill shall be underlain with a hydraulic barrier and leachate removal system capable of collecting and removing leachate and contaminated surface water within the landfill.

      The liner shall consist of:

      (1) A natural soil liner constructed of at least four (4) feet of compacted clay soil; and

      (2) A composite liner consisting of two (2) components; the upper component must consist of a minimum sixty (60) mill flexible membrane liner, and the lower component must consist of at least a two- (2) foot layer of compacted clay soil.

   b. The liner and leachate removal system in combination with the final cover shall achieve a site efficiency of ninety-five percent (95%) or better for rejection or collection of the precipitation that falls on the site.

c. Methane and other gases from waste decomposition may not be allowed to migrate laterally from the landfill so as to endanger structures, environmental resources, or adjacent properties.

2. Industrial Waste Landfills

a. Any new or lateral expansion of an industrial waste landfill shall be designed with an appropriate hydraulic barrier and leachate management system capable of collecting and removing leachate and contaminate surface water within the disposal unit.

(1) The system shall have a collection efficiency of ninety-five percent (95%) or better and must be capable of maintaining a hydraulic head of twelve (12) inches or less above the liner.

(2) For landfills that receive waste containing soluble constituents, the liner shall consist of at least four (4) feet of compacted clay soil.

(3) A composite liner is required for landfills receiving wastes which may contain leachate organic constituents. The liner shall consist of at least four (4) feet of compacted clay overlain with at least a sixty (60) mil flexible membrane liner.

(4) The liner and leachate removal system in combination with the final cover shall achieve a site efficiency of at least ninety-eight and one-half percent (98.5%) or better for collection or rejection of the precipitation that falls on the site.

3. Inert Waste Landfills

a. Access to the facility shall be controlled and the site shall be fenced.

b. Disposal of agricultural waste, asbestos waste, hazardous waste, municipal waste, commercial waste, industrial waste, regulated infectious waste, liquid waste, radioactive waste and municipal incinerator ash is prohibited. Lime sludge from water treatment plants may be deposited in an inert waste landfill.

4. Recycling Facilities

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

a. The facility does not abut residential and public uses.

b. The facility will be screened from the public right-of-way.

c. The facility shall not be placed in the flood plain.

d. The facility should meet setbacks and appropriate landscaping requirements of the zoning ordinance.

e. The exterior storage of material shall be in covered, secured and sturdy containers or enclosures maintained in good condition.

f. 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.

g. Appropriate number of off-street parking for equipment and employees' vehicles to be provided.

h. There shall be a pest control plan for review and approval by the governing body.

i. The facility should meet all other requirements of the zoning district and other local regulations. If the facility is permitted as a conditional use, the term of the conditions must be met literally.

5. Hazardous Waste Facilities

The design, construction and operation of hazardous waste facilities require extensive analysis of the physical characteristics of the site and its relationship to other uses with long term potential impact in the future. Each facility shall be reviewed on a case-by-case basis for Barnes County zoning approval. Payment is required for hazardous waste facility permit.

6.7.18 Construction and Operation Standards

1. General Standards

a. Every solid waste landfill or facility shall maintain equipment adequate for excavation, compaction, covering, surface water management and monitoring procedures.

b. Roads shall be constructed and maintained to provide access to the facility. Access roads shall be cleaned and decontaminated as necessary.

c. There shall be an adequate supply of suitable soil cover material, which may be stockpiled and protected from wind and water erosion.

d. The final cover of all disposal facilities shall be designed and constructed in a manner that ensures the quality and integrity of the hydraulic barrier and the protective vegetative cover.

e. The working face or open area of a landfill shall be limited in size to as small an area as practicable. Sequential partial closure must be implemented as necessary to keep the disposal area as small as practicable and to close the filled areas in a timely manner.

f. The disposal of liquids, sludges, and wastes containing free liquids in excess of household quantities is prohibited unless expressly authorized.

g. In disposal facilities, the owner or operator shall identify, quantify, remove, stockpile and maintain earthen materials, suitable for plant growth for later use in closure.

h. Vector control measures, in addition to the application of cover material, shall be used whenever necessary to prevent transmission of disease and hazards created by rats, flies, snakes, insects, birds, cats, dogs and other non-domestic animals.

2. Municipal Waste Landfills

a. Facilities receiving municipal waste shall have an attendant at or near the entrance to the facility to monitor, accept or reject, measure, weigh and record waste arriving at the facility.

b. Solid waste shall be unloaded at the bottom of the working face of the fill. The waste shall then be spread in layers and compacted as densely as practicable. Each layer may not exceed a thickness of two (2) feet of material after compaction is completed.

c. A uniform compacted layer of six (6) inches or more of suitable earthen cover material shall be placed on all solid waste by the end of each working day. All cover shall be free of trash, garbage, or other similar waste.

d. On all areas where final cover or additional solid waste will not be placed within one (1) month, an additional six (6) inches or more of compacted, clay-rich earthen cover material shall be placed.

3. Industrial Waste Landfills

a. All wastes deposited at the site shall be spread and compacted as densely as practical to minimize waste volume and promote drainage of surface water.

b. Waste disposal in industrial waste landfills shall be limited to those wastes identified in the permit application or permit. Regulated infectious waste, waste oil, hazardous waste, and radioactive waste shall not be accepted for disposal at the landfill.

c. Solid waste shall be unloaded at the bottom of the working face of the fill. The waste shall then be spread in layers and compacted as densely as practicable. Each layer may not exceed a thickness of two (2) feet of material after compaction is completed.

d. A uniform compacted layer of six (6) inches or more of suitable earthen cover material shall be placed on all solid waste by the end of each working day. All cover shall be free of trash, garbage, or other similar waste.

e. On all areas of the industrial waste landfill where final cover or additional solid waste will not be placed within one (1) month, twelve (12) inches or more of compacted clay-rich soil material or synthetic cover shall be placed to minimize the infiltration of surface water and to control windblown dust.

6.7.19 Closure Standards

1. The requirements of this subsection apply to all solid waste management facilities, unless otherwise specified.

   a. Each owner or operator shall close a solid waste facility to:

      (1) Minimize the need for further maintenance

      (2) Control, minimize, or eliminate any scope of solid waste constituents, leachate, fugitive emission, contaminated run-off or waste decomposition product.

   b. Closure shall be implemented within thirty (30) days after receiving the final volume of waste and shall be completed within 180 days, unless otherwise approved by Barnes County.

   c. Each owner or operator shall prepare and submit a written closure plan as a part of the permitting process. The closure plan shall project time intervals at which closure is to be implemented, describe the resources and equipment necessary for closure, and identify closure cost estimates.

   d. At closure, an owner or operator shall cover an existing unit with a layer of compacted soil material having a thickness of eighteen (18) inches or more. The compacted layer must be free from cracks and extrusions of solid waste. A second layer of twelve (12) inches or more of clay-rich soil material suitable for serving as a plant root zone must be placed over the compacted layer. At least six (6) inches of suitable plant growth material must be placed over the covered landfill and planted with adapted grasses. The total depth of the final cover shall be three (3) feet or more.

6.7.20 Surface Impoundment Standards

1. Applicability

   a. The design, construction, and operating standards in this subsection apply to surface impoundments that store or treat solid waste, sludges containing free liquids, free liquids containing high concentration of dissolved solids, or liquids derived from processing or handling of solid waste.

   b. These standards are not applicable to:

      (1) Surface impoundments which treat waste water, the discharge of which is subject to other local, state and federal regulations;

      (2) Surface impoundments which handle agricultural waste;

      (3) Lime sludge settling basins; and

      (4) Basins used to collect and store storm water run-off.

2. Design Standards

    a. New units shall have a compacted soil liner of a minimum of two (2) feet or a flexible membrane liner which would control the migration of waste or waste constituents through the liner.

    b. The dikes shall be designed to maintain their structural integrity under conditions of leaking liner and capable of withstanding erosion.

    c. There shall be a free board equal to or greater than two (2) feet to avoid overtopping from wave action or precipitation.

3. Operation Standards

    a. When a surface impoundment is in operation, it shall be inspected by the owner or operator monthly and after storms to detect:

        (1) Deterioration, malfunction, or improper operation of control systems;

        (2) Sudden drop in the level of impoundment's content; and

        (3) Severe erosion, seepage, or other signs of deterioration in dikes or other containment devices.

    b. Prior to placing surface impoundment into operation or prior to renewed operation after six (6) months or more during which the impoundment was not in service, a professional engineer must certify that the impoundment's dike and liner have structural integrity.

6.7.21 Land Treatment Standards

1. Applicability

    a. These standards shall apply to facilities that are used in treatment of solid waste. These standards do not apply to facilities utilizing domestic sludge, agricultural waste, inert waste, or infectious waste.

2. Requirements

    a. There shall be not standing water in active area.

    b. There shall be adequate waste storage facilities.

    c. All run-off shall be collected and treated.

    d. Slopes and other features that will lead to soil and waste erosion shall be avoided.

    e. There shall be access control to the site.

f. There shall be no waste disposal area with standing water.

g. There shall be no food chain crops during the active life of the facility and after closure until demonstrated to be safe.

6.7.22 Infectious Disease

1. Management Standards
   a. At the point of origin, regulated infectious waste shall be separated from other wastes and placed in distinctive containers that do not leak and are impervious, puncture resistant, and tear resistant. Bags and containers holding infectious waste shall be tied, closed or sealed securely to prevent leakage. Each container shall be labeled as to source, contents, and date.

   b. The handling and storage of regulated infectious waste shall be conducted in a manner which minimizes exposures to employees, transporters and the public.

   c. Regulated infectious waste shall be treated in accordance with State law.

6.7.23 Financial Assurance

1. Requirements of this regulation shall apply to all new, existing and expanded solid waste facilities.

2. Each owner or operator shall be required to submit to Barnes County a copy of the financial assurance plan and mechanism prepared for the State Health Department.

3. The governing body may require additional documentation and financial assurance as it deems necessary

4. Publicly owned solid waste facility may generate the fund for closure and post-closure requirements from fees, charges and from other municipally available sources.

6.7.24 Statement of Findings

Upon the public notification and public hearing, the County Commission shall determine whether the proposed site meets the requirements of this code.

6.8 Garden Sheds

A garden shed shall be no larger than 150 square feet and no greater than twelve (12) feet in height. Garden sheds shall be located no less than three (3) feet from the rear and side lot lines in rear corners of the property. There shall be no more than two (2) garden sheds on any zoning lot. Said structures shall have doors facing into the property.

6.9 Public Nuisances

The maintenance of public nuisances including, but not limited to noxious weeds, smoke, gases, radio interference, blighted structures or buildings, substantial noise in excess of seventy-five (75) decibels during the day and sixty-five (65) decibels at night, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall be subject to the provisions of the North Dakota Century Code.

6.10 Noise

Sustained noise of over seventy-five (75) decibels during the day and sixty-five (65) decibels at night is not allowed.

6.11 Recreational Vehicles and Travel Trailers

The use of recreational vehicles, motor homes, travel trailers and park models used for temporary occupancy shall be limited to 240 days per year within the county. Storage of such vehicles and trailers by residents is unlimited.

6.12 Animal Units on Single Family Non-Farm Residential and Recreational Districts

1. Animal units not exceeding one (1) unit per acre density provide that:
   (a horse is considered one animal unit)

   a. The parcel in question comprises an area of at least three (3) acres, there shall be minimum of one (1) acre for one (1) animal unit, and an additional one (1) acre for every additional animal unit kept on the property. More animal units on acreage will require a conditional use permit.

   b. The residential use area shall be separated from the area to be used as an animal enclosure by a fence, and that the entire animal enclosure area shall be fenced to prevent escape and subsequent damage to adjacent property.

   c. No structure intended for housing animals or any manure pile shall be closer than 500 feet from any residential structures other than that of the owner.

   d. All manure and other animal wastes be removed and disposed of properly on at least an annual basis.

   e. The number of animal units permitted shall be based on the size of the portion of the parcel to be used as an animal enclosure, and that animal enclosure area shall not be less than two (2) acres.

6.13 Trees and Tree Plantings

1. No person or persons, corporations or otherwise, whether owners or tenants of any property along the streets or public ways of Barnes County shall permit any trees to project less than eight (8) feet over the sidewalks, streets, and public ways, and twelve (12) feet above streets and public ways.

2. It is the duty of all persons, whether owners or tenants to keep the trees along public streets and public ways adjoining such property trimmed in such manner that trees shall not interfere with travel on said streets, public ways, and sidewalks.

3. No persons, firms or corporations shall plant any tree, shrub, or other vegetable growth except lawn grass on any road right-of-way, or within confines of the ditch back slope.

4. For the purpose of insuring reasonable visibility at street or public way intersections, trees shall be trimmed to at least twelve (12) feet above street or public way surface and eight (8) feet over sidewalks.

5. Hedges may be planted 200 feet from the center of any road including prescription roads if they do not exceed a height of twenty-four (24) inches.

6. Shelterbelts shall not be planted closer than 200 feet from center of any road including prescription roads.

7. Farmstead windbreaks set back shall be 200 feet away from center of any road including prescription roads. Variances for trees and fences shall be issued with input from the Barnes County Road Superintendent.

8. In unplatted areas, trees and shrubs may be planted no closer than 200 feet from center of road. Any changes from this guideline shall be assessed a permit fee to cover site inspections and other incurred costs.

9. Trees & shrubs shall not be planted closer than 50 feet from the center of the road in Subdivisions.

10. This section does not apply to section lines that have not been established as public roads under North Dakota law.

6.14 Fences

1. No site-obscuring fence over four (4) feet in height shall be erected within the front yard of any lot used for residential purposes.

2. No fence shall exceed a height of six (6) feet without first obtaining a permit from the Zoning Administrator.

3. No permanent fence shall be erected on a road right-of-way or within the confines of the ditch back stop.

4. 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.

5. The Planning Commission reserves the right to deny or cause removal of any fence it deems unsafe based on the fence's location, height, construction, or other objectively identifiable reason.

6.15 Home Occupations, Standards for Approval

1. A Home Occupation in an unincorporated community:

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

    b. Structural changes shall not be made in the dwelling, unless a building permit is obtained.

    c. Employees are limited to two (2) full-time or four (4) part-time besides owners without a special use permit.

    d. No sign may be permitted larger than four (4) square feet.

    e. Evidence of the occupation shall not be visible from the road.

    f. The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.

2. Rural Home Occupations:

    Rural home occupations shall conform to the requirements for suburban or rural home except:

    a. 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 1,280 square feet. Minimum lot size for a separate non-residential building shall be one (1) acre.

    b. Employees are limited to two (2) full time or four (4) part time personnel.

    c. Structural additions may be made to a dwelling provided the alterations shall not exceed twenty-five percent (25%) of the main floor of the area of the dwelling, but not including basement or garage floor area. A building permit is required.

    d. Location site shall be limited to single lot residential sites or farmstead sites.

6.16 Adult Entertainment Center

1. An adult entertainment center shall not be located within 1,250 feet of any religious institution, cemetery, school, park or recreation facility (bike paths excluded). They shall be located in an industrial zoning district.

2. An adult entertainment center shall not be located within 1,250 feet of any establishment that dispenses alcohol on-premises.

3. An adult entertainment center shall not be located within 1,250 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 the adult entertainment 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 specified anatomical areas shall be visible from the exterior of an adult entertainment center.

7. The business premises of an adult entertainment center that are generally open to its patrons are open equally at the same time to members of any law enforcement agency who may wish to enter thereon provided the entry is in the course of the discharge of the law enforcement officer's duties.

6.17 Utilities

1. The term “utilities” includes, but is not limited to, electric power, electrical transmission lines, wind conversion systems, commercial wind generators, electrical and telephone towers and substations, natural gas pipelines, the petroleum product pipelines, water and sewer lines, telephone lines and other above ground or underground communication and energy transfer lines and pipelines.

2. All new utility lines and pipelines require a conditional use permit. This provision shall not apply to regular maintenance or repair of existing lines, unless the replacement line is a material change from existing utility or pipeline.

3. All new utility lines and pipelines are considered conditional uses and shall conform to provisions of the conditional use permit requirements of these regulations (Section 11.2).

4. All pipelines, natural gas, petroleum pipelines and other energy transfer lines shall be placed deep enough in the ground so as to not interfere with or become hazardous to normal farming operations.

5. Excavation for tunneling of any pipelines under roads, farm drains, group drains and local drains shall be done by the company owning or leasing said pipelines and the cost of said excavation and damages to be born by the said company.

6. All wind generators shall be set back ½ miles(2640 ft) from non-participating residences. All generators shall be setback 1.25 times the tip height from public roads.

7. All utilities shall notify the county commission within thirty (30) days of abandoning a tower site or utilities. All above ground utilities shall be removed within one (1) year after abandonment.

8. All utilities, excluding wind generators, shall be set back a minimum of 75 feet from the center of any public road and/or section line.

9. All utilities located in Barnes County are subject to the rules and regulations of the North Dakota Century Code and the North Dakota Public Service Commission. Please review the North Dakota Energy Conversion and Transmission Facility Siting Act, N.D.C.C. chapter 49-22, before beginning any construction.

6.18 Crew Camp Housing

6.18.1 Definitions

As used in this Ordinance:

(1) "Crew camp" means a conglomerate of portable modular quarters (PMQ) and their appurtenances, erected, co-located and/or assembled by an owner or operator offered to others for purchase or at a fee as temporary sleeping rooms, regardless of whether meals are provided on site. A crew camp's PMQ's are not constructed on nor permanently affixed to either a concrete block or cement foundation with a footing extending below the frost line.

(2) A "crew camp permit" is a revocable conditional authorization issued by the Barnes County Board of Commissioners to the holder allowing construction and/or operation of a crew camp.

(3) "Occupied structure" as used in this crew camp section of the ordinance means a structure in which people live on a permanent basis. It includes but is not limited to a residence, dwelling, apartment house, condominium, residential subdivision platted and recorded under N.D.C.C. 11-33.2 its predecessor or successor law, a town site, addition or subdivision platted and recorded under N.D.C.C. 40-50.1 its predecessor or successor law. It includes a lot that is being developed for use as a structure in which people will live on a permanent basis that is under construction (e.g. surface has been improved in preparation for construction) at the time the application for the crew camp permit is submitted to the county zoning administrator.

(4) "Portable modular quarters" (PMQ) means a structure or container that is used as a sleeping room or dwelling, that can stand alone or be integrated into a series, which when prefabricated is towed to or carried to the site, or when not prefabricated is assembled on site, but regardless of where it is manufactured or assembled it is not designed as a permanent single family dwelling or a permanent multiple family dwelling and when in use it is not placed on nor permanently affixed to a foundation with a footing that extends below the frost line.

(5) “Utility service” means supply of water, sewage, electric or other power, that is located externally to the structure and is capable of serving more than one structure or a conglomerate of structures.

6.18.2 Crew Camp Permit

(1) Possession of a crew cam permit does not authorize the holder to construct or operate a crew camp anywhere in a township the holder pleases. A township may limit its relinquishment of zoning authority over crew camps so as to retain authority to specify in which zoning district(s) crew camps are a permitted use or a conditional use.

(2) The Crew Camp Permit is issued by the Barnes County Board of Commissioners. The Board may rely on the Barnes County Planning and Zoning Board, the Barnes County Zoning Administrator and other county officers or bodies for administration and recommendations related to crew camp permits.

(3) A crew camp permit does not exempt the holder from constructing, maintaining, and operating the crew camp in accordance with application law, rules, codes, and/or regulations; nor from obtaining building permits or regulatory inspections.

(4) A crew camp permit authorizes construction and operation of a crew camp not to exceed the design approved. After the permit is issued, any modification of the crew camp that would increase the bed capacity must first be approved by the Barnes County Board of Commissioners. Failure to gain prior approval is a violation of this Ordinance.

(5) A crew camp permit is issued for 24 months. After the initial issue of a 24-month permit, the permit may be renewed by the Board of County Commissioners a limit of two times with each renewal having a duration of 24 months. A holder must apply for renewal 90 days or more prior to the expiration of its permit. Failure to apply 90 or more days before expiration is grounds for denial of the request to renew or other sanction available under this Ordinance or remedy available by law. When, in the process of reviewing a request for renewal the Board of County Commissioners determines the holder is failing or has in the past failed to satisfy the obligations imposed by this ordinance, including but not limited to the obligation to abide by applicable law, code and regulation, the Board of County Commissioners may deny the request for renewal. No crew camp may be permitted to construct and operate a total exceeding 72 months.

(6) Transfer of the permit must be approved by the Barnes County Planning and Zoning Board. In order for the Board to authorize transfer, the transferee must exhibit to the Board that the transferee has satisfied or will soon satisfy all the applicable responsibilities of this Ordinance. The Board may approve transfer of the Permit prior to satisfaction of the obligations if the Board reasonable ascertains the transferee is well prepared to satisfy all requirements in an acceptable amount of time. Should a transfer be approved on the understanding that shortcomings will be remedied promptly, failure of the transferee to promptly remedy the shortcomings is grounds for termination, suspension or other administrative under this Ordinance or action under the law in general.

6.18.3 Application Procedure

(1) The application for a Crew Camp Permit must be submitted to the Barnes County Planning & Zoning Administrator who will conduct a preliminary review and if satisfied the major obligations imposed by this Ordinance seem to have been satisfied, the Administrator will forward it to the Barnes County Planning and Zoning Board for review.

(2) A report of inspection documenting the preconstruction condition of the proposed crew camp site, adjoining properties, and the roads servicing the proposed crew camp will be made by the Zoning Administrator with assistance from the Barnes County Highway Department if needed. This report shall serve as a basis to which the property shall be restored to following decommissioning of the crew housing facility. In the event that the property owner requests that improvements remain intact, approval must be granted according to local zoning ordinances prior to the decommissioning process.

(3) The Planning and Zoning Board will hold at least one public hearing on the application. The Planning and Zoning Board will eventually make a recommendation for approval, denial, or any other appropriate action to the Barnes County Board of Commissioners. An application will be approved only after the County Commissioners is satisfied all the conditions precedent in this ordinance have been satisfied.

6.18.4 Application Contents

An application for a crew camp permit must be signed by the owner of the land, the lessor of the property, or an authorized representative and shall include the following information.

(1) The legal description of the property on which the crew camp will be located.

(2) A copy of the current lease for any real property involved.

(3) A copy of all required permits, or approval, including but not limited to those issued by the North Dakota State Health Department, Barnes County Water District, including fresh water.

(4) Plans drawn to scale showing, PMQs, structures, setbacks, utilities, drainage, ingress and egress, parking, screens, buffers, fencing, emergency service roads, names of streets, the number assigned to each structure and each PMQ, and the occupancy capacity of each PMQ and each common room.

A. Plans must describe a facility numbering system for all structures that clearly identifies each structure and all roads in the facility for purposes of emergency responses. PMQs shall be numbered from low to high in proximity to the main entrance that is clearly and easily identified on the side of each structure using reflective lettering and/or numbering.

(5) A description of the PMQs, the common areas, and the appurtenant structures will be manufactured/constructed, and if anchored or how affixed to the earth.

(6) A statement of the total number of beds the facility will contain.

A. A breakdown of the types of PMQs.

B. Floor plans for the various PMQs and the common areas.

C. A summary of square footage of the entire facility's structures and PMQs.

(7) A site security plan that includes the following:

A. A statement of permission to enter and inspect the facilities at reasonable times for purposes of determining number of beds and compliance with this ordinance with permission being given to Barnes County, its officials, employees, and designees including but not limited to the Sheriff and deputies, the Zoning Administrator, the Board of County Commissioners, Planning and Zoning Board members, the State's Attorney and the County Auditor.

B. A method of controlling entrance to the crew camp which includes construction and maintenance of a contiguous perimeter fence that is six feet high.

C. A method for accounting for all residents and staff on premises at any given time by name.

(8) A list of crew camp rules and regulations including the following:

A. Storage or possession of a firearm or a dangerous weapon as defined at N.D.C.C. 62.1-01-01 or its successor, in a PMQ or other part of the residential area is prohibited. Storage or possession

of a firearm on the crew camp property is prohibited except when the firearm is lawfully possessed, locked inside or locked to a private motor vehicle in a parking lot, and the person possessing the firearm is lawfully in the area. See N.D.C.C. 62.1-02-13. Possession of secured firearm—Prohibition by employer prohibited.

B. Alcohol consumption or possession on the premises is prohibited.

C. Any resident or employee who is convicted of committing any criminal offense on the crew camp premises or a felony regardless of the location of the offense must be immediately and permanently ejected and/or evicted and in the case of an employee terminated.

D. The camp will not tolerate criminal or disorderly conduct.

(9) A statement describing adequate methods of providing these utilities and services:

A. Potable water supply.

B. Power supply. If a camp is to be supplied with electricity through generators, the plan must describe how they will be housed or otherwise sound proofed.

C. Effluent management, particularly sewage and grey water handling.

D. Refuse disposal.

E. Fire and emergency evacuation.

(10) The applicant's name, address, phone number, and email address. When the applicant is a corporation or other business association, the applicant shall submit the names of the officers and directors of the corporation and satisfactory proof of the authority of the signatory to the application to bind the corporation as well as the name and address in the State of North Dakota for the agent for service of process.

(11) The on site manger's name, address, phone number, and email address as well as the same for an alternate emergency point of contact.

(12) Plans for site recovery, including the following:

A. What will be done with the PMQs, the common areas, and supporting structures and appurtenances.

B. How the improvements will be removed.

6.18.5 Unsuitable Applicant or Premises

The Barnes County Board of Commissioners may at its discretion deny an application for a crew camp permit, or renewal thereof, when, the applicant's character or experience is insufficient or if the premises itself is geologically, ecologically, or practically unfit for a crew camp.

6.18.6 Prohibited Housing Types

Use of recreational vehicles or mobiles homes as PMQs in a crew camp is prohibited.

6.18.7 Prohibited Activities

(1) Storage or possession of a firearm or a dangerous weapon as defined at N.D.C.C. 62.1-01-01 or its successor, in a PMQ or other part of the residential area is prohibited. Storage or possession of a firearm on the crew camp property is prohibited except when the firearm is lawfully possessed, locked inside or locked to a private motor vehicle in a parking lot, and the person possessing the firearm is lawfully in the area. See N.D.C.C. 62.1-02-13. Possession of secured firearm—Prohibition by employer prohibited.

(2) Alcohol consumption or possession on the premises is prohibited.

(3) All residents and employees are prohibited from being convicted of any criminal offense on the crew camp premises or a felony regardless of the location of the offense.
(4) Parking vehicles between the PMQs is prohibited.
(5) Pets are prohibited.
(6) Allowing garbage, junk, litter, debris, unused construction materials, or refuse to accumulate or remain on site is prohibited. Storage of equipment or materials that are not directly related to the crew camp's purpose of housing workers is prohibited.
(7) Falsifying any statement or portion of the application or failing to provide material information in the application that is mandated by the application procedure are prohibited acts and omissions.
(8) Violation of any law, statute, code, rule, or regulation regarding operation and maintenance of a facility such as this, including but not limited to those having to do with crime, health, sanitation, taxes, labor and employment is prohibited.
(9) Conduction business on the premises, or allowing it to be conducted in a manner that causes a nuisance, public or private, see N.D.C.C. 42-01, or in a manner that constitutes a crime is prohibited.
(10) Failure of the holder, it's officers or directors to maintain good standing is prohibited. Misdemeanor or felony conviction of the holder, or any of its officers or directors for conduct taking place on the crew camp premises or directly related to the holder's capacity to conduct affairs of the nature of a crew camp is prohibited.
(11) The holder must remain solvent. Filing for bankruptcy by the holder is prohibited.
(12) Transfer of responsibility for conduct of the operation, of the real property or lease providing the basis for the operation, or substitution of a substantial portion of officers, director or shareholders of the holding corporation without first gaining the County Board of Commissioner's authorization to transfer the permit is prohibited.
(13) Failure to keep either the bond or the insurance policy required by this Ordinance in effect at the full amount required by this Ordinance is prohibited. Failure to replenish, replace, or otherwise reacquire a bond at the full amount required by this Ordinance, including but not limited to after all or a part of the bond has been assessed, seized, or otherwise collected by action of Barnes County is prohibited.
(14) Adding to the total number of beds specified in the crew camp application without prior approval or authorization of the Board of County Commissioners is prohibited.
(15) Failure to pay on time taxes, fees, Workforce Safety and Insurance premiums, or employees is prohibited.
(16) Failure to keep the service road open to 25 feet is prohibited.

6.18.8 Mandated Conditions

(1) A crew camp must have a perimeter fence that is six feet high. All PMQs, emergency service streets, and appurtenant facilities such as resident parking, common areas, recreational areas, laundry, food preparation, dining, maintenance and storage facilities must be contained within the perimeter fence.
(2) A crew camp's perimeter fence must be set back 1,320 feet from every other property owner's occupied structure(s). A crew camp perimeter fence may be set back less than 1,320 feet when the applicant/holder has obtained waivers from any landowner directly affected and the applicant/holder provides them to the Barnes County Commission who then duly approves the exception. In the case of a platted subdivision and/or auditor's lot, the 1,320-foot setback must be from the exterior

property line of the platted subdivision and/or auditor's lot to the nearest point on the perimeter fence.
(3) The building intensity inside the perimeter fence must be at least 3 square feet of open space for every 1 square foot of structure. For purposes of this calculation paved areas such as a parking lot, a covered picnic pavilion, a tennis court or a basketball court will not be considered a structure.
(4). At least one-off street parking spot must be provided for every bed in the facility as well as one for every employee. Parking stalls must be at least 8'6" wide and 18' long. Crew and employee parking must be contained inside the perimeter fence. In addition, another area must be provided for trailers and oversized vehicles.
(5) All PMQs and common areas will be within 200 feet of an emergency service street or parking area served by a road that is at least 25 feet wide. The 25-foot road must be kept passable and clear of debris and obstructions.
(6) The holder must implement and maintain a numbering system for all structures and PMQs that includes a durable easily readable reflective plate being affixed to each PMQ. The numbering scheme must comply with the requirements specified in section, "14.4 Application Contents" and the number plates must be kept clean and free of obstructions.
(7) The permit holder must maintain the premises and conduct the operation in accordance with the assertions, indications, and limits set out in its application, including but not limited:

A. Maintaining ownership or a leasehold interest in the property.
B. Complying with all applicable federal, state, and local laws, rules, regulations and codes.
C. Constructing and maintaining the premises and buildings as indicated in the plans and in a clean and orderly manner.
C. Allow inspection by Barnes County and it's designees.
E. Operate the camp in accordance with:
(i) The site security plan;
(II) camp rules and regulations; and
(iii) the description of methods of providing services and utilities.
G. Recover the site to pre-construction and pre-operation condition.

(8) The holder of the crew camp permit is responsible for satisfying all obligations imposed by the Century Code on an owner of the "temporary work camp housing" including but not limited to the obligations of site recovery set out in NDCC 54-21.3-04.3(3) and its successor versions.
(9) When this Ordinance establishes a higher standard of care for the holder than one set out by state statute, or other applicable law, code or regulations, the holder is legally bound to fulfill the higher standard in this Ordinance.

6.18.9 Surety Bond

Initial issue, retention, and/or any subsequent renewal of a crew camp permit is conditioned on the applicant/holder providing documentary proof that it has acquired and holds a surety bond in the amount of $1,000,000 payable to Barnes County. The bond must be structured to require payment from the surety to Barnes County for any failure of the applicant/holder to uphold an obligation whether mandated or prohibited, set out in this ordinance or other law. The bond must assure the applicant/holder will conduct its construction and operation in conformity with this Ordinance and that the holder of a crew camp permit will satisfactorily restore the site prior to the expiration of the temporary crew camp permit. The holder of the crew camp permit must keep in place this

$1,000,000 bond at all time from the initial issuance of the permit, through operation, during any and all renewals of the crew camp permit, and through final County approval of restoration.

6.18.10 Liability Insurance

Initial issue, retention, and/or any subsequent renewal of a crew camp permit is conditioned on the applicant/holder obtaining and keeping in place at all time from issuance of the permit through any renewal of the permit and the County's approval of site recovery a $2,000,000 general premises and activities liability insurance policy. This policy is distinct from and in addition to the previously mentioned surety bond.

6.18.11 Administration Fee

An annual $300 per bed administrative zoning fee must be paid by the permit holder to Barnes County and is due at the time the permit is issued. The annual fee must be paid to the Barnes County Treasurer within 12 months of the initial issuance of the crew camp permit and submitted at the time any application for renewal is advanced. The administrative fee does not relieve the holder/applicant or owner of the land from the obligation to pay property tax on the earth but does relieve the holder/applicant or owner from paying tax on the improvements on the land made for the purposes of the crew camp operation and only so long as there is a crew camp permit.

6.18.12 Revocation, Suspension and Administrative Sanctions

(1) Obligations of the holder, prohibited conduct and conditions are expressed through this Ordinance. In some instances, a statement to the effect that failure to fulfill the obligation or commission of the prohibited act is grounds for termination is included in the same paragraph as the obligation or prohibition. Whether or not that warning is specified in close proximity to the obligation or prohibition, failure to accomplish any obligation expressed in this Ordinance or commission of any conduct prohibited under this Ordinance constitutes grounds for termination or any other applicable dispositional alternative specified in this Ordinance including Appendix A. Failure to satisfy or implement either the conditions listed in the "Prohibited Activities" section 14.7 or the "Mandated Conditions" section 14.8, are grounds for termination, suspension or sanction, but they are not the exclusive grounds. Failure to comply with any obligation in this ordinance constitutes grounds for revocation, suspension and/or administrative action.

(2) Upon cause and due process as specified in Appendix A of this Ordinance, the Board of County Commissioners may in addition to other legal options provided by the law of the State of North Dakota impose an administrative sanction on the holder and/or suspend or revoke the crew camp permit. The $50,000 ceiling on administrative sanctions specified in Appendix A for purposes of crew camp violations.

(3) When any permit is revoked or suspended for any reason, no portion of the permit fee shall be returned to the applicant.

(4) The surety bond must remain in place until the site is recovered, even if the permit is revoked, suspended, expires or is not renewed.

6.19 MEDICAL MARIJUANA

6.19.1 Purpose and Intent

The 2017 North Dakota Legislature enacted Senate Bill 2344, relating to the implementation of the North Dakota Compassionate Care Act, N.D.C.C 19-24.1, for the regulation of medical marijuana dispensaries and the cultivations and propagation of medical marijuana in North Dakota.

The county commission intends to regulate the use, acquisition, cultivation, manufacturing, and distribution of usable medical marijuana in a manner that is consistent with the North Dakota Century Code.

6.19.2 Annual Permit Fee

As authorized by the Board of County Commissioners, the Planning Commission is to establish an annual permit fee to offset costs associated with policing, site inspections, monitoring, storage of media, and/or regulating medical marijuana facilities involved in the cultivation, propagation, manufacturing, processing, refining, distribution, delivery, supply, sale or handling of Medical Marijuana.

6.19.2 Conditional Use Permit Requirements

An applicant for a permit under this section shall comply with the requirements set forth in Section 11.2.

In addition, an applicant must demonstrate compliance with N.D.C.C. 19-24.1, and must submit the following with the application:

1) Proof of Insurance.

2) List of all persons and entities with an ownership interest in the Manufacturing Center(s) or Distribution Center(s) including all shareholders that hold any share in stock in the Manufacturing Center(s) or Distribution Center(s).

3) A security plan depicting the location and configuration of security cameras and surveillance equipment.

4) A complete description of the products and services to be produced or sold by the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).

5) A notarized statement acknowledging that the applicant understands applicable federal laws, any guidance or directives issued by the U.S. Department of Justice, the laws of the State of Dakota or of the county, or any activity in violation of any guidance or directives issued by the U.S. Department of Justice, in such place of business, or in connection therewith, or the commencement of any legal proceeding relating to such Medical Marijuana Manufacturing

Center(s) or Distribution Center(s) by federal authorities, may render the license subject to immediate suspension or revocation.

6) A notarized statement that the applicant will hold harmless, indemnify, and defend the county against all claims and litigation arising from the issuance of license and/or a conditional use permit including any claims and litigation arising from the Manufacturing Center(s) or Distribution Center(s), operation or ownership of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).

7) A notarized acknowledgement that the applicant is seeking a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit and that the applicant understands and acknowledges that the burden of proving qualifications to receive such a Conditional Use Permit is at all times on the applicant; that the granting of a Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is at the discretion of the county commission; and that the applicant agrees to abide by the decision of the county commission.

A Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit shall be reviewed annually by the county commission for renewal.

If the State of North Dakota or its electorate repeals the Compassionate Care Act or the act is otherwise declared void, all Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permits issued by the county commission will be deemed to have immediately expired.

Once a conditional use permit is obtained for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s), any change in operation of the facility or in ownership shall require prior approval of the Board of County Commissioners.

Any building modifications or alterations must be approved by the Zoning Administrator.

The Planning Commission may require additional plans, documents, or other information prior to deeming the application complete.

8) North Dakota and the laws and regulations of the county applicable thereto concerning the operation of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s). The written statement shall also acknowledge that any violation of any laws or regulations of the State of North

7.1 Solar Energy Conversion Facilities

This Ordinance provides a framework for siting, construction, and operation of a Solar Energy Conversion Facility within Barnes County that will preserve the safety and well-being of residents and property while facilitating orderly development.

7.1.1 No solar energy generating facilities shall be constructed in Barnes County without a conditional Use Permit issued by the Board of County Commissioners and without complying with all requirements of this Ordinance. This does not preclude solar monitoring, soil testing, or survey work prior to obtaining a conditional use permit.

7.1.2 Solar Energy Conversion facility or Solar Farm shall not be construed to prohibit the installation of a solar collector that gathers solar radiation as a substitute for traditional energy sources for water heating, active space heating and cooling, or generating electricity for individual residential, agricultural, or commercial buildings.

7.1.3 Regulations Applicable to Solar Farms:

1. Fencing
    a. All solar farms shall be fenced around the exterior with a fence that shall be at least 6 feet in height and shall have at least three strands of barbed wire run above the six feet.
    b. The fencing shall be constructed to substantially lessen the likelihood of unauthorized entry to the solar farm.
    c. The fence shall be maintained in good order. Failure to maintain the fencing shall constitute a violation of this ordinance.
    d. The fence requirements shall continue notwithstanding the fact that the solar farm is no longer operational. The fencing requirement remains until the solar farm is dismantled and removed from the parcel of land upon which it was constructed.
2. Gates and locks
    a. All gates in the fences of the solar farm shall be at least 6 feet in height with at least three strands of barbed wire run above the six feet.
    b. All gates shall be equipped with locks and shall remain locked at all times except for those times the owner, operator, or their agents are accessing the property and are present in the solar farm.
    c. The gates shall be constructed to substantially lessen the likelihood of unauthorized entry to the solar farm.
    d. The gates and locks shall be maintained in good order. Failure to maintain the gates shall constitute a violation of this ordinance.
    e. The gate requirements shall continue notwithstanding the fact that the solar farm is no longer operational. The requirement remains until the solar farm is dismantled and removed from the parcel of land upon which it was constructed.
3. Setbacks
    a. Every solar farm shall be setback at least 100 feet from all property lines of the parcel upon which the solar farm is located.
    b. Every solar farm shall be setback at least 200 feet from the centerline of any public road.
    c. Every solar farm shall be measured at least 100 feet from the high water mark of any lake and the stream banks of any navigable stream.
    d. All setbacks shall be measured from the exterior of the vegetative buffer.

4. Noxious weeds
    a. The owner/operator of the solar farm shall ensure that no noxious or invasive weeds are present on the parcel or capable of spreading to adjacent property.
    b. The operator may use mechanical, chemical or biological methods to control weeds within the solar farm. No chemical or biological methods may be employed that are not approved for use in North Dakota.
    c. The Barnes County Weed Board is the determining authority as to whether or not weed control is adequate to protect adjacent land from invasive or noxious weeds.
5. Vegetative buffer
    a. A continuous evergreen vegetative buffer shall be maintained at all times around the exterior perimeter of the fencing.
    b. The evergreen vegetative buffer shall be composed of evergreen trees or shrubs which at planting shall be a minimum of 4 feet in height and which shall be maintained at maturity at a height of not less than six feet.
    c. The vegetative buffer shall be carefully planted and maintained in good condition. Failure to maintain the vegetative buffer shall constitute a violation of this ordinance.
    d. The evergreen vegetative buffer requirements shall continue notwithstanding the fact that the solar farm is no longer operational. The requirement remains until the solar farm is dismantled and removed from the parcel of land upon which it was constructed.
6. Light and Heat Trespass:
    a. All photovoltaic panels shall be placed such that concentrated solar radiation or glare does not project onto nearby structures, roadways or airfields. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
    b. Solar farms shall not raise the ambient temperature more than 2 degrees Fahrenheit at the edge of adjacent property lines.

7.1.4 Application Process

The permit application shall include the following:

c. The name, business address, and phone number of the person in whose name the permit is to be issued. If the authorized agent for service of process is different than the prospective permit holder, the name North Dakota address and phone number of the person authorized to receive service of process on the person's behalf.
d. Evidence of the applicant's capacity to contractually bind the person seeking the permit and authority to make binding representations on the persons' behalf for purposes of zoning, siting, and construction of the Solar Energy Facility.
e. A schedule for the proposed start and completion of construction of the facility which includes the applicant's proposal for final repairs to public roads.

Information describing the applicant's rights within the boundaries of the proposed site.

f. A USGS topographical map of the solar energy facility and 1320 feet of adjoining land, nonparticipating land, contiguous with any proposed host property. The following items will be clearly marked on the map:

i. Each existing solar energy facility fixture, accessory structure or building, including substation, electrical infrastructure, and collector line or transmission line regardless of ownership.
ii. Each of the applicant's proposed improvements for the solar energy facility or accessory structure or building, including each panel, electrical equipment, electrical line, and access road.
iii. Each occupied structure, improvement, public road, private road, utility line, and public facility.
iv. All section lines and boundaries between abutting parcels, tracts or lots owned by different parties.
v. Each public or private airstrip with FAA identification number.
vi. Natural terrain features.
vii. The names of property owners inside the site and of the property owners for adjoining land noted on the map or via a key.

7.2 Bonding

Bonds are a mechanism used to protect the County from unnecessary financial problems caused by property abandonment, contract agreements and/or correcting violations.

7.2.1 Exceptions

The bonds outlined here may be waived if an applicant can show to the satisfaction of the County that the required bond duplicates the purpose of the state required bond. The Planning and Zoning Commission retains the right to waive bond requirements for a particular project.

Pipelines are exempt from the bond requirements. This exemption includes the portions of a pipeline that are brought to the surface for valves, maintenance or other necessary uses. Bonding for other surface structures and facilities are not exempt.

7.2.2 Reclamation Bonds

a. A reclamation bond is required for some allowed uses (as required specifically in certain zoning districts) and many conditional use permits and temporary site plans or other applications determined by the P&Z Administrator.
b. The bond shall be for one hundred fifty (150%) percent of a licensed engineer's estimate of the cost to remove all above ground structures and all underground structures, including but not limited to: pipes, wires and concrete, and to remove gravel, scoria, or other ground cover or fill from the site, re-grade the site so it has a predevelopment appearance, and re-seed the site with native grasses and vegetation.
c. The engineer's estimate of the reclamation cost shall be submitted with the application.
d. The cost estimate shall be subject to approval of the P&Z Administrator.
e. The bond shall be presented to the P&Z Administrator within thirty(30) days of the later of the following:
    i. The Board of County Commissioners approval of the permit for which the bond is required and
    ii. If any other county, state or federal permit, certificate, determination or approval is needed in order for the permittee to commence construction, the issuance of the last such permit, certificate, determination or approval. The permittee shall notify the P&Z Administrator within thirty (30) days of the issuance of the last such permit, certificate, determination or approval, if applicable.

No construction or other activity may commence prior to presenting the bond to the P&Z Administrator and the permit may be deemed null and void if the bond is not presented within the time required or if the bond expires, is cancelled or revoked, or otherwise becomes uncollectible by the County.

7.2.3 Construction Bonds:

f. A construction bond shall be required when a person has agreed to construct, repair, build, or demolish a road, building, structure, or other items for the benefit of the public or the County.

g. The construction bond may be released when the construction has been completed and approved by all parties.

h. If the bond is insufficient the Board of County Commissioners may institute appropriate legal or equitable action to recover the money necessary. All bonds deposited with the County, as required hereby, shall continue in effect until the improvements have been made and approved by the County.

7.2.4 Violation Bonds

A bond shall be posted when filing an application and the applicant has been notified that the land use applied for is in violation of this Ordinance. The applicant shall post a bond equal to one hundred fifty percent (150%) of the amount estimated by a licensed engineer and approved by the P&Z Administrator, to be required to terminate the violation and bring the land or structure into compliance with this Ordinance.

8. SUBDIVISION REGULATIONS

8.1 Intent

8.1.1 To insure the orderly development of the county and its unincorporated planning area.

8.1.2 To provide for proper arrangement of streets in relation to other existing and planned streets.

8.1.3 To provide for adequate and convenient open spaces for traffic, utilities, firefighting, recreation, light and air.

8.1.4 To facilitate adequate provisions for access, placement of public non-profit and for-profit utilities, schools, and public open spaces.

8.1.5 To avoid development of unsuitable areas because of soil, drainage and other physical limitations. Please refer to Section 3.3.

8.1.6 To facilitate subdivision of larger parcels into smaller parcels and lots.

8.1.7 To implement the Comprehensive Plan of the county.

8.1.8 All lands within the extraterritorial zoning district of Valley City shall be subdivided according to the comprehensive plan of Valley City. Building permits are issued by Valley City within the extraterritorial zoning district of city limits.

8.2 Preliminary Plat

The preliminary plat shall be prepared by a registered land surveyor and shall be submitted to the Planning Commission for review and recommendation to the County Commission. The preliminary plat shall cover the entire contiguous area owned or controlled by the subdivider if it is less than forty (40) acres even though only a small portion of it is proposed for the development at the time. The subdivider may be required to submit a development plan if he/she owns or controls more than forty (40) contiguous acres of land.

The definition of a "subdivision" can be found in section 2.3.94 of this code.

8.2.1 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 inch representing one hundred feet (1" = 100').

(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. All roads and approaches must be approved by the county highway supervisor.

(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.

(17) Location and dimensions of any ceremonial burial grounds or artifacts.

8.2.2 Preliminary Plat Submission Requirements

(1) The subdivider shall apply on appropriate forms provided by the County Auditor to the Planning Commission at least ten (10) days prior to its regularly scheduled meeting.

(2) The subdivider shall submit two (2) prints of the preliminary plat to the County Auditor 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 the subdivider 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, geological survey, financing of improvement and other related information which the Planning Commission requests.

8.2.3 Development Plan

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

(1) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.

(2) General layout of proposed streets and location of blocks for designated uses.

(3) Location of open spaces and facilities for public uses.

(4) Existing drainage pattern based on the available topographic information from the U.S. Geological Survey Maps and other similar information.

(5) The development plan shall be drawn at a scale of one inch representing 400 feet (1" = 400').

(6) The Planning Commission may require other information as a part of the development plan.

8.2.4 Review Process

(1) The Planning Commission shall review the preliminary plat and recommend to the County Commission for approval, approval with conditions or denial of the preliminary plat. The Planning Commission may require additional information before it takes action.

(2) The conditional approval of a preliminary plat shall clearly state the nature and extent of the conditions which shall be met before a final plat is submitted for review and approval. Tentative approval of a preliminary plat by the County Commission is not an acceptance of a subdivision plat, but is an expression of approval of a general plat as a guide to preparation of a subdivision for final plat review and approval.

(3) The County Commission may require the subdivider to submit a revised preliminary plat before the subdivider proceeds with the preparation of the final plat.

(4) Approval of the preliminary plat shall be effective for a period of two (2) years within which a final plat shall be prepared. If the final plat is not submitted within this time period, the County Commission may require the subdivider to resubmit the preliminary plat for review and approval, unless the developer had provided a detailed timetable for the preparation of the final plat(s).

8.3 Final Plat

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

8.3.1 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 100 feet (1" = 100') 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 & lengths of all acres.

(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) Building setback lines, accurately shown with dimensions.

(16) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.

(17) Building covenants.

(18) Certification by registered surveyor to the effect that the plat represents a survey made by him, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.

(19) 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.

8.3.2 Final Plat Submission Requirements

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

(1) The subdivider shall submit the final plat to the Planning Commission at least ten (10) days before the regularly scheduled meeting of the Planning Commission.

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

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

8.3.3 Review Process

(1) If the Planning Commission finds the final plat in conformance with the requirements stipulated for approval of the preliminary plat, it shall recommend to the County Commission for approval after a public hearing.

(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) If all conditions and requirements have been met, the Planning Commission shall recommend approval of the final plat to the County Commission.

8.4 Amendment of Comprehensive Plan

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

8.5 Filing of Subdivision Plat

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

9. DESIGN STANDARDS

9.1 Conformance

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

9.2 Street Design

8.2.1 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.

9.2.2 Where it is not shown on the Comprehensive 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 Commission to meet a particular situation.

9.2.3 Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning Commission may require service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.

9.2.4 Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.

9.2.5 Reserve strips in private ownership controlling access to streets are prohibited.

9.2.6 Street with centerline offsets of less than 150 feet shall be avoided.

9.2.7 A tangent at least 100 feet long shall be introduced between reverse curves on major streets.

9.2.8 When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 400 feet for local and collector streets, and of such greater radii as the Planning Commission shall determine for special cases.

9.2.9 Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than eighty (80) degrees.

9.2.10 Curb radii on all block corners shall be ten- (10) feet and a five- (5) foot radius shall be used at intersections of streets and alleys.

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

Street Type	**Minimum Right-of-Way Width (lot line to lot line)**	**Minimum Roadway Width**	**Maximum Gradient**	**Minimum Gradient**
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%

(1) Cul-de-sac, 100 feet in diameter for a turnaround.

(2) Alleys, residential district, twenty (20) feet.

(3) Sidewalks, four (4) feet.

(4) Bike paths (as DOT standards).

9.2.12 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 Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

9.2.13 Cul-de-sacs shall not be longer than 500 feet.

9.2.14 General considerations for intersection design are that:

(1) Intersections of more than two (2) streets at a point shall not be permitted.

(2) Alleys shall be discouraged in residential districts but may be provided in commercial and industrial districts.

9.2.15 Dead-end streets without a suitable turnaround are prohibited.

9.3 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.

9.3.1 Residential block length shall not exceed 900 feet. The length of blocks is considered to be the distance from one street centerline to opposite street centerline and is measured through adjacent back lot lines or through the center of the block.

9.3.2 Pedestrian crosswalks not less than ten (10) feet wide may be required in blocks longer than 600 feet where the crosswalks are deemed by the Planning Commission to be essential to provide circulation, or access to schools, playgrounds or other community facilities, handicap access (curb cuts) required.

9.3.3 The width of blocks shall generally be sufficient to allow two (2) tiers of lots and shall be at least 250 feet wide.

9.3.4 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 Commission may require service drives or frontage roads along major streets for commerce and industry.

9.4 Lot Design

9.4.1 The shape, size and orientation of the lots shall be appropriate for the location of the subdivision. For residential low density, a north-south lot orientation is encouraged. Residential lot dimension within the county shall be:

(1) Minimum width at building line, seventy-five (75) feet.

(2) Minimum lot area, 7,500 square feet with public sewer or one (1) acre on-site sewer.

9.4.2 For non-residential lots, the provisions of appropriate zoning district stipulated in Sections 4.2.4 of this code shall apply.

9.4.3 Residential lot dimensions within the extraterritorial planning area in Agricultural District shall be subject to the provisions of Section 5.1.4.

9.4.4 Residential lot dimensions within the extraterritorial planning area in Residential District shall be subject to the provisions of Section 5.2.4.

9.4.5 Residential lots abutting major streets shall have extra depth of at least twenty (20) feet to allow for proper setbacks.

9.4.6 All lots shall front a public street.

9.4.7 Side lot lines shall be substantially at right angles.

9.4.8 Residential corner lots shall have an extra width of ten (10) feet to permit adequate building setbacks from the side streets.

9.4.9 Double frontage lots shall be avoided except where essential to provide separation of development from arterial streets.

9.4.10 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.

9.5 Street Names

9.5.1 The Planning Commission may disapprove of the name of any street shown on the plat which has already been used elsewhere in the area, or because of similarity that may cause confusion.

9.5.2 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.

9.5.3 A name assigned to a street, which is not presently a through street, shall be continued for the separate part of a through street.

9.6 Utility Easements

9.6.1 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.”

9.6.2 All lots shall be served by underground electric, cable television and telephone lines unless waived by the Planning Commission due to topographic conditions or excessive costs.

9.6.3 All utility lines for electric power, cable television and telephone services carried overhead shall be placed in utility easement.

9.6.4 Utility lines installed in the utility easement shall not be closer than one (1) foot to the property line or three (3) feet to any survey monument.

9.7 Grading and Drainage

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

9.7.2 The drainage shall not discharge into any sanitary sewer facility.

9.7.3 The drainage facilities shall be located in street right-of-way or in drainage easements.

9.7.4 All developers should submit a management plan for storm water.

9.7.5 The grading and drainage system shall be approved by the Planning Commission.

9.7.6 Grading established in any subdivision shall not be changed without approval of the Planning Commission.

9.8 Drainage Way Easement

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

9.9 Tree Planting

The planting of trees of an appropriate species and at appropriate locations may be required by the Planning Commission.

9.10 Street Lights

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

10. REQUIRED IMPROVEMENTS

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

10.1 Completion Assurance

To cover the cost of improvements, as determined by the Planning Commission, the subdivider may 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.

10.2 Survey Monuments

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

10.3 Public Water

10.3.1 Where appropriate, water mains shall be installed so as to provide individual service to each lot within the subdivision.

10.3.2 Water mains shall extend to the boundary of the subdivision, except where in the opinion of the Planning Commission it is deemed impractical.

10.3.3 A rural water supply shall comply with the requirements of Barnes County and the State of North Dakota.

10.4 Sanitary Sewer

10.4.1 All subdivisions shall be provided with sanitary sewers to each lot. On an individual case review, on-site sewage systems may be allowed.

10.4.2 Private septic systems may be approved by the County Sanitarian on lots of a minimum of one (1) acre.

10.4.3 Sanitary sewer shall be extended to the boundary of the subdivision, except where in the opinion of the Planning Commission it is deemed impractical.

10.4.4 Private holding tank(s) must be approved by the County Sanitarian. A pumping contract for the private holding tank(s) must be on file with Zoning Administrator.

10.4.5 All sanitary systems shall be reviewed and approved by County Sanitarian.

10.5 Storm Sewer

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

10.6 Grading and Surfacing

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

10.7 Curbs, Gutters and Sidewalks

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

10.8 Installation of Improvements

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

Drain Tile Ordinance

Any person, firm, corporation or other entity (collectively, "Applicant") who wishes to install or construct a tile or subsurface drainage pump or gravity outlet within 75 feet from the center of any public road or highway must first obtain a variance from the Barnes County Commission (the "Commission"); the Commission may attach conditions as necessary to protect any public road, highway, and/or ditch, and all Applicants and all tile or subsurface drainage projects are subject to the following:

The Commission will not be liable for any damages to an applicant's tile, any tile outlets, or any other property owned by Applicant resulting from reconstruction or maintenance of any public road, highway, and/or ditch or any of the Commission's other facilities or right of way. Applicant will release, defend, indemnify, and hold harmless the Commission, and all of the Commission's employees, departments, officers, agents, and representatives, from and against any and all claims, demands, causes of action, or demands for relief, including costs, expenses, and attorneys' fees, that may arise out of or result from any acts or omissions regarding Applicant's installation or maintenance of Applicant's tile or any tile outlet within 75 feet from the center of any public road or highway, or any accident, injury, or damage to person, property, or equipment as a result of Applicant's entry upon or use of the Commission's right of way or property.

Applicant, at Applicant's sole cost, will repair any public road, highway, or ditch or any of the Commission's other structures, facilities, right of way, or any other property owned by the Commission, as well as any existing utilities located on, over, or under the Commission's right of way or within 75 feet from the center of any public road or highway, damaged as a result of Applicant's installation and maintenance of Applicant's tile, any tile outlet, or any of Applicant's other property within 75 feet from the center of any public road or highway or on the Commission's right of way, or otherwise as a result of Applicant's entry upon or use of the Commission's right of way.

Applicant will promptly remove, relocate, or adjust Applicant's tile, any tile outlet, or any of Applicant's other property, all at Applicant's sole cost and expense, when requested to do so by the Commission for purposes of constructing, cleaning, inspecting, reconstructing, modifying, operating, maintaining, repairing, or improving any public road, highway, or ditch or any of the Commission's other facilities.

Any tile outlet will include erosion protection in the form of riprap (or other approved method) from the outlet to the bottom of the ditch. The erosion protection must be shaped in a manner that conveys all flows on the armament.

Applicant, or Applicant's successor or assign, is solely responsible for the perpetual maintenance of any tile outlet and all erosion protection, at Applicant's cost.
Any excavation that occurs within 75 feet from the center of any public road or highway or otherwise within the Commission's right of way must be adequately graded and seeded at the conclusion of the tile installation. Applicant is solely responsible for the establishment of sufficient vegetation following seeding.

Applicant is solely responsible for any ditch side-slope failures or slumping that occurs as a result of Applicant's tile project or Applicant's tile outlet, and is solely responsible for the costs of repairing any damages that result from the tile or the tile outlet.
Applicant may not locate any pump, outlet, or other component on the interior slope of any ditch.

11. ADMINISTRATION AND ENFORCEMENT

11.1 Organization

To administer this code, the following bodies are hereby vested with authority to act in behalf of the county.

(1) The Zoning Administrator

(2) The Planning Commission

(3) The County Commission

11.2 Zoning Administrator

The Zoning Administrator is a duly appointed county official authorized by the County Commission and is responsible to administer this code and to assist the Planning Commission and the County Commission on any matter related to planning for and development of the county and its unincorporated planning area.

11.2.1 Duties

(1) Issue all zoning certificates, permits and maintain record thereof.

(2) Issue all building, moving and repair permits.

(3) Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.

(4) Receive, file and forward to the Planning Commission all applications for zoning amendments, site approvals, conditional uses, variances, and preliminary and final plats and the supporting documents.

(5) Prepare and publish notices and notify adjoining property owners.

(6) Notify, in writing, the property owner or users upon finding violation of this code and cite the nature of violation clearly, require compliance and provide a report of the finding to the Planning Commission.

(7) Report all zoning and land subdivision violations to the Planning Commission.

11.2.2 Interpretation of Regulations

All questions of interpretation of this code shall be presented to the County Commission.

11.2.3 Building Permit Applications

Any person or persons intending to construct or reconstruct, or make alteration to, or relocate a building that is more than 150 square feet, shall obtain a permit from the Zoning Administrator before proceeding with the work or commencing any excavation in connection with it. These provisions shall also apply to mobile homes, and all farm structures including grain bins and hopper bins regardless of whether they are placed on a permanent foundation. Farm use structures are exempt from building permit fees.

(1) Each application for a building permit shall be accompanied by the following information, if applicable:

(A) First and last name
(B) Mailing address
(C) Telephone numbers, including work, home and/or cell
(D) Legal description of the property (e.g., Sec, Twp, Rng, Lot, Blk, Addn)
(E) City or township
(F) Parcel number
(G) Size (length and width)
(H) Structure use
(I) Number of stories
(J) Number of bedrooms and bathrooms
(K) Estimated cost
(L) Contractor
(M) Manner of construction
(N) Estimated completion date
(O) Fee and date paid
(P) Hearing date
(Q) Date approved
(R) Permit number

(2) The application shall specify the type of the building, structure, material of which it is composed, the part or portion of the lot to be occupied by the principal building and accessory buildings and the building cost.

(3) Property corners and/or property lines shall be adequately located and defined prior to any new construction.

(4) A structure or building constructed in the floodplain shall be subject to the Barnes County Floodplain Ordinance and the Zoning Administrator may require additional documentation to be submitted with the application for a building permit

11.2.4 Building Permits

The Zoning Administrator shall issue a building permit if the proposed building or structure conforms to zoning and building provision of this code. If the Zoning Administrator denies a permit because of nonconformance with this code, the Zoning Administrator shall inform the applicant of his/her right to appeal to the Planning Commission. If the position of Zoning Administrator is not filled at the time of the application for permit, the Planning Commission shall act instead and issue or deny building permits in conformance with this code.

Replacement of roofs, siding, windows, and decks do not require a building permit, if the replacement does not exceed the size of the original.

11.2.5 Fees

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

11.2.6 Conditional Use and Site Approval Permits

The Zoning Administrator shall issue a conditional use or site approval permit upon approval of the application by the Planning Commission and County Commission subject to the provisions of Sections 11 and 12.

11.2.7 Variances

The Zoning Administrator shall issue a variance upon the approval of the application by the Planning Commission and County Commission subject to provisions of Sections 11 and 12.

10.2.8 The Final Plat

The County Commission Chairperson shall sign the final plat if the Planning Commission and County Commission have approved the final plat subject to the provisions of sections 7, 8, 9, 11 and 12.

11.2.9 Auditor's Lots

All Auditor's Lots shall be prepared by a registered land surveyor and shall be submitted to the Planning & Zoning Administrator for review. The auditor's lot shall start with the section quarter corner in reference to the point of beginning for the auditor's lot description. The description shall have the complete metes and bounds measurements, show which quarter, section, township and range, show any easements, show any right-of-ways, show a north arrow, show adjacent auditor's lots/subdivisions, etc. The Auditor's Lot shall have an owner's certificate, surveyor's certificate, complete written description along with a cad drawing, a signature area for the Barnes County Planning & Zoning Administrator.

11.3 Planning Commission

The Planning Commission shall consist of nine (9) members: two (2) members of which must be City Commissioners of Valley City and two (2) County Commissioners. The remaining members shall be appointed from the county, with at least one (1) member from each district.

10.3.1 Duties

(1) To hear and act on all applications for amendments to zoning districts and take action for approval, denial or approval with modification.

(2) To hear and act on all applications for conditional uses and site approvals in the manner prescribed in this code and make recommendations to the County Commission.

(3) The action of the Planning Commission is advisory to the County Commission and all final decisions rest with the County Commission.

(4) The Planning Commission may serve as the building official and serve at the discretion of the County Commission.

11.3.2 Notice of Hearings

The Planning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits, site approval and plat applications and other matters before it, give public notice thereof in the official newspaper of the county and the nearest regularly published newspaper at least once a week for two (2) consecutive weeks prior to the hearing, the last notice ten (10) days prior to the hearing. The notices shall give time and place of hearing and shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits shall be available for public inspection by the County Auditor. The complete procedure to follow for hearings is set forth in Section 11.

11.3.3 Meetings

Meetings of the Planning Commission shall be held at a regular time and date at the call of the Chairperson and at such other times as the Planning Commission may determine upon prior public

notice. All meetings shall be open to the public and any person may testify for or against a resolution.

11.4 County Commission

The County Commission maintains the authority for review, approval, modification and denial of recommendations of the Zoning Administrator and the Planning Commission.

11.4.1 Duties

(1) The County Commission is responsible for approval, modification or denial of amendments to the text of this code.

(2) The County Commission is responsible for approval, modification or denial of amendments to change the zoning district(s) boundaries.

(3) The County Commission is responsible for granting zoning district amendments, conditional use permits, variances and plat approval.

(4) The County Commission shall, in absence of a Board of Adjustment, act as the Zoning Board of Adjustment.

11.4.2 Notice of Hearing

The County Commission may hold hearing(s) as required by the county general regulations, this code and laws of the State of North Dakota.

12. PROCEDURES FOR AMENDMENTS, CONDITIONAL USES, VARIANCES AND PLATS OF SUBDIVISION

12.1 Zoning District Amendments

12.1.1 Resolution Defined

For purposes of this section, the term "resolution" applies to any zoning district amendment, variance, conditional use permit or plat. The requirements for adopting a resolution in this section shall also apply to adopting a variance, conditional use permit or plat, as set forth in those sections.

12.1.2 Resolution

An applicant shall submit an application for a zoning district amendment, variance, conditional use permit, or plat to the Planning Commission. The Planning Commission shall investigate the application by consulting with township boards, residents, and federal, state and other agencies that may be affected by the application. Affected agencies, boards and residents are required to make available, upon request, pertinent information, technical assistance or other cooperation to

assemble or compile the pertinent information to aid the Planning Commission in its investigation. After the investigation, the Planning Commission shall prepare a resolution to be sent to the County Commission. The proposed resolution shall be filed with the County Auditor.

Affected residents include property owners within 600 feet of the property in question and adjacent property owners, but not limited to 600 feet. For cellular telephone towers, wind towers and other substantial structures, affected residents include property owners within one (1) mile of the property in question and adjacent property owners, but not limited to one (1) mile.

12.1.3 Public Notice

Notice of a hearing on the proposed resolution shall be published in the county newspaper once per week for two (2) consecutive weeks prior to the date of the hearing, the last notice ten (10) days prior to the hearing. The notice shall describe the nature, scope and purpose of the proposed resolution. The notice shall also state the proposed resolution is available for public inspection at the office of the County Auditor or office of the Zoning Administrator.

12.1.4 Data Submission Requirements

Petitions for a proposed resolution shall be submitted to the Zoning Administrator with the following information:

(1) Legal description of the area proposed to be rezoned.

(2) A site plan showing buildings and uses in the zoning district proposed to be changed and the requested zoning district classification.

(3) A fee shall be paid in accordance with the schedule established by the County Commission.

12.1.5 Public Hearing – Planning Commission

After filing the proposed resolution with the County Auditor, the Planning Commission shall hold a public hearing. The proposed resolution shall be submitted for discussion. All interested parties and citizens shall have opportunity to be heard on the proposed resolution.

12.1.6 Adoption and Publication of the Resolution

(1) After the public hearing, the Planning Commission will make recommendations to the County Commission. The County Commission may adopt the proposed resolution or any amendments thereto. The County Commission may make any changes it deems advisable. Upon adoption of any resolution or amendment thereto, the county Auditor shall file a certified copy with the County Recorder. Immediately after the adoption of any resolution or any amendment thereto, the County Auditor shall publish notice of the adoption of the resolution for two (2) consecutive weeks in the county newspaper. The

notice shall describe the nature, scope and purpose of the adopted resolution and shall state the times when the adopted resolution is available for inspection.

(2) The resolution shall take effect if no petition for a separate hearing is filed within thirty (30) days after the first publication of the adoption.

(3) If a petition for a separate hearing is filed within thirty (30) days of the first publication of the adoption, the resolution shall not take effect until the County Commission affirms the resolution at a separate hearing.

12.1.7 Separate Hearings

(1) Any person who disagrees with the proposed resolution or amendment thereto may file a petition for a separate hearing within thirty (30) days after the first publication of the resolution or amendment. The petition shall be in writing and shall specify in detail the grounds for abjection. The petition shall be filed with the County Auditor.

(2) A separate hearing shall be held before the County Commission. The hearing shall be held no sooner than seven (7) days and no later than thirty (30) days after the filing of the petition for a separate hearing. The County Commission shall notify the petitioner of the time and place of the separate hearing.

(3) At the separate hearing, the County Commission shall consider the complaints of the petitioner and shall notify the petitioner, by registered or certified mail, what action, if any, the county Commission plans to take on the resolution or amendment. At its next regular meeting, the County Commission shall either rescind or affirm the resolution or amendment.

12.1.8 Filing Fees

All applications for a zoning district amendment require a minimum filing fee of $25.00. This fee may be greater if the Zoning Administrator incurs higher expenses, including, but not limited to publication costs, mileage, copy expense, and attorney fees.

12.2 Conditional Use Permits

12.2.1 Purpose

The development of this code is based upon division of the county into districts, within which district the use of land and building bulk and locations of building and structures are mutually compatible and substantially harmonious. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as permitted uses in any particular district, without consideration, in each case, of impact of those uses upon neighboring premises. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses.

12.2.2 Public Notice

Shall be the same as the provisions set forth for public notice for zoning district amendment in Section 11.1.3.

12.2.3 Public Hearings

Shall be the same as the provision set forth for public hearing for zoning district amendment in Section 11.1.5.

12.2.4 Data Submission Requirements

Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 11.1.4.

12.2.5 Adoption and Publication of the Resolution

Shall be the same as the provisions set forth for adoption and publication of the resolution for zoning district amendment in Section 11.1.6.

12.2.6 Separate Hearings

Shall be the same as the provisions set forth for separate hearings for zoning district amendments in Section 11.1.7.

12.2.7 Standards

No application for conditional use shall be approved unless the Planning Commission finds that all of the following conditions are present.

(1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(2) That the uses, values and enjoyment of other property in the area for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

(3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the district.

(4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic impact on the area.

(6) That the conditional use shall substantially conform to all applicable regulations of the district in which it is located.

12.2.8 Conditions and Guarantees

(1) Prior to the decision on any conditional use, the Planning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the county and to secure compliance with the standards and requirements specified in Section 11.2.7.

(2) No alteration of a conditional use shall be permitted unless approved by the County Commission.

12.2.9 Reversion

When a structure or parcel ceases to conform to its conditional use for twenty-four (24) consecutive months, the structure or parcel shall revert back to the zoning district that existed prior to the conditional use.

12.2.10 Filing Fees

All applications for a conditional use permit require a minimum filing fee of $25.00. This fee may be greater if the Zoning Administrator incurs higher expenses, including, but not limited to publication costs, mileage, copy expense, and attorney fees.

12.3 Variances

12.3.1 Purpose

Variance from the dimensional standards of this code may be granted provided that the applicant established proof of practical difficulty or undue hardship.

12.3.2 Public Notice

Shall be the same as the provisions set forth for public notice for zoning district amendment in Section 11.1.3.

12.3.3 Public Hearings

Shall be the same as the provision set forth for public hearing for zoning district amendment in Section 11.1.5.

12.3.4 Data Submission Requirements

Petitions for variances shall be submitted with the following information.

(1) Legal description of the property.

(2) A map showing the existing land uses and zoning district classification of the area.

(3) The reason for the variance request.

(4) The type of variance requested and an explanation of whether the hardship is unique to the applicant's property.

(5) Any other information that the Planning Commission deems necessary.

(6) A fee of $100.00 plus additional costs to be paid in accordance with the schedule established by the County Commission.

12.3.5 Adoption and Publication of the Resolution

Shall be the same as the provision set forth for adoption and publication of the resolution for zoning district amendment in Section 11.1.6.

12.3.6 Separate Hearings

Shall be the same as the provision set forth for separate hearings for zoning district amendment in Section 11.1.7.

12.3.7 Standards

No application for variance shall be approved unless the County Commission finds that all of the following are present.

(1) That special conditions and circumstances exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district.

(2) That literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

(3) That the special conditions and circumstances have not resulted from actions of the applicant.

(4) That granting the variance requested will not confer upon the applicant any special privileges that are denied by this code to other premises.

12.3.8 Justification

(1) That the reasons set forth in the application justify the granting of the variance.

(2) The variance is the minimum, which would make possible a reasonable use of the premises.

(3) That the granting of variance will be in harmony with the general purpose of this code and will not be injurious to the surrounding premises, neighborhood or the county and will not be contrary to the comprehensive plan and the purposes of this code.

(4) That there is practical difficulty or unnecessary hardship in use of the premises if the strict application of the regulations were to be carried out.

12.3.9 Reversion

When a structure or parcel ceases to conform to its variance for twenty-four (24) consecutive months, the structure or parcel shall revert back to the zoning district that existed prior to the variance.

12.3.10 Filing Fees

All applications for a variance require a minimum filing fee of $25.00. This fee may be greater if the Zoning Administrator incurs higher expenses, including, but not limited to publication costs, mileage, copy expense, and attorney fees.

12.4 Plat Approval

The procedure for approval of the preliminary and final plats shall be the same as zoning district amendment procedure under Section 11.1.

13. VIOLATIONS, ENFORCEMENT AND APPEAL

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 the Development Code, that person or entity is guilty of a class B misdemeanor, unless otherwise provided. The Planning Commission may assess, upon a majority vote, a fine of up to $200.00 per day for each citizen or property owner, in addition to, or in place of, the levy of the fine, institute any appropriate action or proceeding as outlined in the North Dakota Century Code and acts amendatory thereto.

The County Commission is authorized to adjust the application or enforcement of any provision of a resolution when a literal enforcement of such provision would result in great practical difficulties, unnecessary hardship, or injustice, so as to avoid such consequences, provided such action shall not be contrary to the Comprehensive Plan or the public interest.

Any person, or persons, jointly and severally, aggrieved by a decision of the County Commission under the Development Code or N.D.C.C. chapters 11-33 or 11-33.2 may appeal to the district court in the manner provided in N.D.C.C. section 28-34-01.

If a construction site, with any type of new construction, without a building permit is verified by the Barnes County Planning & Zoning Administrator, notification to the property owner will be made by Registered/Return Receipt letter. A $500 fine will be immediately assessed to the property owner. The owner of the property must cease construction and reply to the Barnes County Planning & Zoning Administrator within ten (10) working/business days. Construction may not continue until the proper permits are approved by the Barnes County Planning & Zoning Board. If the property owner does not cease construction, fines will be assessed at $200 a day from the date on the Registered Return

Receipt. If it is determined at a Conditional Use Permit or Variance Permit was also needed an additional $500 fine will be immediately assessed to the property owner.

14. ENACTMENT

In order that the land within the County of Barnes and its unincorporated planning and zoning area be properly guided in accordance with the requirements set forth herein, this Development Code is hereby adopted.

_____ _____

Chairperson Date of Adoption

_____

Auditor

APPENDIX A

PERMIT FEE SCHEDULE

Action/Application:

	FEE
Application for Conditional Use Permit	$100 plus publication costs
Application for Zoning Amendment	$100 plus publication costs
Application for Variance	$100 plus publication costs
Setback changes for trees, shelterbelts, fences	$50 plus publication costs
Subdivision Review	$100 for 10 or less lots plus expenses and publication fees
	$250 for 11 or more lots plus expenses and publication fees
Waste Tire Collection and Process	Annual Minimum $100
Solid Waste Hauler's License	Annual Minimum $100
Ground Miners License	Annual Minimum $100
Solid Waste Permit	Minimum $10,000
Crew Camp Housing	$300 per bed annual fee
Administrative sanctions	$50,000 maximum

Application for building permit:

Farm Use	No charge, permit required
Structures up to 150 square feet	No permit required
Structures over 150 square feet but less than $5,000 in value	$25
Structures valued $5,000 to $25,000	$50
Structures valued greater than $25,000 (Recreational and Residential)	$50 plus $1.00 for each additional $1,000 of value
Structures valued greater than $25,000 (Agricultural, Commercial and Industrial)	$50 plus $2.00 for each additional $1,000 of value
Construction without Building Permit	$500 Fine
Construction without Variance or Conditional Use Permit	$500 Fine
Continued Construction without Building Permit	$200 Fine per Day

In addition to the above-listed fees: The applicant for a conditional use permit and amendment to the zoning ordinance, subdivision review or building permit, shall be liable for and pay to the Zoning Administrator sufficient sums of money to pay for and cover all of the costs incurred by the county for the processing of such application, including, but not limited to: publication costs; mileage; copy expense; attorney's fees; etc. No permit shall be issued until all such costs as these described herein have been paid by the applicant, unless the Zoning Administrator has otherwise provided by resolution for a particular case. The minimum filing fee is $25.00.