

Bottineau County Zoning Ordinance

Adopted December 18, 2017
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PREAMBLE
AN ORDINANCE ESTABLISHING
COMPREHENSIVE ZONING REGULATIONS
FOR BOTTINEAU COUNTY

The intent is to:

Promote the health, safety, public convenience, general prosperity, and public welfare of Bottineau County and the orderly development of lands within the county;

Preserve and maintain agricultural lands for farm use;

Encourage non-farm growth to be located within existing communities or within the immediate environs of communities;

Promote a healthy and visually attractive environment;

Promote the development of utility corridors which utilize the least productive agricultural land;

Discourage development which places an excessive financial burden on County government.

THESE REGULATIONS WERE ADOPTED THE 18TH DAY OF DECEMBER 2017.
REFERENCE BOTTINEAU COUNTY RECORDER #417010

REVISED 21ST DAY OF NOVEMBER, 2022.
REVISED 1ST DAY OF JULY, 2025
REVISED 5TH DAY OF NOVEMBER, 2026

_____	_____
Benjamin Tonneson, Chairman Bottineau County Commission	Emily Deschamp Bottineau County Auditor

ZONING REGULATIONS
BOTTINEAU COUNTY, NORTH DAKOTA

ARTICLE 1 – INTRODUCTION

SECTION 1. TITLE: This resolution shall be known, citied, and referred to as the "Zoning Regulations of Bottineau County, North Dakota."

SECTION 2. PURPOSE: These regulations are designed to promote the health, safety, public convenience, general prosperity, and public welfare of Bottineau County.

SECTION 3. REPEAL: All other zoning regulations and amendments thereto adopted under the Authority of Chapter 11-33 of the North Dakota Century Code are hereby repealed.

SECTION 4. AUTHORITY: These regulations are adopted under the authority granted by Chapter 11-33 of the North Dakota Century Code.

SECTION 5. SEVERABILITY: Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 6. EFFECTIVE DATE: These regulations shall be in full force and effective from and after its passage and approval.

ARTICLE 2 – GENERAL PROVISIONS

SECTION 1. JURISDICTION: These zoning regulations shall apply to all areas within the civil boundaries of Bottineau County, North Dakota; with the exception of those areas within the civil boundaries and extraterritorial zoning boundaries of organized cities in Bottineau County and those townships that have elected to have their own zoning. Those areas will retain the opportunity to exercise their own zoning authority.

SECTION 2. COMPLIANCE: Except hereinafter provided, no building, structures, or land shall be used, occupied, erected, constructed, moved, reconstructed, or structurally altered except in conformity with all the regulations for the district in which it is located.

SECTION 3. AGRICULTURE EXEMPTED: Nothing in this ordinance shall be applied for the purpose of preventing or restricting the use of land or buildings for agricultural use or for any of the normal incidents of agriculture.

SECTION 4. INTERPRETATION: In the interpretation and application of these regulations, these provisions shall be held to be the minimum requirements adopted for the promotion of public health, safety, and welfare. Where these regulations impose a greater restriction on land, buildings, or structures than is imposed or required by existing provisions of law, ordinance, contract, deed or resolution, the provisions of these regulations shall control.

SECTION 5. NONCONFORMING USES:

Adopting NDCC 11-33-17.1, 40-47-05.1 and 58-03-14.1

SECTION 6. UTILITIES:

1. All new utilities shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the Planning Commission and/or County Commission.

2. No conditional use permit shall be issued unless satisfactory provisions for the following have been made:

   A. Underground utilities shall be placed at a minimum depth of two (2) feet, so as not to constitute a hazard to normal farming or general county/township maintenance.
   B. Above ground utilities shall be placed in a manner which will conform to state law.
   C. Utility placement shall conform with section lines, highways (state and federal), and railroad right of ways.
   D. The activities will not result in undue damage or injury to roads, bridges, right of way in the County, or to any public or private property.
   E. Excavation costs for purposes of construction or maintenance of a utility shall be borne by the contractor or owner of said utility.

SECTION 7. MINERAL EXPLORATION AND MINERAL PRODUCTION:

1. All permanent mineral production activities shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the Planning Commission and/or County Commission.

2. No conditional use permit shall be issued unless satisfactory provision for the following has been made:

   A. The activities will not result in undue damage or injury to roads, bridges, rights of ways in the County, or to any public or private property.
   B. Evidence of a reclamation agreement with the surface owner.
   C. Reclamation of the project shall be finished within one (1) year of the completion of the mineral exploration and/or production activities.
   D. Evidence of compliance with the County, State, and Federal regulations.
   E. Evidence that the activity is one hundred fifty (150) feet from all section lines, property lines, water resources and the centerlines of all township, county, state and federal roads.

SECTION 8. SANITARY REGULATIONS: All residential, commercial, or industrial structures shall conform to the North Dakota health regulations as they refer to wells, irrigation, septic, and sanitary systems.

SECTION 9. WASTE DISPOSAL SITES:

1. At a minimum the following waste disposal site shall comply with all applicable federal, state and county regulations.

2. Private Waste Disposal Sites – A solid waste disposal site used exclusively by and only for the landowner or tenant engaged in farming. Sites shall be limited to one per landowner and used for refuse generated from personal farming operations, in addition these sites must comply with Farm Service Agency (FSA) regulations.
3. Commercial Waste Disposal Sites – A solid waste disposal site or facility permitted pursuant to the laws of the State of North Dakota. Waste transported to a disposal site shall be by a waste hauler licensed by the State of North Dakota.

SECTION 10. SIGN REGULATIONS: Signs shall be permitted if they conform to the regulations in this article.

1. Permitted Signs – The following signs shall be permitted in all zoning districts:

   A. Signs not exceeding three square feet in area bearing property numbers, box numbers, or names of occupants of the premises.
   B. Flags and the insignia of any government agency.

C. Legal notices, identification information, or directional signs erected by government bodies.
D. Signs directing and guiding traffic or parking on private property.
E. No more than two signs advertising property for sale or rent.
F. Bulletin boards and signs for churches or other public institutions.

2. Limited Permitted Signs – The following signs shall be permitted in only the "CO" and the "IN" zoning districts:

A. Illuminated signs
B. Marquee signs
C. Portable signs
D. Projecting signs
E. Roof signs
F. Wall signs
G. Temporary signs
H. Commercial billboards

3. Unlawful Signs – The following types of signs are prohibited from all zoning districts:

A. Any signs, outdoor commercial advertising or lighting device such as a beacon light, constituting a nuisance because of lighting glare, focus, animation, or flashing.
B. Any sign which conflicts in any manner with the clear and obvious appearance of public signs and devices controlling traffic.
C. Any sign projecting more than ten feet over a road, street, alley, or other public space, or closer than two feet to the curb line of any public road, street, or alley, or less than the state requirement above any road, street, alley, or public space.
D. Any sign that obstructs a view of oncoming traffic.

SECTION 11. SUBDIVISION REQUIREMENTS: Subdivision regulations are established to safeguard the public interest in accordance with the County's comprehensive plan and to assist the subdivider in harmonizing their interests with those of the County.

1. The tract to be used for the subdivision shall not be less than five acres in area.

2. The applicant for a zoning change to permit a subdivision must satisfy the Planning Commission that all development to occur within this District shall not extensively alter natural grade of land or permit extensive alteration, removal, or destruction of natural vegetation to prevent erosion or pollution.

3. The application for a platting of a subdivision must meet all State Health Department standards prior to any development on the land.

4. The applicant platting the subdivision shall prepare or cause to be prepared an application for rezoning and a development plan and shall present three copies of the plan for review and approval by the Planning Commission. The development plan shall show topography at a minimum of ten feet intervals, such as shown on a 7 ½ minute quadrangle topographic map, and include designation of the following:

A. Lot dimensions
a. In the Rural Recreational District, all lots, except recreational vehicle park spaces, shall have a minimum area of 15,000 square feet. Additional lot area may be required to meet the State Health Department minimum standards for public health and safety. Minimum lot width shall not be less than 100 feet and depth of not less than 150 feet. The principal and accessory structures shall not cover more than 30% of the lot area.

b. In the Rural Residential and Commercial Districts, lot size shall not be less than 5,000 square feet, if served by a sewer collection system common to other adjoining users, or not less than three acres if the sewer is drained into an on-site user-owned drainage field.

B. Recreational vehicle park and sites, if applicable
Recreational vehicle park spaces shall have a maximum density of 12 spaces per gross acre with a minimum area of 2,500 square feet for each space where State approved public type sanitary sewers are available for each space. When State approved public type sanitary sewers are not available, the maximum density shall be 12 spaces per gross acre with a minimum area of 2,500 square feet for each space, provided that toilet, shower, and laundry facilities are included (for recreational vehicle occupants' exclusive use) in calculation of gross area and are provided within 250 feet of each space. Each space shall be at least 35 feet wide and clearly defined.

C. Recreational vehicle park service buildings, if applicable

D. Water lines, if applicable to development

E. Water outlets, if applicable to development (mandatory for recreational vehicle park)

F. Sewer lines, if applicable to development

G. Recreational vehicle holding tanks, if applicable

H. Recreational areas

I. Landscaped areas and walls or fences

J. Roadways

5. The approval of the application for rezoning and the development plan in no way obligates the County to the provision, development or maintenance of access, required or otherwise, to the property concerned.

6. Roadways should not be less than 30 feet in width for two-way traffic systems and 16 feet for one-way traffic systems.

7. Upon approval of the preliminary development plan by the Planning Commission, the applicant shall prepare or cause a final development plan to be prepared, which shall incorporate any changes or alterations requested. The final development plan and the Planning Commission recommendation shall be forwarded to the County Commission for review and final action.

SECTION 12. ANIMAL FEEDING OPERATIONS:

1. All new animal feeding operations that exceed 300 animal units shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the Planning Commission and/or County Commission.

2. No conditional use permit shall be issued unless satisfactory provisions for the following have been made:

A. Evidence of compliance with applicable state laws and rules, including the laws and rules administered by the North Dakota Department of Environmental Quality and any permits granted by that department.

B. Water Resource Setback Requirements – the operator of a new animal feeding operation that has more than 300 animal units (see Equivalent Animal Unit Numbers table) shall not locate or establish that operation:

a. Within a delineated source water protection area for a public water system. The source water protection areas for water supply wells include the entire wellhead protection area. For the surface water intakes of public water systems, source water protection areas include all or portions of the surface water that supplies the water for the public water system, including all or portions of the surface water's shoreline.

b. Within 1,200 feet of a private ground water well which is not owned by the animal feeding operator or within 1,500 feet of a public ground water well which does not have a delineated source water protection area.

c. Within 1,000 feet of surface water which is not included in source water protection area.

Equivalent Animal Numbers

Livestock Type	Animal Unit Equivalent	Equivalent Numbers of the Livestock (hd) for Four Sizes (a.u.) of Animal Feeding Operations			
		300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	2.0000	150	500	1,000	2,500
1 dairy cow	1.3300	225	750	1,500	3,750
1 mature beef	1.0000	300	1,000	2,000	5,000
1 beef feeder - finishing	1.0000	300	1,000	2,000	5,000
1 beef feeder - backgrounding	0.7500	400	1,333	2,667	6,667
1 mature bison	1.0000	300	1,000	2,000	5,000
1 bison feeder	1.0000	300	1,000	2,000	5,000
1 swine > 55 lbs	0.4000	750	2,500	5,000	12,500
1 goose/duck	0.2000	1,500	5,000	10,000	25,000
1 sheep	0.1000	3,000	10,000	20,000	50,000
1 swine - nursery	0.1000	3,000	10,000	20,000	50,000
1 turkey	0.0182	16,500	55,000	110,000	275,000
1 chicken	0.0100	30,000	100,000	200,000	500,000

C. Odor Setback Requirements

a. The operator of a new animal feeding operation shall not locate that operation within the extraterritorial zoning jurisdiction of an incorporated city.

b. An owner of property shall locate and establish a residence, business, church, school, public park or zone for residential use to provide a separation distance from any existing animal feeding operation. The separation distances for odor are listed in the following table. An owner of property who is any operator of the animal feeding operation may locate the owner's residence or business within the setbacks.

c. The operator of a new animal feeding operation shall locate the site of that operation from existing residences, businesses, churches, schools, public parks and areas of property that are zoned residential to exceed the corresponding odor setbacks.

Odor Setback Distances for Animal Feeding Operations

Number of Animal Units	Hog Operations	Other Animal Operations
0 - 1,000	0.50 miles	0.50 miles
1,001 - 2,000	0.75 miles	0.50 miles
2,001 - 5,000	1.00 miles	0.75 miles
5,001 or more	1.50 miles	1.00 miles

D. The application for a conditional use permit to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility handles more than 1,000 animal units, the scaled plan shall be prepared by a registered land surveyor, civil engineer or other person having comparable experience or qualifications. The site plan shall include:

a. Proposed number of animal units.

b. Total acreage of the site of the facility.

c. Existing and proposed roads and access ways within and adjacent to the site of the facility.

d. Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.

e. A copy of the permit application submitted by the applicant to the North Dakota Department of Health.

SECTION 13. LARGE WIND TOWER REGULATIONS-See Appendix I

SECTION 14. SMALL WIND TOWER REGULATIONS-See Appendix II

SECTION 15. COMMERCIAL DATA CENTERS-See Appendix III

ARTICLE 3 – DISTRICTS AND BOUNDARIES

SECTION 1. ESTABLISHMENT OF DISTRICTS: In order to effectively carry out the provisions of these regulations, the land covered by the jurisdiction of these regulations shall be divided into the following zoning districts:

"AG" Agricultural District
"RR" Rural Residential District
"CO" Commercial District
"IN" Industrial District
"RE" Rural Recreational District

SECTION 2. ZONING MAP: The location and boundaries of the zoning districts are hereby established as shown on the maps attached and made a part of this ordinance. The maps shall be kept on file with the zoning administrator and shall be regularly updated to show any change in the zoning boundary lines resulting from amendments.

SECTION 3. INTERPRETATION OF BOUNDARIES: The following rules shall apply to the boundaries of the zoning districts on the zoning district map.

1. Where zoning district boundaries follow streets, highways, roads, railroad lines, or extensions thereof, such boundary lines shall be centerline of those streets, highways, roads, railroad lines, or extensions thereof.

2. Zoning district boundaries indicated as approximately following platted lot lines or other property lines shall be construed to follow such lines or extensions thereof.

3. Zoning district boundaries which do not follow streets, highways, roads, railroad lines, property lines, or lot lines, or extensions thereof shall be determined by the use of a scale or dimensions appearing on the map.

SECTION 4. AGRICULTURAL DISTRICT (AG):

1. Intent and Purpose – This district is established for the purpose of preserving and protecting agricultural uses and other natural land uses in the County.

2. Permitted Uses – The following uses shall be permitted in this district:

   A. Agriculture and agriculture related buildings and farm dwellings, provided such used are maintained in connection with a farm or farming operation where the primary source of the operator's income is derived from farming.
   B. Park and outdoor recreational facilities and related buildings for outdoor recreation.
   C. Single-family non-farm dwellings (subject to the Residential Guidelines of this section).
   D. Churches and similar places of worship and parish home.
   E. Greenhouses, nurseries, and garden centers.

F. Hobby farms, whether or not there is a dwelling on the same site or contiguous to the site. If there is a dwelling (either farm or non-farm) associated with the site it is subject to the Residential Guidelines of this section.

3. Conditional Uses – The following uses shall be considered conditional uses and shall be permitted only after a conditional use permit has been obtained in accordance with these zoning regulations.

   A. Mineral extraction and exploration (including sand and gravel) subject to the requirements of Article 2, Section 7 of these regulations.
   B. Multiple family, non-farm dwellings.
   C. Mobile home parks.
   D. Animal Feeding Operations.
   E. Radio or TV towers, utility lines, substations and pipelines subject to the requirements of Article 2, Section 6 of these regulations.
   F. Commercial grain elevators.
   G. Cemetery.
   H. Bed and Breakfast facilities.
   I. Junk yards, auto wrecking yards or salvage yards provided that all operations are conducted within an area enclosed on all sides with a solid fence or wall not less than eight (8) feet in height.
   J. Retail agriculture chemical and fertilizer outlets.
   K. Bulk storage of chemicals.
   L. Wind towers.

4. Prohibited Uses – Land uses which are not listed in this section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.
5. Residential Development – The following regulations shall be applied to the construction of individual non-farm dwelling units: (The terms of lot size and density shall exclude the immediate family of the surface owner.)

   A. Lot Size – Not less than three acres
   B. Lot Density – Not more than three non-farm dwelling per 10 acres.
   C. Lot Location – The development and location of all lots related to non-farms shall provide their own access to an existing improved road. (An improved road is one which is gravel or hard surfaced and is regularly maintained in good driving condition.)

6. Dimensional Standards- Building and Structure Setbacks – 100 feet from all section lines and 100 feet from the centerline if abutting a federal, state, county, or township road.

SECTION 5. RURAL RESIDENTIAL DISTRICT (RR):

1. Intent and Purpose – This district is established for the purpose of providing for and guiding the development of any rural subdivisions and for preserving and protecting the character of residential areas in unincorporated villages in Bottineau County.

2. Permitted Uses – The following uses shall be permitted in this district:

   A. All single-family dwellings.
   B. Multiple family dwellings.
   C. Parks and outdoor recreational facilities and related buildings for outdoor recreation.
   D. Churches and facilities related to religious activities.

E. Public and parochial schools.
F. Utility facilities necessary to serve the area.

3. Conditional Uses – The following uses shall be considered conditional uses and shall be permitted only after a conditional use permit has been obtained in accordance with these zoning regulations.

A. Mobile home parks.
B. Home occupations, including Bed and Breakfast facilities.
C. Small wind towers.

4. Prohibited Uses – Land uses which are not listed in this section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.

5. Dimensional Standards:

A. Lot size – not less than 5,000 square feet if served by a sewer collection system common to other adjoining users; not less than one acre if the sewer is drained into an on-site user owned drainage field.
B. Setbacks:
    a. Front, side and rear yard – 20 feet from lot line or 100 feet from the centerline if abutting a federal, state, county, or township road.
    b. Shoreline – 50 feet from any shoreline.

SECTION 6. COMMERCIAL DISTRICT (CO):

1. Intent and Purpose – This district is established for the purpose of allowing commercial areas adjacent to highways and for the grouping together of retail and service businesses in areas to best serve the needs of persons traveling in the county and to also provide area residents convenient access to those entities.

2. Permitted Uses – Generally any commercial retail or service business which may include but is not limited to the following:

A. Automobile/truck sales, supply, service, and repair.
B. Service stations, bulk fuel sales.
C. Grocery and convenience stores.
D. Farm implement sales, supply, service, and repair.
E. Motels, hotels, or lodging establishments.
F. Public buildings and churches.
G. Parks and playgrounds.
H. Restaurants, lounges, and liquor stores.
I. Banks and other savings and lending institutions.
J. Apparel, department, clothing, toy, variety, furniture, hardware, and other retail establishments.
K. Medical, dental, health, and veterinary clinics.

3. Conditional Uses – The following uses shall be considered conditional uses and may be permitted only after a conditional use permit has been obtained in accordance with these zoning regulations:

A. Commercial grain elevators.
B. Welding shops.
C. Wholesale supply and warehouse storage facilities.

D. Storage facilities for building materials, such as lumber, steel, concrete blocks or pipe; provided that these materials are either:
   a. Enclosed by a wall or fence not less than five feet high or,
   b. Stored in an enclosed structure.
E. Retail agriculture chemical and fertilizer outlets.
F. Wind towers

4. Prohibited Uses – Land uses which are not listed in this section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.

5. Dimensional Standards:

A. Lot size – not less than 5,000 square feet if served by a sewer collection system common to other adjoining users; not less than one acre if the sewer is drained into an on-site user owned drainage field.
B. Setbacks – No minimum setbacks, except in the case of the property abutting a federal, state, county, or township road, then building setbacks shall be a minimum of 100 feet from the centerline of that road.
C. Lot coverage by buildings – No requirements other than those that may exist with regard to fire protection.

SECTION 7. INDUSTRIAL DISTRICT (IN):

1. Intent and Purpose – This district is intended to provide areas for industrial development and those land uses which are generally not compatible with agricultural, commercial, or residential land uses.

2. Permitted Uses – The following uses shall be permitted in this district.

A. All Commercial (CO) District permitted uses.
B. Airports, railroads, essential public utilities, and public service installations.
C. Radio and television transmitting stations.
D. Overhead, above grade and underground storage facilities for oil, gas, flammable liquids and gases, as approved by Fire Code regulations.
E. Manufacturing industries.
F. Processing industries consisting of agricultural products and foodstuffs.
G. Concrete mixing and concrete product manufacturing plants.

3. Conditional Uses – The following uses shall be considered conditional uses and may be permitted only after a conditional use permit has been obtained in accordance with this ordinance:

A. Petroleum or petroleum products refining.
B. Junk yard, auto wrecking yard or salvage yard provided that all operations are conducted within an area enclosed on all sides with a solid fence or wall not less than eight (8) feet in height.
C. Adult entertainment center provided it is at least 500 feet from any other zoning district boundary.
D. Commercial bulk storage of chemicals.
E. Wind towers.

4. Prohibited Uses – Land uses which are not listed in this section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.

5. Dimensional Standards:

   A. Lot size – No minimum standard.
   B. Setbacks – No minimum setbacks, except in the case of the property abutting a federal, state, county, or township road, then building setbacks shall be a minimum of 100 feet from the centerline of that road.
   C. Lot coverage by buildings – No requirements other than those that may exist with regard to fire protection.

SECTION 8. RURAL RECREATIONAL DISTRICT (RE):

1. Intent and Purpose of District – The "RE" Rural Recreational District is established for the purpose of protecting general farm operations and permitting small rural vacation or seasonal residence developments, recreational vehicle parks for short term or seasonal parking and the uses that serve them by restricting and regulating density, land coverage and land use.

2. Permitted Uses:

   A. General farm operations – This shall not include or permit:
      a. The spreading, accumulation, feeding or use of garbage in any form on the surface of the land.
      b. Any activity within 300 feet of an "RE" District which is noxious or offensive by reason of dust, odor, or noise.
   B. Single family lake cabins and cottages.
   C. Utility facilities necessary to serve this area.
   D. Golf courses, except miniature golf courses and driving tees operated for commercial purposes.
   E. Park, playground, or community buildings.
   F. Customary accessory uses and structures located on the same tract with the principal use.
   G. Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed.
   H. Up to three (3) recreational campers will be allowed per parcel provided they comply with all First District Health regulations.

3. Conditional Uses – The following uses shall be considered conditional uses and may be permitted only after a conditional use permit has been obtained in accordance with this ordinance:

   A. Any public building erected on land used by any department of the City, County, State, or Federal Government.
   B. Airports and heliports.
   C. Churches.
   D. Cemetery.
   E. Commercial Lake Resort.
   F. Boat livery, including boat docks, sales, rental, construction and repair and sale of bait and fishing equipment, fuel, etc.
   G. Commercial campgrounds (tent and/or recreational vehicle).
   H. Recreational vehicle park, two or more acres in area.
   I. Camps and campgrounds operated by non-profit charitable institutions.
   J. Small Wind Towers.

4. Prohibited Uses – Land uses which are not listed is this section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.

5. Dimensional Standards:

   A. Lot side – lot width shall not be less than 100 feet, and lot depth shall not be less than 150 feet. All structures shall conform to the North Dakota health regulations as they refer to wells, irrigation, septic, and sanitary systems.
   B. Setbacks:
      a. Front, side and rear yard – 20 feet from lot line, or 45 feet from two-way traffic roadway centerline or 33 feet from one-way traffic roadway centerline, outside of the roadway setbacks, the road authority has jurisdiction over the road right of way.
      b. Shoreline – 50 feet from any shoreline.

ARTICLE 4 – ADMINISTRATION AND ENFORCEMENT

SECTION 1. PLANNING COMMISSION: The administration and enforcement of these Zoning Regulations is hereby vested in the Planning Commission of Bottineau County. Members of the Planning Commission shall be appointed by the County Commission in accordance with State Statutes. Duties of the Planning Commission shall include:

1. Issuance of all permits.

2. Inspection for permit compliance in accordance with these zoning regulations.

3. Maintenance of the records for the regulations and permits.

4. Collection of any fees instituted by the County Commission in the administration of this ordinance.

5. Interpret district boundaries on the Official Zoning Map.

6. Establishment of rules, regulations, and procedures for the purpose of administering these zoning regulations.

7. Periodic review of the provisions of these regulations.

8. Conduct public hearings on conditional use permits, variance permits, regulation amendments, and any other business pertaining to these zoning regulations which may require a public hearing.

9. The Planning Commission shall serve as an advisor to the County Commission and make recommendations regarding the implementation of these Zoning Regulations. The County Commission shall have final review of Planning Commission decisions with regard to conditional use permits, variance permits, and zoning regulation amendments.

10. The Planning Commission may request the County Commission to officially appoint a Zoning Administrator to conduct the business of the Planning Commission for any part of the above-mentioned duties.

SECTION 2. BOARD OF ZONING APPEALS: A Board of Zoning Appeals is hereby created. Such Board shall consist of the County Commission and shall have the authority to grant variances to these regulations.

1. Records – The Board shall keep minutes of its proceedings, show evidence presented, finding of fact by the Board, decisions of the Board, and voting upon each question. Records of all official actions of the Board shall be filed in its office and shall be a public record.

2. Public Hearing and Notice – The Board of Zoning Appeals shall within thirty days of filing fix a date of the hearing of an appeal. Notice of the time, place, and subject of such hearing shall be published once in the

official county newspaper at least ten days prior to the date fixed for the hearing. A copy of said notice shall be mailed to each party of the appeal.

3. Powers and Jurisdiction – The Board of Zoning Appeals shall administer the details of appeals or other matters referred to it regarding the application of the zoning regulations. The Board shall have the following specific powers:

   A. To hear and decide on appeals where it is alleged that there is error in an order, requirement, decision, or determination made by the Planning Commission in the enforcement of the zoning regulations.
   B. To interpret the provisions of these regulations in such a way as to carry out the intent and purpose of the adopted comprehensive plan and as shown upon the zoning district maps.
   C. The concurring vote of three-fourths of all members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Planning Commission, or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance or to affect any variation of these regulations.

4. Procedure – The appeals process is outlined below:

   A. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, by any officer of the County or by any governmental agency or body affected by any decision of the official administering the provisions of these zoning regulations.
   B. Appeals shall be made within 30 days of filing provided by the rules of the Board, by filing a notice of appeal specifying the grounds thereof and payment of the required filing fee.
   C. The Board of Zoning Appeals shall advertise and hold a public hearing as required in Section 2.2 of this Article.
   D. Notice of the decision of the Board of Zoning Appeals shall be in writing and transmitted within 15 days to the appellant. A copy of such decision shall also be transmitted to the official administration of the regulations for action, if action is required.

SECTION 3. BUILDING PERMITS: No building or structure, other than those associated with the normal incidents of agriculture, shall be erected, moved, added to, or structurally altered without a building permit. No building permit shall be issued except in conformity with the provisions of this ordinance unless a written order has been received from the County Commission in the form of a conditional use or variance as provided by this ordinance. No permit is required for maintenance of any building or structure, which does not structurally alter the building. If no construction takes place in a year from the issuance of a building permit, the permit shall expire.

1. Procedure – The building permit process is outlined below:

   A. All applicants who wish to build or alter any structure as defined in these zoning regulations must apply to the Planning Commission for a permit.
   B. If the applicant's plans meet district regulations as prescribed in these zoning regulations and any other applicable ordinances, the Planning Commission or designated Zoning Administrator collects any applicable fees and issues the building permit.
   C. If the applicant's plans do not comply with district regulations, the amendment, variance, conditional use procedures, or appeals sections of these regulations may be applied.

SECTION 4. CONDITIONAL USE PERMITS:

1. Requirements for Conditional Uses – A conditional use permit may be granted following compliance with the procedure set forth in this section (if the conditional use is one set forth in the District Regulations), provided that no application for a conditional use shall be granted unless all of the following conditions are found to be present:

A. The conditional use will not be detrimental to or endanger the public health, safety or general welfare.
B. The existing permitted uses in the area will not be substantially impaired or diminished by the establishment of the conditional use.
C. The conditional use will not impede the normal and orderly development of the surrounding property for use permitted in the district.
D. Adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided.
E. Adequate measures have or will be taken to provide access and exit so designed as to minimize traffic congestion in the public roads and streets.
F. The conditional use shall conform to all provisions of the district in which it is located.

The Conditional Use Permit may be issued for a specified period of time with automatic cancellation at the end of time unless it is renewed, or conditions may be applied to the issuance of the Permit and periodic review may be required to determine if the conditional use has any detrimental effects on neighboring uses or districts. The Permit shall be granted for a particular use and not for a particular person or firm.

2. Applications – Application for a Conditional Use Permit shall be submitted by the property owner to the Planning Commission. The application shall include:

A. The name and address of the applicant.
B. The date of the application.
C. A description of the site and the immediate surrounding area.
D. A preliminary map showing boundary lines and location of structures.
E. Location of existing structures on adjacent property.
F. Parking plan showing off street parking areas and/or loading areas.
G. Names and addresses of adjacent property owners.
H. Any reasonable information the Planning Commission deems necessary.

3. Planning Commission Recommendation – The Planning Commission, upon receipt of an application for a Conditional Use Permit, shall at its next regular or special meeting, specify a time and date within the next 30 days for a public hearing for the proposed conditional use. Following the public hearing, the Planning Commission shall consider the application and make a recommendation to the County Commission within 30 days.

4. Public Hearing and Notice – The Planning Commission shall publish a notice of the public hearing in the official county newspaper at least ten days before the hearing. Notice shall include the date, time, place, and purpose of the hearing. In addition to the published notice, the Planning Commission may require that the notice be mailed to those people designated by the Planning Commission.

5. County Commission – Upon receipt of the Planning Commission's recommendations, the County Commission may either grant the proposed conditional use, grant the proposed conditional use with additional conditions, or deny the proposed conditional use.

SECTION 5. VARIANCE PERMITS: To permit a variation in the yard, setback and height requirements of any district where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of lot, or topographical or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare, or where variations may be permitted which allow unusual arrangement on the lot and still clearly and unmistakably accomplish the intent of these regulations. The Board must find that the granting of such variance will not merely serve as convenience to the applicant but will alleviate some demonstrable or unusual hardship or difficulty.

The Variance Permit may be issued for a specific period of time with automatic cancellation at the end of that time unless it is renewed, or conditions may be applied to the issuance of the permit and periodic review may be required to determine if the variance has any detrimental effects on neighboring uses or districts. The permit shall be granted for a particular use and not for a particular person or firm.

1. Applications: Applications for a Variance Permit shall be submitted by the property owner to the Planning Commission on forms provided by the Commission. The application shall include:

   A. The name and address of the applicant.
   B. The date of the application.
   C. A description of the site and the immediate surrounding area.
   D. A preliminary map showing boundary lines and location of structures.
   E. Location of existing structures on adjacent property.
   F. Parking plan showing off street parking areas and/or loading areas.
   G. Names and addresses of adjacent property owners.
   H. Any reasonable information the Planning Commission deems necessary.
   I. Payment of the required filing fee(s).
   J. A Variance Agreement form between all parties involved to include:
      Description of variance requesting
      Legal description of subject property and adjoining property(s)
      Notarized
      Recorded with Bottineau County Recorder

2. Planning Commission Recommendation – The Planning Commission, upon receipt of an application for a Variance Permit, shall at its next regular or special meeting, specify a time and date within the next 30 days for a public hearing for the proposed variance. Following the public hearing, the Planning Commission shall consider the application and make a recommendation to the County Commission within 30 days.

3. Public Hearing and Notice – The Planning Commission shall publish a notice of the public hearing in the official county newspaper at least ten days before the hearing. Notice shall include the date, time, place, and purpose of the hearing. In addition to the published notice, the Planning Commission may require that the notice be mailed to those people designated by the Planning Commission.

4. County Commission – Upon receipt of the Planning Commission's recommendations, the County Commission may either grant the proposed variance, grant the proposed variance with additional conditions, or deny the proposed variance.

SECTION 6. AMENDMENTS: The County Commission may from time to time amend, supplement, or change the district boundaries or regulations contained in these zoning regulations. A proposal for an amendment or a change in zoning may be initiated by the County Commission, by the Planning Commission, or upon application by the owner of the affected property.

1. Applications – The party desiring any change in zoning district boundaries or zoning regulations as to any lot, or area of land, shall file with the County Auditor an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the Planning Commission.

2. Public Hearing and Notice – Before the Planning Commission shall, by proper action, formulate its recommendation to the County Commission on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the County Commission, the Planning Commission, or by the property owner, the Planning Commission shall hold a public hearing on such a proposal. The Planning

Commission shall cause a notice of public hearing to be published once a week for two successive weeks prior to the time set for the said hearing in the official county newspaper. Such notices shall contain:

A. The time and place of the hearing.
B. A description of any property involved in any zoning change, by street address and/or other legal description.
C. A description of the nature, scope and purpose of the proposed regulation, restriction, or boundary.
D. A statement of the times at which it will be available to the public for inspection and copying at the office of the County Auditor.

3. County Commission Approval – Upon receipt of the recommendation of the Planning Commission on any amendment, or in the event of the failure of the Planning Commission to so report after 30 days from the time of the filing of the proposed amendment to the Planning Commission, the County Commission shall hold a public hearing. Notice of the public hearing shall be published once a week for two successive weeks prior to the time set for said hearing. The notice shall contain the same information required for the Planning Commission public hearing listed in Section 6.2 of this Article. A majority decision of the County Commission shall be sufficient to approve an amendment of the zoning regulations.

SECTION 7. SCHEDULE OF FEES AND CHARGES: The County Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for permits, appeals, and other matters pertaining to these regulations. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the County Commission. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

1. Building Permits – A building permit is required for all new construction or anything that alters the structural shape or integrity of the lot, excluding fences.

2. Other permits and hearings – A fee shall be paid by the applicant upon filing an application for an amendment, conditional use permit, variance permit, or any other activity which requires an advertised public hearing.

SECTION 8. PENALTIES

1. Enforcement – The County Sheriff and the Sheriff's staff shall enforce these zoning regulations. Appeal from the decision of the Sheriff may be made to the County Commission.

2. Complaints – Any person may file a written complaint whenever a violation of these regulations occurs or is alleged to have occurred. Such a complaint shall state the cause and basis thereof and be filed with the County Sheriff, with a copy to be provided to the Zoning Board. The County Sheriff shall record the complaint, promptly investigate, and take action thereon as provided by these regulations.

3. Violations – If any building or structure is erected, reconstructed, altered, enlarged, converted, or moved; or if any building, structure, or land is used in violation of these regulations, the County Sheriff shall order in writing, the correction of such violation. The County Sheriff, States Attorney, or other official designated by the County Commission, may institute appropriate action of proceedings for the purpose of:

A. Prosecuting any violation.
B. Restraining, correcting, or abating such violation.
C. Preventing the occupancy of any building, structure, or land in violation of these regulations.
D. Preventing any illegal act, conducting of business, or use in or around any buildings, structure or land in violation of these regulations.

4. Penalty – Any persons, firm, or corporation violating the provisions of these regulations shall constitute the maintenance of a public nuisance and shall be a Class B misdemeanor. Nothing herein contained shall prevent the County from taking other lawful action to prevent or remedy any violation of the zoning regulations.

ARTICLE 5 – DEFINITIONS

SECTION 1. RULES: For the purpose of these regulations, the following rules shall apply:

1. Words used singularly shall include the plural. Words used in the plural form shall include the singular. Words used in the present tense shall include the future.

2. The word "persons" includes a corporation, members of a partnership, a business organization, a committee, board, trustee, receiver, agent, or other representative.

3. The word "shall" be mandatory. The work "may" be permissive.

4. The word "including" shall mean including but not limited to.

SECTION 2. DEFINITIONS: The following words, term, and phrases are hereby defined and shall be interpreted in the same fashion throughout these regulations. Terms not herein defined shall have the meaning customarily assigned to them.

ACCESS: A way or means of approach to provide physical entrance to property.

ACCESSORY BUILDINGS: A subordinate building or structure, the use of which in customary use is incidental to that of principal building or structure on the same lot. (Examples include a garden shed, garage, outdoor storage, and tool shed on a residential lot.)

ADJACENT LANDOWNERS: Landowners whose property is located within one (1) mile of the parcel or location of the property identified in the zoning application.

ADULT ENTERTAINMENT CENTER: Any building, premise, structure, or other facility which provides the opportunity to view materials, live or recorded performances of activities of a sexual nature which are characterized by an emphasis on matters depicting, describing, or related to specified sexual activities or specified anatomical areas such as genitals, breasts, or buttocks. Adult Entertainment Center includes but is not limited to adult bookstores and novelty shops, adult establishments, adult motion picture theaters, adult mini-motion picture theaters, as those terms are defined in N.D.C.C. Section 11-11-62, as well as exotic dancing establishments. An Adult Entertainment Center shall not include the guest rooms of a hotel or motel.

AGRICULTURAL BUILDING AND STRUCTURE: A building or structure used for the purposes related to agriculture, farming, ranching, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry, and which is not used as a place of human habitation or for the use of the public.
AGRICULTURAL DISTRICT: All lands and areas used for: cultivating the soil, producing crops and/or raising livestock, and so designated by the Bottineau County Board of County Commissioners on the Zoning District Map.
AGRICULTURE EQUIPMENT SALES AND SERVICE: Sale, service and storage of agriculture machine equipment, parts, and accessories.

ALTERATION: A change or rearrangement in the structural parts of an existing facility, building, or structure or a square footage enlargement of such by any method, or the moving an existing facility, building, or structure from one location or position to another.

AMENDMENT: Any change, revision, or modification of the text of this Ordinance or the Zoning District Map.

ANIMAL FEEDING OPERATION (AFO): Is a lot or facility where animals (other than aquatic) have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any twelve-month period and where crops, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

ANIMAL WINTERING OPERATION: The confinement of domestic livestock 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 domestic livestock, but it does not include breeding operations of more than 1,000 animal units or weaned offspring, which are kept longer than 120 days and are not retained for breeding purposes.

BARS/NIGHTCLUBS: Businesses serving or selling alcoholic beverages, on-sale and/or off-sale, with or without entertainment.

BASEMENT: One or more floors of a building that are either completely or partially below the ground level.

BED AND BREAKFAST: A private home that is used to provide accommodation for a charge to the public, with not more than seven lodging units, in which no more than two family-style meals per day are provided. "Family-style meal" means a meal ordered by persons staying at a bed and breakfast facility which is served from common food service containers, as long as any food not consumed by those persons is not reused or fed to other people if the food is unwrapped.
BOARD OF TOWNSHIP SUPERVISORS: 3-5 supervisors elected by the residents of a township to manage and control the affairs of the township to include establishing an annual budget, levying annual taxes, and to oversee township roads.
BONDING: A bond or surety is a promise by a surety or guarantor to pay one party (the *obligee*) a certain amount if a second party (the *principal*) fails to meet some obligation, such as fulfilling the terms of a contract. The bond protects the obligee against losses resulting from the principal's failure to meet the obligation.

BUILDABLE AREA: The portion of a lot remaining after required yards and setbacks have been provided.

BUILDING: A structure with a permanent foundation on the ground, fully enclosed, with or without permanent hookup to water and sewer facilities, which does not have wheels or other means to facilitate transport to another site, and is designed or intended for the enclosure, shelter, or protection of persons, animals, or property, or for commercial, public, government, or industrial operations.

BUILDING PERMIT: A permit issued by the Bottineau County Land Use Administrator or Bottineau County Auditor before and as a prerequisite to construction, erection, reconstruction, alteration, repair, or enlargement of any building or structure otherwise subject to Bottineau County Zoning Ordinances and Subdivision Regulations and NDCC Chapter 11-33.

BUSINESS AND FINANCIAL SERVICES: Services in the fields of business, accounting, banking, insurance, and real estate which may or may not require licensure or certification by state law.

CAMPGROUND: Any parcel of land containing three or more lots intended for temporary occupancy by travel trailers or tents not to exceed 45 days occupancy in any consecutive six-month period.

CERTIFICATE OF SURVEY: A land survey prepared by a land surveyor registered in the State of North Dakota with a certification that the information on the land survey is accurate.

CHEMICAL PROCESSING PLANT: An industrial process plant that manufactures or otherwise processes chemicals. Chemical Processing Plants use chemical or biological processes to transform feedstock chemicals into products.

COMMERCIAL CYRYPTOCURRENCY MINING: The commercial process by which cryptocurrency transactions are verified and added to the public ledge, known as the block chain, and also the means through which new units of cryptocurrencies are released, through the use of server farms or data centers employing data processing equipment. Any equipment requiring a High-Density Load Service, for a server farm or data center, will constitute a commercial cryptocurrency mining application.

COMMERCIAL DISTRICT: The area designated by the Bottineau County Board of County Commissioners on the Zoning District Map which provides for the grouping of retail merchandising, light industry and service activities.

COMMERCIAL ESTABLISHMENT: Any building, structure, enclosure, or premise used for normal business transactions, including the buying and selling of goods and services.

COMMERCIAL STORAGE: Storage facilities for short-term or long-term rental to multiple parties for the storage of personal property. Such facilities shall not be used as a place of human or animal habitation.

COMMUNICATION TOWER: A tall, free-standing or stayed structure that is attached to either the ground or another structure and is designed to support radio, television, microwave, or wireless communication systems.

COMPREHENSIVE PLAN: A document that is a statement of public policy concerning future land use, transportation, and public facilities. It establishes goals, objectives, and strategies to guide future development in the county. Zoning ordinances are developed to support these strategies.

LARGE CONCENTRATED ANIMAL FEEDING OPERATIONS: Any animal feeding operation that stables or confines as many or more than the numbers specified in North Dakota Administrative Code chapter 33-15-03.1.

COMPREHENSIVE PLAN: A long term, strategic plan that defines development goals for the county that guide public policy decisions in terms of transportation, utilities, land use, economic development, recreation, and housing in order to protect the health and welfare of all citizens.

CONDITIONAL USE PERMIT: A conditional use permit may be issued by the Bottineau County Board of County Commissioners for an activity or structure that is not expressly permitted in a given zoning district. The Board of County Commissioners may attach specific conditions or restrictions on a conditional use permit. Conditional uses that may be approved are specifically identified in this Ordinance. The process for obtaining a conditional use permit is specified in Section 4.6 of this Ordinance.

CONSERVATION AREA, PRIVATE: An area owned, used, or managed by a private individual or organization through land trusts, conservation easements, and private preserves to protect ecologically valuable land from future development. Land use restrictions vary in effect but shall not be established in Bottineau County to prevent normal agricultural use of land currently zoned and utilized as agricultural.

CONSERVATION AREA, PUBLIC: An area owned, used, or managed by a public entity through land trusts, conservation easements, and private preserves to protect ecologically valuable land from future development. Land use restrictions vary in effect but shall not be established in Bottineau County to prevent normal agricultural use of land currently zoned and utilized as agricultural.

CONSERVATION DISTRICT: The area designated by the Bottineau County Board of County Commissioners on the Zoning District Map as having a delicate resource base and providing for its protection from potentially damaging forces.

CONSTRUCTION SERVICES: General contractors, concrete and masonry construction, carpenters, metal building construction, and other similar construction-related activities.

COUNTY HIGHWAYS AND ROADS: Any and all highways and roads designated and selected by the Bottineau County Board of County Commissioners as part of the Bottineau County Road system and over which it has authority as provided by law.

CREW HOUSING FACILITIES: One or more lodging units or skid units, ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis, which are not real property, as defined in NDCC Section 57-02-04, and are not mobile homes, as defined in NDCC Section 57-55-01. A group of crew housing facilities that are connected physically or by common ownership may be treated as a single crew housing facility.

CRYPTOCURRENCY: A digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

CRYPTOCURRENCY DATA CENTER: Leased or owned boundaries of floor space devoted to the operating data processing equipment for Commercial Cryptocurrency Mining; excluded spaces for commercial offices, storage, shipping and receiving warehousing, or any other space that is not electronic processing.

CRYPTOCURRENCY SERVER FARM: Three or more interconnected computers held together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.

DATA CENTER A building, structure, complex or group of buildings and/or structures, facility, or dedicated space within a building, structure, complex, or facility that houses IT infrastructure, including, but not limited to, computer systems, networks, servers, applications, appliances, services, and other associated components or facilities used for the remote storage, processing, or transmission of digital data associated with those computer systems, networks, servers, applications, appliances, services, and other associated components or facilities. Associated components and facilities may also include air handlers, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. This definition also includes cryptocurrency mining, which involves the use of blockchain technology to verify and secure cryptocurrency transactions, as the terms “cryptocurrency”, “cryptocurrency mining”, “blockchain” and “Blockchain technology” are defined by any applicable State Law or, if no applicable State Law, by generally accepted industry standards.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within Bottineau County.

DEVELOPER: A person who submits an application to the Planning and Zoning Department for the purpose of land subdivision as defined herein. The developer may be the owner or the authorized agent of the owner of the land to be subdivided.

DISTRICT: The areas of Bottineau County for which the zoning regulations governing the use of land and the use, density, bulk, height, and location of structures and buildings are uniform.

DWELLING: A shelter, such as a house, where a person lives.

DWELLING, ACCESSORY: Additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence. Examples include but are not limited to a guest house, mother-in-law apartment or basement/attic apartments.

DWELLING, MULTI-FAMILY: A building designed and constructed with more than one dwelling unit for occupancy by more than one family. Multi-family dwellings include, but are not limited to, townhouses, twin homes, duplexes, 4-plexes, 6-plexes, condominiums, apartment buildings, and other similar multi-family dwellings.

DWELLING, SINGLE FAMILY: Single-family dwelling, including attached structures such as porches and stoops; or a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

DWELLING UNIT: A group of rooms in a dwelling designed for occupancy by one family for living purposes and having installed its own cooking and sanitary facilities. Within this Ordinance, the term residence, residential lot, or similar term shall be included in the definition of "dwelling unit".

EASEMENT: A vested or acquired right to use land of another owner, other than as a tenant, for a specific purpose.

ENCROACHMENT: Any fill, building, structure, or use, including accessory uses, located on real property which projects onto any portion or part of adjacent property.

EVENT PERMITS: Permits issued by the Bottineau County Board of County Commissioners for certain temporary and occasional uses before operation of said uses are allowed in the County.

FAMILY: One or more persons occupying a dwelling unit and living as a single household [or housekeeping unit. It does not include individuals or groups occupying nursing homes, motels, hotels, bed and breakfasts, or other similar lodging facilities. Unrelated persons are limited to three (3) people per housekeeping unit.

FARM: A single tract of land or contiguous tracts of agricultural land containing a minimum of 10 acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with at least fifty-one percent (51%) of his annual gross income.

FARMER: In order to be considered a farmer for the purposes of this Ordinance, the owner or tenant of the farm shall earn fifty-one percent (51%) or more of his or her annual gross income, excluding passive investment income, from the operation of the farm. A farmer, thus defined, shall include those no longer actively engaged in the participation of farm activities (retired) but maintain an ownership interest in or tenancy interest in the farm.

FARM RESIDENCE: A residence that is situated on a farm and which is occupied or used by a person who is a farmer as defined by this Ordinance. It does not apply to property which is occupied or used by a person who is not a farmer.

FEEDER LINES: The power lines between a wind energy facilities collector station and the regions high voltage transmission lines.

FINANCIAL SECURITY: An amount of money posted with the County or a third-party, whether in the form of a surety bond, irrevocable letter of credit, an escrow account, or other approved security, prior to or at the time of approval of a plat guaranteeing that the developer shall make and install all required public improvements at the developer's expense and within such time as the Board of County Commissioners shall set.

FOOD PROCESSING FACILITY: A commercial operation that manufactures, packages, labels, or stores food for human consumption, but does not provide food directly to a consumer, including any establishment that cans food, or packages food in packaging with a modified atmosphere, or processes vitamins, food supplements, food additives, spices, tea, coffee, salsa, jelly or jam, condiments, or candy.

FRATERNAL ORDER: A fraternal order is generally defined as an organization wherein a group of men, women or men and women are bound together for the purposes of advancing their educational, social or other benefits. It generally has membership requirements, rights and privileges and may or may not have secret rites. Examples would include Loyal Order of the Moose, Elks, Knights of Columbus, etcetera.

FRONTAGE: That boundary of a lot which abuts a publicly maintained road.

FUEL STORAGE & FUEL TANK TERMINAL: An industrial facility for the storage of petroleum products and from which these products are usually transported to end users or further storage facilities.

GAME FARM/PRESERVE: A commercial operation that raises wild animals, birds, or fish in a confined environment. The wildlife may be hunted for fees or raised for commercial food sales.

GOVERNMENT FACILITIES: Any building or structure, or group thereof, which is owned or leased by federal, state, local, and tribal governments. Some government facilities are open to the public for business activities, commercial transactions, or recreational activities while others are not open to the public due to highly sensitive information, materials, processes, and equipment. These facilities include general-use office buildings, special-use military installations, courthouses, national laboratories, and structures that may house critical equipment, systems, networks, and functions.

HAZARDOUS WASTE: Bottineau County defines Hazardous Waste as outlined in North Dakota Administrative Code Article 33-24, Hazardous Waste Management, and Chapter 33-24-02, Identification and Listing of Hazardous Waste.

HEARING: A public meeting held before the Bottineau County Planning and Zoning Commission or the Bottineau County Board of County Commissioners whenever the same is required by law.

HIGH DENSITY LOAD SERVICE: The provision of electrical service where the requested load density has, for any monthly billing period, either an average power demand in excess of 300 kilowatts OR an average power density in excess of 250 kilowatt-hours per year per data center square foot, equivalent to 35.064 square feet per kilowatt, at 100% load factor.

HOME OCCUPATIONS: A home occupation is an occupation conducted as an accessory use in or from a residential dwelling or its accessory building by persons whose principal residence is on the premises, and which has no more effect on adjacent property than normal residential use. Examples include a beautician, photographer, ordained minister, seamstress, sales representative, or small repair services such as watches and clocks, toys or small household appliances.

HVAC SERVICES: Heating, ventilation, and air conditioning services.

INDOOR RECREATIONAL FACILITIES: Facilities such as bowling alleys, movie theaters, health and fitness centers, roller skating rinks, etcetera.

INDUSTRIAL DISTRICT: The area designated by the Bottineau County Board of County Commissioners on the Zoning District Map which provides for the grouping of manufacturing, processing, assembly, or heavy commercial activities.

INERT WASTE: Non-putrescible 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, bricks, masonry and cement concrete; asphalt concrete; metal; tree branches; bottom ash from coal fired boilers; and waste coal fines from air pollution control equipment.

JUNK OR SALVAGE YARD: Land or buildings where waste, discarded or salvage materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled, including but not limited to scrap metal, paper, hides, rubber products, glass products, lumber products, and products from the wrecking of automobiles or other vehicles, and oil and gas surplus equipment.

KENNELS: Any building or lot where dogs, cats, and other household pets are boarded, bred, or maintained for compensation.

LAND DISTURBANCE: Any area in which movement of earth, alteration of topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of site preparation, grading, building construction or any other construction activity.

LANDFILL: Specifically selected, designed, and operated sites for the disposal of solid waste in accordance with NDCC Section 23-29-03 and the provisions of this Ordinance.

LAND USE ADMINISTRATOR: The officer appointed by the Bottineau County Board of County Commissioners to administer the zoning affairs of Bottineau County and to administer the North Dakota State Building Code in Bottineau County.

LIGHT INDUSTRY: A section of an economy's secondary industry characterized by less capital-intensive and more labor-intensive operations. Products made by an economy's light industry tend to be targeted toward end consumers rather than other businesses. Consumer electronics and clothing manufacturing are examples of light industry.

LIVESTOCK: Any animal raised for food, raw materials or pleasure, including, but not limited to, beef and dairy cattle, bison, sheep, swine, poultry horses, elk, and any other animals that are raised, fed, or produced as part of farming or ranching activities. Livestock also includes fur animals raised for pelts.

LODGING ESTABLISHMENT: Every building or structure, or any part thereof, which is kept, used, maintained, or held out to the public as a place where sleeping accommodation is furnished for pay to transient guests whether or not meals are provided. It does not include a facility providing personal care services directly or through contract services as defined in N.D.C.C. Sections 23-09.3-01 or 50-32-01.

LOT: A parcel of land of at least sufficient size to meet minimum zoning requirements for use intended for occupancy by one main building with its accessory buildings and having its principal frontage upon a road or street.

LOT FRONTAGE: The portion of a lot adjacent to a street or road. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.

LOT WIDTH: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the rear of the required front yard.

MANURE: 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.

MAN CAMP: Bottineau County will include “man camp” under the more inclusive term, work camp housing.

MANUFACTURED HOME: A structure, transportable in one or more sections, that, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under title 42 of the United States Code.

MECHANICAL REPAIR SERVICES: Services involving or related to the repair and maintenance of motor vehicles and other types of machinery and equipment.

MET TOWER: A free-standing or stayed structure used to collect/record metrological data on wind and weather conditions for weather services or for wind energy conversion farms.

METES AND BOUNDS: A method of property description by means of their direction and distance from an identifiable point of beginning.

MOBILE HOME: Any re-locatable structure or unit, either single or multi-sectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, which owned or used as a residence or place of business by the owner or occupant, which is either attached to utility services (services purchased by the occupant from a utility company regulated by the Public Service Commission or rural electric co-op or a political subdivision of the State of North Dakota) or is twenty-seven feet or more in length. A mobile home includes a manufactured home as defined in NDCC Section 41-09-02 and this Ordinance, other than a manufactured home with respect to which the requirements of subsections 1 through 3 of section 39-05-35, as applicable, have been satisfied. Utility services" under this definition means services purchased by the occupant from a utility company under the jurisdiction of the public service commission, a rural electric cooperative, or a political subdivision of the state. (NDCC Section 57-55-01).

MOBILE HOME PARK: Any parcel of land containing three (3) or more lots intended for occupancy by mobile homes designed to be used as living quarters which meets the requirements of mobile home parks in the NDCC Chapter 23-10 and this Ordinance, and for which a mobile home park license has been issued by the State Health Department.

MODULAR HOME/HOUSING/STRUCTURE: Refers to a systems-built, ready-built, or prefabricated home that is shipped on a removable frame and is set on a crawlspace or basement and is treated the same as site-built homes for appraisal and financing. A modular home located in North Dakota must be constructed in compliance with the State Building Code.

MOTOR VEHICLE AND EQUIPMENT SALES AND SERVICE: Sale, service and storage of motorized vehicles, to include watercraft, parts, and accessories.

NDAC: North Dakota Administrative Code.

NDCC: North Dakota Century Code.

NON-CONFORMING USE: Any building or tract of land lawfully occupied by a conforming use at the time of the passage of this Ordinance or amendments thereto, which does not conform with the provisions of this Ordinance or amendments thereto.

NON-FARM RESIDENCE: Any single family dwelling which is to be situated on a parcel zoned agriculture whose occupant is or is to be a non-farmer or any other person who does not intend to farm such parcel or engage in upon such parcel the raising of livestock or other similar operations associated with farming or ranching, or who does not meet the requirements and definitions of NDCC Sections 57-02-01)(17) and 57-02-08(15).

OWNER: Any individual, firm, association, partnership, corporation, trust, or any other legal entity having a proprietary interest in the land.

PARK MODEL TRAILER: A recreational vehicle not exceeding forty feet [12.19 meters] in length which is primarily designed to provide temporary living quarters for recreation, camping, or seasonal use, is built on a single chassis, is mounted on wheels, has a gross trailer area not exceeding four hundred square feet [37.16 square meters] of enclosed living space in the setup mode, and is certified by the manufacturer as complying with American National Standards Institute standard A119.5.

PARKING SPACE: An area for the purpose of storing one parked vehicle. For the purpose of this Ordinance, one parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet. In computing off street parking, additional space shall be required off street for access drives to parking areas.

PERMANENT FOUNDATION: A wood or masonry foundation which extends below ground level and is set on footings of concrete or gravel depending on soil conditions.

PERMITTED USE: Any use which complies with the requirements of a Zoning District. Uses which are listed as permitted for a given district do not require a public hearing. Building permits are still required if any structure or building is being built or moved onto the property.

PERSONAL SERVICES: Services such as spas, tanning salons, and hair salons which may or may not require licensure or certification by state law.

PETROLEUM / NATURAL GAS PROCESSING FACILITY: A facility that is involved in the refining of crude oil into finished consumer products such as gasoline, diesel fuel, liquefied petroleum gas or other petroleum-based products. It also refers to a facility involved in the refrigeration or processing of well head/raw gas into liquefied natural gas. For the purpose of this ordinance; it shall also refer to any facility that pumps, pressurizes, refrigerates, transfers or otherwise facilitates the transportation of crude oil, well head or natural gas.

PLAT: Any map, plan, or chart of a tract of land or subdivision indicating the location and boundaries of individual lots or properties.

PRIVATE CLUB OR LODGE: A facility operated by a private membership club or fraternal order primarily for the benefit of the members and is not generally open to use by the general public.

PROFESSIONAL SERVICES: Services in the fields of engineering, law, and other technical fields which typically involve licensure or certification by state law.

PROTECTIVE COVENANT: A restriction or condition on the use of land placed upon the property by a present or former owner and recorded in the Office of the Bottineau County Recorder.

PUBLIC ACCESS ROAD: Any road available to the general public, commercial traffic, or emergency vehicles whether maintained by the government or private entity.

PUBLIC FACILITIES: A public facility can be any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity. These differ slightly from government facilities in they are not generally used by government officials or employees for interaction with the public as part of their duties. Examples include services such water or sewage treatment plants, municipal waste facilities, or recreational swimming pools, parks, and golf courses.

PUBLIC IMPROVEMENTS: Street grading or surfacing, installation of sidewalks, curb, gutter, water, sanitary and storm sewer systems, drainage, culverts, bridges, street or area lighting, traffic control signs, utilities, trees or other landscaping, as may be required in a developer's agreement.

RECREATION DISTRICT: The areas designated by the Bottineau County Board of County Commissioners on the Zoning District Map which provide for general or specific recreational use.

RECREATIONAL ACTIVITIES: Activities that one does for refreshment of health or spirits or for pleasure. Examples include picnics, golf, ball games, hiking, swimming, boating, skiing or other similar activities.

RECREATIONAL VEHICLE: A vacation trailer or other vehicular or portable unit which is either self-propelled, towed, or is carried by a motor vehicle and which is intended for human occupancy and is designated for vacation or recreation purposes but not a year-round residential use.

RECREATION VEHICLE PARK (RV PARK): A tract of land, designed and utilized, and operated for a fee or other basis as a place for temporary parking (45 days or less) of occupied recreation vehicles.

RECYCLING PLANT: A recycling plant is a facility which processes materials for recycling by melting, shredding, crushing, or pulping.

REGISTERED LAND SURVEY: A survey map of parcels on record designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number.

REGISTERED LAND SURVEYOR: A land surveyor licensed and registered in the State of North Dakota.

RETAIL ESTABLISHMENTS: Businesses involved primarily in the sale of consumer goods to the end user. Retail sales or "sale at retail" includes the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property.

RE-SUBDIVISION: A change in an approved and recorded subdivision plat if such change affects any street layout on such map or area reserved for public use, or if it affects any map or plan legally recorded prior to the adoption of this Ordinance.

RIGHT-OF-WAY: The area, either public or private, over which the right of passage exists for alleys, bikeways, sidewalks, streets, roads or highways, or utilities such as electric transmission lines, telecommunications, pipelines, sanitary or storm sewers, and waterlines. The right of way shall not be considered as land area when computing lot size.

SEASONAL HOME: A single family or multi-family dwelling unit building or structure that is not designed, constructed, or used for year-round occupancy. Examples would include a summer lake home or a hunting cabin.

SENSITIVE PROPERTIES: Buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby facility.

SEPTIC DISPOSAL SITE (RV DUMPING): A facility that collects or stores wastewater for later removal and treatment, including the use of holding tanks or chemical toilets.

SEPTIC SYSTEM: A waste disposal system consisting of a tank of between 1,000 and 2,000 gallons in size connected to an inlet wastewater pipe at one end and a septic drain field at the other. The term "septic" refers to the anaerobic bacterial environment that develops in the tank which decomposes or mineralizes the waste discharged into the tank.

SETBACK: The line within a property defining the required minimum distances between any building or structure or use and the adjacent right-of-way or property line of any lot. Setbacks shall be measured from the point where the building, structure, or use protrudes the farthest out.

SEWAGE LAGOON: Small municipal sewage systems (1 million gal/day or less) employ aerated lagoons. Lagoons utilize a biological oxidation process in surface aerated basins for treating municipal wastewater.

SEWAGE TREATMENT FACILITY: Any facility for removing contaminants from wastewater and household sewage, domestic, commercial and institutional. It includes physical, chemical, and biological processes to remove physical, chemical and biological contaminants. Its objective is to produce an environmentally safe fluid waste stream and a solid waste or treated sludge suitable for disposal or reuse. It may refer to large municipal treatment facilities or smaller, even temporary facilities utilizing membrane bioreactors, sequencing batch reactors, or other approved technology.

SIGHT LINE: An area of unobstructed vision at a street or road intersection defined by lines of sight between points at a given distance from the intersecting street or road right-of-way lines.

SIGN: Any emblem, name, identification, description, or illustration which is used for outdoor advertising having a permanent location on the ground or attached to or painted on a building including bulletin boards, poster boards, and billboards. This does not include real estate for sale signs, political campaign signs, or public information and traffic signs.

SITE PLAN: A detailed plan for making improvements to a parcel(s) of land for the purpose of building or development as provided in this Ordinance.

SKID UNIT: A structure or group of structures, either single or multi-sectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or place of business on a temporary or permanent basis.

SOLAR ENERGY CONVERSION FACILITY (SOLAR FARM): For the purpose of this ordinance, solar farm includes the use of land where a series of solar collectors are placed for the purpose of generating photovoltaic power which generates 15 kW 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 a substitute for traditional energy for water heating, active space heating and cooling, or generating electricity for individual residential, agricultural, or commercial buildings.

SOLAR POWER: Solar power is the conversion of energy from sunlight into electricity, either directly using photovoltaics, indirectly using concentrated solar power, or a combination.

STREET: Except for the section lines, a way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place or however otherwise designated.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

SUBDIVISION: The division of a lot, parcel of land, or tract, creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights-of-way, whether public or private, for access to or from any such lot, tract or parcel, and the creation of new or enlarged parks, playgrounds, plaza, or open spaces.

SUBDIVISION, SIMPLE: The creation of one lot which is 15 acres or less, where the remaining parcel is 15 acres or more and not adjacent to a lot that is 15 acres or less.

SUBDIVISION, STANDARD: The creation of one or more lots under the provision of this Ordinance that does not meet the definition of a simple subdivision.

SURFACE WATER: Waters on the surface of the earth, excluding diffused surface waters but including surface waters whether flowing in well-defined channels or flowing through lakes, ponds, or marshes which constitute integral parts of a stream system, or waters in lakes.

TOPOGRAPHY: The configuration of the surface of the land, including its relief in detail.

TRACT: A plot, piece, or parcel of land, other than a lot which is recorded in the Office of the Bottineau County Recorder's Office.

TRANSLOAD/TRANSMISSION FACILITY: A facility designed and constructed for the collection and temporary storage of crude oil while awaiting transfer to railcar or a pipeline for transportation to a petroleum processing facility. It may also

refer to any facility designed and constructed for the purpose of refrigeration or pressurization of natural gas for transmission to a natural gas processing facility.

TRANSMISSION LINE: Overhead electrical lines of 46 KV or larger.

TRUCK TERMINAL: Truck parking for oil and gas development, mineral extraction, commercial hauling, or construction activities.

USE: The term referring to:

a. Any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied; and
b. Any occupation, business activity or operation carried on (or intended to be carried on) in a building or other structure or on land;
c. A name of a building, or structure or tract of land which indicates the purpose for which it is arranged, designed, intended, maintained or occupied.

UTILITY: The basic facilities for public use such as water, sanitary and storm sewer, as well as electric, gas, cable, and telephone lines.

VARIANCE: A relaxation of the terms of this Ordinance by the Board of County Commissioners in any specific case where a literal enforcement of any provisions or resolution would result in great practical difficulties, unnecessary hardship, or injustice.

VETERINARY FACILITIES: Buildings, structures, premises, or lots used for the treatment, care, advice or guidance, or other services, or supplies related to the health or death of an animal or animal populations.

WAREHOUSES: Temporary storage of goods before transport to the point of sale or another warehouse location. Freight terminals are included in this definition.

WASTE: Bottineau County will utilize the definitions set forth in the North Dakota Administrative Code.

1. **COMMERCIAL WASTE:** means solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities exclusive of household waste, industrial waste, and special waste.
2. **HAZARDOUS WASTE:** Hazardous waste" has the meaning given by North Dakota Century Code section 23-20.3-02 and further defined in North Dakota Administrative Code chapter 33-24-02
3. **HOUSEHOLD WASTE:** solid waste, such as trash and garbage, normally derived from households, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas.
4. **INDUSTRIAL WASTE*:*** Solid waste has the same meaning as in North Dakota Century Code section 23-29-03. It does not include special waste or hazardous waste as defined by NDAC Chapter 33-20.
5. **RADIOACTIVE WASTE**: waste containing radioactive material and subject to the requirements of article 33-10
6. **SOLID WASTE**: "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. The term does not include:
    a. Agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners; or
    b. 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 permits under section 402 of the Federal Water Pollution Control Act, as amended [Pub. L. 92-500; 86 Stat. 816; 33 U.S.C. 1251 et seq.], or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended [68 Stat. 919; 42 U.S.C. 2011 et seq.].

7. **SPECIAL WASTE**: Solid waste that is not a hazardous waste regulated under NDCC Chapter 23-20.3 and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal or industrial waste.

WATERS OF THE STATE: All water within the jurisdiction of the State of North Dakota, including all boundary waters, streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters that do not combine or effect a junction with natural surface or underground waters just defined.

WHOLESALE ESTABLISHMENT: Businesses involved primarily in the sale of consumer goods to retail establishments.

WIND ENERGY FACILITIES: A scaled power plant (wind farm) that uses wind turbines to generate electricity for commercial purposes.

WIND TURBINE: A structure that captures kinetic energy from the wind to generate/produce electricity. The components of this structure normally include blades, tower, and nacelle body.

WORK CAMP HOUSING: An area specifically designed to accommodate the siting of approved housing units for a temporary influx of workers and meeting the requirements of this Ordinance and the North Dakota Century Code. This term is inclusive of the terms “man camp” or “crew housing facilities.”

YARD: The minimum amount of open space on a lot which is required to be unoccupied or unobstructed by any portion of a structure from the ground upward.

ZONING: A tool that allows the County to regulate the use of land in a manner that protects the general health, safety, and welfare of the community and ensures that the community evolves and changes in a manner consistent with the vision described in the Bottineau County Comprehensive Plan.

ZONING DISTRICT MAP: The map showing the zoning districts of Bottineau County officially adopted by the Bottineau County Board of County Commissioners.

APPENDIX I. LARGE WIND TOWER REGULATIONS

1. A wind energy facility or part of one will be conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below:

Zoning District	Not Permitted	Conditional Use Permit
Agricultural (AG)		Yes
Commercial (CO)		Yes
Industrial (IN)		Yes
Rural Residential (RR)	No	
Rural Recreational (RE)	No	

2. Conditional use permit application process:

Work may commence to construct a wind energy facility only after a conditional use permit has been issued by the County Commission. This does not preclude wind monitoring, soil testing, or survey work prior to obtaining a permit, however, even prior to applying for or receiving a conditional use permit for a wind energy facility, MET towers must be lit and marked (aka painted) according to this Ordinance.

A permit application must be submitted to the Zoning Administrator. Each application must be signed by a representative of the prospective permittee who is authorized to contractually bind the person. An application must include the following:

A. The application shall include a fee of $1,000 plus $1,000 for each proposed wind turbine up to a total amount of no more than $25,000.
B. The name, business address and phone number of the person in whose name the permit is to be issued and if the authorized agent for service of process is different than the permit holder, the name and North Dakota address of the agent of the person authorized to receive service of process on the person's behalf.
C. Evidence of the applicant's capacity to contractually bind the person seeking the permit and authority to make binding representations on the person's behalf for purposes of zoning, siting, and construction of a wind-energy facility.
D. 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.
E. The applicant shall include in the application information describing the applicant's wind rights within the boundaries of the proposed site.
F. The applicant shall provide a registered professional engineer's report as described below in road protection.
G. A USGS topographical map of the wind energy facility and 1,320 feet of adjoining land, not-participating land, contiguous with any proposed host property. The following shall be clearly marked on the map:
    a. Each existing: wind turbine, wind energy facility fixture, regardless of ownership, accessory structure or building, including substation, meteorological tower, electrical infrastructure, and collector line or transmission line.
    b. Each of the applicant's proposed improvements for the wind energy facility or accessory structure or building, including each wind turbine, MET tower, electrical line, and access road.
    c. Each occupied structure, improvement, public road, private road, utility line, and public facility.
    d. All section lines and any boundaries between abutting parcels, tracts, or lots owned by different parties.
    e. Boundaries of any easement for section line, public road, highway, that is 5 RD of an envisioned or probable wind turbine site.
    f. Boundaries of any filed lease, easement, or option for wind energy facilities, whether they benefit the applicant, the applicant's probable operator, or an unrelated party.
    g. The site boundary.
    h. Each public or private airstrip with an FAA identification number. See http://www.faa.gov/airports_airtraffic/airports/airport_safety/airportdata_5010/.
    i. Natural terrain features.
    j. Either noted on the map and/or via key, the names of the property owners inside the site and of the property owners for adjoining land.

3. Planning Commission Recommendation – The Planning Commission, upon receipt of an application for a Conditional Use Permit shall at its regular or special meeting, specify a time and date within the next 30 days for

a public hearing for the proposed conditional use. Following the public hearing, the Planning Commission shall consider the application and make a recommendation to the County Commission within 30 days.

4. Public Hearing and Notice – The Planning Commission shall publish a notice of the public hearing in the official county newspaper at least ten days before the hearing. Notice shall include the date, time, place, and purpose of the hearing. In addition to the published notice, the Planning Commission may require that the notice be mailed to those persons designated by the Planning Commission.

5. County Commission – Upon receipt of the Planning Commission's recommendations, the County Commission may either grant the proposed conditional use, grant the proposed conditional use with additional conditions, or deny the proposed conditional use.

6. Demonstration of Compliance – The permit issued pursuant to this Ordinance is conditioned on the Permittee's final demonstration of compliance with the requirements of the Ordinance following completion of construction of the facility. Within 90 days of facility construction completion, the Permittee shall submit to the Planning Commission an updated and final USGS topographical map, or survey if available, providing all information pursuant to Section 2 (G) and demonstrating actual compliance with the requirements and conditions of the permit.

7. Appearance, Lighting, Sound, Agricultural Operations, Roads and Power Lines

   A. Wind turbines shall be painted a non-reflective coating and in a non-obtrusive color.
   B. Turbines shall not display any advertising.
   C. Each turbine will be marked with an identification number large enough to assist identification of the turbine number in an emergency.
   D. Turbines are to be lighted to the extent advised by the FAA in FAA Advisory Circulars 45CFR§§17.21-17.58 or their successors.
   E. At wind energy facilities, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, not disrupt farming, agricultural operations or the landscape. In order to preserve the integrity of fields and capacity for efficient tilling, planting, and harvesting, access roads should be built parallel or perpendicular to existing roads, not diagonally across fields for mere convenience of the shortest route to a turbine.
   F. The Permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the Wind Energy Facility's life, unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.
   G. The Permittee shall place electrical lines, known as collectors, and communication cables underground when located on private property, unless the Permittee either first obtains a waiver from the private land owner and the Permittee provides clear and convincing evidence to the Planning Commission that satisfies the Permittee's heavy burden of proving there are either geographic and/or geologic conditions present that make underground location impossible, impractical or infeasible, in which case a variance may be granted. Similarly, where the Permittee obtains a waiver from the landowner and can show by clear and convincing evidence presented to the Planning Commission that the physics of conductivity will cause such power loss due to transmitting over such long distance underground, a variance will be granted. Use of the public right of way must be in compliance with the associated governing body's criteria for use. Collectors and cables shall also be placed within or adjacent to the land necessary for wind turbine access roads, unless otherwise negotiated with the affected landowner. Feeder lines are excepted from the requirements in this paragraph.
   H. The Permittee shall place overhead feeder lines on public right-of-way, if a public right-of-way exists, or the Permittee may place feeder lines on private property. A change of routes may be made as long as the feeder remains on public right of way and approval has been obtained from the government

responsible for the affected right-of-way. When placing a feeder line on private property, the Permittee shall place the feeder in accordance with the easement negotiated with the affected landowner.

I. MET towers 100 feet or more tall must be marked and lighted in a way that satisfies FAA advice set out in FAA Advisory Circulars 47 CFR §§17.21-17.58 or their successors. http//wireless.fcc.gov/antenna/documentation/faadocs/7460-1K.pdf. Neither an environmental statement nor assessment is required. The concern addressed by this requirement for a light is aviation safety and that concern must be sensibly balanced with residential privacy. Operators are to avoid using high intensity white lighting at night. Use common sense in making a lighting selection for this area.

J. The noise level caused by the operation of the project, measured at five (5) feet above ground level at the property line coincident with or outside the project boundary, shall not exceed 65 decibels (A-weighted) and shall not exceed 50 decibels (A-weighted) if it is determined that a pure tone noise is generated by the project. These levels, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

8. Setbacks – These setbacks apply to all wind turbines in a wind energy facility. Setbacks are measured from the vertical or nearly vertical surface of the wind turbine's tower at ground level to the closest near vertical surface of the occupied or unoccupied structure, improvement, or the nearest point of a boundary, bridge, line, or outside edge of the improved surface of a road or airstrip.

A. Each wind turbine must be set back at least 5 RD from any occupied structure.

B. Each wind turbine must be set back at least 1.5 times the turbine height from any public road or bridge; rail line; above ground electrical or communication line. Turbines must be setback at least 1.5 times the turbine height RD from each antenna, tower, unoccupied structure, or improvement with an estimated value over $25,000. The Planning Commission can estimate the value without appraisal, but interested parties may timely submit an appraisal.

C. Each wind turbine must be set back at least 5 RD from the boundary between the host property and any property that adjoins the host property. Public roads are excepted from the 5 RD setback requirement but have an applicable setback above.

9. Variance to Setback

A variance to a setback related to private property may be granted if the Permittee and the affected party sign a waiver agreement.

The Planning Commission may issue a variance from a setback requirement regarding an occupied structure if that structure has not been used as an occupied structure in a year or more prior to submission of the permit application or request for variance. The act of providing this particular example of one reason a variance to a setback can be issued does not limit the Commission to issuing variances for only that reason.

10. Notice of Hearing on Application for Variance to a Setback.

It is the obligation of the party seeking the variance to the setback requirement to serve notice of the initial hearing on the application, in accord with the ND Rules of Civil Procedure, to all property owners having an occupied structure, boundary, unoccupied structure, road bridge, antenna, tower, or an improvement located inside the setback area sought to be diminished. Proof of service must be filed with the Planning Commission prior to the hearing. The Planning Commission can authorize notice by publication according to the Rules of Civil Procedure.

11. Waiver of Setback

Where the provision for variances on wind turbines differ from general variance provision in Article 4 Section 5 of this Ordinance, this wind turbine's special provision governs for wind turbine issues.

A permit applicant, permittee, or host property owner may apply for a variance from a setback requirement involving an occupied structure, unoccupied structure, improvement, antenna, tower, road, or bridge.

12. Contents of Setback Waiver

The party seeking the variance from the setback must attempt to obtain from the affected property owner and should provide to the Planning Commission a waiver executed by each affected owner sought to be removed from the applicable setback protection. The waiver should be for a period of time equal to or greater than the greatest period of time granted to the operator in the lease, easement, option or the greatest combination thereof given by the host property owner.

The setback waiver signed by the affected property owner must contain a notice to the property owner of the setback required by this Ordinance, describe how the proposed wind turbine location is not in compliance with the setback, and clearly state that consent is granted for the wind turbine or accessory to the owner's property. The waiver must also contain the following notice:

> *"A wind turbine absorbs energy from a stream of wind. Once the stream of wind passes through the rotors of a turbine, it loses energy, becomes disarrayed, and until the wake is calmed and the stream reinvigorated, is less useful to another turbine set up downwind from the first. Wind wakes can extend more than 5 rotor diameters downwind from a turbine. So, if your neighbor has a turbine upwind from you and within 5 rotor diameters of your boundary, it will probably be unfeasible for you to place a turbine on your property close to the boundary in the wake of your neighbor's turbine. To protect you from having a neighbor and a power company place a turbine so close to your property that is saps the potency of the wind before it arrives over your land, Bottineau County passed a setback requiring all turbines to be placed at least 5 rotor diameters (5RD) from any property boundary. You may waive that setback protection. You may want to strike an agreement with your neighbor and a power company that gives you part of the proceeds of the turbine in exchange for allowing your neighbor to place the turbines less than 5 RD from your property. You may wish to charge the neighbor or the power company for your waiver. You probably ought to contact a private attorney before you sign a setback waiver."*

13. Required Dignities of Valid Variance

A setback variance is only valid if granted by duly passed motion of the Planning Commission, issued in writing, and signed by either the chairman of the Planning Commission or the Zoning Administrator.

14. Minimum Ground Clearance

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

15. Restoration of Property

Within one hundred and eighty (180) days of termination or abandonment of leases or easements for a wind energy facility in the County, the Permittee shall cause, at its expense, removal of all structures to a depth of four (4) feet below preconstruction grade.

16. Road Protection

The permittee is responsible for abiding by the State and local overweight load permitting process. See NDCC Chapter 39-12 and Bottineau County Road Department. A conditional use permit issued under the Ordinance to erect a wind energy facility does not negate a hauler's obligation to obtain an overweight load permit prior to hauling.

Any road damage caused by the permittee, its independent contractor, employee, agent, contractor, or subcontractor shall be promptly repaired at the permittee's expense to current standards set out in NDDOT's Standard Specifications for Road and Bridge Construction http:///www.dot.nd.gov/dotnet/supplspecs/StandardSpecs.aspx. If reasonably foreseeable that the continued trips will make prompt repair to this standard absurd, the intermediary measures must be taken by the operator, if approved by the political subdivision in charge of the road, to ensure the public road remains passable and useable as has been the tradition in the community. Final repairs to these standards must be made promptly after the completion of the construction of the wind energy facility.

17. Engineer's Report

The applicant shall identify, by map, each public road in Bottineau County that the permittee may or will travel on with a gross weight of over 80,000 lbs.

The applicant will at its own expense, supply to the County a pre- and post-construction road condition report. The report must be approved by a civil engineer registered as a professional engineer under NDCC Chapter 43-19.1. The report shall provide generally accepted means of non-destructive testing to catalogue the condition of any public road or bridge in Bottineau County that the permittee may or will use to carry, cross, or traverse with a gross weight over 80,000 lbs.
The report will describe the gross weight the permittee anticipates running for certain classes of jobs; a rough estimate of the number of extreme (over 150,000 lbs.) gross weight trips; what general damage or wear the engineer expects to see; and what places the engineer expects the pavement to entirely fail, fail, or near entire pavement failure or substantial damage to an unpaved public road. The report will supply the planned methods for addressing pavement failure and near pavement failure during the construction process that will ensure roads remain passable. Also, methods will be supplied for addressing road damage that obstructs vehicular travel on unpaved roads. The report will lay out the timeline for final repair or replacement of roads damaged or destroyed.

Both the pre-haul inspection and the post haul inspection must address the following:

A. Video recording of the haul road(s) from start to finish taken from a vehicle driven 25 mph.
B. Use straight edge to check for rutting every 0.10 miles.
C. Use still photography with notation re: location and length to record breakups and yielding aka alligator aka checkerboard.
D. Record round (steel) and joint alignment (concrete) on major centerline culverts.
E. Record width of traveled way and depth of pavement or gravel every 0.10 miles of completion of the construction of the wind energy facility, at its own expense, obtain and submit to the Zoning Administrator a post construction assessment of any Bottineau County or Township Road the permittee traveled with greater than 80,000 lbs. gross weight. The report must be approved by a registered

engineer. Any damage caused or thought to be exacerbated by the permittee's loads or work that has not been repaired or remedied at the time of the report will be identified and a timeline for repairing each will be identified along with an explanation of the repair or replacement proposed.

18. Surety Required

A $250,000 cash bond or surety bond is required for each permit.

19. Transfer of Wind Energy Facility Siting Permit

In the event of a change in ownership or controlling interest in a wind energy facility and the transfer of the Permit, any successors and assigns of the original permittee must agree to abide by and comply with the requirements and conditions of the permit for the duration of operation of a wind energy facility permitted in the County or give notice of intent to not honor it and forfeit the permit and its rights. Within thirty (30) days of such change in ownership or controlling interest of any entity owning a wind energy facility, the permittee shall notify the Zoning Administrator. If the new entity has a different agent for service of process in the State, then the new agent's address and name need to be provided at that time. A change of ownership that results in either inability, unwillingness, or failure to abide by the conditions of this ordinance can be a basis for revocation of the permit.

APPENDIX II. SMALL WIND TOWER REGULATIONS: This section is intended to provide reasonable standards for the use of a Small Wind Energy System (SWES) which would allow electrical power consumers to supplement or replace their use of utility-provided electrical power without creating negative impacts to adjacent properties or the public.

1. For the purposes of this section, a SWES is defined as a wind turbine of less than 100 kilowatts maximum output capacity and all appurtenant structures and equipment. A SWES is incidental and accessory to a permitted principal use located on the same lot or parcel of land. A SWES is intended to produce electricity primarily for on-site consumption, but excess electrical power may be transferred to a utility company power supply grid pursuant to utility company interconnection agreements.

2. A SWES may be permitted in any zoning district subject to approval of a conditional use permit by the Planning Commission and County Commission. A conditional use permit may be revoked at any time if the SWES is

found to be in violation of any of the rules of this or other sections of the Zoning Ordinance or in violation of any of the conditions imposed by the Planning Commission in granting the conditional use permit.

3. The minimum building setback distance shall be 150% of the height of the structure.

   A. The setback distance is the horizontal distance from the center of the supporting structure to the nearest property line or to the nearest overhead utility easement or underground easement.
   B. The height of the structure is the vertical distance from the ground surface to the highest point of a rotor blade when in an upright position.

4. The bottom of the rotor blade sweep shall be no closer than 25 feet above the ground surface. Blades may not extend over parking areas, driveways, or sidewalks.

5. Small wind energy systems shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling unit. The noise level may be exceeded during short-term events such as utility outages and/or severe wind storms.

6. Additional rules regarding SWES's.

   A. Following the approval and installation of a SWES, the Zoning Administrator may require the owner/operator of the SWES to engage a certified technician to perform sound measurements at the closest property line to determine and report ambient and operating decibel levels.
   B. A SWES shall be equipped with both automatic and manual braking controls to prevent uncontrolled rotation and to limit the rotation speed to the design limits of the SWES.
   C. The owner/operator of a SWES must provide proof of liability insurance at the time of application.
   D. Shadow flicker shall not negatively impact any adjacent properties.
   E. The SWES shall not cause electronic or electromagnetic interference with signal receptions or transmissions beyond the boundaries of the property upon which the SWES is located.
   F. To minimize off-site visibility to the greatest extent possible, the color of a structure shall be a neutral white or light gray and the surface finish shall be nonreflective.
   G. The use of flood lights, laser lights, strobe lights, searchlights, beacons and similar lighting is prohibited unless required by the FAA.
   H. No signs are allowed on the SWES structures except for safety or warning signs which are limited to three square feet in area.
   I. No climbing apparatus shall be located within 12 feet of the ground on any structure. All structures shall be designed to prevent climbing by unauthorized persons.
   J. Facilities shall be well maintained in an operational condition that poses no potential safety hazard.
      a. If a SWES remains nonfunctional for a continuous period of one-year, the system shall constitute a public nuisance and shall be removed at the owners expense.
      b. Removal includes the entire structure and related appurtenances including any foundation and transmission systems.
   K. An application for a conditional use permit for the placement of a SWES shall include the following:
      a. Scaled and dimensioned site plan drawing showing features of the property and adjacent land within 300 feet of the subject parcel, including but not limited to:
         1. Location and height of the SWES.
         2. Property boundaries.
         3. Distances from a SWES to closest points on adjacent property boundaries.
         4. Location and dimensions of structures.
         5. Zoning districts of all adjacent properties.
         6. Owners of all adjacent properties.
         7. Locations, dimensions and descriptions of utility easements.

8. Location of utility lines.
9. Location of underground petroleum pipelines.
10. Distances from the SWES to the closest points on utility easements.

b. Written information on the manufacturer of the proposed SWES stating the following:
1. Compliance with noise standards established by paragraph 5 of this section.
2. Compliance with electronic interference standards established by paragraph 6 (E) of this section.
3. Evidence that the proposed SWES model has an operational history of at least one year.
4. Shadow flicker properties.

c. Unless certified by the manufacture as not causing shadow flicker in the proposed installation, a shadow flicker model and map showing:
1. Shadow flicker map coverage area of 1,000 feet from a SWES.
2. Shadow flicker model representing locations affected, intensity, and duration.

d. Copies of letters of compliance of the proposed SWES from the following:
1. Federal Aviation Administration.
2. United Sates Fish and Wildlife Service.
3. The local electrical utility company serving the subject property.

L. An application for a building permit for the placement of a SWES must include:
a. A copy of the conditional use permit, with the site plan, as approved by the Planning Commission.
b. Dimensioned engineering drawings of the structure including the tower, base, and footings.
c. Line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation will meet compliance with electrical codes.
d. Documentation certifying that the SWES will meet structural loading requirements for a 90-m.p.h. sustained wind. Wind load certification shall be prepared by a professional structural engineer registered in the State of North Dakota.

Wind Turbine Definitions

Adjoining land – Real property that has a different owner than the host property and is either contiguous to the host property at any point or segment, or is separated from the host property by an intervening fee simple interest that is less than 5RD.

Airstrip – A takeoff and landing area for fixed wing aircraft, whether publicly or privately owned, that was given an FAA numerical designation sometime before March 1, 2009.

Applicant – A person who filed an application for a conditional use permit.

Facility Owner – Person(s) having an equity interest in the wind energy facility.

Feeder Lines – Power lines between a wind energy facility's collector stations or substations and the region's high voltage transmission lines.

Gross Weight – The weight of a vehicle without a load plus the weight of any load on it.

Host Property – The very lot on which a wind turbine is located. A wind energy facility may contain several host properties. The fact that adjoining properties having various respective owners are covered by related options, leases, or easements to a single facility owner does not cause the various landowners to be a single host property. Each parcel containing a turbine is a host property even if an abutting property belonging to another property contains a turbine belonging to the same facility owner.

Hub Height – The distance measured from the surface of the tower foundation to the height of the axis of the wind turbine hub.

MET Tower – A meteorological structure used to collect data on wind and/or weather conditions.

Occupied Structure – A manmade shelter in which people either live, meet, conduct business, or gather, in addition it includes but is not limited to a residence, dwelling, apartment house, condominium, or residential setting; any structure open to the public for business that regularly conducts business including but not limited to a hotel, motel, campground, stable, mall, school, hospital, church, public library, store, manufacturing facility, or sport venue; or other structure that is either legally inhabited, in use or under substantial construction (e.g. surface has been improved in preparation for construction) at the time the permit application is issued for use as one of the above.

Operator – The person responsible for the day-to-day operation and maintenance of a wind energy facility. A facility owner may contract with or hire a person to operate it.

Permittee – The person holding the conditional use permit. Permittee may include the subsidiaries, agents, subcontractors, independent contractors, and employees of the person holding the permit; i.e. for purposes of liability for road damage caused in erection or maintenance.

Person – An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Public Road – Every way or place is generally open to vehicle travel, even though it may be temporarily closed or subject to restricted travel due to construction, reconstruction, repair or maintenance. NDCC 57-43.1.01 A section line is a public road NDCC 27-07-03.

RD – An abbreviation for "rotor diameter" which is the distance of a line segment that bisects the center of the hub and terminates at the circle that encompasses the tips of each rotor blade that are farthest from the hub.
Site – A contiguous tract or group of parcels for which one operator and/or facility owner or a group acting in concert has option agreements, easements, and/or leases acquired to operate a turbine, wind energy facility or accessory thereto.

Site Perimeter – The outside boundary of the contiguous parcels all having either an option, easement, and/or lease agreement for a wind energy facility accessory to the same facility owner.

Turbine Height – The distance measured from the ground level surface of the tower foundation to the highest point of the turbine rotor plane.

Wind Turbine (also known as turbine) – Captures kinetic energy from the wind to drive an electrical generator. Its typical components include blades, tower, accelerator platform or nacelle body.

Wind Energy Facility – An electric generating facility, the main mechanical or electrical purpose of which is to supply electricity. It consists of one or more wind turbine and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

APPENDIX III. DATA CENTERS: This section is intended to provide reasonable standards for the use of a Data Center without creating negative impacts to adjacent properties or the public.

Purpose

Data centers are intensive land uses that can consume large quantities of water and electricity. Buildings often include industrial HVAC systems or water cooling/storage systems to prevent computer servers from overheating. Such systems commonly generate continuous sounds that can spread across property lines. The low-frequency sounds emitted by Data Centers consist of long wavelengths that are not easily absorbed by the air or blocked by a sound barrier. Long-term exposure to noise impacts the health of Bottineau County residents. This setup is provided to minimize the potential off-site impacts of development to protect public health, safety, and the general welfare of Bottineau County residents.

Exemption

Data Centers which are solely located on an oil and gas well site or underground gathering pipeline line facility and which are subject to the exclusive jurisdiction of the North Dakota Industrial Commission pursuant to NDCC 38-08, or any successor statue, are exempt from the provisions of this section.

Application Requirements

The application for the installation or construction of a data center, or for modifications to a lawfully existing data center beyond routine maintenance, shall follow the application procedures for Conditional Use Permits (Article 4, Section 4) and any other procedures as may be required by this ordinance for data centers such as zoning map amendments, platting, or variances. In addition, applications shall include the following:

A. A check or money order for the permit fees. The fees include a $6500 base fee for each site plus engineer's consulting fee.
B. Applicant name(s) and contact information. The applicant must also identify on the application if different than the applicant, the record owner of the property, the occupant or lessee of the property, and the operator of the data center. Conditional Use Permits are non-transferable.
C. A narrative describing the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs.
D. A study prepared by an acoustical engineer that describes the anticipated and baseline noise level of the facility and any proposed mitigation efforts such as sound walls, ventilation silencers, etc. Bottineau County shall also have the ability to hire their own engineer at applicant's expense.
E. A site plan, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.
F. A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institutions or structures, and public parks located within three (3) miles of the exterior boundaries of the property where the data center will be located.
G. All application fees, including the required fees for a Conditional use Permit and building permits, and the amounts are determined by the Board of County Commissioners.
H. Copies of signed permits or other documentation that indicate compliance with all applicable State and Federal laws, statutes, rules, regulatory standards, including but not limited to the North Dakota State Electrical Board and the North Dakota State Electrical Code, and any amendments thereto.
I. Copies of any application or plans for water need to be included in the application process.
J. Copy of the signed electrical power purchase agreement.

Design Standards

A. **Separation from sensitive properties.** Data centers shall be set back at least three (3) miles from all single-family and multi-family dwellings, schools, animal production facility or feedlot, churches, synagogues, and other similar religious institution or structures, and public parks as measured from the nearest property line of any of the sensitive properties to the data center's exterior property lines.
B. **Setbacks.** New data centers shall be set back at least three (3) miles from any lawfully existing data center. Setbacks from residential areas and any incorporated city or town should be no less than a three (3) mile radius.
C. **Height.** All buildings, structures, and appurtenances on the property where the data center will be located shall meet the height requirements of no higher than 40 feet.
D. **Electrical Wiring** All electrical wiring shall be buried underground at a minimum of 24 inches, except where wiring is brought together for interconnection to system components or the local utility power grid, provided that all wiring shall comply with the North Dakota State Electrical Board, and any of its rules and regulations.
E. **Security Fencing** A secured chain link or solid wood or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility.
F. **Buffering and screening.** Sound buffering shall be required around the entire perimeter of the property where the data center is located as determined by the Bottineau County Planning & Zoning board.
G. **Exterior lighting Standards.** Exterior lighting for the data center shall use fixtures as approved by the county to minimize off-site glare and shall be the minimum necessary for safety and security purposes. Any exceptions shall be enumerated on the concept plan and approved by the zoning administrator.

H. **Accessory structures and appurtenances.** All accessory structures or appurtenances, including those constructed for noise mitigation, shall be designed in a manner that is complementary with the primary building(s) and shall be finished in a non-obtrusive color.

I. **Road.** All adjacent exterior access roads serving a data center shall conform to a 3,400-foot setback from residences and schools. Exterior road construction or improvements shall be subject to approval by the Bottineau County Highway Superintendent or their designee. A road maintenance agreement with any government entity having jurisdiction over the adjacent exterior access roads shall be required during installation or construction of the data center, or during modification of a lawfully existing data center beyond routine maintenance. All interior roads serving the data center shall be maintained to a standard as determined by the Road Supervisor.

J. **Noise** The operators shall not cause, allow, or permit the operation of any source of sound which creates at an occupied residential building or defined sensitive receiver, as may exist at the time of the issuance of a certificate of completion or occupancy, a sound level that exceeds a daytime continuous sound level of 50 dBA or a nighttime continuous sound level of 45 dBA, for any 15-minute measurement interval unless otherwise permitted.

The operators shall not cause, allow, or permit the operation of any source of sound which creates a pure tone where the one-third (⅓) octave band sound pressure level in the band of interest exceeds the arithmetic average of the sound-pressure levels for the two adjacent one-third octave bands by the corresponding decibel (dB (Flat)) values as follows:

1) 5 dB for center frequencies of 500 hertz and above,
2) 8 dB for center frequencies between and including 160 and 400 hertz, and
3) 15 dB or center frequencies less than or equal to 125 hertz
4) A pure tone shall be deemed present at measurement.

Each Commercial Cryptocurrency Mining operation shall provide a 24-hour emergency contact signage visible at the access entrance. Signs shall include company name if applicable, owner/representative name, telephone number, and corresponding local power company and telephone numbers.

K. **Fire Suppression** A fire suppression system capable of handling electrical, oil, and natural gas fires shall be installed either on each piece of equipment utilized for this use or that can reach each piece of equipment utilized for this use. This system must get approval from the Fire Marshall and have a certified Fire Plan.

1) An Emergency Response plan shall be provided to the Bottineau County Planning & Zoning office, Bottineau County Emergency Management, Bottineau County Sheriff's Office, and the local fire department. This plan must include measures that address potential hazards related to the equipment that is on site, the fuel sources on site, as well as any toxic hazards that are or may be present. This plan is subject to final approval by the Bottineau County Planning & Zoning Commission.
2) Applicant shall provide, at their own expense, training for the local fire department on how to handle the hazards that may be present on their property.
3) Applicant shall agree to provide a reclamation bond between themselves and Bottineau County, and this reclamation bond shall be for the value of not less than one million five hundred thousand ($1,500,000) dollars.

L. **Water Source.** Cooling through water must be through a county and-state-approved water source and/or a permit from the North Dakota Department of Water Resources due to water appropriation laws; this includes considering the volume of water needed and potential environmental impacts on the local water supply. N.D.C.C. § 61-04-02

M. **Storm Drainage, Erosion Control, Grading, and Drainage.** The data center shall comply with the storm drainage, erosion control, grading, and drainage requirements in 8.13.6 "Storm Water Management and Erosion and Sediment Control"

N. **Abandonment or Ceasing** 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 Bottineau County Planning and Zoning Committee, to be required to terminate the violation and bring the land or structure into compliance.

1) Any improvement to the land that the Bottineau County Board of County Commissioners required a bond that has reached the end of its useful life or have not been in active and continuous service for a reasonable period of time, as determined by the Bottineau County Planning and Zoning Commission, shall be removed at the owner's or operator's expense, except if the project is being improved and/or modified or

a force majeure event has or is occurring requiring longer repairs; however, the Bottineau County Planning and Zoning Commission may require evidentiary support that a longer repair period is necessary.

2) Failure of the owner/operator to pay applicable property taxes or maintain any state or federal permits or licenses shall be deemed a violation.
3) Decommissioning shall include removal of all improvements, so that any agricultural ground upon which the improvement was located is again tillable and suitable for agricultural uses. The site shall be graded and reseeded to restore it to as natural a condition as possible within a reasonable timeframe after equipment removal, as determined by the Bottineau County Planning and Zoning Commission or other land surface areas not be restored, and this request is approved by the Bottineau County Planning and Zoning Commission (other conditions might be more beneficial or desirable at that time).
4) The owner or operator shall notify the Zoning Administrator by certified mail, return receipt requested, of the proposed date of discontinued operations and plans for removal.
5) Decommissioning shall be performed in compliance with the approved decommissioning plan. The Bottineau County Planning and Zoning Commission may approve any appropriate amendments to or modifications of the decommissioning plan.
6) Hazardous material from the property shall be disposed of in accordance with federal and state law.
7) The applicant shall provide a reliable and detailed cost estimate for the decommissioning of the improvement prepared by a professional engineer or contractor who has expertise in the type of improvement that applicant is seeking to install, prior to being granted a conditional use permit. The decommissioning cost estimate shall explicitly detail the cost and shall include a mechanism for calculating increased removal costs due to inflation and without any reduction for salvage value. This cost estimate shall be recalculated every five (5) years, and the surety shall be updated in kind.
8) The Bottineau County Planning and Zoning Board shall have the authority to hire their own engineer to review and verify the estimate. Any and all costs associated with hiring an engineer shall be paid by the applicant.
9) The decommissioning cost shall be guaranteed by cash escrow at a federally insured financial institution approved by the county before any building permits are issued. The governing body may approve alternative methods of surety or security, such as a performance bond, letter of credit, or other surety approved by Bottineau County, to secure the financial ability of the owner or operator to decommission the facility.
10) If the owner or operator of the improvement fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, Bottineau County may collect the surety and staff or a hired third party may enter the property to physically remove the installation. The owner/ operator/ applicant will be financially responsible for any and all costs incurred by Bottineau County to complete decommission and reclamation.