



# Welcome

## *Open House – McKenzie County Zoning Ordinance Update*

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### **Existing Ordinance**

The existing Zoning Ordinance was first developed in 2013 and has since had various changes, but there has not been a comprehensive review and update until now.

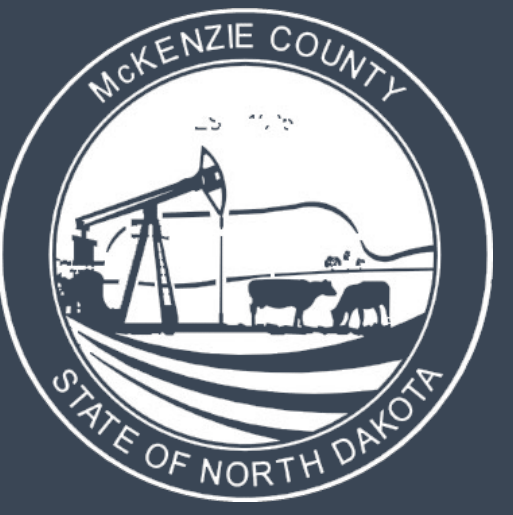
### **Proposed Ordinance**

The proposed ordinance will have a new name – Land Development Ordinance. The review process started in January 2023.

Both the existing ordinance and the meeting posters can be found at:

<https://county.mckenziecounty.net/Department/PNZ/Zoning-Ordinance-Review-Project>





# County Wind Power Zoning Regulations

*Existing Regulations and Proposed Changes*

## Existing Key Allowances

- Requires Conditional Use Permit in Agricultural Zoning District
- 1/2 mile minimum setback from any residence, commercial building, publicly-used building
- After use, removal to depth of 4'

## Proposed Key Changes

- 1 mile minimum setback from a non-participating occupied building\*
- After use, removal of all structures\*
- Required assessment of visual impact
- Allowance for small accessory systems for residence/farmstead

## Why the Change?

- Allow for residence/farmstead personal use
- Response to potential impact to residents and views

*\*Unless desired otherwise by landowner*



# County Solar Power Zoning Regulations

## Proposed Changes

### Definition

- Solar Energy System – solar energy development designed for providing energy directly to the grid for a utility (or utilities)
- Accessory Solar Energy System – small

### Why are Regulations Needed?

- Manage impacts of large systems (visual, use of tillable acreage, etc.)
- Allow small systems for personal and agricultural use

### Proposed Regulations Summary

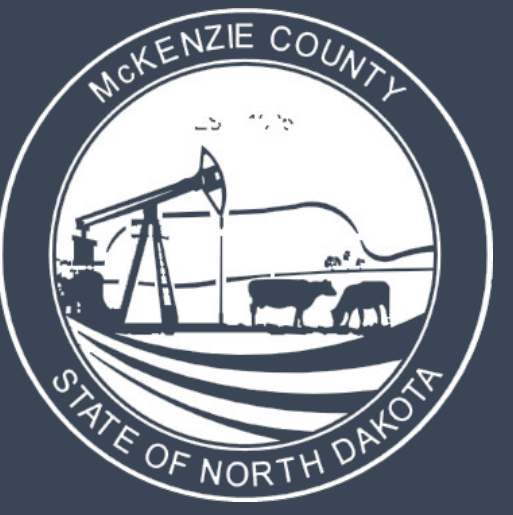
- Requires Conditional Use Permit in Agricultural Zoning District, also allowed in Industrial Zoning
- Vegetation maintenance within project required, mechanically or with livestock (sheep)
- Visual impact evaluation required
- After use, removal of all structures (above and below ground)
- Setback requirements:

Building/Feature	Setback Distance
Occupied Buildings (Participating) <sup>1</sup>	50 feet
Occupied Buildings (Non-Participating) <sup>2</sup>	1,000 feet
Property Lines (Non-Participating) <sup>2</sup>	500 feet
Federal, State, and County Roads <sup>3</sup>	250 feet
Township Roads	150 feet
Section Lines	133 feet

*1. Denotes participating and non-participating landowner properties.*

*2. Setbacks from property lines and occupied buildings for non-participating properties may be reduced with written permission from the affected landowner.*

*3. Measured from the roadway centerline.*



# Agricultural Zoning District: Residences

*Majority of County Zoning*

## Existing Key Allowances

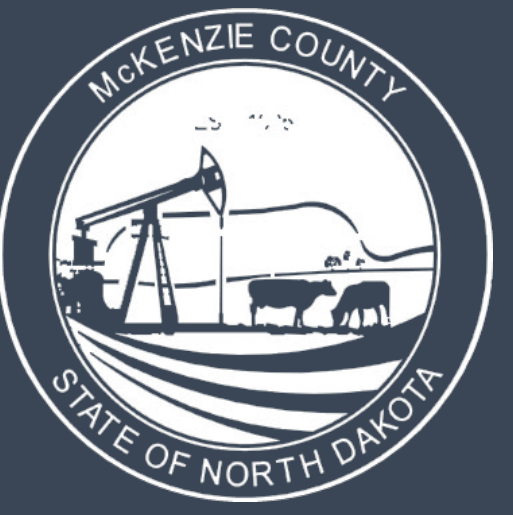
- Residence allowed on 40 acre lot or larger
- Exceptions
  1. One residence allowed on lot down to 5 acres with a Conditional Use Permit.
  2. 40 acre + homestead parcel can be divided into 3 parcels to build homes for direct family members (with a Variance).

## Proposed Changes

- Residence allowed on 5 acre lot or larger (no Conditional Use Permit or Variance)
- Limit of 3 residences per quarter-quarter (~40 acres) of a legal section

## Why the Change?

- Simplify the allowances
- Put a clear limit on density in agricultural areas (keep it agricultural in the long-term)



# County Data Center Zoning Regulations

*Proposed*

## What is a Data Center?

- A facility which houses computer or network equipment, systems, servers, and related appliances or components used primarily for the storage, management, processing, and transmission of digital data. Includes facilities with cryptocurrency mining.
- Need significant power source; locate adjacent to substations

## Why North Dakota?

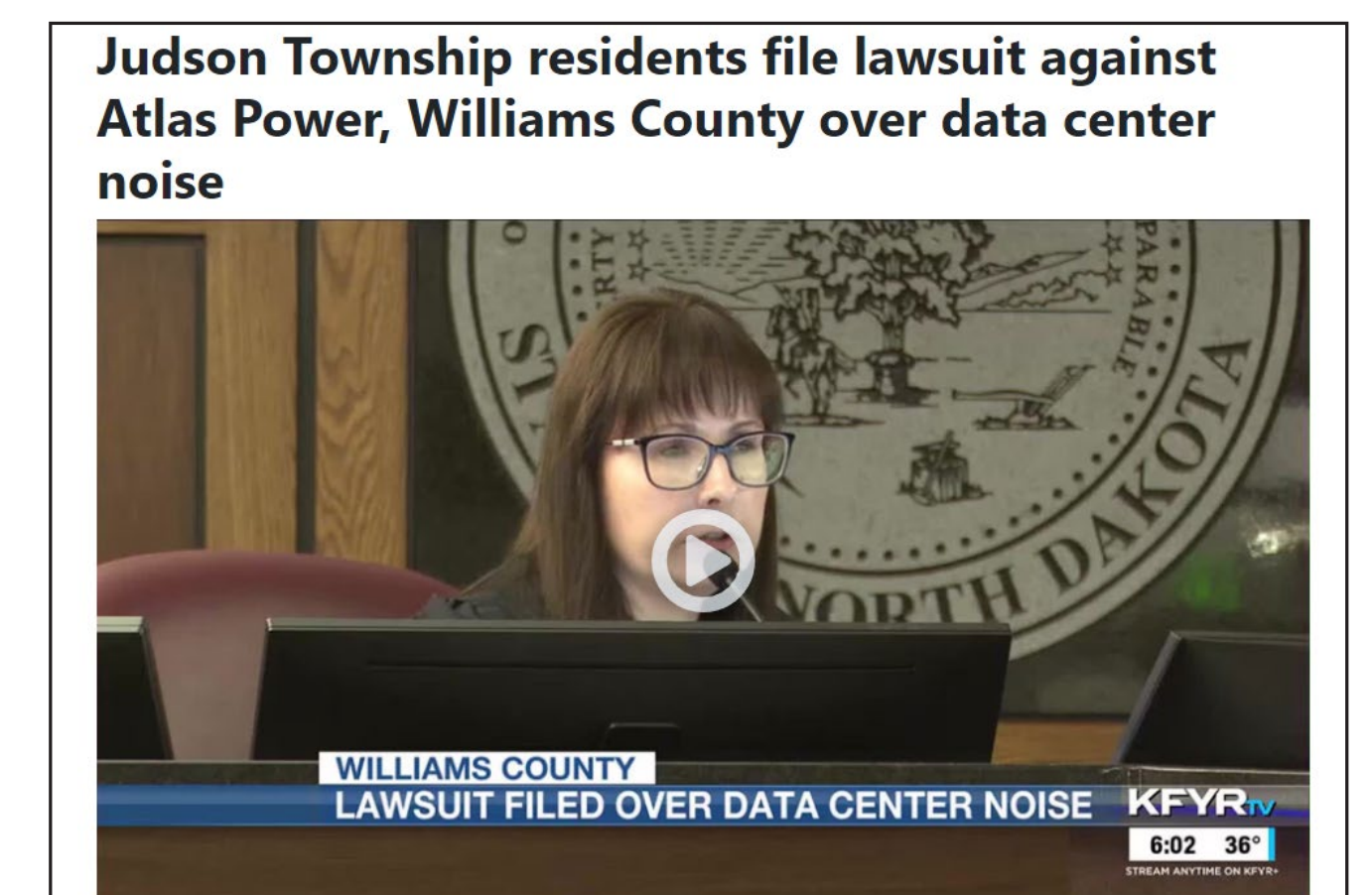
- Available power sources
- Cooler climate eases need for air conditioning of equipment

## Primary Issue: Noise Impacts

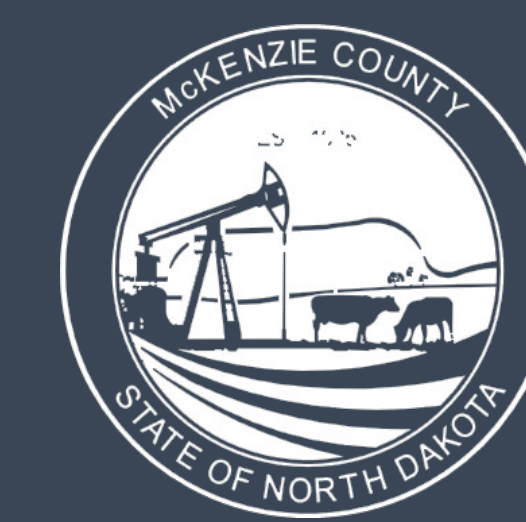
- Noise level near server areas is 92 decibels (similar to being close to a lawn mower). Prolonged exposure above 85 decibels can damage hearing.
- Without wind, takes 1,000' to reduce to 35 decibels (quiet room). Wind can reduce or extend distance of impact, depending on direction.
- Because of wind and other issues, noise walls do not always work.

## Summary of Proposed Regulations

- Requires Conditional Use Permit in Agricultural or Industrial Zoning District
- 1 mile minimum setback to residences, schools, parks, religious institutions
- Must be at least 3 miles from other data centers
- Noise study required
- Incorporate lessons learned from Williams County ND



Source: KFYR (November 2023)



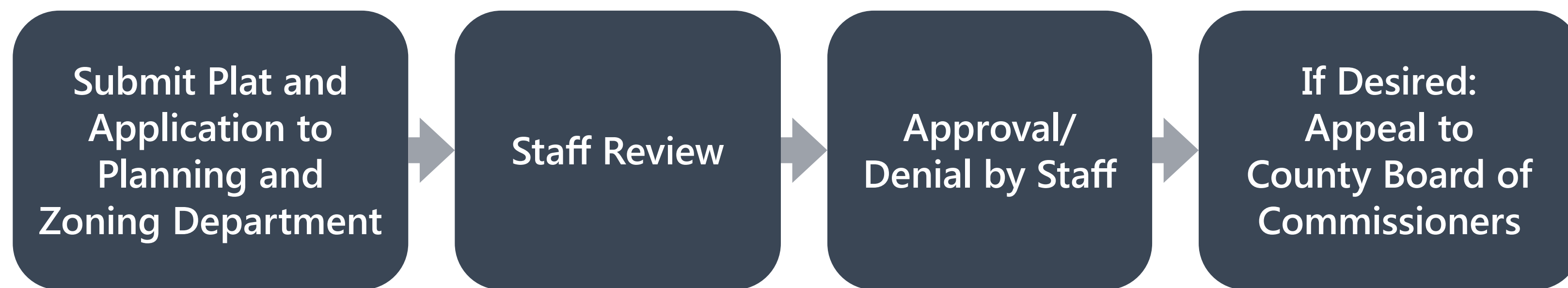
# Planning and Zoning Application Process Overview

Application Type	Planning and Zoning Staff/ Director	Planning and Zoning Board	Board of County Commissioners	Typical Timeframe
Land Development Ordinance Text Amendment	Recommend Action	Recommend Action	Decide	2-3 Months from Complete Application
Zoning Map Amendment	Recommend Action	Recommend Action	Decide	1-2 Months from Complete Application
Variances	Recommend Action	Recommend Action	Decide	1-2 Months from Complete Application
Conditional Use Permit	Recommend Action	Recommend Action	Decide	1-2 Months from Complete Application
Temporary Use Permits Staff Only	Decide	Report Issuance	Appeal	Less than 1 month
Administrative Permit Staff Only	Decide	Report Issuance	Appeal	Less than 1 month
Administrative Decision Staff Only	--	--	Appeal	Less than 24 hours
Building Permit & Building Permit/Inspection Waivers Staff Only	Decide	--	Appeal	1 week



# Subdivision Process - Proposed

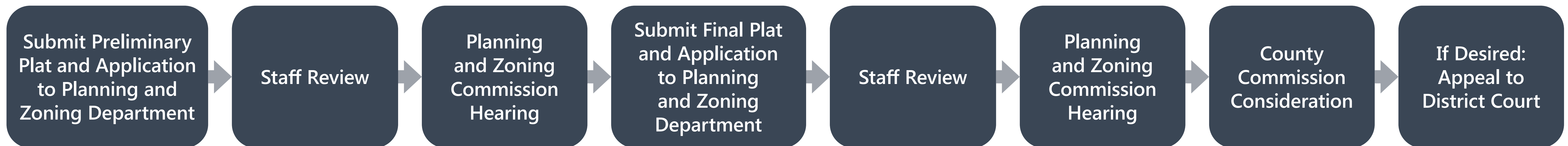
## Administrative Subdivision (Lot Mergers, Adjustments, Splits)

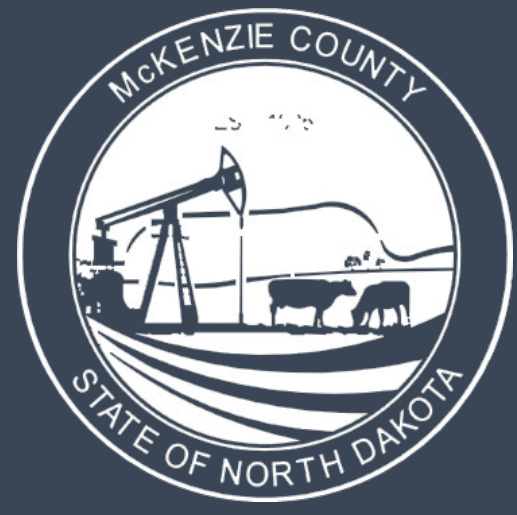


## Minor Subdivision (3-4 lots)



## Major Subdivision (5 lots or more)





# Subdivision Types

## *Current Ordinance and Proposed Changes*

### Existing Ordinance

- Exemption: division of land for the sole purpose of continued agricultural use provided that:
  - 40 acres or more
  - Does not require new street or access easement
  - Does not require new utility easement
  - Does not require construction of any farm or residential structure
  - Does not involve non-farm uses
- Administrative Subdivision
  - Lot mergers
  - Lot line adjustments
  - Simple lot splits (3 lots or less, simple legal description)
- Minor Subdivision
  - Does not involve dedication of public rights-of-way
  - 4 lots or less
  - No public improvements
- Major Subdivision
  - Exceeds the criteria of a Minor Subdivision

### Proposed Changes

- Exemption: limited to court-ordered divisions, mineral interest-related divisions, corrections
  - Administrative Subdivision
  - Lot mergers
  - Lot line adjustments
  - Simple lot splits (2 lots or less, simple legal description)
- Minor Subdivision
  - 3-4 lots
  - Similar to existing Minor Subdivision provision
- Major Subdivision
  - Similar to existing provision (5 lots or more)

### Why the Change?

- Improve tracking and compliance of parcel changes for planning and zoning purposes.
- If subdivision complies with subdivision requirements, the resulting parcels are “legal” with respect to planning and zoning, and can be built on legally (structures over 120 square feet)





# Zoning/Land Development Ordinance Update Process

## Why Update?

- Difficult to use
- Not straightforward/many loopholes
- Does not account for emerging issues (data centers, solar power, etc.)

**New Name:** Land Development Ordinance

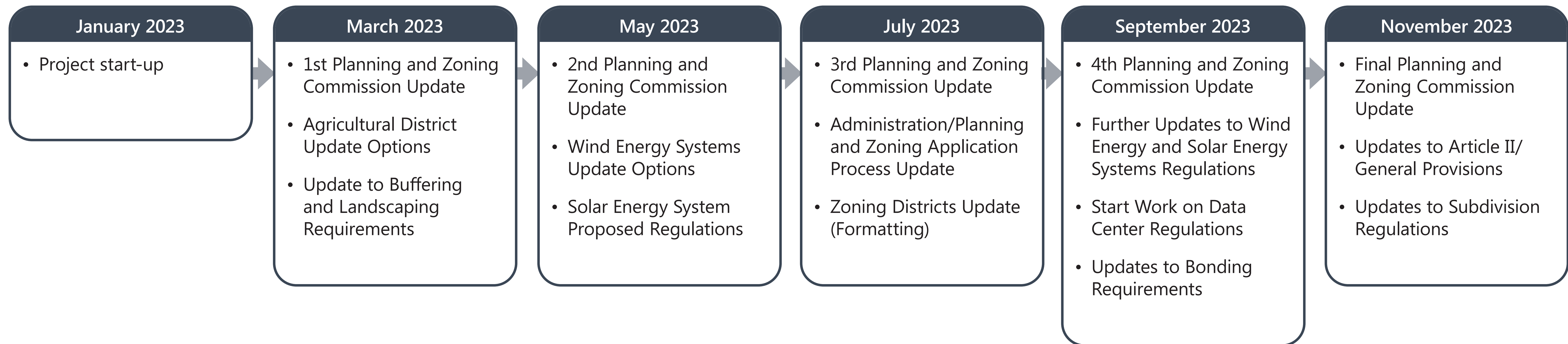
## Primary Changes Focused On:

- Agricultural District
- Wind Power
- Solar Power
- Buffering/landscaping (Industrial District)
- Planning and Zoning Application Process
- Changes based on State Law and Federal Case Law
- Clarifying subdivision/platting requirements
- Improved formatting



# Zoning/Land Development Ordinance Update Process

## Update Process to Date



## Update Next Steps

