APPLICATION FOR CONDITIONAL PERMITTED USE

MERCER COUNTY – PLANNING AND ZONING FEE:_____

1. Name of Applicant: _____ Phone: _____
   Address: _____
2. Name of Person Representing Applicant:_____
   Address: _____ Phone: _____
3. Owner of Record: _____ Phone: _____
   Address: _____
4. Legal
   Description:_____
   _____
5. What is the Conditional Permitted Use Requested? Be specific as to what land use is being sought and explain. _____
   _____
   _____
6. Attach the following:
   a. Sketch of drawing of lot, building and any other information pertinent to the application. The sketch or drawing should also show the lots location to adjoining lots. (Show area of at least 200 feet of adjoining lots).
   b. Certified survey map or subdivision plat, if necessary.
   c. If applicant is not the owner of record, enclose a notarized letter from the owner stating agreement of the action for the proposed conditional permitted use.
   d. Any other information deemed appropriate or as required by the Mercer County Planning Ordinances.

_____ _____

Signature of Applicant Date

FOR OFFICE USE ONLY

Legal Description of Land: _____

Lot Dimensions: _____ Sq. Ft. or Acres: _____

Present Zoning: _____ Present Land Use: _____

Any adjustments, variances, conditional permits, conditional permitted uses or any restrictive covenants?

_____ If so, describe: _____

Under what section of the zoning ordinance is this use sought? _____

Is a variance or zoning change being requested? _____

APPLICATION FOR TEMPORARY USE

MERCER COUNTY – PLANNING AND ZONING FEE:_____

1. Name of Applicant: _____ Phone: _____
   Address: _____
2. Name of Person Representing Applicant:_____
   Address: _____ Phone: _____
3. Owner of Record: _____ Phone: _____
   Address: _____
4. Legal
   Description:_____
   _____
5. What is the Temporary Use Requested? Be specific as to what land use is being sought and explain.
   _____
   _____
   _____

6. Attach the following:
   a. Sketch of drawing of lot, building and any other information pertinent to the application. The sketch or drawing should also show the lots location to adjoining lots. (Show area of at least 200 feet of adjoining lots).
   b. Certified survey map or subdivision plat, if necessary.
   c. If applicant is not the owner of record, enclose a notarized letter from the owner stating agreement of the action for the proposed conditional permitted use.
   d. Any other information deemed appropriate or as required by the Mercer County Planning Ordinances.

_____ _____

Signature of Applicant Date

FOR OFFICE USE ONLY

Legal Description of Land: _____

Lot Dimensions: _____ Sq. Ft. or Acres: _____

Present Zoning: _____ Present Land Use: _____

Any adjustments, variances, conditional permits, conditional permitted uses or any restrictive covenants?

_____ If so, describe: _____

Under what section of the zoning ordinance is this use sought? _____

Is a variance or zoning change being requested? _____

ORDINANCE RELATING TO TEMPORARY RESIDENCES
IN MERCER COUNTY, NORTH DAKOTA

BE IT ORDERED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF MERCER, NORTH DAKOTA, AS FOLLOWS:

Section 1: The following Ordinance is hereby enacted as follows:

Section 2: **Definitions**

As used in this Ordinance:

1. "Temporary Housing Facility," "man camp," "construction camp," or "crew housing facility" means a facility designed and intended to be used for a temporary period of time to house a variety of field-related workers, including oil field, construction, etc., and is composed of 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 §57-02-04 and are not mobile homes as defined in NDCC §57-55-01. Such facilities are not intended to accommodate families with children. Recreational vehicles, campers and mobile homes are prohibited as units in a Temporary Crew Housing facility.

2. "Skid unit" means a structure or group of structures, either single or multi-sectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis.

Section 3: Crew Housing Temporary Use Permit

A Temporary Crew Housing Permit authorizes a temporary use, the issuance of which is subject to the procedures contained in the Mercer County Zoning Ordinance. It is allowable as a temporary use in Agricultural, Commercial and Industrial Districts. The application shall be submitted to the Mercer County Planning and Zoning Board.

Section 4: Applicant Background Information

The Applicant for a Crew Housing Temporary Use Permit shall provide the following information or documents:

a) The name, address and contact information of the applicant.
b) Consent to background investigation of the owner of the Temporary Crew Housing facility and of the owner of the real estate upon which the Temporary Crew housing facility will be located.
c) A list of vendors expected to provide services at or to the Temporary Crew Housing facility.
d) Applicant's history of residency, employment and business ownership for five (5) years prior to the date of application. If the applicant is an entity, provide a certificate of good standing from the state of origin. If the applicant is a partnership, the required information and consents shall be furnished for all of the partners. If the applicant is a corporation or limited liability company, information shall be provided as to the applicant's status as a subsidiary, if any, of any other corporation or limited liability company, the purposes for which the applicant was organized, and the names and addresses of all officers, directors, managing agents and the names and addresses of all

stockholders or interest holders owning more than five per cent (5%) of the capital stock of such corporation.

e) Whether the applicant has ever engaged in the business of owning or operating a Temporary Crew Housing facility or similar operation before, and if so, the dates and locations of such ownership or operation.

f) Whether during the five (5) years immediately preceding the date of the application, the applicant, or any of the applicant's officers, directors, managing agents or partners have been convicted of a violation of the laws of the United States of America or of any state or municipality; and if so, the dates, location and courts in which such convictions were obtained.

g) Whether the applicant has any agreement, understanding or intention to have any agreement or understanding with any person or entity to obtain, for another person or entity or to transfer to another person or entity, the license obtained or to use the license for any other purpose other than the specific use described in the application, and if so, the names and addresses of such persons and the conditions of such agreements.

h) Attach a Certificate of Insurance.

Section 5: Application Procedure and General Requirements

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

a) The legal description of the property upon which the Temporary Crew Housing will be located as well as a description of the surrounding land uses and ownership.

b) A description of the units together with a numbering system that clearly identifies the occupied quarters for purposes of emergency responses.

c) A description of how the proposed units are set and/or anchored.

d) Temporary housing shall be located adjacent to a maintained public or private road. Applicant shall provide a description of existing roads and of proposed access ways within and adjacent to the site and acknowledgement by an engineer licensed in the state of North Dakota that such access will comply with local, state and federal regulations. Road development and maintenance is subject to execution of a road agreement with the county by the Board of Commissioners.

e) Description of expected maintenance at the site.

f) The name, address and contact information of the onsite manager.

g) A copy of any lease for real estate or personal property involved. If the applicant is not the owner of record, enclose a letter from the owner stating agreement with the proposal.

h) Plot plans drawn to scale showing housing units, additional structures, setbacks, utilities, drainage, ingress and egress, parking plans, screens, buffers and fencing. The units shall be subject to the following conditions:

1. Front setback: A minimum of 200 feet shall be maintained between each structure and the right-of-way line of any county, state or federal road.
2. Rear and side setback: A minimum of 300 feet if adjoining a residential district or 50 feet if adjoining any other district.
3. Setbacks where property near residence: 300 feet from any residence existing at the time of approval by the Zoning Board.
4. There must be a minimum of 14 feet between units or other structures on the property. No parking will be allowed between units.
5. Maximum building height: 45 feet

i) In no event shall any temporary housing unit exceed occupancy of 10,000 persons. Occupancy list to be maintained and provided to Mercer County's 911 emergency coordinator. The applicant shall ensure the list is regularly updated and forwarded to Mercer County's 911 emergency coordinator.

j) Unit spacing and access, including but not limited to a snow removal plan, which is adequate to accommodate emergency services.

k) A list of "house rules" and regulations.

l) On-site security plan, including plans for controlled access to the facility and a minimum six-foot (6') high chain link fence encompassing the facility.

m) Fire and emergency evacuation plan and storm shelter plan.

n) Information showing how, by whom, and when the required services and facilities will be provided. All services and facilities will be provided at applicant's expense. Copies of the permit, agreement, or approval, issued by the North Dakota State Health Department, North Dakota Department of Commerce, North Dakota State Electrical Board, North Dakota State Plumbing Board, Southwest Water Authority and Custer District Health Unit including, but not limited to, fresh water, refuse disposal plan and septic or sewer discharge plan. In the event laundry services will be present, attach a copy of an approved contract or approval of on-site facilities. In the event food services will be present, attach a copy of an approved contract for catering company or approval and licensure of on-site facilities.

o) Pay an annual Planning and Zoning fee in the amount of fifty cents ($.50) per square foot of the structures erected on the premises. In the event there is multi-storied crew housing units, the annual fee shall include another fifty cents ($.50) per square foot of the stories after the ground story.

p) A copy of plans for closing the Temporary Crew Housing, and cleaning up and reclaiming the real property.

q) Written plan to dismantle the temporary housing camp, and restore the area to its original condition. The applicant must secure a reclamation bond in the amount of One Million Dollars ($1,000,000), which will be forfeited should the area not be restored to its original condition.

r) At a minimum, off-street parking shall be provided on a one-to-one ratio, one parking space per bed and one parking space per employee.

s) The applicant shall return the original, signed Attachment A, to allow inspection of the premises as described therein.

t) The applicant shall submit an application fee of $_____ along with the application. [TO BE DETERMINED BY MERCER COUNTY BOARD OF COMMISSIONERS]

u) Any additional information deemed necessary by the Land Use Administrator, the Planning and Zoning Board or the County Commission.

Section 6: Grant of Permit

Any application for a Crew Housing Temporary Use Permit as provided herein shall be denied to any applicant who, at the discretion of the Mercer County Board of Commissioners is a person or entity of questionable character, or for any other cause which would, in the opinion of the Board of County Commissioners render the applicant or the premises to be licensed, improper or unfit for a Crew Housing facility, or which would, in the judgment of the Board of County Commissioners make the granting of the permit contrary to the best interests of the County or its citizens.

Section 7: Non-Transferability of Permit

Any permit issued pursuant to this Ordinance is exclusive to the person or organization granted a permit by this ordinance and may not be transferred to another party that has not been approved.

Section 8: Prohibited Activities

No alcoholic beverages, firearms, illegal substances or animals are allowed on the premises of a Temporary Crew Housing facility. The site shall be maintained free of garbage and junk.

Section 9: Revocation of Permit

The Board of County Commissioners may review the status of any permit issued pursuant to this Ordinance and take appropriate action to suspend or revoke the same, as provided herein. These remedies are in addition to the remedies provided for failure to comply with applicable zoning ordinances of Mercer County.

1) Suspension or Revocation for Cause.

Any permit issued pursuant to this Ordinance may be revoked or suspended for cause by the Board of County Commissioners, which cause may include, among other grounds, the following:

a) The applicant being adjudged bankrupt.
b) Applicant's falsifying of any statement or statements in the application process described herein.
c) Applicant's conviction, or the conviction of an applicant's officers, directors or agents, of any felony crime under the laws of the United States of America or any state or municipality.
d) The applicant's violation of any health or sanitary regulations of Mercer County or the State of North Dakota.
e) The applicant's conduct of business in a disorderly manner or in a manner deemed to be dangerous or detrimental to the public welfare, safety or morals.
f) The applicant's, or any agent or employee of the applicant, violation of any term or condition of the permit or any provision of this Ordinance.
g) The Sheriff's Department or other law enforcement agency receives or services 10 complaints due to noise, fighting, unruly behavior, or other acts prohibited by the North Dakota Century Code within a three month period of time at the location of the temporary housing unit.
h) The Sheriff's Department or other law enforcement agency received or services three complaints due to noise, fighting, unruly behavior, or other acts prohibited by the North Dakota Century Code for any single individual at the temporary housing camp, and said individual is permitted to remain at or in the temporary housing camp by the applicant.
i) The Mercer County Sheriff's Department, in its discretion, recommends revocation or suspension of the Temporary Use Permit.
j) The temporary housing camp exceeds the number of individuals for which the permit was issued.

2) Notice - Public Hearing

Sanctions or penalties under this ordinance may not be invoked without a public hearing if requested by the applicant. The County Auditor shall give written notification to the applicant that a penalty is being sought under this ordinance. The applicant may notify the County Auditor's office within ten (10) days of such written notification and request a hearing on the

proposed penalty. Failure to request the hearing within 10 days of the date of such written notification will be deemed to be acceptance of the penalty without hearing.

A hearing shall be set before the Board of County Commissioners specifying the time and place of hearing, and shall be mailed to the applicant. The hearing shall be recorded electronically solely for the purpose of preparing the minutes and will be destroyed thereafter.

If, after such hearing, the majority of the Board of County Commissioners agrees that sufficient cause exists for the penalty sanctions, the Board shall enter an order in accordance with the provisions of this ordinance. The Board shall issue written findings, conclusion and order which will be mailed to the applicant.

3) No refunds on Revocation or Suspension

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

Section 10: Expansion of Temporary Crew Housing

In the event an application is to expand an existing Temporary Crew Housing facility, the expansion shall be treated as a new application, and all conditions, terms and fees shall apply to the new application without consideration for the existing Temporary Crew Housing facility.

Section 11: Renewal of Conditional Use Permit

Any Crew Housing Temporary Use Permit granted in accordance with this ordinance shall expire one year from the date of issuance. The permit may be extended by the Board of County Commissioners upon written request of the owner of the property or authorized representative provided that the extension is for the same use as specified in the original permit and that the applicant is in compliance with the terms and conditions specified in the original permit.

Section 12: Conditions - Reporting Requirements

The Board of County Commissioners or the Planning and Zoning Board may attach any necessary and prudent conditions or reporting requirements to the grant of the conditional use permit.

Attachment A

Re: Application for Temporary Crew Housing Unit by _____

The applicant, _____, does hereby consent that any police officer and any person or persons duly authorized by the Mercer County Board of County Commissioners may enter upon the premises described in the application, hereby incorporated by reference, at any hour of the day or night, and that they and any one of them shall have free access to the said described premises and every part thereof for the purposes of inspecting the said premises, and the records of the applicant relating to the premises, and applicant does hereby waive any and all right under the Constitution of the United States and the Constitution of the State of North Dakota relative to searches and seizures without issuance or use of a search warrant, and the applicant does hereby agree that such immunities shall never be claimed by the applicant, and that such search, seizure, and inspection may be made at any time without a search warrant.

Dated this _____ day of _____, 20_____.

Approved and Agreed By:

_____

Applicant

ORDINANCE RELATING TO COMMERCIAL MOTOR VEHICLE PARKING LOT IN MERCER COUNTY, NORTH DAKOTA

BE IT ORDERED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF MERCER, NORTH DAKOTA, AS FOLLOWS:

Section 1: The following Ordinance is hereby enacted as follows:

Section 2: **Definitions**

As used in this Ordinance:

1. "Commercial Motor Vehicle" shall be defined per N.D.C.C. § 39-06.2-02, which currently defines commercial motor vehicle as a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:
   a. If the gross combination weight rating is 26,001 pounds or more provided the towed unit has a gross vehicle weight rating of more than 10,000 pounds;
   b. If the vehicle has a gross vehicle weight rating of more than 26,000 pounds or such lesser rating as determined by federal regulation;
   c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or
   d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F.

2. "Commercial Motor Vehicle Parking Lot" shall be defined as an area designated for the temporary parking of commercial motor vehicles, as defined above.

Section 3: Commercial Motor Vehicle Parking Lot Temporary Use Permit

A Commercial Motor Vehicle Parking Lot Conditional Use Permit authorizes a conditional use, the issuance of which is subject to the procedures contained in the Mercer County Zoning Ordinance. It is allowable as a temporary use in Agricultural, Commercial and Industrial Districts. The application shall be submitted to the Mercer County Planning and Zoning Board.

Section 4: Applicant Background Information

The Applicant for a Permit shall provide the following information or documents:

a) The name, address and contact information of the applicant.
b) Consent to background investigation of the owner of the proposed lot and of the owner of the real estate upon which the parking lot will be located.
c) A list of vendors expected to provide services at or to the lot.
d) Applicant's history of residency, employment and business ownership for five (5) years prior to the date of application. If the applicant is an entity, provide a certificate of good standing from the state of origin. If the applicant is a partnership, the required information and consents shall be furnished for all of the partners. If the applicant is a corporation or limited liability company, information shall be provided as to the applicant's status as a subsidiary, if any, of any other corporation or limited liability company, the purposes for which the applicant was organized, and the names and addresses of all officers, directors, managing agents and the names and addresses of all stockholders or interest holders owning more than five per cent (5%) of the capital stock of such corporation.

e) Whether the applicant has ever engaged in the business of owning or operating a commercial motor vehicle parking lot or similar operation before, and if so, the dates and locations of such ownership or operation.

f) Whether during the five (5) years immediately preceding the date of the application, the applicant, or any of the applicant's officers, directors, managing agents or partners have been convicted of a violation of the laws of the United States of America or of any state or municipality; and if so, the dates, location and courts in which such convictions were obtained.

g) Whether the applicant has any agreement, understanding or intention to have any agreement or understanding with any person or entity to obtain, for another person or entity or to transfer to another person or entity, the license obtained or to use the license for any other purpose other than the specific use described in the application, and if so, the names and addresses of such persons and the conditions of such agreements.

h) Attach a Certificate of Insurance.

Section 5: Application Procedure and General Requirements

An application for a Permit shall be signed by the applicant or authorized representative and shall include the following information and comply with the following requirements:

a) The legal description of the property upon which the proposed parking lot will be located as well as a description of the surrounding land uses and ownership.

b) A description of the parking spaces together with a numbering system that clearly identifies the spaces for purposes of emergency responses.

d) Commercial Motor Vehicle Parking Lots shall be located adjacent to a maintained public or private road. Applicant shall provide a description of existing roads and of proposed access ways within and adjacent to the site and acknowledgement by an engineer licensed in the state of North Dakota that such access will comply with local, state and federal regulations. Road development and maintenance is subject to execution of a road agreement with the county by the Board of Commissioners.

e) Description of expected maintenance on the site.

f) The name, address and contact information of the onsite manager.

g) A copy of any lease for real estate or personal property involved. If the applicant is not the owner of record, enclose a letter from the owner stating agreement with the proposal.

h) Plot plans drawn to scale showing structures, setbacks, utilities, drainage, ingress and egress, parking plans, screens, buffers and fencing. The units shall be subject to the following conditions:

1. Front setback: A minimum of 200 feet shall be maintained between each structure and the right-of-way line of any county, state or federal road.
2. Rear and side setback: A minimum of 300 feet if adjoining a residential district or 50 feet if adjoining any other district.
3. Setbacks where property near residence: 300 feet from any residence existing at the time of approval by the Zoning Board.

j) Unit spacing and access shall be adequate to accommodate emergency services.

k) A list of parking lot rules and regulations, including but not limited to a restriction of 48 hours on the maximum time allowed for a commercial motor vehicles to be parked.

l) On-site security plan, including plans for controlled access to the facility and a fence encompassing the facility.

m) Fire and emergency evacuation plan.

n) Information showing how, by whom, and when the required garbage services and facilities will be provided. All garbage services and facilities will be provided at applicant's expense. Copies of the permit, agreement, or approval, issued by the North

Dakota State Health Department, Custer District Health Unit or other such entity, relating to the refuse disposal plan.

p) A copy of plans for closing the parking lot, and cleaning up and reclaiming the real property. The applicant must secure a reclamation bond in the amount of Five-Hundred, Thousand Dollars ($500,000), which will be forfeited should the area not be restored to its original condition.

s) The applicant shall return the original, signed Attachment A, to allow inspection of the premises as described therein.

t) The applicant shall submit an application fee of $_____ along with the application. [TO BE DETERMINED BY MERCER COUNTY BOARD OF COMMISSIONERS]

u) Any additional information deemed necessary by the Land Use Administrator, the Planning and Zoning Board or the County Commission.

Section 6: Grant of Permit

Any application for a Permit as provided herein shall be denied to any applicant who, at the discretion of the Mercer County Board of Commissioners, is a person or entity of questionable character, or for any other cause which would, in the opinion of the Board of County Commissioners, render the applicant or the premises to be licensed, improper or unfit for such a facility, or which would, in the judgment of the Board of County Commissioners, make the granting of the permit contrary to the best interests of the County or its citizens.

Section 7: Non-Transferability of Permit

Any permit issued pursuant to this Ordinance is exclusive to the person or organization granted a permit by this ordinance and may not be transferred to another party that has not been approved.

Section 8: Prohibited Activities

Fuel storage is not allowed on the premises. The site shall be maintained free of garbage and junk. Truck washing will not be allowed on the premises. No alcoholic beverages, firearms, illegal substances or animals are allowed on the premises of a Commercial Motor Vehicle Parking Lot.

Section 9: Revocation of Permit

The Board of County Commissioners may review the status of any permit issued pursuant to this Ordinance and take appropriate action to suspend or revoke the same, as provided herein. These remedies are in addition to the remedies provided for failure to comply with applicable zoning ordinances of Mercer County.

1) Suspension or Revocation for Cause.

Any permit issued pursuant to this Ordinance may be revoked or suspended for cause by the Board of County Commissioners, which cause may include, among other grounds, the following:

a) The applicant being adjudged bankrupt.

b) Applicant's falsifying of any statement or statements in the application process described herein.

c) Applicant's conviction, or the conviction of an applicant's officers, directors or agents, of any felony crime under the laws of the United States of America or any state or municipality.

d) The applicant's violation of any health or sanitary regulations of Mercer County or the State of North Dakota.

e) The applicant's conduct of business in a disorderly manner or in a manner deemed to be dangerous or detrimental to the public welfare, safety or morals.

f) The applicant's, or any agent or employee of the applicant, violation of any term or condition of the permit or any provision of this Ordinance.

g) The Sheriff's Department or other law enforcement agency receives or services 10 complaints due to noise, fighting, unruly behavior, or other acts prohibited by the North Dakota Century Code within a three month period of time at the location of the temporary housing unit.

h) The Sheriff's Department, or other law enforcement agency, received or services three complaints due to noise, fighting, unruly behavior, or other acts prohibited by the North Dakota Century Code for any single individual at the temporary housing cam, and said individual is permitted to remain at or in the temporary housing camp by the applicant.

i) The Mercer County Sheriff's Department, in its discretion, recommends revocation or suspension of the Temporary Use Permit.

2) Notice - Public Hearing

Sanctions or penalties under this ordinance may not be invoked without a public hearing if requested by the applicant. The County Auditor shall give written notification to the applicant that a penalty is being sought under this ordinance. The applicant may notify the County Auditor's office within ten (10) days of such written notification and request a hearing on the proposed penalty. Failure to request the hearing within 10 days of the date of such written notification will be deemed to be acceptance of the penalty without hearing.

A hearing shall be set before the Board of County Commissioners specifying the time and place of hearing, and shall be mailed to the applicant. The hearing shall be recorded electronically solely for the purpose of preparing the minutes and will be destroyed thereafter.

If, after such hearing, the majority of the Board of County Commissioners agrees that sufficient cause exists for the penalty sanctions, the Board shall enter an order in accordance with the provisions of this ordinance. The Board shall issue written findings, conclusion and order which will be mailed to the applicant.

3) No refunds on Revocation or Suspension

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

Section 10: Expansion of Commercial Motor Vehicle Parking Lot

In the event an application is to expand an existing parking lot, the expansion shall be treated as a new application, and all conditions, terms and fees shall apply to the new application without consideration for the existing parking lot.

Section 11: Renewal of Conditional Use Permit

Any Permit granted in accordance with this ordinance shall expire one year from the date of issuance. The permit may be extended by the Board of County Commissioners upon written request of the owner of the property or authorized representative provided that the extension is

for the same use as specified in the original permit and that the applicant is in compliance with the terms and conditions specified in the original permit.

Section 12: Conditions - Reporting Requirements

The Board of County Commissioners or the Planning and Zoning Board may attach any necessary and prudent conditions or reporting requirements to the grant of the conditional use permit.

Attachment A

Re: Application for Commercial Motor Vehicle Parking Lot
Conditional Use Permit by _____

The applicant, _____, does hereby consent that any police officer and any person or persons duly authorized by the Mercer County Board of County Commissioners may enter upon the premises described in the application, hereby incorporated by reference, at any hour of the day or night, and that they and any one of them shall have free access to the said described premises and every part thereof for the purposes of inspecting the said premises, and the records of the applicant relating to the premises, and applicant does hereby waive any and all right under the Constitution of the United States and the Constitution of the State of North Dakota relative to searches and seizures without issuance or use of a search warrant, and the applicant does hereby agree that such immunities shall never be claimed by the applicant, and that such search, seizure, and inspection may be made at any time without a search warrant.

Dated this _____ day of _____, 20_____.

Approved and Agreed By:

_____
Applicant

Mercer County Planning & Zoning Board
Phone (701) 745-3294
P.O. Box 39
Stanton, ND 58571
http://www.mercercountynd.gov

CITIZEN'S GUIDE TO RURAL LIVING

Introduction

It is important for you to know life in the country is different from life in the city. County governments are not able to provide the same level of service city governments provide. We are providing you with the following information to help you make an educated and informed decision about purchasing rural land because of those differences.

Access

The fact you can drive to your property does not necessarily guarantee you, your guests and emergency service vehicles can achieve the same level of access at all times. Please consider the following:

1. Emergency response times (i.e. sheriff, fire services, medical care, etc.) cannot be guaranteed. Under some extreme conditions, you may find emergency response is extremely slow and expensive. Some services are provided by volunteers who respond when paged.

2. If you gain access across property belonging to others there can be problems with the legal aspects of access. It is wise to obtain legal advice and understand easements may be necessary when these questions arise.

3. You can experience problems with the maintenance and cost of maintenance of your road. Mercer County maintains hundreds of miles of roads. The County is the sole authority on maintenance of roads and has discretion in deciding which roads are to be maintained and how. Roads are maintained pursuant to the Mercer County Road Policy. Attachment 1. There are public and private roads in Mercer County, some of which are not maintained by anyone. Make sure you know what type of maintenance to expect and who will provide the maintenance, which may be you.

4. If property is adjacent to a section line, the public has an easement to utilize that section line. There are no limitations on the number of people permitted to use the section lines, and they do not need your prior approval. You cannot restrict access to the section line without proper approval. You cannot make any changes nor can you add anything (i.e. fence, trees, structures, etc.) in the section line without proper approval.

5. Extreme weather conditions can destroy roads. It is wise to determine if your road was properly engineered and constructed.

6. Many large commercial, construction, or agricultural vehicles cannot navigate small, narrow roads. If you plan to build, be prudent. Check out the access available in consideration of the vehicles you expect will need access to the property.

7. School buses may travel only on maintained roads as determined by the school district. If the school bus will be coming to your home, it will be your

responsibility to ensure there is enough room for the bus to turn around, without backing up, on your property. Ultimately, you may need to drive your children to the nearest school bus stop so they can get to school.

8. In extreme weather, even county maintained roads can become impassable. You may need a four-wheel drive vehicle to travel during these episodes, which can last for several days.

9. In subdivisions, snow removal is the responsibility of the homeowners. The homeowners should be prepared to work together to remove snow and/or hire a private contractor to remove snow.

10. Natural disasters, especially floods, destroy roads. Mercer County will repair and maintain county roads pursuant to the Mercer County Road Policy; however, subdivision roads are the responsibility of the subdivision. Rivers, drains and overland flooding can all wash out roads, bridges and culverts. Residents served by private roads and/or bridges have sustained large bills for repairs and/or reconstruction after floods.
    a. Flooding can temporarily block access to your home for weeks.
    b. Little can be done until the water recedes.
    c. Confirm if your access has previously been blocked and if alternate accesses exist.

11. Unpaved roads generate dust. Unpaved roads are not always smooth. They are often slippery when wet. You will experience an increase in vehicle maintenance costs when you travel on rural roads regularly.

12. If your road is unpaved, it is highly unlikely that Mercer County will pave it in the foreseeable future. Check carefully with the Mercer County Highway Department when any statement is made by a seller or realtor of any property indicating unpaved roads will be paved!

13. Residential mail delivery may not be available to all areas of the County. Ask the postmaster to describe the system for your area. Standard parcel and overnight package delivery can be a problem for those who live in the country. Confer with service providers about your status. Newspaper delivery, similarly, is not always available to rural areas. Check with the newspaper of your choice before assuming you can get delivery.

Utility Services

Water, sewer, electric, telephone and other services may not be available or may not operate at urban standards. Repairs and installation can often take much longer than in towns and cities. Please review your options from the partial list below:

1. Telephone communications quality and options may differ from urban settings. It may be difficult to obtain another line for fax or computer modem uses without costly upgrades to the system. Also, there are areas where cellular phones will not work.

2. If sewer service is available to your property, it may be expensive to attach to the system. It may also be expensive to maintain the system you use. If sewer service is not available, you will need to use an approved individual sewage disposal system meeting Custer Public Health regulations.
    a. The type of soil you have available for a drain field will be very important in determining the cost and function of your system.
    b. Have existing systems checked by a reliable sanitation firm and ask for assistance from Custer Public Health.
    c. On-site septic systems require continuing maintenance and have limited lifespan even with proper

maintenance.

3. If you have access to a supply of treated domestic water, the tap fees can be expensive. You may also find your monthly cost of service can be high when compared to municipal systems.

4. If you do not have access to a supply of treated domestic water, you will have to locate an alternate supply. The most common method is use of a water well.
   a. Permits for wells may be required by the State Water Commission and North Dakota Department of Health, and the cost for drilling and pumping can be considerable.
   b. A permit does not guarantee water will be found.
   c. The quality and quantity of well water can vary considerably from location to location and from season to season. We strongly advise you research this issue very carefully.

5. Not all wells can be used for watering lawns, landscaping, and/or livestock. Permits may restrict water use to that which is used inside of a home. If you have other needs, make certain that you have the proper approval before you invest. If may also be difficult to find enough water to provide for your needs even if you can secure the proper permit.

6. Electric service is not available to every area of Mercer County. It is important to determine the proximity of electrical power. It can be very expensive to extend power lines to remote areas. It is important to know the costs before making a decision to purchase a specific piece of property.

7. It may be necessary to cross property owned by others to extend electrical service to your property in the most cost efficient manner. It is important to make sure that the proper easements are in place to allow lines to be extended to your property.

8. Electrical power may not be available in two phase and three phase service configurations. If you have special power requirements, you need to know what type of service can be provided to your property.

9. If you purchase land planning to build at a future date, there is a possibility that electric lines (and other utilities) may not be adequate to accommodate you, if new connections have been made prior to your construction.

10. Power outages occur in outlying areas more frequently than in more developed areas. A loss of electric power can also interrupt your supply of water from a well. You may also loose food in freezers and refrigerators. Power outages can cause problems with computers as well. It is important to be able to survive for at least a week in severe cold with no utilities if you live in the country.

11. Trash removal can be much more expensive in rural areas than in a city. Your trash dumpster may be some distance from your home, if you even have one. It is good to know the cost for trash removal as you make the decision to move into the country. In some cases, your only option may be to haul your trash to the landfill yourself. Recycling is more difficult because of the distance to pick-up locations.

The Property

There are many issues affecting your property. It is important to research and consider these items before purchasing land and building your home.

1. Subdivision land is regulated by the County Planning and Zoning Commission. An approved and recorded plat is required prior to most subdivision of

land. Contact the Land Use Administrator with questions.

2. Mercer County land use is managed through County or city zoning. Prior to subdividing or purchasing land to construct a home, consult with the Land Use Administrator to confirm proposed land use conforms to zoning regulations, including, but not limited to, compliance with setback requirements.

3. Not all property can be built on. Ultimately, it is your responsibility to determine if a property is buildable and in compliance with all applicable building codes and ordinances.

4. Consult with the Water Resource Board to confirm if your proposed construction plans meet their regulations and requirements.

5. Improper construction of ditches and driveway culverts will result in standing water, mosquitoes, and costly bills to repair the problems. Consult with the County to confirm your construction will meet the minimum ditch grade requirements. Also, apply for ditch cleaning permits prior to starting work on any county ditch.

6. Easements may require you to allow construction of roads, power lines, water lines, sewer lines, etc. across your land. There may be easements that are not of record. Check these issues carefully.

7. You may be provided with a plat of your property. Do no assume the plat is accurate unless the land has been surveyed and pins placed by a licensed surveyor.

8. Fences separating properties are often not aligned with the property lines. A survey of the land is the only way to confirm the location of your property lines.

9. Many subdivisions have covenants limiting the use of property. It is important to obtain a copy of the covenants (or confirm none were established) and make sure that you can live within those rules.
    a. NOTE: A lack of covenants may cause problems between neighbors. Covenants are contracts between property owners and cannot be enforced by Law Enforcement Officers, the County or other entities.
    b. The presence of covenants does not always mean they can be easily enforced by land owners.
    c. The lack of restrictive covenants can result in unappealing structure construction, the accumulation of vehicles and junk, and yard maintenance not to par with your standards.

10. The type and number of animals allowed on property is often regulated by ordinance or by restrictive covenant.
    a. Confirm if your land has the ability to have horses or other animals prior to purchase, even if you have no desire to raise animals.
    b. If your property allows animals be aware of how this will affect your lifestyle, currently and in the future.

11. Surrounding properties will probably not remain as they are indefinitely. Check with the proper planning and zoning authority to determine the current and planned zoning and to check what future developments may be in the planning stages.
    a. The view from your property may change and what was once isolated rural country side can quickly change in a matter of a few years.
    b. It is even possible your rural residence could become incorporated into a city much sooner than you would ever expect.

Mother Nature

Rural residents usually experience more problems when the elements and earth turn unfriendly. Here are some thoughts for you to consider:

1. The topography of the land can tell you where the water will go in the case of heavy precipitation or flooding. When property owners fill in low areas, they have found the water that previously drained through low areas now drains through their house.

2. Spring runoff and heavy precipitation can cause very small creeks to become major rivers. It may be necessary to use sandbags at that time to protect your home. The County is not obligated to provide sandbags, equipment or people to protect private property from flooding.

3. Areas of the country are highly vulnerable to flooding. Contact the appropriate agency prior to building or buying land, as even areas not near rivers can still be prone to overland flooding. Purchase flood insurance if your land is vulnerable to flooding.

4. Weak soil can result in bank failures near rivers. Drain fields and irrigation to these areas only compounds the problem. Expensive engineering, equipment and materials (beyond the means of the average homeowner) may only help to slow bank failures once it has started. It is highly recommended not to build permanent structures near river banks.

5. Rural residences are more prone to wind, and the dust, erosion and damage it can cause.

6. Rural residents and their mobility are more greatly affected by snow storms.

The Right to Farm

Mercer County has intensive agricultural operations within its boundaries. The rural areas of the County may seem open and spacious but they are intensively used for farming and ranching operations. People moving into a rural area must also recognize there are adjustments to be made regarding the availability and timeliness of services. In addition there are long standing agricultural practices that must be adhered to.

Agricultural users of the land cannot change their long-established agricultural practices to accommodate the relocation of urban residents into rural areas. Agricultural activities will generate off-site impacts. Some of these impacts include: noise, dust, lights from tractors and equipment, long hours during seeding and harvest, odors from cattle confinement, silage and manure. Smoke from burning ditch banks is routine in the spring. Flies and mosquitoes may also be present. The use of herbicides, pesticides and fertilizer in the fields are common. Ditches, ponds and reservoirs simply cannot be "moved out of the way" of residential development without threatening the efficient drainage of water from fields, which is essential to farm and ranch production.

In rural areas, children may be exposed to different hazards and risks than they would in an urban area. Farm and ranch equipment, ponds, lakes, ditches, electrical power for operations, high speed traffic, weeds, ranch dogs and livestock may present real threats to children. Monitoring children's activities is important, not only for their safety, but for the protection of the farmers' livelihoods. Parents and guardians must be responsible for their children.

In Conclusion

Although you pay property taxes to the County, the amount of tax collected does not cover the cost of the services provided to rural residents. Your property taxes not only cover services you rely on daily (e.g. roads), but also services you

will rely on in emergency situations only, such as law enforcement, fire, and medical services. Additionally, property taxes must be applied to the administrative costs to ensure the County operates in the best manner possible for its residents. Generally, those living in municipalities subsidize the lifestyle of those who live in the country by making up the shortfall between the cost of services and the revenues received from rural dwellers.

This information is by no means complete. There are other issues you may encounter that we have overlooked and we encourage you to be vigilant in your duties to explore and examine those things that could cause your move to be less than you expected. We have offered these comments in the sincere hope that it can help you enjoy your decision to reside in the country. It is not our intent to dissuade you, but only to inform you.

***This information was adapted from a compilation by Cass County, North Dakota, which largely relied on and quoted a work by John Clark, former Commissioner of Larimer County, Colorado.*

ACKNOWLEDGMENT

I hereby acknowledge receipt of the Citizen's Guide to Rural Living, and acknowledge I have read the document. I understand I will be assuming all risks, responsibilities and obligations of residing in a rural area as described therein, including, but not limited to travel to and from the residence.

_____	_____
Date	Date
_____	_____
Signature	Signature
_____	_____
Printed Name	Printed Name