

CHAPTER FOUR - SPECIAL PROVISIONS

Purpose -- These provisions shall apply to all districts unless otherwise stated in the district regulations.

This Ordinance recognizes that certain activities, conditions and uses may affect all districts and may be detrimental in certain districts unless proper safeguards are taken. Therefore, the following regulations have been made to protect the welfare of the people of Mercer County.

I. SEWAGE DISPOSAL

A. Description

Certain soil types in Mercer County, as shown on the soil survey maps of the Mercer County Soil Conservation Districts, have severe limitations for private disposal systems (septic tanks).

An applicant desiring to install a soil absorption sewage disposal facility (septic tank) shall consult the County Sanitarian to determine the limitations of the soil on the proposed site of construction.

B. Scope

Soils having severe limitations shall not be used for soil absorption sewage disposal facilities unless the facility is designed to negate the limitations.

C. Modification

An applicant desiring to install facilities on soils with limitations shall have an opportunity to present evidence contesting the classification. The Planning Commission shall affirm, modify or change the classification.

D. Location Requirements

1. Soil absorption systems shall not be located within ten (10) feet of a dwelling, or within one hundred (100) feet of a private water supply, or within two (200) hundred feet of a public water supply, stream, river, lake, reservoir or other water source.

E. Minimum Lot Area - two (2) acres.

F. Permit to Construct a Sewage Disposal System

Non-agricultural land uses involving a soil absorption sewage disposal system shall be required to obtain a permit to construct a sewage disposal system from the county

sanitarian or, in his absence, from a person designated by the Board of County Commissioners.

II. SIGN REGULATIONS

A. Scope

These regulations shall apply to signs erected, altered and maintained by and for permitted uses in all districts. These regulations are in addition to those in Chapter 24-17 of the North Dakota Century Code. Signs outside of the jurisdiction of Chapter 24-17 shall be subject to these regulations:

B. General Requirements

1. Business Signs shall be incidental to permitted or conditional uses and shall be located on the same lot as said uses. Business Signs shall not be a traffic hazard.
2. Outdoor Advertising Signs shall only be approved as conditional uses in Commercial or Industrial Districts or as otherwise allowed by state regulations.
 - a. Outdoor Advertising Signs shall be approved for a period of five (5) years.
3. All signs shall be maintained in a good state of repair. Broken signs, deteriorated signs or signs on vacant buildings may be ordered repaired or removed by the Planning Commission.

C. District Regulations

1. Residential Districts -- Home occupation signs shall be permitted. The signs shall be non-illuminated, non-animated and shall not exceed three (3) square feet in size.
2. Commercial and Industrial Districts -- Business signs shall not exceed two hundred (200) square feet in size.

III. ACCESS TO COUNTY, STATE AND/OR FEDERAL HIGHWAYS

A. Access shall be limited to one per quarter mile.

B. The landowner may be required to provide for frontage road easement or easement access to nearest public thoroughfare.

C. Written evidence of approval by appropriate county highway or state department of transportation authorities shall be provided to the Planning Commission.

IV. TEMPORARY USES, PERMITS

- 1) Unless otherwise described below, permit applications shall include the following:
 - a) Name and address of the applicant.
 - b) Date.
 - c) Written description of the location of the site and/or event.
 - d) Location of temporary structures incidental to the operation of the event.
 - e) Written approval of sanitary facilities by the county sanitarian, or in that person's absence, by a representative of the Custer District Health Unit.
- 2) Permits shall be valid for one calendar year unless otherwise determined by the Board of County Commissioners, and shall be renewable at the discretion of the Board.
- 3) The Board of County Commissioners may attach such conditions and restrictions to such temporary use permits as it shall deem advisable.
- 4) Temporary Uses and or permits involving Asphalt Mixing Plants, opening new or previously mined Sand and Gravel Pits, and Closure of Section Lines must go through the Planning Commission for a public hearing before action is taken by the County Commission.
- 5) A temporary use permit issued by the Mercer County Board of Commissioners is required for the following, and for all other uses determined by the Board as requiring such permits:
 - a) Sand and gravel pit. See (4) above regarding public hearings.
 - i) The following provisions shall apply specifically to sand pits utilized for fracking in oil production:
 - (1) Bond fee is \$2,000.00 per acre and proof of such bond must be filed with the Land Use Administrator prior to mining, and forfeitable if the area is not restored to its original or better condition for a period not to exceed five years from the conclusion of mining operations.
 - (2) During mining operations, a maximum of 40 acres is allowed to be disturbed not including sediment pond, prep plant location and road from mining area to prep plant. A maximum distance of 150 feet is allowed to the face of the cut of mine land. Mining and Prep plant operations are to stop when sustained winds are in excess of 40 mph or gusts up to 58 mph.
 - (3) Reclamation is to follow a mining operation to maintain no less than 40% of reclaimed land before extending pit to new area. Reclamation is to include but not limited to the following:

- (a) All rocks that would interfere with proper tillage and seeding must be picked.
 - (b) All trees and limbs disturbed by mining shall be cleared and removed.
 - (c) All areas shall be seeded with guidelines from soil conservation office.
 - (d) All areas shall have compost such as straw as cover crimped into soil.
 - (e) Slopes shall be no less than 4 to 1 ratio where mined land ties back into virgin ground.
 - (f) Riprap material such as rock needs to be in watershed areas disturbed by mining
 - (g) Topographical maps and mining plan must be presented with the application.
- (2) MSDS sheets for all chemicals used in plant processing shall be filed with Land Use Administrator prior to use.
 - (3) Existing wells within a 1-mile radius must be tested by a 3rd party at applicant's expense. Reports relating thereto must be filed with Land Use Administrator and the applicable State Agency. All wells will be tested for quality and quantity.
 - (4) Weeds shall be controlled during mining operations and shall be a condition of bond release.
 - (5) All garbage and refuse shall be stored in dumpster and removed by a licensed hauler to Mercer County Landfill.
 - (6) Site is subject to inspection at any time by Land Use Administrator.
 - (7) Air Quality: Report quarterly samples taken as required to the State Health Dept. to be filed with Land Use Administrator.
 - (8) The applicant shall obtain all applicable approval for access to the permitted area, including but not limited to a Haul Road Access Agreement with the Mercer County Highway Superintendent. Such agreement shall include dust suppressant for the mining pit area as well as all roads leading to and within the permitted area.
 - (9) Photos of the current condition of the property must be filed with Land Use Administrator.
 - (10) Water:
 - (a) When water table will be disturbed during mining, ground monitoring wells must be in place before mining operation begins, with reports by a 3rd party at Applicant's expense filed with Land Use Administrator and the applicable State agency.
 - (b) All water used in production shall be metered and submitted in quarterly report filed with Land Use Administrator.
 - (c) All watershed is to be contained in active mining area with pond capacity to contain 100-year flood.

- (d) Water is permitted to flow naturally in permit area that is not currently being mined.
- (e) Water in processing plant shall be contained in clay-lined pit containing no less than 3 feet of clay along with liner or substitute with concrete only pit.
- (f) This application shall meet the requirements of the Mercer County Water Board.
- (11) No living quarters shall be constructed on site. One recreational vehicle is permitted for temporary employee quarters. Any sanitation related thereto will be disposed off site by a licensed hauler.
- (12) Applicable to frac sand operations located within a 1-mile radius of existing occupied dwelling.
 - (a) Processing plant locations must be located outside ½ mile radius of existing occupied dwelling.
 - (b) Mining operation must not be within a ¼ mile of existing occupied dwelling.
- (13) Air Monitor location shall be located between each occupied dwelling and processing plant and readings must be obtained three times daily (e.g. 10 am, 1 pm, and 4 pm). All readings must be submitted to the Land Use Administrator weekly.
- (14) "No Engine Braking Allowed" signs shall be posted on road when truck traffic is within vicinity of occupied dwelling.
- (15) 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 and of the owner of the real estate upon which operation 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 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.

- b) Mineral exploration operation and test-hole drilling.
- c) Explosives magazine or storage facility.
- d) Asphalt-mixing plant. See (4) above regarding public hearings.
- e) Temporary office and storage facility.
- f) Temporary Residence.
- g) Auto Wrecking.
- h) Outdoor Concerts.
- i) Wildcat oil well.
 - i) In addition to the requirements of paragraph b below, applications for a wildcat oil well temporary use permit shall contain the following:
 - (1) Name and address of the applicant and of the drilling contractor.
 - (2) Written description of the site.
 - (3) Anticipated depth of the test well.
 - (4) Duration of the drilling operation.
 - (5) Description of the drilling rig and associated facilities.
 - ii) The following conditions shall apply to on-site temporary housing facilities:
 - (1) The facilities shall be utilized only by workers employed exclusively at the site for which the temporary use permit has been granted.
 - (2) Electrical sources, hookups and wiring shall comply with the National Electrical Code and other State and Local Electrical Laws, Rules and Wiring Standards.
 - (3) Water hauled to the site and intended for human use shall be approved by the Mercer County Sanitarian for source, hauling tank and storing tank.
 - (4) Sewage disposal shall be into holding tanks which shall be pumped by a licensed sanitation hauler. Sewer connections shall be tight and covered so as to minimize insect breeding.
 - (5) Garbage shall be stored in dumpsters and removed by a licensed hauler to the Mercer County Regional Landfill.
 - (6) A minimum distance of 15 feet shall be maintained between all housing facility structures.

- j) Crew Housing Temporary Use Permit – A temporary Crew Housing
- i) Permit authorizes a temporary use, the issuance of which is subject to procedure contained in the Mercer County Zoning Ordinance. It is allowable as a temporary use in the Agricultural, Commercial and Industrial Districts. The application shall be submitted to the Mercer County Planning and Zoning Board.
 - ii) Applicant Background Information
 - (a) The Applicant for a Crew Housing Temporary Use shall provide the following information or documents:
 - (i) The name, address and contact information of the applicant.
 - (ii) 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.
 - (iii) A list of vendors expected to provide services at or to the Temporary Crew Housing facility.
 - (iv) 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.
 - (v) 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.
 - (vi) 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, locations and courts in which such convictions were obtained.
 - (vii) 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.
 - (viii) Attach a Certificate of Insurance.

- iii) Application Procedure and General Requirements
 - (a) 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 requirement:
 - (b) 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.
 - (c) A description of the units together with a numbering system that clearly identifies the occupied quarters for purposes of emergency responses.
 - (d) A description of how the proposed units are set and/or anchored.
- iv) 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 acknowledge by an engineer licensed in the state of North Dakota that such access will comply with local, state and federal regulations. Road development and maintenances is subject to execution of a road agreement with the county by the Board of Commissioners.
- v) Description of expected maintenance at the site.
- vi) The name, address and contact information of the onsite manager.
- vii) 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.
- viii) 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
- ix) 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.
- x) Unit spacing and access, including but not limited to a snow removal plan, which is adequate to accommodate emergency services.
- xi) A list of "house rules" and regulations.
- xii) 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.

- xiii) Fire and emergency evacuation plan and storm shelter plan.
- xiv) Information showing how, by whom, and when the required services and facilities will be provided. All services and facilities will be provided at the 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 Electric 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 and 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.
- xv) Pay an annual Planning and Zoning Fee, upon presentation of application and annually thereafter, in the amount of fifty cent (\$.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 history.
- xvi) A copy of plans for closing of Temporary Crew Housing, and clean up and reclaiming the real property.
- xvii) 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.
- xviii) At a minimum, off-street parking shall be provided on a one-to-one ration, one parking space per bed and one parking space per employee.
- xix) The applicant shall return the original, signed Attachment A, to allow inspection of the premises as described therein.
- xx) The applicant shall submit an application fee of \$500 along with the application
- xxi) Any additional information deemed necessary by the Land Use Administrator, the Planning and Zoning Board or the County Commission.
- xxii) Grant of Permit
 - (a) Any application for a Crew Housing Temporary Use Permit as provided 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 judgement of the Board of County Commissioners make the granting of the permit contrary to the best interests of the County or its citizens.
- xxiii) Non-Transferability of Permit

- (a) 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.
- xxiv) Prohibited Activities
 - (a) No alcoholic beverages, firearms, illegal substances or animals are allowed on the premises of a Temporary Crew Housing facility.
 - (b) The site shall be maintained free of garbage and junk.
- xxv) Revocation of Permit
 - (a) The Board of County Commissioners may review the status of any permit issued 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.
- xxvi) Suspension or Revocation for Cause
 - (a) 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:
 - (i) The applicant being adjudged bankrupt.
 - (ii) Applicant's falsifying of any statement or statements in the application process described herein.
 - (iii) 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.
 - (iv) The applicant's violation of any health or sanitary regulations of Mercer County or the State of North Dakota.
 - (v) 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.
 - (vi) 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.
 - (vii) The Sheriff's Department or other law enforcement agency received 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.
 - (viii) The Sheriff's Department or other law enforcement agency receives 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.
 - (ix) The Mercer County Sheriff's Department, in its discretion, recommends revocation or suspension of the Temporary Use Permit.

- (x) The temporary housing camp exceeds the number of individuals for which the permit was issued.
- xxvii) Notice – Public Hearing
 - (a) 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 of hearing on the proposed penalty. Failure to request a hearing within 10 days of the date of such written notification will be deemed to be acceptance of the penalty without hearing.
 - (b) 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.
 - (c) 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.
- xxviii) No refunds on Revocation or Suspension
 - (a) When any permit is revoked or suspended for any reason, no portion of the permit fee, or annual fee, shall be returned to the applicant.
- xxix) Expansion of Temporary Crew Housing
 - (a) 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.
- xxx) Renewal of Temporary Use Permit
 - (a) 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.
- xxxi) Conditions – Reporting Requirements
 - (a) 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 temporary use permit.
- k) Commercial Motor Vehicle Parking Lot Temporary Use Permit
 - i) A commercial Motor Vehicle Parking Lot Temporary Use Permit authorized 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.

ii) Applicant Background Information

- (1) The Applicant for a Permit shall provide the following information or documents:
- (2) The name, address and contact information of the applicant.
- (3) 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.
- (4) A list of vendors expected to provide services at or to the lot.
- (5) Applicant's history of residency, employment and business ownership for five 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 applicants 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.
- (6) 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 location of such ownership or operation.
- (7) 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, locations and courts in which such convictions were obtained.
- (8) 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.
- (9) Attach a Certificate of Insurance.

iii) Application Procedure and General Requirements. An application of a Permit shall be signed by the applicant or authorized representative and shall include the following information and comply with the following requirements:

- (1) 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.
- (2) A description of the parking spaces together with a numbering system that clearly identifies the spaces for purposes of emergency responses.
- (3) 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.

- (4) Description of expected maintenance on the site.
- (5) The name, address and contact information of the onsite manager.
- (6) 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.
- (7) Plot plans drawn to scale showing structures, setbacks, utilities, drainage, ingress and egress, parking plans, screens, buffers and fencing. The lots shall be subject to the following conditions:
 - (a) 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.
 - (b) Rear and side setback: A minimum of 300 feet if adjoining a residential district or 50 feet if adjoining any other districts.
 - (c) Setbacks where property near residence: 300 feet from any residence existing at the time of approval by the Zoning Board.
- (8) Unit spacing and access shall be adequate to accommodate emergency services.
- (9) 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 vehicle to be parked.
- (10) On-site security plan, including plans for controlled access to the facility and a fence encompassing the facility.
- (11) Fire and emergency evacuation plan.
- (12) 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.
- (13) Pay an annual Planning and Zoning fee, upon presentation of application and annually thereafter, in an amount bases on the taxes generated from the market value of the land as determined by the Mercer County Tax Equalization Office.
- (14) 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.
- (15) The applicant shall return the original, signed Attachment A, to allow inspection of the premises as described therein.
- (16) The applicant shall submit an application fee of \$500 along with the

application.

- (17) Any additional information deemed necessary by the Land Use Administrator, the Planning and Zoning Board or the County Commission.
- iv) 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.
- v) 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.
- vi) 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.
- vii) 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.
- viii) Suspension or Revocation of 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:
- (1) The applicant being adjudged bankrupt.
 - (2) Applicant's falsifying of any statement or statements in the application process described herein.
 - (3) 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.
 - (4) The applicant's violation of any health or sanitary regulations of Mercer County or the State of North Dakota.
 - (5) 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.
 - (6) 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.
 - (7) 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 commercial motor vehicle parking lot.
 - (8) The Sheriff's Department or other law enforcement agency receives 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 commercial motor vehicle parking lot, and said individual is permitted to remain at or in the commercial motor vehicle parking lot.

- (9) The Mercer County Sheriff's department, in its discretion, recommends revocation or suspension of the Temporary Use Permit.
- ix) Notice – Public Hearing
 - (1) 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 acceptable of the penalty without hearing.
 - (2) 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.
 - (3) 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.
- x) No Refunds on Revocation or Suspension. When any permit is revoked or suspended for any reason, no portion of the permit fee, or annual fee, shall be returned to the applicant.
- xi) Expansion of Commercial Motor Vehicle Parking Lot. In the event an applicant is to expand on 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.
- xii) Renewal of Temporary Use Permit
 - (1) 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 them 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.
- xiii) Conditions – Reporting Requirements. The Board of County Commissioners or the Planning and Zoning Board may attach necessary and prudent conditions or reporting requirements to the grant of the temporary use permit.
- xiv) Permit applications shall include the following:
 - (1) Name and address of the applicant.
 - (2) Date.

- (3) Written description of the location of the site and/or event.
- (4) Location of temporary structures incidental to the Operation of the event.
- (5) Written approval of sanitary facilities by the county Sanitarian, or in that person's absence, by a Representative of the Custer District Health Unit.

V. EXCEPTIONS TO MAXIMUM HEIGHT REQUIREMENTS

The following shall be exempt from maximum height requirements in all district regulations:

Antennas, belfries, chimneys, cupolas, flag poles, ventilators, water tanks, wind mills or other appurtenances usually required to be placed above roof level and not intended for human occupancy.

VI. CAR ENTHUSIAST / COLLECTOR

The Car Enthusiast / Collector shall reasonably and prudently shield their Antique Motor Vehicles / Parts Cars / Donor Cars / Special Interest Vehicles and any other materials needed to accomplish their purpose, from main public roads adjacent to their property.

1. They shall reasonably and prudently care for the environment around these storage sights so as to consider plant life, animal life and ground and surface water.
2. This shall be in accordance with state and federal laws. "Reasonably" and "Prudently" means caring for the storage of the aforementioned vehicles, tractors, etc, in such a way as to consider their neighbors and passerby. "Shielding" could include but not limited to:
 - a. Behind a fence.
 - b. Behind or inside a permanent structure.
 - c. Behind topography.
 - d. Under a "Car Cover".
 - e. Behind a "Living Snow Fence".
 - f. Anything more than 1,000 feet from a road is considered shielded.

VII. MEDICAL MARIJUANA

The 2017 North Dakota Legislature enacted Senate bill 2344, relating to the implementation of the North Dakota Compassionate Care Act, N.D.C.C. 19-24 for the regulation of medical marijuana dispensaries and the cultivations and propagation of medical marijuana in North Dakota.

All persons, entities or organizations wishing to establish a Medical Marijuana Dispensary Center or Medical Marijuana Manufacturing Center within the County must apply for and

be granted a conditional use permit for said use and have a license from the State of North Dakota for a Medical Marijuana Dispensary Center or Medical Marijuana Manufacturing Center.

1. The use, cultivation, manufacturing, production, distribution, possession, and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a “controlled substance” by both North Dakota and federal law;
2. The county commission does not have the authority to, and nothing in this chapter is intended to, authorize, promote, condone or aid the production, distribution or possession of medical marijuana in violation of any applicable law;
3. The county commission intends to regulate the use, acquisition, cultivation, manufacturing, and distribution of usable medical marijuana in a manner that is consistent with the North Dakota Century Code. The regulations are intended to apply to all medical marijuana operations in the county by any medical marijuana business permitted under state law. Medical marijuana cultivation and production can have an impact on the health, safety, and community resources, and this chapter is intended to permit state-licensed Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) where they will have a minimal negative impact;
4. To the extent that Medical Marijuana Center(s) or Dispensary Center(s) are registered and authorized by the State of North Dakota to operate in the county, this commission desires to provide for their licensing and regulation to protect the public health, safety and general welfare of the citizens of the county;
5. This chapter is to be construed to protect the public over medical marijuana business interests. Operation of a medical marijuana business is a revocable privilege and not a right in the county. There is not property right for an individual or business to have medical marijuana in the county; and
6. Medical marijuana is a heavily regulated industry in the state and county, and the county has a zero tolerance policy for violations of this chapter.
7. The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the county by prescribing the manner in which medical marijuana businesses can be conducted in the county. Further, the purpose of this chapter is to:
 - a. Provide for a means of cultivating, manufacturing and distribution of a usable marijuana to patients who qualify to obtain, possess, and use

marijuana for medical purposes as prescribed by state law.

- b. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.
- c. Impose fees to cover the cost of the county of licensing medical marijuana businesses in an amount sufficient for the county to cover the costs of the licensing program.
- d. Create regulations that address the particular needs of the facilities, patients and residents of the county and comply with the laws that may be enacted by the state regarding medical marijuana.

8. DEFINITIONS

Unless specified in this ordinance in Chapter 1 – section VII, all terms defined in N.D.C.C. § 19-24-02 or successors to that statute shall have the definitions provided therein.

9. ANNUAL PERMIT FEE

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

10. CONDITIONAL USE PERMIT REQUIREMENTS

In addition to the requirements applicable to all Conditional Use Permit applications, an application for a Conditional Use Permit for Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) must include the following:

- a. Proof of Insurance (see section 11 for insurance requirements).
- b. List of all person and entities with an ownership interest in the Manufacturing Center(s) or Dispensary Center(s) including all shareholders that hold any share in stock in the Manufacturing Center(s) or Dispensary Center(s).

- c. A security plan depicting the location and configuration of security cameras and surveillance equipment.
- d. A complete description of the products and services to be produced or sold by the Medical Marijuana Manufacturing Center(s) or Dispensary Center(s).
- e. A notarized statement acknowledging that the applicant understands applicable federal laws, any guidance or directives issued by the U.S. Department of Justice, the laws of the State of North Dakota and the laws and regulations of the county applicable thereto concerning the operation of a Medical Marijuana Manufacturing Center(s) or Dispensary Center(s). The written statement shall also acknowledge that any violation of any laws or regulations of the State of North Dakota or of the county, or any activity in violation of any guidance or directives issued by the U.S. Department of Justice, in such place of business, or in connection therewith, or the commencement of any legal proceeding relating to such Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) by federal authorities, may render the license subject to immediate suspension or revocation.
- f. A notarized statement that the applicant will hold harmless, indemnify, and defend the county against all claims and litigation arising from the issuance of license and/or a conditional use permit including any claims and litigation arising from the Manufacturing Center(s) or Dispensary Center(s), operation or ownership of the Medical Marijuana Manufacturing Center(s) or Dispensary Center(s).
- g. The Land Use Administrator may require additional plans, documents or other information prior to deeming the application complete.
- h. A Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) Conditional Use Permit must be reviewed annually by the county commissioners for renewal.
- i. If the State of North Dakota or its electorate repeals the Compassionate Care Act or the act is otherwise declared void, all Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) Conditional Use Permits issued by the county commission will be deemed to have immediately expired.
- j. A Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) shall only be considered in an industrial zoning district. In all other zoning districts a Medical

Marijuana Manufacturing Center(s) or Dispensary Center(s) will be considered a prohibited use.

- k. Evidence of a letter of credit in the amount of \$50,000 to be on file and renewed annually with the Office of Planning and Zoning until close of business.
- l. Once a conditional use permit is obtained for a Medical Marijuana Manufacturing Center(s) or Dispensary Center(s), any change in operation of the facility or in ownership shall require prior approval of the Board of County Commissioners.

11. MEDICAL MARIJUANA INSURANCE AND BOND REQUIREMENTS

- a. The minimum amount of third-person insurance coverage for a Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) shall be one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) general aggregate for bodily injury and property damage arising out of licensed activities and one million dollars (\$1,000,000.00) products and completed operations aggregate, commercial automobile coverage in a minimum of one million dollars (\$1,000,000.00) and excess liability in a minimum of three million dollars (\$3,000,000.00).
- b. Additional insured: The County shall be named as an additional insured on all general liability, umbrella, and excess insurance policies required under this section. All insurance policies required under this section shall be primary over any other valid and collectible insurance.

12. MEDICAL MARIJUANA DESIGN STANDARDS

- a. Each Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) must be located in a separate, permanent, stand-alone structure and have a minimum six (6) foot high, commercial grade chain-link perimeter fence encompassing the parcel boundary. The perimeter fence shall be no less than 100 feet from the center of any adjacent roadway. Any structures erected on the parcel shall be no less than 100 feet from the perimeter fence.
- b. Dimensional Standards:
 - A. The minimum lot size is three (3) acres.
 - B. One principal structure is allowed per site, with a maximum

building floor area of 10,000 square feet for the principal structure.

C. Accessory structures, directly related to the principal use, are allowed. Accessory structures may not be larger than twenty percent of the total floor area of the principal structure, and the sum of the floor area for all accessory structures may not be greater than fifty percent of the total floor area of the principal structure.

D. Principal and accessory structures must be set back at a minimum of 100 feet from the perimeter fence.

- c. Each Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) must be located a minimum of 2,640 feet from a public or private preschool, kindergarten, elementary, secondary, or high school, public park, public community center, dependent care facility, homeless shelter, youth center, place of worship, or any place that youth would gather. The distance shall be measured from the exterior fence of the Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) to the property line of the protected use.
- d. Each Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) must be located a minimum of 2,640 feet from any residential district, or any residential dwelling, trailer, recreational vehicle, or recreational district. The distance shall be measured from the exterior fence of the Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) to the property line of dwelling of the protected use.
- e. Operating hours for a Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) shall be restricted to Monday through Saturday, from 8:00 AM to 7:00 PM CST.
- f. The entire perimeter of a Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) structure must be well lit (minimum 1 candle foot) to prevent concealment in shadows around the structure for a minimum of 15 feet around each structure that is part of the Medical Marijuana Manufacturing Center(s) or Dispensary Center(s). Further, everything within the fenced area shall have 24 hour surveillance cameras depicting the entire exterior of the Manufacturing Center(s) or Dispensary Center(s) as well as cameras at the property entrance depicting vehicles and license plates of each vehicle entering the parking lot.

- g. Each Medical Marijuana Dispensary Center shall have at least 1 parking space per 250 sq. ft. of structure. Each Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) shall have at least 1 parking space for every 1000 sq. ft. of plant cultivation area and 1 parking space for each 250 sq. ft. of all other areas of the structure.
- h. Within the exception of the specific Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) approved as part of a Conditional Use Permit, no other activity may occur within the facility or land parcel.
- i. No outdoor storage on-site shall be permitted.
- j. Waste generated from the growing, processing or dispensing of marijuana that contains marijuana or contains any element derived from the marijuana plant must be stored in a waste receptacle that is only accessible by agents of the Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) and agents of the contracted waste collection company.
- k. Growing and processing of marijuana is not allowed in the following:
 - A. Greenhouses and other transparent structures.
 - B. Hoop houses and similar non-rigid or non-permanent structures.
- l. No drive-through, drive-up, or walk-up facilities shall be permitted.
- m. Each Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) must ensure there is no emission of dust, fumes, vapors, or odors into the environment.
- n. Windows must remain unobstructed at all times, allowing visibility into the facility. Window tint, decals, window signage or window coverings of any kind shall be strictly prohibited.
- o. Each permittee shall obtain an inspection of the property from the Land Use Administrator or the fire marshal prior to the annual renewal of the Conditional Use Permit.
- p. All surveillance camera locations and surveillance recording equipment including specifications must be approved by the Land Use Administrator, and such information shall be furnished to the Mercer County Sheriff's Department.

- q. All applicable state standards and requirements shall apply in the design and operations of any Manufacturing Center(s) or Dispensary Center(s).

13. SERVICEABILITY, EXCLUSIONS AND EXCEPTIONS:

- a. The provisions of this chapter do not waiver or modify any other provision of this ordinance with which Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) is required to comply. Nothing in this section is intended to authorize, legalize or permit the Manufacturing Center(s) or Dispensary Center(s) operation or maintenance of any facility, building or use which violates any County ordinance or statue of the State of North Dakota regarding public nuisances, Medical Marijuana, or any federal regulations or statues relating to the use of controlled substances.
- b. This chapter shall be null and void if any determination is made, after the adoption of the ordinance enacting this chapter, by any court of competent jurisdiction, that Ch. 19-24, N.D.C.C., is invalid, or shall be null and void to the extent any portion of such section is held invalid.
- c. Should any section, subsection, clause or provision of this chapter for any reason be held to be invalid or factually unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter, and each and every section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases of this chapter be declared invalid or unconstitutional.

14. APPLICANT BACKGROUND INFORMATION

The Applicant for a Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) Conditional Use 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 facility and of the owner of the real estate upon which the facility will be located.
- c. A list of vendors expected to provide services at or to the 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 percent (5%) of the capital stock of such corporation.

- e. Whether the applicant has ever engaged in the business of owning or operating a Medical Marijuana 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, or managing agents or partners have been convicted of a violation of the laws of the United States of America or of any states or municipality; and if so, the dates, locations 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 applications, or if so, the names and addresses of such persons and the conditions of such agreements.
- h. Attach a Certificate of Insurance.

15. APPLICATION PROCEDURE AND GENERAL REQUIREMENTS

An application for a Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) Conditional Use Permit shall be signed by the applicant or authorized representative and shall include the following information and comply with the following requirement:

- a. The legal description of the property upon which the facility will be located as well as a description of the surrounding land uses and ownership.
- b. Medical Marijuana Manufacturing Center(s) or Dispensary Center(s) 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 acknowledge 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.

- c. Description of expected maintenance at the site.
- d. The name, address and contact information of the onsite manager, the names of all employees, and the applicant shall ensure the list is regularly updated and forwarded to the Mercer County Sheriff's Department.
- e. 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.
- f. Plot plans drawn to scale showing medical marijuana dispensary center(s), additional structures, setbacks, utilities, drainage, ingress and egress, parking plans, screens, buffers and fencing. The applicant shall submit blueprints of any structures, which shall be forwarded to the Mercer County Sheriff's Department and updated if any changes are made to the structures.
- g. Snow removal plan which is adequate to accommodate emergency services.
- h. Fire and emergency evacuation plan and storm shelter plan.
- i. Information showing how, by whom and when the required services and facilities will be provided. All services and facilities will be provided at the 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 Electric Board, North Dakota State Plumbing Board, Southwest Water Authority, and Custer Health Unit including but not limited to, fresh water, refuse disposal plan and septic and sewer discharge plan.
- j. A copy of plans of closing the facility and clean up and reclaiming the real property.
- k. Written plan to dismantle the facility, 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.
- l. The applicant shall return the original, signed Attachment A, to allow inspection of the premises as described therein.
- m. The applicant shall submit an application fee of \$500 along with the application.
- n. Any additional information deemed necessary by the Land Use Administrator, the Planning and Zoning Board or the County Commissioners.

16. GRANT OF PERMIT

Any application for a Medical Marijuana Conditional Use Permit as provided 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 Medical Marijuana facility, or which would, in the judgement of the Board of County Commissioners make the granting of the permit contrary to the best interests of the County or its citizens.

17. NON-TRANSFERABILITY OF PERMIT

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

18. PROHIBITED ACTIVITIES

- A. Alcoholic beverages, firearms, illegal substances, and animals are not allowed on the premises.
- B. The site shall be maintained free of garbage and junk.
- C. Consumption in any method of marijuana or any product derived from the plant is not allowed on the premises. Consumption of marijuana or products derived from the marijuana plant must take place off-site.

19. REVOCATION OF PERMIT

The Board of County Commissioners may review the status of any permit issued 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.

- a. 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:
 - 1. The applicant being adjudged bankrupt.
 - 2. Applicant's falsifying of any statement or statements in the application process described herein.
 - 3. Applicant's conviction, or the conviction of any applicant's officers, directors, or agents, or any felony crime under the laws of the United States of America or any state or municipality.
 - 4. The applicant's violation of any health or sanitary regulations of Mercer County or the State of North Dakota.
 - 5. 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.

6. 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.
7. The Sheriff's Department or other law enforcement agency received 10 complaints due to noise, fighting, unruly behavior, or other acts prohibited by the North Dakota Century Code with a three month period of time at the location of the Medical Marijuana facility.
8. The Mercer County Sheriff's Department, in its discretion, recommends revocation or suspension of the Conditional Use Permit.

b. 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 of hearing on the proposed penalty. Failure to request a 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.

c. No refunds on Revocation or Suspension

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

20. EXPANSION OF MEDICAL MARIJUANA FACILITIES

In the event an application is to expand an existing Medical Marijuana 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 facility.

21. RENEWAL OF CONDITIONAL USE PERMIT

Any Medical Marijuana Conditional 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.

22. 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 Medical Marijuana Conditional Use Permit by:

(Name)

The above-named applicant does hereby consent to any police officer and any person or persons duly authorized by the Mercer County Board of County Commissioners to 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 purpose 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, and consents to the same without issuance or use of a search warrant, and the applicant does hereby agree that any 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

Dated this _____ day of _____, 20_____.

WITNESSED BY:

Land Use Administrator