

AMENDMENT 2012-2

AN ORDINANCE ENACTING A NEW SECTION 21 TO THE ZONING ORDINANCE OF OLIVER COUNTY RELATING TO COMMERCIAL VEHICLE PARKING

BE IT ORDAINED BY THE COUNTY COMMISSION OF THE COUNTY OF OLIVER AS FOLLOWS:

Section 1. AMENDMENT

Section 22 of the Zoning Ordinance of the County of Oliver, State of North Dakota, shall be and is hereby implemented and enacted to read as follows:

22. Commercial Motor Vehicle Parking

22.1 Definitions.

1. "Commercial Motor Vehicle" shall be defined per N.D.C.C. § 39-06.2-02, which currently defines a 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 weight rating of more than 10,00 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 (i.e. less than 48 hours) parking of commercial motor vehicles, as defined above.

22.2 Commercial Motor Vehicle Parking Lot Conditional 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 Oliver County Zoning Ordinance. It is allowable as a conditional use in Agricultural, Commercial and Industrial Districts. The application shall be submitted to the Oliver County Planning and Zoning Commission.

22.3 Applicant Background Information

An 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. The applicant's history of residency, employment and business ownership for the five (5) years preceding the date of application. If applicant is an entity, it shall provide a certificate of good standing from the state of origin. If applicant is a partnership, the required information and consents shall be furnished for all of the partners. If applicant is a corporation or limited liability company, information shall be provided as to applicant's status as a subsidiary, if any, of any other corporation or limited liability company, the purposes for which applicant was organized, and the name and addresses of all officers, directors, managing agents, and all stockholders or interest holders owning more than five percent (5%) of the capital stock of such corporation;
- e. Whether applicant has ever engaged in the business of owning or operating a commercial motor vehicle parking lot or similar operations before, and if so, the dates and locations of such ownership or operations;
- f. Whether during the five (5) years immediately preceding the date of the application, applicant, or any of applicant's officers, directors, managing agents or partners have been convicted of a violation of the laws of the United States or any state or municipality; and if so, the dates, location and courts in which such convictions were obtained;
- g. Whether 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 terms and conditions of such agreement(s);
- h. Attach a Certificate of Insurance with declaration.

22.4 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 lot will be located and a description of the surrounding land uses and ownership;
- b. A description of the parking spaces together with a numbering system that clearly identified the spaces for purposes of emergency responses;
- c. 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 acknowledgment 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, through the Oliver County Board of Commissioners;

- d. A description of expected maintenance at the site;
- e. The name, address and contact information of the onsite manager;
- f. A copy of any lease for real estate or personal property involved. If applicant is not the owner of record, include a letter from the owner stating agreement with the proposal;
- g. 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: 24 feet minimum from front of property line.
 2. Rear and side setbacks: 10 feet for a commercial or agricultural lot or 30 feet if adjoining a residential district.
 3. Setbacks where property is adjacent to road: 150 feet from center of a county road and 250 feet from center of any state or federal road.
 4. There must be a minimum of 14 feet between units or other structures on the property. No parking allowed between units.
 5. Maximum building height: 45 feet.
 6. Setbacks where property near residence: 300 feet from any residence existing at the time of approval by the Planning and Zoning Board;
- h. Lot spacing and access shall be adequate to accommodate emergency services;
- i. A list of parking lot rules and regulations, including but not limited to a restriction of forty eight (48) hours as the maximum time allowed for a commercial motor vehicle to be parked;
- j. On-site security plan, including plans for controlling access to the facility and a minimum six-foot (6') high chain link fence encompassing the facility;
- k. Fire and emergency evacuation plan and storm shelter plan;
- l. 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;
- m. Applicant shall return the original signed Attachment A, to allow inspection of the premises as described therein;
- n. Applicant shall submit an application fee of \$300.00 along with the application; and
- o. Any additional information deemed necessary by the Land Use Administrator, the Oliver County Planning and Zoning Commission, or the Oliver County Board of Commissioners.

22.5 Approval or Denial of Permit

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

22.6 Permit Non- Transferable

Any permit issued pursuant to this Ordinance is exclusive to the person or entity granted the permit and may not be transferred to another party without prior approval of the Oliver County Planning and Zoning Commission.

22.7 Prohibited Activities

No alcoholic beverages, firearms, illegal substances or animals are allowed on the premises of a Commercial Vehicle Parking Lot. The site shall be maintained free of garbage and junk.

22.8 Revocation of Permit

The Oliver County Board of 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 the applicable zoning ordinances of Oliver County.

1. Suspension or Revocation for Cause

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

- a. 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 any of applicant's officers, directors or agents, of any felony crime under the laws of the United States or any state or municipality;
- d. Applicant's violation of any health or sanitary regulations of Oliver County or the state of North Dakota;

- e. Applicants 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. A violation by applicant, or any agent or employee of applicant, 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 related 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; or
- h. The Sheriff's Department or other law enforcement agency receives or services 10 complaints related 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 lot by applicant.

2. Notice – Public Hearing

Sanctions or penalties under this Ordinance may not be invoked without a public hearing if requested by applicant. The Oliver County Auditor shall give written notification to the applicant that a penalty is being sought under this Ordinance. The applicant may notify the Auditor's office within ten (10) days of such written notification and request a hearing on the alleged violation and proposed penalty. Failure to request a hearing within ten (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 Oliver County Board of Commissioners and notice specifying the time and place of hearing shall be mailed to applicant. The hearing shall be recorded electronically.

If after such hearing the majority of the Oliver 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, conclusions and order, which will be mailed to 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.

22.9 Expansion of Commercial Motor Vehicle Parking Lot

In the event an application is to expand an existing Commercial Motor Vehicle 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 Commercial Motor Vehicle Parking Lot.

22.10 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 Oliver County Planning and Zoning Commission upon written application 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.

22.11 Conditions – Reporting Requirements

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

This Ordinance shall become effective upon the second reading and final passage hereof and publication (if required). Upon the final passage hereof, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adoption of the foregoing Ordinance was moved by _____, seconded by _____; the following Commission Members voting for: _____, _____, and _____, and none voting against, the Ordinance was approved and duly adopted the ___ day of _____, 2012.

OLIVER COUNTY COMMISSION:

Dwaine Helmers, Chairman

ATTEST:

Judith Hintz, Oliver County Auditor

First Reading: _____
Second Reading: _____
Final Passage: _____