

APPLICATION FOR AN EMMONS COUNTY CONDITIONAL USE PERMIT

TO THE EMMONS COUNTY PLANNING & ZONING BOARD AND THE EMMONS COUNTY BOARD OF COUNTY COMMISSIONERS:

1. Applicant & Property Information.

Applicant Name/Company: _____

Mailing Address: _____

Phone / Email: _____

Project Location: Legal description of the subject property:

Parcel No(s): _____

Current Zoning District: _____

Property Owner (if different): _____

2. Project Description.

The applicant requests a Conditional Use Permit to construct, operate, or maintain the following (any detailed plans and specifications should be enclosed herewith):

3. Applicant's Covenants.

A. General Compliance

- a) The project will be constructed, operated, and maintained substantially in accordance with the application materials and plans submitted.
- b) Any deviation from the approved project requires prior review and approval by the Emmons County Commission.

- c) The proposed use is consistent with the Emmons County Planning & Zoning Ordinances, and is permitted as a Conditional Use in the requested zoning district.
- d) Adequate public services, access, and infrastructure exist or will be provided.
- e) The use will not adversely impact the public health, safety, or welfare.
- f) The applicant has agreed to comply with all conditions imposed herein.

B. Environmental & Nuisance Controls

- a) All operations must comply with applicable state and federal environmental regulations.
- b) Dust, noise, odor, vibration, and lighting shall be minimized so as not to create a nuisance to neighboring properties.
- c) Waste materials, scrap, or debris shall be properly contained and discarded. No materials may be placed in any easement area, public right-of-way, or section line.

C. Access & Rights-of-Way

- a) Access locations must be maintained in a safe condition.
- b) Public easements, section lines, roads, and rights-of-way must remain unobstructed unless otherwise authorized by law.

D. Operational Estimates

- a) Hours of operation: _____
- b) Estimated number of employees/vehicles/equipment: _____

E. Other Conditions (if applicable)

4. Inspections & Enforcement.

Applicant understands that the County reserves the right to enter the property at reasonable times to verify compliance with this permit. Failure to comply with any term or condition may result in modification, suspension, or revocation of the CUP.

5. Transferability.

This CUP:

☐ Runs with the land

☐ Is personal to the applicant and non-transferable

6. Projected Project Costs and Permit Fees.

Pursuant to a Resolution of the Board of County Commissioners, Emmons County charges a Conditional Use Permit fee, which is equal to 3.00% of the total cost of the project (limited to the building and construction costs incurred within Emmons County). That is the maximum fee. The minimum fee is \$750.00. The \$750.00 (non-refundable) initial permit application fee must be included with this application. This fee is designed to cover the costs associated with the public hearing and review of the application, which is conducted by the Planning & Zoning Board.

Upon final approval by the County Commission, the remainder of the CUP fee shall be paid in full, prior to construction. If further permitting is required through the Public Service Commission, then 25% of the total permit fee shall be due within 30 days of County approval; 50% of the total permit fee shall be due within 30 days of PSC approval; and the remaining balance shall be due no later than 30 days prior to the start of construction.

Estimated Total Project Cost (in Emmons County) \$ _____

PSC Permitting Required: ☐ Yes ☐ No

Estimated Conditional Use Permit Fee (3.00 %): \$ _____

7. Permit Approval.

This Conditional Use Permit is first considered by the Emmons County Planning & Zoning Board, which shall recommend approval, approval with conditions, or disapproval. Final approval or denial shall be made by majority vote of the Emmons County Commission, as detailed below.

8. Bond Requirement.

As a condition of this Permit, the Permittee shall furnish the County with a surety bond, irrevocable letter of credit, or other security acceptable to the County (collectively, "Bond") in the amount equal to 10% of the total estimated cost of the project in the county, unless otherwise specified by the Emmons County Commission. The Bond must be issued by a surety or financial institution authorized to do business in the State of North Dakota.

The Bond shall be conditioned upon the Permittee's full compliance with all terms and conditions of this Permit, including but not limited to: (1) completion of all required improvements in

accordance with the approved plans; (2) restoration of all disturbed areas; (3) repair of any damage to public roads, culverts and bridges, rights-of-way, drainage systems, waterways, or other County property caused by the Permittee's operations; and (4) performance of all reclamation, cleanup, or closure obligations required under this Permit.

The Bond must remain in full force and effect until the County determines, in writing, that all obligations secured by the Bond have been fully satisfied. The County may draw upon the Bond, in whole or in part, upon a determination that the Permittee has failed to comply with any condition of this Permit and has not cured the deficiency within the time specified in a written notice of non-compliance. Failure to maintain the Bond in the required amount shall constitute a violation of this Permit and may result in suspension or revocation of the Permit. The Board reserves the right to waive the bond requirement, if the Permittee shows proof of a bond posted with the state or another applicable jurisdiction.

9. **Concluding Provisions.**

The undersigned respectfully submits this application for consideration and certifies that the owner of the property (if different from the applicant) has been notified of this request and is in agreement and that they (the applicant) will abide by all the rules, regulations, and conditions attached to this permit, if any. All fees paid to the County are non-refundable, regardless of final approval. This application is respectfully submitted this _____ day of _____, 20____.

Print Name (Applicant/Company)

Signature of Applicant

E-mail Address

Date Signed

Telephone

Address

Date of Planning & Zoning Hearing: _____

The Emmons County Planning and Zoning Board recommends the following action:

(Include Vote Tally to the Right of the Decision)

- ☐ Approve as Submitted _____
- ☐ Disapprove _____
- ☐ Approve, with the below-described conditions: _____

Emmons County Planning & Zoning
Board, Chairperson

Date

Date of Commission Meeting: _____

Final Action by the Emmons County Commission:

(Include Vote Tally to the Right of the Decision)

- ☐ Approved as Submitted _____
- ☐ Disapproved _____
- ☐ Approved, with the below-described conditions: _____

Emmons County Board of County
Commissioners, Chairperson

Date

County Auditor

Date

Risk Management Appendix

Permittee agrees to defend, indemnify, and hold harmless Emmons County, its agencies, officers and employees (the "County"), from and against claims based on the vicarious liability of the County or its agents, and based on the County's contributory negligence, comparative negligence, contributory and/or comparative fault, sole negligence, and intentional misconduct. Permittee expressly agrees this Indemnity Clause was bargained for and was expressly and unequivocally stated. The legal defense provided by the Permittee to the County under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the County is necessary. Permittee also agrees to defend, indemnify, and hold the County harmless for all costs, expenses, and attorney's fees incurred if the County prevails in an action against the Permittee in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Permittee shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools, or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

1. **Commercial general liability insurance** – minimum limits of liability required are **\$1,000,000 per person and \$2,000,000 per occurrence**. If it is not practical for the Permittee to carry commercial general liability insurance, Permittee **may substitute farm liability insurance, renters' insurance, or homeowners' insurance** in the amount of **at least \$1,000,000**.
2. If Permittee uses an automobile in relation to the attached CUP, Permittee must secure **automobile liability insurance** with a minimum liability of **at least \$1,000,000**. The above limits may be satisfied through a policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form.
3. The County, its agencies, officers, and employees (County) shall be endorsed as an **additional insured** on the above policies.

The Permittee shall furnish a certificate of insurance coverage evidencing the requirement in 1 through 3 above to the undersigned County representative prior to commencement of this agreement.

Permittee's insurance coverage shall be primary (i.e., pay first) with respect to any insurance, self-insurance, or self-retention maintained by the County.

The insolvency or bankruptcy of the insured Permittee shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Permittee from meeting the retention limit under this policy.

The Permittee must secure any necessary Workers' Compensation coverage that may be required by North Dakota law.

When a portion of the work performed pursuant to this CUP is sublet, the Permittee shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Permittee and the County as a result of work undertaken by the Subcontractor or Sublessee. In addition, the Permittee shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors or Sublessees performing work under the Permit are required to maintain the same scope of insurance required of the Permittee. The Permittee shall be held responsible for ensuring compliance with those requirements by all Subcontractors and Sublessees.