

**LETTER OPINION
2003-L-04**

January 30, 2003

The Honorable Merle Boucher
House Minority Leader
State of North Dakota
600 E Boulevard Ave
Bismarck, ND 58505-0360

Dear Representative Boucher:

Thank you for your letter asking whether the provisions for licensing trailer parks under N.D.C.C. ch. 23-10 apply to lots temporarily used during special occasions that are not licensed trailer parks. In your letter, you note an event held last summer in which more than 200 travel trailers gathered for a special event, and the trailers were parked during the event in empty parking lots or vacant lots that were not licensed as trailer parks.

For purposes of N.D.C.C. ch. 23-10, a trailer park is defined to mean “any parcel of land containing three or more lots intended for occupancy by travel trailers.” N.D.C.C. § 23-10-01(7). There are extensive regulations for health, safety, sanitary conditions, and the general protection of the public in trailer parks.¹ See N.D.C.C. §§ 23-10-02 and 23-10-07.

“Words used in a statute are to be understood in their ordinary sense, unless a contrary intention plainly appears.” Grand Forks Professional Baseball, Inc., v. North Dakota Workers Compensation Bureau, 654 N.W.2d 426, 429 (N.D. 2002). See also N.D.C.C. § 1-02-02. The definition of trailer park means a parcel of land containing three or more lots intended for occupancy by travel trailers. N.D.C.C. § 23-10-01(7) . A lot is defined by statute to mean any piece of land of required size intended for occupancy by a mobile home, travel trailer, or tent. N.D.C.C. §23-10-01(3). A travel trailer is also defined by statute, and is described as a portable unit designed to be used as a temporary dwelling for travel or recreational purposes, and would appear to encompass what is generally referred to as a camper. See N.D.C.C. § 23-10-01(8). The trailer park must be intended for occupancy by travel trailers. The word “intend” means to have in mind, plan, to design for a specific purpose, or to have in mind for a particular use. The American Heritage

¹ A trailer park is distinguished from a mobile home park by the fact that a trailer park is designed for temporary travel or recreation purposes while a mobile home park is designed for relocatable structures that are intended to be used as living quarters. Compare N.D.C.C. § 23-10-01(8) (definition of travel trailer) with N.D.C.C. § 23-10-01(4), (5) (definitions of mobile home and mobile home park).

Dictionary (2d col. ed. 1991) 668. Occupancy, under this situation, would mean the period during which one owns, rents or uses certain premises or land or the use to which something occupied is put. Id. at 860. Neither the statutory nor the dictionary definitions require that the occupancy of the lots by travel trailers be intended as a permanent use of the land, and nothing indicates that a temporary use of the land for three or more lots containing travel trailers does not require a license under chapter 23-10.²

The licensing provision provides “no person may establish, maintain or enlarge” a trailer park without a license. N.D.C.C. § 23-10-03. To “maintain” means to continue, carry on, or to keep in existence. The American Heritage Dictionary (2d col. ed.1991) 757. These uncertainties in the statutes arguably render it ambiguous. See Kim-Go v. J.P. Furlong Enterprises, Inc., 460 N.W.2d 694, 696 (N.D. 1990). Aids in the interpretation of ambiguous statutes include the administrative construction of the statute. N.D.C.C. § 1-02-39(6). The regulatory entity for trailer parks under chapter 23-10 is the State Health Department. Your letter states that a State Health Department inspector advised the assemblage in question that it was in violation of law. Agencies have a reasonable range of informed discretion, and courts generally defer to an agency’s reasonable interpretation of technical or specialized language. Matter of Stone Creek Channel Improvements, 424 N.W.2d 894 (N.D. 1988). The Health Department’s longstanding interpretation that N.D.C.C. ch. 22-10 applies to temporary uses of land as a trailer park is reasonable in light of the statute’s language and the public safety concerns evident in this legislation. While a parking lot when constructed may not have been intended to be used as a trailer park, it would be unreasonable to conclude that the licensure requirements could be avoided for that reason if the area is actually used as a trailer park.

It therefore appears that the term “trailer park” as used in N.D.C.C. ch. 23-10 does include a parcel of land containing three or more lots occupied by travel trailers on both a temporary or special use basis as well as a long-term or permanent operation of a trailer park. Therefore, it is my opinion that the requirement for licensing trailer parks under N.D.C.C. ch. 23-10 does apply to lots with three or more spaces temporarily used during special occasions for parking travel trailers.

Sincerely,

Wayne Stenehjem
Attorney General

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² As a practical matter, N.D.C.C. § 23-10-07 requires permanent or costly additions in order to obtain licensure as a trailer park that would make licensure of a temporary or special event use difficult.