

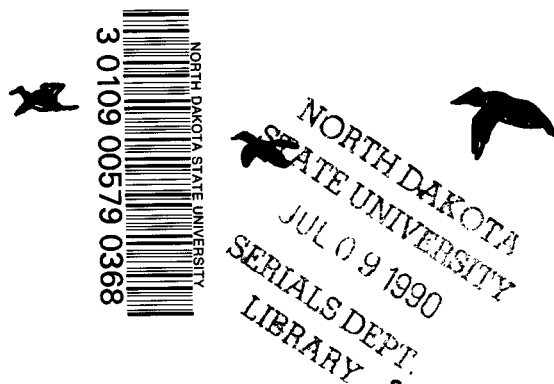
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TIPS ON GRANTING PERMISSION TO HUNT

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What would you do if someone, perhaps a stranger, asks to hunt on your land? Your answer, whether favorable or not, will likely depend for the most part on past experiences with hunters rather than your impression of the present asker. Before you make your decision there are some things you should consider. First of all, who is this stranger. Secondly, what are some of the pros and cons of granting permission to hunt and lastly, if you decide to grant permission, what can you do to enhance the experience for those hunting while at the same time minimize the potential for conflict with your operational interests.

Who is this Stranger?

Ironically, most hunters who ask permission to hunt on your land may not be strangers at all. Nine times out of 10 they may be local people and in many cases, farmers or landowners like yourself. Some of the strangers may be farmers from other parts of the state who may not have the wetlands to support waterfowl or the rangelands to support upland game. Or, they may be farm kids, one generation off the farm with folks still farming. In a lot of these cases, there wasn't enough land to go around so they had to move to the city. In any event, it is entirely possible that many of them have connections in one way or another to the land and most of these may still be farmers, ranchers and landowners at heart.

Pros of Granting Permission

Why should you allow someone to hunt on your property?

1. Granting permission may help to maintain good community relations. Refusing to allow an acquaintance or member of the local community to hunt can lead to a disruption of community harmony and bad feelings.
2. Allowing a stranger to hunt may lead to new friends and could result in opening up new opportunities for you. For example, you might be "trading" grouse or pheasant hunting for goose hunting, or vice versa.
3. If you are suffering animal or bird damage to crops, hunting can help alleviate this situation (it is not the whole answer but it helps).

4. Some may feel a sense of attachment to the tradition of unrestrained hunting. This feeling is becoming rarer, but it does still exist.

Cons of Granting Permission

Now for a look at the other side of the coin. What are some of the reasons for not granting permission to hunt on your property?

1. Property damage may take place - gates may be left open and stock may stray; fences may be broken down; nails may be put in trees where tree stands are built; crops may be trampled; there may be littering; and outright vandalism may occur.
2. Some to whom you give special permission may take advantage of your hospitality by bringing friends and relatives to hunt on your property. They may come to accept your permission as a "God-given right" and not the revocable privilege it is.
3. Having others on your property does lead to some loss of privacy and a certain amount of restriction on where and when and what you do.
4. Finally, you may wish to have the game produced on your property for your own hunting or viewing pleasure.

Enhancing the Hunting Experience and Minimizing the Potential Conflicts

Suppose that after considering the pros and cons you decide to allow others to hunt on your property, what can you do to enhance the experience for both hunter and landowner while minimizing the potential conflicts.

Since **North Dakota farmers frequently allow the public free use of their land for hunting, special legislation has been passed protecting farmers from liability.** These laws have the effect of limiting the duty of care a farmer owes to a hunter, thus encouraging farmers to allow their property to be used for hunting without charge.

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As a general rule, landowners owe certain "duties and standards of care" to others who enter their land, including hunters. The degree of care required varies with the legal status of the hunter. The legal status of a hunter is determined by such things as whether (1) the land was posted, (2) the farmer consented to let the land be hunted, (3) the farmer is aware that people are hunting on the land but does nothing, or (4) the farmer charged a fee to hunt on his land.

A farmer owes no duty of care to keep his premises safe for the use of others if he has not charged a fee allowing others the use of his premises for hunting. He also has no duty to give warning of dangerous conditions or activities existing on his land to parties entering without charge. (This does not include willful or malicious failure to warn against dangerous conditions.) In fact, a person using a landowner's premises for the purpose of hunting has an obligation while on the land. This would apply in cases where a farmer consented to other hunting on his land or where he was aware that people were hunting there but did nothing.

If, however, a landowner receives economic benefit by charging a fee to come on his land, he has a duty to make the premises safe or to post signs pointing out potential hazards. This is consistent with general law, enacted in North Dakota, limits a landowner's liability where no charge is made.

Additional Protection

In addition there are several steps you can take to protect yourself and your property.

1) Post property boundaries and diligently prosecute violators. While the state owns all resident wild birds, fish, and wild animals, a farmer may control hunting on land which he owns or rents. Generally, permission to hunt on the land of another is presumed in North Dakota unless the land is legally posted. There are certain standards to be met before land is considered legally posted, and a farmer must post his land legally if he does not want hunters to enter. Permission to trap is not presumed. A person wishing to trap on the land of another must get specific written permission.

Legally posted land has signs giving notice to hunters that no trespassing or hunting is permitted or that hunting is allowed only by express permission. Only the owner or tenant of the land may post it, and each sign must bear the legible signature of that owner or tenant, along with his address and date of posting. Signs must be readable from outside the posted land and must be conspicuously placed no more than 880 yards apart. Land entirely enclosed by a fence or other enclosure may be legally posted by placing signs at all entrances or gates. A farmer who owns or rents legally posted land on both sides of a roadway has effectively posted the roadway in between.

Unharvested cereal crops and sunflowers are exempted from the rule that land must be posted to prevent hunting. It is unlawful to hunt or pursue game in unharvested cereal crops, sunflower, alfalfa, clover, and other grasses grown for seed without first getting the permission of the owner or tenant.

Although a hunter may not enter upon legally posted land to hunt wild game without permission, he may enter posted land to retrieve any game wounded on land where the hunter is legally hunting should that game go onto or fall onto the posted land. The hunter, however, may not shoot from land where the hunter is legally hunting onto posted land or into air-space above posted land. The game must be on land where the hunter is legally hunting at the time it is first wounded.

Anyone entering posted land without consent of the owner is a trespasser to whom the farm operator owes no duty of care other than to refrain from harming him in a willful and wanton manner.

Instead of posting land to strictly forbid hunting, landowners who are open to permitting hunter access should consider using signs inscribed with "hunting by permission only," or "walking hunters welcome." Signs like the later are available free of charge through the North Dakota Landowner-Sportsman Council, 100 North Bismarck Expressway, Bismarck, North Dakota 58105.

2) Interview every applicant yourself. This is too important to leave to others.

3) Grant written permission which states among other things, the specific time and the specific places for which it is granted. In addition, the permit should also have a statement which says that the permittee absolves the permittor from liability for injury to self or property. (Although North Dakota law also does this, such a statement may help reduce the possibility of suit.)

4) Make it very clear that permission is being given only for the person named on the written permit.

5) Have set of carefully thought-out rules, go over them with hunters, and enforce them; withdraw privileges from violators. Each landowner who grants permission will need his own set of rules which are applicable to his situation. The following are suggestions for consideration:

- Have it understood that all state and federal game regulations will be obeyed.
- Incorporate the 10 commandments of gun safety.
- Don't allow drinking or drinkers to hunt.
- Clearly state how you wish gate and fences handled for instance, that gates should be left open if found open, shut if found shut; that fences should not be climbed or used for target practice or climbing.
- Plainly mark and show the safety zones around houses and buildings.
- Indicate, on a map, areas open for hunting, roads which may be used, etc.
- List the species which may be shot and those which you want left alone.
- Make it very clear that unsportsman-like behavior, whatever form it may take, will not be tolerated.

Below is an example of a simple courtesy hunting permit. Additional conditions could be added to the permit as desired.

COURTESY HUNTING PERMIT (Sample)

Date _____

To whom it may concern:

The bearer of this permit, _____,
has permission to hunt on the following

property: _____,
(Name of Farm, Ranch)

located at _____,

during the period _____ . He (she)
(Hours and dates)

agrees to obey the current State and Federal hunting regulations and to repair or pay for any property damages which he (she) may cause.

Signature of landowner: _____

Signature of permittee: _____

Note: North Dakota Law (ND Chapter 53-08) frees the current landowner from all liability if a nonpaying guest is injured, unless the injury results from willful or malicious failure to guard or warn against dangerous conditions, use, structure, or activity.



10 Commandments of Gun Safety

1. Treat every gun with respect due a loaded gun.
2. Watch that muzzle. Carry your gun safely. Keep safety on until ready to shoot.
3. Unload guns when not in use, take down or have actions open; guns should be carried in cases to shooting area.
4. Be sure barrel is clear of obstructions, and that you have ammunition only of the proper size for the gun you carry.
5. Be sure of target before you pull trigger; know identifying features of game you hunt.
6. Never point a gun at anything you do not want to shoot; avoid all horseplay.
7. Never climb a tree or fence or jump a ditch with a loaded gun; never pull a gun toward you by the muzzle.
8. Never shoot a bullet at a flat, hard surface or water; at target practice be sure your backstop is adequate.
9. Store guns and ammunition separately, beyond the reach of children.
10. Avoid alcoholic beverages before or during shooting.

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