



Special Use Permit Requirements

SECTION 601. INTENT, PURPOSE AND PROCESS.

1. **Intent.** In contrast to the clear cut and objective process desired for most zoning decisions, the special use permit process is intended to be at least partly subjective. It relies upon the judgment of the planning commissioners, the sincerity of the applicant, and the opinions or feelings of people who live or own property near the site of a proposed special use. The special uses which are designated for a particular zoning district are generally complementary to the uses permitted by right. However, because of their unique characteristics or more intensive natures, these uses require special consideration of the welfare of adjacent properties and the community as a whole.
2. **Purpose.** This chapter provides procedures and standards for regulating activities identified as uses "by special permit" for each zoning district in the uses table found in Chapter 3 of this ordinance. Special uses represent a middle range between uses that are clearly permitted and uses that are clearly denied in any zoning district. The purpose of designating special uses is to allow practical latitude for a property owner or developer to use a parcel of land while maintaining protection of the health, safety, comfort, convenience and general welfare of neighbors and the community at large.
3. **Process.** Regulation of special uses includes two (2) separate steps. First is the review of the site plan for the proposed use. Second is the decision of whether or not a special use permit will be granted.
 - a. **Standards.** During the special use permit process, various considerations will be explored before approval of the site plan or the special use permit. Some of these are defined in this chapter as additional site plan review standards for various special uses. These standards are intended to reduce the impact of a special use on surrounding properties. They are minimum requirements which must always be met.
 - b. **Conditions.** The planning commission may attach additional conditions to the approval of the site plan or the special use permit. These conditions must be based on requirements or concerns defined by this chapter.
 - c. **Precaution.** No person should conclude that compliance with the standards defined by this chapter automatically grants him the right to establish a special use in a given zoning district. Rather, the privilege of establishing a special use is granted or denied by the planning commission following the process outlined in

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this chapter. This process includes notification of nearby residents and property owners who may voice their opinions at a public hearing before a decision is made to grant a special use permit. Since special uses generally impose physical, visual or psychological impacts on neighboring parcels, the input of neighboring residents or property owners is a legitimate factor for the planning commission to consider when deciding whether to allow such uses.

- d. **Permanence.** Note that once a special use permit has been granted, it may only be revoked if the conditions mentioned above, or other requirements of this chapter, have been violated. Otherwise, the special use permit "runs with the land" and is one of the rights that is transferred when the parcel is rented or sold. Therefore, this chapter does not provide for placement of any time limit on a special use permit, except that the special use permit may expire or be revoked as noted in Section 605.5 and 6.

SECTION 602. PERMIT PROCEDURES.

1. **Submission Of Application.** The application package is to be submitted to the village zoning administrator.
 - a. **Contents.** The application package consists of a zoning permit application form completed in full by the applicant, accompanied by a fee as established by the village council and a site plan meeting the requirements of Section 707.2.c.
 - b. **Application Deadline.** The complete application package must be submitted to the zoning administrator at least twenty (20) days before the planning commission meeting at which it will be considered.
2. **Simultaneous Consideration Of Rezoning And Special Use Permit.** In the event that allowance of a desired use requires both a rezoning (change in zoning district designation for the parcel) and a special use permit, both requests may be submitted jointly and considered at a single meeting of the planning commission, subject to the following requirements.
 - a. **Separate.** The rezoning shall be considered separately from the special use permit.
 - b. **Procedures.** The ordinance procedures for each decision shall be followed as specified. However, any special use permit approval must be conditioned upon adoption of the rezoning by the village council.
 - c. **Standards.** All standards required by this chapter shall be observed for each action.
 - d. **Public Hearings.** The public shall be given the opportunity for input on both the rezoning and special use decisions. Thus, two (2) separate public hearings shall be held at the same meeting.

3. **Planning Commission Review And Hearing.** The special use permit application package shall be the subject of both a site plan review and a public hearing conducted by the planning commission. If the applicant wishes to have the site plan review and special use permit considered at a single planning commission meeting:
 - a. **Site Plan Review.** The planning commission shall conduct a site plan review for the proposed use, using the procedure and standards presented in Section 707 and any specific standards identified for the special use by this chapter. The planning commission may approve the site plan as presented, approve it with conditions, deny it or table approval of it to a specific meeting date.
 - 1) **Public Input.** The site plan review may be completed before public input is heard on the question of granting the special use permit. This is because the site plan review process is intended to be an objective review of factual information to determine whether precise standards have been met. However, the planning commission may choose to accept public comments or questions relating only to design considerations of the site plan.
 - 2) **If The Site Plan Is Denied.** In the event the site plan is denied, consideration of the special use permit shall still occur, including the public hearing. The special use permit may still be approved with the condition that site plan approval must be obtained before the special use permit is valid.
 - b. **Public Hearing On Special Use.** The planning commission shall hold a public hearing on the application as part of the meeting in which the special use permit is considered.
 - 1) **Notice.** A notice of public hearing shall follow the requirements of Section 706.
 - 2) **Delay At Applicant's Request.** If a site plan for a special use has been denied, the applicant may ask for consideration of the special use permit, including the public hearing to be postponed. However, postponing the hearing requires an additional notification of neighboring property owners and newspaper publication of another notice. Therefore, the applicant will be required to pay an additional application fee to offset the village's added cost.
 - c. **Consideration Of Special Use Permit.** Following the public hearing, the planning commission chairman shall accept a motion for approval, conditional approval or denial of the special use permit. Planning commission members shall then discuss the motion and vote upon it.
 - 1) **Open Meeting.** Note that the Open Meetings Act requires this vote to take place in an open public meeting.
 - 2) **Prompt Decision.** In the interest of fairness and a timely response for all concerned parties, the planning commission shall render its decision on the special use permit during the same meeting in which the public hearing is held, unless further information must be obtained before a decision can be made. In such cases, action upon the special use permit may be tabled to a

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public meeting of the planning commission to be held on a specific date which is identified in the motion to table.

- 3) **Issuance Of Zoning Permit.** Only upon approval of a special use permit by the planning commission may a zoning permit for the proposed use be issued by the zoning administrator.
4. **Reapplication.** An application for a special use permit which has been denied by the planning commission may not be resubmitted for one year after the date of such denial.
5. **Terms Of Permit.** A special use permit issued pursuant to this chapter consists of a zoning permit which specifies the special use which is to be allowed and any conditions which were attached by the planning commission. Validity of this zoning permit, and consequences of any voiding of such permit are described by Section 702.5 and 6. If a use established under a special use permit is discontinued for a period of one year, the special use permit shall expire. To reestablish the use after such expiration will require granting of a new special use permit, starting with a new application.
6. **Revocation.** The privilege of a special use permit is subject to all conditions that have been attached to it during the process described above. Except as noted in subsection (e) above, the permit remains valid as long as all of those conditions are met. However, the planning commission shall revoke any special use permit after it has been proved that the permit conditions have been violated. The special use permit is a condition of the approval of the zoning permit, and revocation of it shall void the zoning permit.
 - a. **First Notice.** The zoning administrator shall send written notice of a violation to the holder of the zoning permit by certified mail. The notice shall state that correction must be made within thirty (30) days or the planning commission will revoke the special use permit and order the use to cease.
 - b. **Considered Nonconforming.** From the time the zoning administrator's notice of violation is issued, until compliance with all special use permit conditions is restored, the use in question shall be treated as an unacceptable nonconforming use. Actions specified by the regulation of nonconformities table in Section 401 of this chapter shall be taken whenever they apply.
 - c. **Planning Commission Action.** The zoning administrator shall notify the planning commission of the violation of conditions of the special use permit at the next regular planning commission meeting, and revocation of the special use permit shall be considered then. The planning commission's meeting will usually occur before the thirty-day period for the first notice has expired. In that case, the resolution to revoke the special use permit should be worded so that it takes effect only if compliance with all requirements is not restored. It shall also include authorization for the zoning administrator to order the permit holder to cease the permitted use if the violations are not corrected by the end of the first notice period.

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- d. **Second Notice And Order.** After expiration of the thirty-day period, the zoning administrator shall notify the permit holder by certified mail that the special use permit has been revoked, and the use for which the permit was granted must cease within sixty (60) days from the date of this second notice.
- e. **Enforcement Of Order.** Failure to comply with the order to cease an activity for which a special use permit has been revoked is a violation of this chapter, subject to all penalties thereof.

SECTION 603. PERMIT STANDARDS.

- 1. **Standards Attached To Site Plan Review.** Before approving or denying a special use permit application, the planning commission reviews the site plan for such use to establish that all applicable standards are satisfied. The site plan review shall determine compliance with the applicable district regulations from Chapter 3, the site plan review standards from Section 707, and any applicable standards from this chapter. Standards are included in the table of special use permit standards and in supplementary sections that follow the table.
- 2. **Additional Conditions.** The planning commission may stipulate any additional conditions or safeguards deemed necessary to achieve the objectives of this chapter. These may be defined during the site plan review process or during consideration of whether to grant the special use permit. All conditions attached to the approval of the site plan are also conditions of the special use permit. These conditions, and the reasoning behind them, must be documented in the planning commission's minutes and communicated to the applicant in writing.
- 3. **Enforcement Of Conditions.** The breach of any condition shall be cause for the planning commission to revoke a special use permit as described in Section 602.6.

SECTION 604. TABLE OF SPECIAL USE PERMIT STANDARDS.

The following table defines additional standards to be addressed during the site plan review for any proposed special use permit. To determine which additional standards from this chapter are to be applied, locate the use category on this table which corresponds to the category designation for the use by special permit in the uses table from Chapter 3. Read across the row for that use category to identify additional standards that must be applied for the site plan review. For some use categories, additional standards are contained in subsequent sections of this chapter. Those sections are noted in the column labeled "special conditions."

Table Of Special Use Permit Standards

Granting of a special use permit requires a site plan review and a public hearing. This table lists the minimum additional standards to be met for site plan approval. The planning commission may impose other requirements and may choose not to issue a permit.

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Remember:

- A special use permit is a privilege granted by the village, not a right.
- If all requirements are observed, a special use permit is permanent.
- The planning commission will revoke a special use permit for failure to maintain compliance with all requirements.
- If the permit is revoked, the activity becomes a nonconforming use.
- Some state laws grant government the right to establish certain uses in spite of the village's refusal of grant a special use permit.

ADDITIONAL REQUIREMENTS FOR SITE PLAN APPROVAL

TABLE INSET:

| Use category | Access | These supersede district regulations | | | | | | Special conditions |
|-----------------------------------|---|--------------------------------------|--------------|-------------------------|------------|----------|---------------------|---------------------------|
| | | Parcel size | Parcel width | Building setbacks from* | | | Lot coverage (in %) | |
| | | | | Street R.O.W. | Prop. line | R-1, R-2 | | |
| A | Site plan review for these uses requires only the standard review criteria and district regulations | | | | | | | |
| B | Paved | 1 acre | 200' | 50' | 30' | 50' | 25 | 4' visual screen for res. |
| D | Co. pri/st. hwy. | 10 acres | 500' | 100' | 100' | 200' | 10 | 6' visual screen for res. |
| E | Paved road | 50 acres | 1,000' | 200' | 100' | 200' | 5 | 6' visual screen for res. |
| F | Co. pri/st. hwy. | 20 acres | 750' | 200' | 200' | 200' | Dis/regs | See Section 605 |
| G - Airport | Co. pri/st. hwy. | 180 acres | 1,500' | 750' from end of runway | | | 10 | State/federal permits |
| H - Airstrip | No restrictions | 30 acres | 500' | 500' from end of runway | | | Dis/regs | State/federal permits |
| I - Drive-in theater | Co. pri/st. hwy. | 10 acres | 500' | 100' | 100' | 200' | 10 | See Section 606 |
| J - Incarceration facility | Co. pri/st. hwy. | 40 acres | 1,250' | 200' | 200' | 500' | 25 | See Section 607 |
| K - Mobile home park | Co. pri/st. hwy. | 20 acres | 750' | 60' | 60' | 60' | 30 | See Section 608 |
| M - RV park and campground | Co. pri/st. hwy. | 20 acres | 750' | 60' | 60' | 60' | 30 | See Section 609 |
| N - Soil extraction. | All weather** | 10 acres | 500' | 150'*** | 100'*** | 250'*** | Dis/regs | See Section 610 |
| O - P.U.D. | Paved road | 10 acres | 500' | Dis/regs | Dis.regs | Dis/regs | Section 26-101 | See Section 611 |

* Setbacks for on-premise signs, lights and similar structures shall be half the setback for buildings. Accessory buildings require the same setbacks as principal buildings.

** Must be located within one-half (1/2) mile of an all-weather road. (Contact road commission.)

*** These setbacks apply to the outside edge of the excavated area.

SECTION 605. GROUP F USES.

Standards in this section shall apply to all of the following uses in zoning districts where they are identified as special uses (uses by special permit) in the uses table in Chapter 3. These uses are: Junk yard, type II or type III landfill, incinerator and sewage treatment or disposal facility.

1. **General.** All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property and individual, or to the community in general.
2. **Remote From Residential Subdivisions.** No residential subdivisions with officially filed plats should exist within one-half (1/2) mile of the facility.
3. **Tree Buffer.** Buffers of tree cover shall be provided on the periphery of the property. The buffer shall be no less than one hundred (100) feet in width, and may be natural vegetation or planted evergreens if the existing cover is destroyed.
4. **No Hazardous Or Toxic Waste.** No hazardous or toxic wastes, as defined by the department of natural resources, may be deposited or stored by any use in this group.
5. **Truck Access.** Routes for truck movement to and from the site shall be identified by the county road commission and village DPW. Wear on public roads, traffic hazards and encroachment of noise, dust and other nuisances upon adjacent uses must be considered.
6. **Activity Restrictions.** No open burning shall be permitted and all industrial process involving the use of equipment for cutting, compressing (other than landfill compaction operations), or packaging shall be conducted within a completely enclosed building.
7. **Fence Requirements.**
 - a. **Around Landfill Or Incinerator.** Berms and fences shall be constructed around any landfill or incinerator as required by the regulations promulgated for PA 641. The berms and fences shall be placed on the interior of the vegetated buffers mentioned above and shall not decrease their width. Fences shall have a gate entrance which can be locked during hours when no operation is taking place.
 - b. **Around Junk Yard.** A solid fence or wall at least eight (8) feet in height shall be provided around the active area of a junk yard to screen such activity from surrounding property. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously. All activities shall be confined within the fenced-in area. There shall be no stacking of material above the height of the fence or wall, except that moveable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced-in area.

- c. **Around Sewage Treatment Or Disposal Facility.** All operations shall be completely enclosed by a wire link fence not less than six (6) feet high.
- 8. **Restoration Of Landfill Sites.** Grading or reseeding upon completion of operations in a portion of a landfill site is required. Each used portion of the site must be restored with topsoil, graded and revegetated to promote proper drainage. The restoration shall eliminate all hazards, and be blended with the general surrounding ground form.

SECTION 606. GROUP I USES.

Standards in this section shall apply to all of the following uses in zoning districts where they are identified as special uses (uses by special permit) in the uses table in Chapter 3. These uses are: Drive-in theater and race track.

- 1. **All Access From Village Street Or State Highway.** All traffic ingress and egress shall be from a village street or a state highway. Local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal left or right turns into or out of the major thoroughfares.
- 2. **Driveways Remote From Intersections.** All points of entrance or exit for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.
- 3. **Sight Distance.** All vehicles shall have clear vertical and horizontal sight distance approaching a public street within one hundred (100) feet of the street for a sight distance of five hundred (500) feet in either direction along the street.
- 4. **Acceleration And Deceleration Lanes.** Acceleration and deceleration lanes shall be provided at points of ingress and egress to the site.
- 5. **Left Turn Lanes.** A left turn lane, at least long enough to accommodate ten (10) cars without hindering through traffic or blocking other driveways, shall be provided on the major thoroughfare at each driveway entrance or exit.
- 6. **Solid Wall Or Fence.** The entire active portion of the site, excluding vehicle entrance and exit areas, shall be enclosed with a solid wall or screen fence at least eight (8) feet in height. Fences shall be of sound construction, and painted or otherwise finished attractively and inconspicuously.
- 7. **Ticket Gates.** One ticket gate shall be provided for each three hundred (300) cars of capacity at any facility where tickets are to be sold before customers leave their vehicles. Vehicle standing space shall be provided between the ticket gates and the street or highway right-of-way line equal to at least thirty (30) percent of the vehicular capacity of the facility.

8. **Screens For Drive-In Theater.** Drive-in theater picture screens shall not be permitted to face any public street and shall be so located as to be out of view from any major thoroughfare.

SECTION 607. INCARCERATION FACILITY—CATEGORY J.

1. **Remote From Residential Subdivisions.** No residential subdivisions with officially filed plats should exist within one mile of the facility.
2. **Ambulance And Delivery Areas.** Ambulance and delivery areas shall be obscured from view by a solid masonry wall six (6) feet in height. Access to and from the delivery and ambulance area shall be directly from a major thoroughfare.
3. **Fences.** The planning commission shall require fences or other methods of secure enclosure which it deems appropriate for the type of facility being considered and for the nature of the area surrounding the site.
4. **State Guidelines.** Applicable guidelines for siting and construction of facilities, from either the state department of corrections or the state department of mental health, shall be carefully followed for any proposed incarceration facility.

SECTION 608. MOBILE HOME PARK—CATEGORY K.

In addition to standards noted in Chapter 3, district regulations, and use category L of the table of special use permit standards, a mobile home park must comply with the following standards. These shall be specified, by reference, as conditions for approval of a special use permit for a mobile home park. Note that the dimensions table in Chapter 3 establishes standards for mobile home lots in the park and for the minimum floor area of each mobile home unit.

1. **Buffer.** A tree buffer should be developed around the park in the required yard areas.
2. **State Permit Required.** All mobile home parks shall comply with all site, development, and other standards and requirements of Act 419 of 1976 and Act 243 of 1959, as amended, proof of which shall be established by presentation of a certified copy of a construction permit issued by the state prior to issuance of a building permit.
3. **Roadways.** All roadways within the mobile home park shall be developed to the standards required by the county road commission for residential subdivision streets.
4. **Sale Of Mobile Homes Prohibited.** The sale, display or storage of mobile homes within any portion of the mobile home park is expressly prohibited. However, a vacant mobile home located on a mobile home lot within the mobile home park, owned by its former resident, connected to utilities and offered for sale or rent shall not be considered to be in violation of this provision.

**SECTION 609. RECREATIONAL VEHICLE (RV) PARK, CAMPGROUND—
CATEGORY M.**

1. **Temporary Occupancy Only.** Spaces in RV parks or campgrounds may be used by motor homes, travel trailers, campers, tents or other short-term housing or shelter arrangements. Spaces shall be rented by the day or week only, and no occupant of such spaces shall remain in the same park or campground more than sixty (60) days.
2. **Resident Manager.** Each RV park or campground shall be directly supervised by a resident manager who may share such duties with other members of his or her family. Management shall be accessible to park tenants at all times (twenty-four (24) hours) when park spaces are rented. The manager's residence shall include the business office for the park and at least one thousand (1,000) square feet of living area for the manager's family.
3. **Regulatory Compliance Required.** RV parks or campgrounds must maintain compliance with all regulations of the county health department and the state department of natural resources which apply to such enterprises. Failure to comply with any such regulation shall constitute a violation of this chapter, subject to enforcement action as provided by Section 704.
4. **Greenbelt, Fence And Setback.** The entire perimeter of any RV park or campground shall be enclosed by a fence at least four (4) feet high. Further, there shall be a greenbelt planting strip not less than fifteen (15) feet wide around the entire site. Such greenbelt shall contain at least one straight or staggered row of deciduous or evergreen trees, spaced not more than twenty (20) feet apart and at least two (2) rows of deciduous or evergreen shrubs which will grow to an ultimate height of at least six (6) feet planted not more than six (6) feet apart. All individual campsites are to be setback at least seventy-five (75) feet from any street right-of-way or neighboring property line.
5. **Access And Circulation.** Each park shall be served by not more than one point of access to each abutting street or road. No such access shall require a turn at an acute angle for vehicles moving in the direction intended. Design of curbs and pavements at such access points shall be such as to facilitate easy movements for vehicles with trailers attached. Clear vision areas shall be maintained for drivers, extending one hundred fifty (150) feet in each direction on any abutting road and for twenty-five (25) feet on the park entrance road. Roadways within the park shall be hard surfaced, dust free, and at least twenty-four (24) feet wide for two-way traffic or twelve (12) feet wide for one-way traffic. Parking shall not be permitted on these roadways, and they shall be posted for a maximum speed of ten (10) miles per hour.
6. **Personal Care Facilities.** Each RV park or campground shall include men's and women's restroom and bathing facilities in all-weather, heated structures. These facilities shall include adequate water outlets, wash basins, toilets, showers and waste containers. These facilities shall be provided uniformly throughout the park at a ratio not less than one such structure for each twenty (20) camping or RV sites.

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These facilities shall be kept in good working order and each structure shall be thoroughly cleaned daily.

7. **Other Public Facilities.** Each RV park or campground shall provide at least one public telephone for each forty (40) sites. Also, each park shall have waste pump-out facilities for recreational vehicles which shall have an approved connection to a municipal sewage collection and treatment system or shall have waste removed by a licensed waste hauler for treatment at a municipal treatment facility. Each park shall be served by a commercial solid waste disposal service, providing on-site storage container(s) large enough to accommodate a three-day accumulation of solid waste with all sites in the park occupied. Such service shall provide pick up of waste at least weekly when the park is operating and frequently enough to insure that such container(s) are never overloaded. Finally, at least fifteen (15) percent of the site, not including the greenbelt and setback areas as defined in subsection (d), shall be devoted to shared open space uses, including, but not limited to, playgrounds, picnic areas, court or field sports or natural areas. This shall not include parking and vehicle circulation areas.

8. **Individual Campsite Requirements.** Each RV parking site or campsite shall be a minimum of two thousand (2,000) square feet in area and shall include the following amenities: An electrical power outlet, fixed facilities for cooking using charcoal or wood as fuel with a fire that is not placed directly upon the ground, a metal trash container with a lid and volume of at least two (2) cubic feet which shall be emptied daily by park personnel to the solid waste facility, and a gravel or hard surfaced parking area of at least four hundred (400) square feet.

SECTION 610. SOIL RESOURCE EXTRACTION—CATEGORY N.

1. **Scope Of Regulations.** This section regulates any extraction, landfilling or repositioning of soil, sand, gravel, clay or other geologic deposit which involves disturbance of more than one thousand (1,000) cubic yards of material. This section does not apply if such a disturbance of soil is the result of construction of a building, structure or parking lot which is regulated by other provisions of this chapter. This also applies to artificial ponds created by excavation, intervention in watercourses, surface drainage or groundwater aquifers, regardless of size. These regulations must be met whether the creation of the pond is an end in itself or whether the pond is a by-product of another activity, such as mining for sand, gravel or clay. Ponds created by embankments or dams across streams or watercourses are not permitted in the village.

2. **Additional Information Required For Site Plan.** The site plan for any activity regulated by this section must include the following items in addition to other required information:
 - a. A profile of the proposed excavation, illustrating elevations and changes in slope, with elevations noted in five-foot intervals. If water is expected to accumulate in the excavation, the projected water level must also be shown.

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- b. A soil evaluation report describing the excavation site and any needed drainage or seepage corrections.
- c. A report describing the specifications for any spillway or drain for a proposed pond, including the proposed methods of foundation preparation or fill placement.

3. Additional Excavation Site Requirements.

- a. Sites of ecological significance, such as wetlands, should be avoided.
- b. An excavation which will result in creation of a pond should be located to minimize the chance of pollution from sources such as feedlots, farmsteads, corrals or septic tanks.
- c. Excavations may not extend closer than fifty (50) feet to a power line.

4. Construction And Operation Requirements.

- a. An excavation should not change surface drainage or underwater aquifers so as to adversely impact neighboring uses.
- b. If an excavation results in a pond, its banks shall have a maximum slope of one foot vertical to four (4) feet horizontal extending below the water's surface to a depth of at least eight (8) feet.
- c. Maximum designed water depth of pond must be at least fifteen (15) feet to insure proper aeration and circulation of the water.
- d. Conditions of any required environmental permits as noted by Section 408 shall be obeyed at all times.
- e. Excavated material not removed from the site shall be spread to a height not exceeding three (3) feet above the original surface with the top of fill graded to a continuous slope which does not exceed one foot vertical to three (3) feet horizontal away from any water body. As an alternative, the material may be shaped in berms which assume a natural angle of repose for the material and which blend visually with the landscape. The toe of the slope of such berms shall be no closer than twelve (12) feet to the edge of the water in any pond formed by such an excavation.
- f. At the end of each construction season, the completed portion of any excavation, including any area around it, shall be landscaped and seeded. Landscaping shall not interfere with any natural waterway or have an adverse effect on drainage of surrounding properties.
- g. No machinery or equipment shall operate, and no trucks, trailers or other conveyances shall arrive at any excavation site before 7:00 a.m. or after 8:00 p.m.

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- h. Proper measures shall be taken to minimize the nuisance of traffic noise and flying dust or rock while a site is being excavated.
- i. When two (2) or more dwellings are located within two hundred (200) feet of the edge of any water body that is formed on an excavation site, such water body shall be enclosed by a fence that includes a gate that can be locked and which is not less than four (4) feet, nor more than six (6) feet, in height.

SECTION 611. PLANNED UNIT DEVELOPMENT (PUD)—CATEGORY O.

1. **Intent.** This section is intended to encourage innovation in land use patterns and variety in design for development of large parcels. It is also intended to achieve economy and efficiency in provision of public facilities and services, and in the use of land, natural resources and energy. Regulations in this section should provide flexibility for developers while maintaining protection of public values.
2. **Applicability.** Planned unit developments are identified as special uses in the R-1A zoning districts. This section provides additional requirements to be addressed during review of the site plan for a planned unit development as part of the special use permit process.
3. **Permitted Uses.** A planned unit development (PUD) may include all uses by right and all special uses listed for the R-1A zoning district and it may include all uses by right and all special uses for the R-1 and R-2 zoning districts immediately preceding it in the uses table found in Chapter 3.
 - a. **Special Use Standards.** When a use is listed only as a special use in the zoning district which applies for a proposed PUD, all special use permit standards must be met by such use.
 - b. **Alternative Standards.** When a use is listed as a special use in the zoning district which applies for a proposed PUD, and as a use by right in another, it may be treated as a use by right for the PUD.
4. **Use Density And Parcel Coverage.** The parcel coverage limits for the zoning district which governs the parcel on which a PUD is to be built must be met overall by the PUD.
 - a. **Residential Density.**
 - 1) **Area Available For Residential Use.** This is calculated as the area remaining after the area devoted to nonresidential uses (including required yards, setbacks, buffers and parking areas) is subtracted from the total site area. It may include street right-of-way, parking areas for residential use, residential yards and area devoted to open space.
 - 2) **Maximum Number Of Dwelling Units Allowed.** For any PUD, the maximum residential density shall be one dwelling unit for every four thousand (4,000) square feet of site area available for residential use.

- b. **Reserved.**
- 5. **Setbacks, Height Limits And Parking Requirements.** For a PUD in any zoning district, setbacks of all types and height limitations shall conform to the district regulations for the applicable zoning district. Side and rear yard areas between buildings shall be computed as if each building were set back from a lot line between them. Parking requirements for any PUD shall conform to the supplementary parking regulations for the uses involved.
- 6. **Buffering For Residential Uses.** When a PUD contains a mix of residential and other uses, the following provisions shall be enforced:
 - a. **Separate Buildings.** Where structures devoted to nonresidential use are adjacent to residential structures in a PUD, the required yard areas between the structures shall be developed as landscaped open space which may not be used for parking or circulation of motor vehicles. This area may be counted toward satisfaction of the open space requirement for the PUD.
 - b. **Within Same Building.** When residential and nonresidential uses occupy space in a single building in a PUD, a continuous physical separation must be provided between the spaces devoted to such uses. Access doorways are permitted, but the separation must be sufficient to provide a barrier with at least a one-hour fire rating between residential and nonresidential space.
- 7. **Residential Access.** Parking areas for any dwelling units in a PUD may not be accessed directly from a major street.
- 8. **Open Space Areas.**
 - a. **Basic Requirement.** The site plan for every planned unit development must devote a minimum of ten (10) percent of the project site to permanently landscaped open space. Open space on sites with forest, wetland or other unique environmental conditions may be left in a natural state. Crop land may not be included as open space for a PUD. Such open space must be set aside for use either by all residents of the PUD or by the public at large. Yard areas of individual residential lots may not be included as part of the required open space, but yard areas for multifamily or nonresidential uses may be included.
 - b. **Minimum Open Space Per Residential Unit.** When a proposed PUD includes dwelling units, a minimum of one thousand (1,000) square feet of open space is required for each unit. Note that landscaped yards, setbacks and buffers (but not parking areas) for nonresidential uses may be used to satisfy this requirement, but are excluded when computing residential density as described in subsection 4.a.
- 9. **Signs.** Sign regulations for the applicable zoning district shall apply for any PUD located therein, with the following exceptions:
 - a. **Businesses In Residential Zoning Districts.** Each business located in a PUD is entitled to one sign for each street upon which it fronts. Area, height

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and setback requirements for such signs are as stated in the table of sign regulations in Chapter 5.

- b. **Joint Signs In Residential Zoning Districts.** A multi-tenant commercial building located in a PUD may have one joint sign which identifies the building and up to three (3) tenants. Such sign may be up to sixty-four (64) square feet in area, with height and setback requirements as stated for signs in the table of sign regulations in Chapter 5.

Secs. 26-102--26-115. Reserved.