

ARTICLE 33 SPECIAL PERMITS

Section 1. PURPOSE:

The Board of County Commissioners (hereinafter “Board” or “BOCC”) has determined it to be in the best interest of the public health, safety and welfare to promulgate, and hereby establish, a zoning technique which shall be known as a Special Permit. The purpose of this Article is to identify and designate a limited category of uses which may be eligible for this permit. These uses, which provide essential services and infrastructure to the public, typically on a long term basis, necessitate a distinctive permitting process, which accommodates these unique land uses, and serves to inform the public, and nearby landowners, of the anticipated use at a particular location, for considerable periods of time.

Unlike Conditional Use Permits (CUPs), which are intended to regulate a certain category of uses for a concise term (usually 20 years or less, with the standard term being 10 years), the Special Permit is intended to be granted for an indefinite period of time, subject, however, to revocation and termination for circumstances set forth in these Regulations. The indefinite term of the Special Permit is deemed necessary and advisable because of (i) the public or quasi-public function of the uses in this category; (ii) the nature of these uses, which have long term value and purpose to the community, by the provisions of essential functions for the public health, safety and welfare; (iii) that once established at a particular location, the nature of the use justifies that it should be allowed to remain for the useful life of the facility; and (iv) in many instances, such uses are taxpayer funded, and longer terms ensure the most advantageous use of public expenditures.

Furthermore, this category of uses, which provides public or quasi-public functions, often establishes recognizable community landmarks that serve as an essential function that other development depends for support. Consequently, the appearance and maintenance of public facilities and utilities helps to foster and reflect a commitment to civic pride and aesthetic interest, as well as providing the assurance of adequate community services and infrastructure. Therefore, in addition to providing an important public service, there is an expectation that such facilities requesting a Special Permit shall be developed and maintained to a high standard that includes being attractive, aesthetically pleasing, as well as being functional and compatible with the existing and anticipated development of the surrounding area.

Section 2. GENERAL PROVISIONS:

Special Permits shall only be granted for the limited uses designated in this Article. No other uses are eligible for a Special Permit. Therefore, no property, whether land or structure, shall be put to use for any of the specified uses listed in this Article for a Special Permit, unless and until (i) a Special Permit application has been submitted and a Special Permit has been officially approved by the Board as required by these Regulations; or (ii) unless previously approved by a Conditional Use Permit which has not expired or been revoked or terminated, but remains in force and effect. Prior to Board consideration of a Special Permit application, a public hearing shall be conducted by the applicable Zoning Board, as provided in these Regulations. The recommendation of the Zoning Board shall be forwarded and presented to the Board for its consideration. Notice, hearing, voting, and all other application and processing procedures for consideration of a Special Permit shall be set forth in Article 4 of these Regulations. In addition, Zoning Permit application and processing procedures for a Special Permit shall be set forth in Article 5 of these Regulations.

Special Permits shall be subject to, and shall meet, the development and performance standards required for such uses. Furthermore, a Zoning Board and/or the Board may require traffic, drainage, lighting, and/or noise studies, and similar studies or expert opinion deemed necessary, plus security in

the form of performance bonds or other similar surety approved by the Zoning Administrator, to ensure that all the requirements of the development and performance standards are satisfied and to ensure the public health, safety and welfare.

Section 3. APPLICATION REQUIREMENTS:

- A. Development Plan: A development plan that complies with the development plan requirements of Article 15 and any additional requirements set forth by this Article must be submitted as part of a Special Permit application. The development plan must illustrate or indicate how the proposed use would satisfy the screening, setback, signage, and other such development and performance standards and zoning regulations as specified for the particular Special Permit listed herein.
- B. Written Narrative Description: A written narrative description of the proposed use must be submitted by the applicant. If the nature of compliance is not explicitly clear from the information indicated on the development plan, the narrative description shall address how the proposed use would satisfy the development and performance standards and zoning regulations as specified for the particular Special Permit listed in this Article. The narrative description shall also describe the traffic routes and expected traffic volume; off-street parking; the reasons which appear to make the site in question appropriate for the proposed use; whether and the extent to which the use could cause pollution; the steps to be taken to cause the use to be compatible with other uses of real property near the site in question; and other such reasonable information about the proposed use that would be necessary or helpful for the impacts of the proposed use to be fully evaluated and considered.
- C. Special Permit Application Requirements and Processing Procedures: Special Permit applications shall comply with the application requirements and procedures as provided in Article 4 of these Regulations. All applicants are encouraged to schedule and hold a pre-application conference with the Zoning Administrator or his or her designee as a first step toward filing an application. Arrangements for this conference shall be made by contacting the Planning Office.

Section 4. SPECIAL PERMITS MAY BE APPROVED IN CERTAIN ZONING DISTRICTS:

- A. Special Permits allowing the uses set forth below may be approved by the Board in any zoning district other than the Planned Entertainment District (PAE). In the event that the uses set forth below are allowed in the applicable underlying zoning district, a Special Permit is not required and the requirements of the zoning district shall be fulfilled. Certain accessory and supplementary uses associated with Public Facilities and Utilities, below, shall require a Conditional Use Permit as set forth in Article 23 of these Regulations.
 - 1. Public Facilities: For purposes of this Article, the term “Public Facilities” shall mean publicly owned:
 - a. parks and recreational facilities;
 - b. schools of general instruction or schools of special instruction;
 - c. correctional facilities and police, fire, sheriff, and similar public emergency, safety, and protection facilities;
 - d. libraries; and
 - e. other governmental facilities;
 - 2. Utilities: Utility facilities that provide the infrastructure services of electricity, gas, water or wastewater services, including ancillary uses and facilities (unless otherwise exempted by state or federal regulations), such as:
 - a. Offices, shops, stations, terminals, warehouses and the like, that are either (1) necessary for providing such services or (2) the location from which personnel operate to carry out

such services; or

- b. Related activities carried out by pipeline and utility enterprises such as power generation, pumping, transmission, distribution, and the like.

This includes, but is not limited to, the following types of sites or activities: wastewater treatment plant; wastewater pump station; water treatment or distribution facility such as water tower or water pump and/or metering station; electric power plant; electric substation; natural gas storage, transmission and/or distribution including pigging stations.

Section 5. GENERAL DEVELOPMENT AND PERFORMANCE STANDARDS FOR SPECIAL PERMITS:

The proposed use shall be developed and shall continuously operate in accordance with the following requirements:

- A. Uses Allowed: If the Board adopts a resolution to approve a requested Special Permit, then such resolution shall: 1) set forth the uses allowed by the approved permit and all reasonable conditions deemed necessary to ensure the public health, safety, and welfare, 2) attach as an exhibit or by reference the applicable development and performance standards required by this Article, and 3) attach as an exhibit the development plan (which may contain multiple elements such as, but not limited to, site plan, elevations, lighting plan, and landscaping plan).
- B. Term: The Special Permit shall be granted for an indefinite term, provided the approved uses are constructed, operated, and maintained in a manner that is in accordance with these Regulations, the adopted resolution, including the approved development plan, and applicable development and performance standards. Otherwise, the Special Permit is subject to revocation and termination as set forth in this Article.
- C. Screening: The purpose of screening is to help avoid the potential detrimental impacts that may accompany some of the uses allowed by this Article (e.g., adverse views, noise, odors, outdoor activity/storage areas and industrial types of buildings and structures) that can affect existing and anticipated uses of surrounding areas, including public streets.
 - 1. Structures and Areas to be Screened:
 - a. Buildings and other Structures: One hundred percent (100%) of the surface of each exterior wall of a building or structure (other than a fence), shall consist of decorative materials, which may include but are not limited to stone, brick, glass block, tile, cast or cultured stone, cast metal, or concrete, unless the exterior wall is completely screened or buffered by one or more of the techniques described in this Article.
 - b. Exterior Storage and Loading Areas: All loading docks, equipment or materials stored outside, general outside storage areas, mechanical equipment storage areas including satellite antennae, heating and cooling equipment, and such similar areas shall be visually screened from view from all adjacent property including public streets by one or more of the techniques described in this Article.
 - c. Rooftop Mounted Equipment: Rooftop mounted equipment such as mechanical, air conditioning, and electrical equipment shall be screened from ground and street level view by the arrangement or placement of the mechanical equipment, fencing, parapets, or other design methods or materials commonly used on exterior walls.
 - d. Large-Scale or Tall Structures: Ground level views associated with large-scale or tall

structures shall be screened from view from all adjacent property, including public streets, by one or more of the techniques described in this Article.

- e. Off-Street Parking Areas: Parking that abuts adjacent property or a street shall be visually screened by one or more of the techniques described in this Article. The interior landscaping of such parking shall be in accordance with the requirements set forth in Article 16, Section 3(B)(1)(b) of these Regulations.
2. Screening Methods: The applicant shall use one or a combination of methods listed in this section, or other comparable methods deemed equivalent by the Zoning Administrator, to satisfy the screening requirements. The method or methods proposed by the applicant shall buffer or screen ground level activity, off-street parking and buildings as viewed from adjacent property or a public street. The screening shall be at least seventy-five (75) percent visually solid as viewed on any line perpendicular to the screening on adjacent property or street. The Board may approve a plan to allow phased screening based on special or unique conditions of the use or site.
 - a. Buffering: Buffering is a method of screening by using distance or large setbacks from exterior property lines to reduce or eliminate the impacts associated with the use.
 - b. Berming: Berms shall generally be constructed with a 3:1 side slope to rise ratio, 4-6 ft. above the adjacent grade, with a 3 ft. wide top. (The 3 ft. wide top is necessary to have a flat area for plantings.) The outside edges of the berm shall be sculpted such that there are vertical and horizontal undulations to give variations in appearance. When completed, the berm should not have a uniform appearance similar to a dike.
 - c. Landscaping: Landscaping shall consist of a combination of evergreen trees that are 5-6 ft. in height at time of planting and deciduous trees, which may include fruit trees, that are 5-6 ft. in height at time of planting. Trees shall be placed on average at 15 ft. on center. A list of appropriate plant materials shall be available at the Planning Office.
 - d. Fencing: Fencing shall be at least seventy-five (75) percent visually solid as viewed on any line perpendicular to the fence from adjacent property or a public street. The height of fences may vary when used in combination with other screening methods to screen ground level activity. Depending on the location, ornamental features may be required on the fence.
 - e. Existing Screening and Buffering: Existing vegetation, topography, buildings, open space, or other elements located on the site may be considered as part of the required screening.
 3. Screening Installation and Maintenance: Unless allowed by a phasing plan approved by the Board, all grading, berms, fencing, trees, shrubs, etc. or other comparable methods shall be installed in accordance with the Development Plan within one year of approval of the Special Permit. Berms and fencing shall be continuously maintained and repaired or replaced if damaged. Landscaping shall be continuously maintained and replaced if dead.
- D. Site Size: The use allowed by the Special Permit shall be located on a parcel of sufficient size to adequately contain the use's activities and structures along with adequate buffering and screening from nearby existing and anticipated residential uses and zoning.

E. Exterior/Outdoor Lighting and Glare:

1. Outdoor lighting shall be limited to levels required for safety and security. Excessive lighting shall be restricted with the exception of decorative lighting associated with public buildings and publicly occupied areas such as schools, parks, and libraries. That portion of parking lot lighting utilized for pedestrian security purposes shall range from 0.8 to 4 foot-candles. That portion of parking lot and street lighting used for vehicular traffic purposes shall range from 0.5 to 2 foot-candles.
2. Outdoor lighting shall be arranged to direct light away from adjacent parcels with residential uses or zoning, and from public streets, and shall be installed in such a manner as to avoid glare, visible bulbs or light spillage onto adjacent properties. Direct or reflected glare from floodlights, spotlights, and high temperature processes such as combustion or welding shall not be visible from any adjoining property or public street. The source of lights shall be hooded or controlled and all light fixtures shall be a cut-off or shoebox design to prevent glare and light spillage off-site. Building mounted lights shall also be of a shoebox design.
3. The applicant shall also design and implement on-site lighting in accordance with industry standards for the designated use, as established in publications of the Illumination Engineering Society of North America.
4. All outdoor lighting shall be shown on the Development Plan. Addition of lighting after approval of the Special Permit by the Board may be cause to require an amendment to the Special Permit.

F. Explosives: No activities involving the storage, utilization or manufacture of materials or products (such as TNT or dynamite) that could decompose by detonation shall be permitted except such that are expressly approved by the Board.

G. Environmental Protection: The emission of noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, and dust, must meet applicable local, state and federal regulations. All wastes shall be disposed of in conformity with local, state and federal regulations.

It should be noted that the standards of this section for noise, odors, and vibrations are imposed for the betterment of safe conditions for the public and should not be considered or interpreted to guarantee the absence of these potential detrimental impacts. The proper siting and screening of Special Permits is a major component of managing off-site impacts of noise, odors, and vibrations caused by such uses. Therefore, traffic, drainage, lighting, or noise studies, and similar studies or expert opinion, will be required when deemed necessary by the County to ensure that all the requirements of the development and performance standards are satisfied and to ensure the public health, safety and welfare. The circumstances of the Special Permit, such as existing topography or existing or anticipated nearby residential land uses, will be considered when making such a determination.

Minimum standards for noise, odor, vibration, and dust shall be as follows (with the exception that the standards for noise, odor, and vibration generated by "Utilities," as defined in Section 4 of this Article, shall be as set forth in Section 6(A) of this Article):

1. Noise: The noise level at the property line shall not exceed 60 dB(A) in the Rural, Planned Rural, Residential, or Planned Residential Districts or when adjacent to a residential parcel; 70 dB(A) in Planned Retail Business or Planned Employment Center Districts; nor 50 dB(C) on any parcel; with the exception of fire, police and other public safety uses.
 - a. Emergency Generators: Emergency generators shall only be utilized in the event of an emergency power outage or for testing purposes, and may be tested once per week. For

purposes of this section, "emergency power outage" shall mean the sudden, unplanned interruption of electricity via conventional hard wire service from a utility.

b. Outdoor Public Announcement Systems:

- 1) Outdoor public announcement systems in conjunction with a request for a Special Permit shall be accompanied by sufficient information to review impacts of the use on surrounding properties. The addition of public announcement systems after approval of the Special Permit by the Board may be cause to require an amendment to the Special Permit.
- 2) Public announcement systems shall be designed to limit the use, level, distance, and direction of sound produced.
- 3) The County may require the applicant to hire acoustic professionals to evaluate and/or design the outdoor public announcement system.
- 4) Once the system is installed and prior to commencement of its use, the applicant shall complete on-site testing, adjusting, and equalization of the sound system equipment to ensure that the decibel level emitted during the use of the system does not exceed the noise and vibration limits set forth in this Article and within the Special Permit.
- 5) Once the system is installed, and continuing throughout the duration of the permit, the applicant shall provide oversight and supervision of the use of the sound system such that the operation does not cause the decibel level emitted during the use of the system to exceed the noise and vibration limits set forth in this Article and within the Special Permit.

2. Odors:

- a. No use regulated by a Special Permit may cause, permit or allow the emission of objectionable or offensive odorous matter beyond the property line in such concentrations and frequencies or for such durations that such odor can be perceived when one (1) volume of odorous air is diluted with two (2) volumes of odor-free air for two (2) separate trials not less than fifteen (15) minutes apart within the period of one (1) hour.
- b. Method of Measurement: These measurements shall be made with a field olfactometer, such as a Scentometer manufactured by Barneby Sutcliffe Corp. or a Nasal Range Finder manufactured by St. Croix Sensory, Inc., or by a similar device as recognized by the Zoning Administrator that will give equivalent results.

3. Vibration: No use regulated by a Special Permit shall cause any vibration discernible beyond the property line to the human sense of feeling for three minutes or more duration in any one hour, or any vibration producing an acceleration of more than 0.1 g's or resulting in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin No. 442, "Seismic effects of Quarry Blasting," on any structure.
4. Dust: Depending on the circumstances surrounding the Special Permit application (e.g., gravel surfaced drives, parking, or storage areas adjacent to streets or residential areas), the Board may require the application of dust control measures, as deemed necessary, to alleviate dust drifting from the subject property onto adjacent properties and streets. Dust control measures include water, oil or dust palliative. Furthermore, it shall be required that as many dust control applications as necessary shall be applied for purposes of controlling the impacts associated with drifting dust.

H. Off-Street Parking: The number, surfacing, phasing and design requirements for off-street parking shall comply with Article 19 of these Regulations, with the following exception:

1. All required parking spaces and corresponding driveways in the Rural and Planned Rural zoning districts (RUR and PRUR) and the Residential zoning districts, shall be surfaced with

a permanent bituminous or concrete pavement prior to the issuance of a Zoning Permit by the Zoning Administrator. Construction of a portion of the required parking may be deferred or waived based upon the requirements of Article 19, Section 3(A)(10).

- I. Signage: Unless specifically reviewed and approved as part of the Development Plan, installation of any new signs on-site shall comply with Article 20 of these Regulations.
- J. Infrastructure: Adequate infrastructure should serve the Special Permit. Public infrastructure improvements may be required as needed to ensure public health, safety and welfare. Such improvements shall be provided prior to commencement of the use unless a phasing plan is approved as part of the Special Permit. The requirements of Article 31 of these Regulations should be used as a guide to evaluate existing and required infrastructure.
 1. Stormwater Management including Quantity and Quality: The Special Permit shall be developed in accordance with all applicable stormwater management regulations.
 2. Right-of-Way Dedication and Traffic Improvements: Right-of-way dedication shall be required by the County when called for by the nature of the development, based upon the intended uses of the property and the circumstances surrounding same, such as anticipated traffic volume. Such circumstances and conditions may also necessitate the provision by the applicant of access and/or turn lanes, safety crossings, and other needed traffic improvements.
- K. Coordination with other Articles:
 1. Accessory and Supplementary Uses and Structures: Accessory and supplementary uses, structures, and other elements of the proposed Special Permit that are integral to the functioning or normal operations of the Public Facility or Utility, as set forth in Section 4 of this Article, and as determined by the Zoning Administrator, may be included as part of the Special Permit (i.e., an over-height fence surrounding a correctional facility, an oversized maintenance shed associated with a school's grounds, outside storage of equipment and vehicles associated with a wastewater treatment plant, or an over-height water tower). Those accessory and supplementary uses that are not integral to the Public Facility or Utility shall not be approved by the Special Permit, though they may be acknowledged on the development plan (i.e., a stadium or sports fields associated with a school or a zoo associated with a park) and may otherwise be required to seek Conditional Use Permit or other approvals as required by these Regulations.
 2. Subdivision and Dimensional Requirements: Because the uses allowed in this Article are special in nature, and are facilities constructed in support of development, the subdivision requirements of Articles 25 through 30 of these Regulations and the lot area and width, lot frontage, height, setbacks, and other lot dimensional requirements of the underlying zoning district are not requirements of the Special Permit. Instead, dimensional requirements shall be applied on a case by case basis to mitigate potential detrimental impacts on adjacent current and anticipated uses and to allow necessary flexibility for the Special Permit and shall be applied based on the needs of the Special Permit.
 3. Other Standards and Requirements: In the event that there is a conflict between the standards and requirements contained within and referenced by Article 33 and other standards and requirements within these Regulations, then the standards and requirements within and referenced by Article 33 shall control Special Permits. Standards and requirements contained within other articles of these Regulations, such as those associated with the underlying zoning district, are not required, but may be applied to the Special Permit if deemed by the Zoning Administrator to be applicable and necessary.

- L. Studies, Expert Opinion, and Surety: Traffic, drainage, lighting, and/or noise studies, and similar studies or expert opinion deemed necessary, plus security in the form of performance bonds or other similar surety approved by the Zoning Administrator, may be required to ensure that all the requirements of the development and performance standards are satisfied and to ensure the public health, safety and welfare.
- M. Conformance with Development Plan: The proposed uses and structures allowed by the Special Permit shall be developed in accordance with the approved Development Plan, except as modified by the stipulations or otherwise specially set forth in the adopted resolution approving the Special Permit.
- N. Conformance with Other Regulations: The uses and structures allowed by the Special Permit shall satisfactorily conform to any and all applicable governmental rules, regulations, codes, and specifications in effect at time of approval or hereafter adopted.
- O. Appearance: The appearance and maintenance of public facilities and utilities reflects a commitment to civic pride as well as the assurance of adequate community services and infrastructure. For this reason, public facilities and utilities shall be designed to be attractive and compatible with the existing and planned surrounding area as well as serve an important public service.
- P. Special Permit Deviations: In the event that an applicant desires to deviate from the “Development and Performance Standards for Special Permits”, the applicant shall submit written and/or graphic information to the Board of County Commissioners (BOCC) indicating: 1) the circumstances which are believed to necessitate the need for a deviation(s), and 2) the alternate materials, designs, or methods that will meet or exceed the need addressed by the standard under consideration. The deviation may only be approved if findings are made by the BOCC that: a) due to the circumstances of the application, it would be unnecessary to impose the standard(s) and the proposed alternative(s) should be allowed, b) that the spirit and intent of the Regulations are being met, c) that granting the deviation shall not adversely affect adjacent or nearby property or the public health, safety and welfare, and d) the application shall otherwise comply with all building code(s) and safety requirements.

Section 6. SPECIAL DEVELOPMENT AND PERFORMANCE STANDARDS FOR SELECTED SPECIAL PERMITS:

- A. Utilities:
 - 1. Special consideration shall be given regarding the siting of utilities that cannot be completely visually screened (e.g. water towers) or utilities that may have an environmental impact such as noise (e.g. electrical peaking stations) or odor (e.g. wastewater treatment plants). The siting of such utilities shall endeavor to: 1) locate the utility in nonresidential areas, 2) avoid locating the utility in areas enjoyed or occupied by the public, 3) buffer the utility from the surrounding areas by siting the utility toward the interior of the parcel and through the use of greater parcel sizes and setbacks, 4) take advantage of existing topography, structures and vegetation to provide extra screening, 5) locate and design the utility so that it mitigates the potential detrimental impacts to the general health, safety and welfare of the community, 6) locate the utility in areas where the potential adverse impact on the community is minimal, and 7) design and configure the utility in a way that minimizes adverse impacts such as views, noise, odors, vibration and the like.
 - 2. The applicant shall implement levels of odor, noise, and vibration control consistent with general industry standards for the use. However, where circumstances demand, such as the location of nearby residential uses, the use may be held to a higher standard than required by the applicable industry, if deemed necessary to adequately mitigate an adverse impact on

nearby property.

3. Emergency generators shall operate in accordance with Section 5(G)(1)(a) of this Article.

B. Large-Scale or Tall Structures:

Consideration of the following should be given regarding large-scale or tall structures:

1. Large-scale or tall structures may be constructed with excess structural capacity to accommodate antennae or other communication receiving or transmitting devices owned by others. The large-scale or tall structure shall have complete control in making structural capacity available to compatible users, however, no reasonable proposals should be denied.
2. If lighting is required by the Federal Aviation Administration (FAA), then low intensity, red aircraft warning lights should be installed and white strobe-type warning lights should be avoided.
3. Exterior lighting should be directed downward, and if for personnel, should be used only in emergencies and maintenance situations.

C. Schools, Libraries, Fire Stations, and Police Stations:

Though it is often desirable for public facilities such as schools and fire stations to be located close to the neighborhoods they serve, care should be taken so that such facilities: 1) do not impede traffic or cause a hazard to the traveling public, 2) provide adequate and safe vehicular and pedestrian access to the site to include the provision of sidewalks, crosswalks, and traffic signals, where necessary, 3) do not cause undue impacts (i.e., noise, lighting, or the heightened activity associated with such facilities) on surrounding residential uses and zoning, 4) are located on parcels of sufficient size to adequately contain the use's activities and structures along with adequate buffering and screening from nearby residential uses and zoning, 5) are located on sites that are safe and free from existing or potential environmentally harmful impacts, 6) other than elementary and secondary schools and libraries, are located in nonresidential areas, if feasible, and 7) are located in areas where the potential adverse impact on the surrounding area and anticipated future uses is minimal. In terms of emergency services, locations that yield desirable response times are an element of upholding the public health, safety and welfare.

D. Parks and Recreation Facilities:

To promote compatibility between parks and recreational facilities and adjacent land uses, the following shall be used for the site planning and evaluation of such facilities. These guidelines are excerpted from Johnson County Recreation Field Lighting: Guidelines for Planning Sports Complexes (accepted by the Board on August 31, 1995; pages 11 - 14). Furthermore, certain parks and recreational facilities may also require a Conditional Use Permit in accordance with the requirements of Article 23 of these Regulations.

1. Locating New Facilities:

Policies:

- a. Adequate public infrastructure, including paved and sufficiently wide roads, potable water, and wastewater facilities, should either be in place or should be assured before a new sports field is allowed to be developed.
- b. Encourage new sports complexes to be located adjacent to non-residential uses such as commercial and industrial areas, and transportation facilities such as highways and railroads.
- c. Encourage new sports complexes to be created as a buffer between commercial and transportation uses and residential land uses. Lighted playing fields and parking should be oriented towards the commercial and transportation uses. Passive park uses should be

adjacent to the residential land uses.

- d. Encourage new sports complexes to be provided adjacent to schools and other public buildings and to be integrated with streamway corridor parks whenever possible.
- e. In the unincorporated area, if sports complexes are to be developed in or near future residential areas, they should be developed in advance of the adjoining residential land uses. This policy should be balanced with the need for sports complexes to be convenient to population centers, and should not be construed as implying sports complexes are only appropriate in remote locations. Rigorous design standards should be enforced on the sports complex to avoid future incompatibilities as development of the surrounding property occurs.
- f. Encourage new sports complexes to be located in low-lying areas where topography provides natural screening. Discourage locating lighted playing fields along ridge lines, on hills, or on other land with high visibility unless adequate screening is provided.
- g. Encourage sports complexes to locate in flood plains only if the facility is flood-proofed and adequately protected from possible flooding.
- h. Provide public roads around the entire perimeter of new sports complex parks. Discourage sports complexes from abutting the side-lot or rear-lot lines of residential property.
- i. New sports complexes should be of adequate size to accommodate the proposed structures and uses. Facilities should have sufficient land area to allow high intensity use areas, such as lighted playing fields and parking, to be buffered from adjoining residential properties, if any. The buffer distances should be increased where sports complexes abut residential or future residential land uses.

2. Lighting at New or Existing Sports Complexes:

Policies:

- a. When feasible, lighted playing fields and parking should be oriented away from residential areas and towards non-residential land uses and transportation facilities.
- b. Minimize off-site impact from the installation of new lighting at sports complexes located in residential areas. Additional lighting may be appropriate on playing fields located toward the center of the park facility, in situations where adequate buffering is available.
- c. Extensive, dense landscape should be used as buffering or screening within the sports complex around high-intensity uses such as lighted playing fields and parking.
- d. A lighting design plan from a qualified lighting design or consulting firm should be provided to evaluate the impact and extent of proposed lighting.
- e. The Illuminating Engineering Society of North America (IES) *Sports Lighting, Current Recommended Practice for Sports and Recreational Area Lighting* (RP-6-88) should be used as a reference for evaluating future sports lighting proposals.
- f. As part of the Conditional Use Permit, stipulations of approval should include the provision that the county or future governing jurisdictions reserve the right to require upgrades to approved facilities to mitigate significant negative impacts. Lighted sports facilities in the unincorporated area should be reviewed at predetermined intervals to address negative impacts that may not have been anticipated when the application was originally approved.

3. Quantity of Sports Complex Lighting:

Policies:

- a. Brightly lighted sites should be carefully located to help minimize adverse illumination effects on other properties.
- b. Illumination levels should not exceed the levels needed for the normal anticipated use(s)

- of the facility.
- c. Illumination spillover onto other properties should be limited. Generally, spillover onto residential properties should not exceed the illumination levels of moonlight. Spillover onto non-residential properties should not exceed the ambient nighttime illumination levels of the site. If the nearby non-residential site is not lighted, the typical ambient nighttime illumination levels for lighted, similar non-residential sites in the community should not be exceeded.
- d. Lighting systems should be maintained, continually, to prevent inappropriate changes in the way the lighting system functions. For example, to prevent the aim of the lighting fixtures from shifting to other properties.
- e. Lighting systems should be operated to comply with all operational restrictions approved. For example, lighting that was approved for just certain hours of the day should not be operated at other times, except in emergency or extremely unusual situations.

4. Quality of Sports Complex Lighting:

Policies:

- a. Glare should be controlled by shielding lamps and lighting fixture lenses from view from locations off the site being lighted or lighting fixtures should be mounted out of the off-site fields of view. Light fixtures should also be mounted out of the on-site fields of view to the greatest extent practical. In this regard, lighting fixtures should:
 - 1) Be mounted as low as possible and by adjusting mounting heights so that the disturbing lamp component from luminaires is not visible from neighboring property,
 - 2) Have illumination beam control devices (shields, reflectors, cut-off hoods, internal and external shielding louvers or baffles, etc.) that are indicative of the best technology available in the lighting industry at the time the lighting system is designed and installed,
 - 3) Provide illumination levels that do not exceed the levels needed for the normal anticipated use(s) of the facility, as indicated by the lighting system design considerations of the Illuminating Engineering Society of North America (IES), and
- b. Brightness should be controlled by:
 - 1) Preventing undue glare by controlling the contrast between relatively dark areas and relatively bright areas. Transitional lights should be provided to assure safe access to and from the sports field, as well as to assure compatibility with surrounding areas,
 - 2) Designing, installing and operating the lighting system to avoid bright illumination levels horizontally in peripheral vision areas -- especially for streets and highways,
 - 3) Limiting illumination to the level needed for the normal anticipated use(s) of the facility, as indicated by the lighting system design considerations of the Illuminating Engineering Society of North America (IES), and
 - 4) When direct glare isn't a problem, use of higher mounting poles with a lower aiming angle or sharp cutoff luminaire will keep the spill light out of the surrounding property.

5. Noise:

Policies:

- a. Sports fields proposed in residential or future residential areas should utilize existing topographical features to minimize noise impacts.
- b. Extensive landscaping materials should be used to help deflect noise, particularly noise produced by spectators.
- c. Where necessary, sound barriers should be constructed, such as solid, high walls, to deflect high noise levels. If such barriers are installed, adequate landscaping should

- be planted to assure an aesthetic appearance of the structure.
- d. Sports fields located within residential areas should have the hours of operation limited to minimize possible annoyance to nearby residents.
- e. Public address systems should be designed to limit the use, level, distance, and direction of sound produced.

6. Traffic and Additional Site Issues:

Policies:

- a. Major sports complexes should take access from improved arterial streets.
- b. Sports complexes should be conveniently located, with respect to population centers and the persons they are anticipated to serve.
- c. New sports complex should provide adequate on-site parking, rest rooms, and other site amenities.
- d. When feasible, parking should be oriented towards the commercial or public land uses and transportation facilities.
- e. Sports complexes should have adequate water for field maintenance and landscaping.
- f. On-site and off-site litter and trash control should be the responsibility of the sports organizations or managers of the sports facilities.
- g. Off-site parking in adjacent residential areas (especially for existing sports facilities) should be restricted, and additional off-street parking provided to meet needs of sports field users.

E. Correctional Facilities: Consideration of the following should be given regarding the siting of correctional facilities:

- 1. Surrounding Land Uses: The most appropriate location for correctional facilities are nonresidential areas such as the New Century AirCenter. Residential areas, and areas occupied or enjoyed by the public such as parks and schools, should be avoided. The facility should be one mile or more from present or future public or private schools.
- 2. Other Siting Considerations: The siting considerations for “Utilities” set forth above in Subsection 6(A), should be adapted and applied to all correctional facilities.

Section 7. REVIEW OF SPECIAL PERMITS AND ASSOCIATED DEVELOPMENT PLANS

- A. The proposed use allowed by the Special Permit shall be reviewed using established land use criteria such as, but not limited to, that suggested by the Kansas Supreme Court in the case of Golden v. City of Overland Park, 224 Kan. 591 (1978).
- B. Review of the associated Development Plan shall consider, but not be limited to, the matters set forth in Article 15, Section 11, of these Regulations.
- C. The Minimum Infrastructure Requirements set forth in Article 31 of these Regulations should be used as a guide to determine the adequacy of the existing infrastructure available to the site to support the proposed use.

Section 8. AMENDMENT OF DEVELOPMENT PLANS ASSOCIATED WITH SPECIAL PERMITS

Preface: This section applies only to approved Development Plans and does not in any way enable or permit changes or additions to allow new uses. The evaluation regarding compliance of all changes shall be based on the originally approved Development Plan.

- A. Administratively Approved Minor Amendments to the Development Plan: Minor amendments to the Development Plan such as changes in the location, size, siting, or character of existing or new buildings and structures may be authorized in writing by the Zoning Administrator if the Zoning Administrator deems that such changes do not contradict and are in conformance with the spirit and intent of the approved Development Plan and that the changes are consistent with the requirements set forth below:
1. The proposed gross development density or intensity of use shall not be increased by more than twenty (20) percent;
 2. The area of open space shall not be reduced by more than twenty percent (20%);
 3. The open spaces, screening or buffering shall not be varied such that the separation of on-site structures or the separation provided for neighboring properties would be reduced to less than 80% of the width of the open space that would otherwise be provided by full compliance with the approved Development Plan, or to less than 80% of the width or 80% of the linear length of screening or buffering that would be provided by full compliance with the approved Development Plan;
 4. The location of any building or structure shall not be significantly varied in any direction to such an extent that the new outline of any building or structure would not touch the old outline of the building or structure;
 5. The floor area proposed for nonresidential use shall not be increased by more than twenty (20) percent;
 6. The total ground area covered by buildings shall not be increased by more than twenty (20) percent;
 7. The height of structures shall not be increased by more than fifteen (15) feet; and
 8. The location of any main entrance driveway shall not be varied by greater than one hundred (100) feet from its previously proposed location along any street frontage; no additional main entrance driveways shall be proposed; and no driveway access shall be proposed to streets onto which driveway access was not previously proposed by the approved Development Plan.
- B. Development Plan Amendment Other Than a Minor Amendment:
1. Applications for amendment of any approved Development Plan other than a Minor Amendment as set forth above in Subsection 8(A), shall be submitted and processed in accordance with this Article in the same manner as though a Special Permit with a Development Plan had not been previously approved for the site. This includes a public hearing by the Zoning Board and a final decision by Board of County Commissioners.
 2. If modifications or changes have no material or substantial impacts on the balance of the Development Plan, the functioning of the site, or of the uses approved by the Special Permit, then only those physical Development Plan elements proposed to be modified or changed need be submitted for consideration and approval.

3. If modifications or changes do have material or substantial impacts on the balance of the Development Plan, the functioning of the site, or of the uses approved by the Special Permit, then the Development Plan in its entirety shall be submitted for consideration and approval.
4. For purposes of this Section, material or substantial impact shall be deemed to result from modifications or changes which:
 - a. Would be inconsistent with any two (2) or more of the requirements in Subsection 8(A), above, or
 - b. Would face the most intense development or uses proposed for the site toward different property line(s) than proposed by the approved Development Plan, or
 - c. Would relocate any development features or uses proposed within the site by greater than twenty five (25) feet in the direction of a residential use or residentially zoned district, or
 - d. Would reduce the number of off-street parking spaces within one hundred (100) feet of any proposed building or structure by fifteen percent (15%) or more.
5. Determinations of material or substantial impact shall be made initially by the Zoning Administrator, but such determinations in any event shall also be submitted for review to the Zoning Board, and ultimately the BOCC.
6. The applicant shall submit a letter, and a drawing when necessary, to accurately describe the proposed change(s), and any other supporting documentation which help define the proposed change(s), indicating the scope of the proposed change(s) at least thirty (30) days before the Zoning Board meeting at which the proposed Development Plan amendment is requested to be considered.

Section 9. ENFORCEMENT OF SPECIAL PERMITS

The failure to comply with the requirements of these Regulations, including but not limited to this Article and the conditions and requirements set forth in the Special Permit, shall be a violation of these Regulations and shall be subject to enforcement, violations, and penalties as provided in Article 6 of these Regulations.

Section 10. REVOCATION OF SPECIAL PERMITS

In addition to other remedies provided by these Regulations, any Special Permit for the uses designated in this Article may be revoked and terminated at any time by the Board if the applicant or landowner is notified in writing and granted a hearing as provided in this Section, when there has been a determination by the Zoning Administrator that:

- A. The applicant, landowner or their representatives made material misrepresentations or false statements of fact related to the Special Permit application or any other matter related to the development or operation of the approved uses of the Special Permit, or
- B. The provisions or conditions of this Article or these Regulations have been violated, or
- C. The standards of development or performance, or the conditions placed on the use as part of the permit approval process, are not being met, including but not limited to nonconformance with the approved Development Plan, or the use is not complying with any other County regulations applicable to the operation of such uses.

Prior to revocation of a Special Permit, a written notice that a violation has occurred shall be mailed to the landowner. That notice shall afford the landowner a specified time period to abate the violation and shall further grant the landowner a hearing before the Board.

Section 11. CESSATION OF SPECIAL PERMIT USES

In the event that: 1) a site is no longer utilized for a use approved by a Special Permit for a period of twelve months, or 2) the use allowed by a Special Permit has not commenced within three years from the date of approval of the Special Permit by the Board; then a cessation of use shall have occurred, and the Special Permit shall be considered to be abandoned, and subject to revocation and termination after written notice and a hearing as provided in this Section. If revoked and terminated, a new Special Permit shall be required in order to recommence such use on the subject property.

Prior to revocation and termination of a Special Permit, a written notice shall be mailed to the landowner. That notice shall afford the landowner a hearing before the Board prior to revocation and termination of the Special Permit.

Section 12. EXISTING CONDITIONAL USE PERMITS

As previously approved Conditional Use Permits expire for uses that are now designated and allowed within this Article, an application for a Special Permit, in accordance with this Article, shall be submitted and must obtain Board approval prior to recommencing the use on the subject property.