

P O P E MINNESOTA
C O U N T Y

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POPE COUNTY RESOLUTION 202116

**Approving Amendments to the
Pope County Land Use Ordinance
Sections 2.2, 4.6, 5.6, 10.8, 10.15 and 11.5**

WHEREAS, Pope County is authorized to carry on county planning and zoning activities in the unincorporated areas of the County pursuant to Minnesota Statute Ch. 394; and

WHEREAS, the Pope County Comprehensive Plan identifies that land use regulations are to be clear, promote greater certainty in the land development process, and are consistent with the goals of the Comprehensive Plan; and

WHEREAS, the Pope County Comprehensive Plan states that there is to be a thorough review of the County's zoning and subdivision ordinances to identify those parts that are unclear or inconsistent with the Comprehensive Plan or other county policies and make the appropriate amendments; and

WHEREAS, the Pope County Shoreland Ordinance (Ordinance #1) was adopted in 1972 and after multiple amendments and additions has subsequently (1999) become known as the Pope County Land Use Controls Ordinance; and

WHEREAS, after a thorough review of the Land Use Controls Ordinance, it was determined that certain edits, modifications and amendments were necessary for consistency, clarity, and in recognition of changing land use habits and structural preferences; and

WHEREAS, County policy is to prohibit uses that are not expressly defined and identified as permissible in specific zoning districts; and

WHEREAS, The Land & Resource Management staff has identified certain uses such as Guest Quarters and Recreational Vehicles that are common place and reasonable; and

WHEREAS, The Land & resource Management staff has identified certain land uses that may be better permitted by Interim Use Permit process; and

WHEREAS, these requested amendments, initiated by Land and Resource Management staff, to amend the Land Use Controls Ordinance was considered by the Pope County Planning Advisory Commission, which after holding public hearings on January 28th, February 25th and March 25th 2021, did recommend approval of the request to the Pope County Board of Commissioners; and

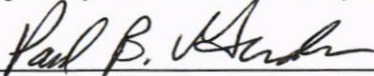
WHEREAS, on April 6th, 2021, the Pope County Board of Commissioners, pursuant to a Notice of Intent to amend the Pope County Land Use Controls Ordinance considered the matter; and

WHEREAS, the records of the public hearing include the minutes of the Pope County Planning Advisory Commission, presentations by staff of Pope County Land & Resource Management and any comments or input as may have been offered from members of the public; and

NOW, THEREFORE, BE IT RESOLVED, that Pope County hereby amends Sections 2.2, 4.6, 5.6, 10.8, 10.15 and 11.5 of the Pope County Land Use Controls Ordinance.

BE IT FURTHER RESOLVED, that the Director of Pope County Land & Resource Management department is directed to make the changes set forth in the Pope County Land Use Ordinance as follows and cause the same to be published and codified according to law.

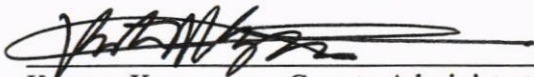
Adopted by the Board of County Commissioners of Pope County, Minnesota, this 6th day of April, 2021.



Paul Gerde, Pope County Board Chair

CERTIFICATION

I hereby certify that the above is a true and correct copy of a Resolution duly passed, adopted, and approved by the Pope County Board of Commissioners on April 6, 2021.



Kersten Kappmeyer, County Administrator
Pope County, Minnesota

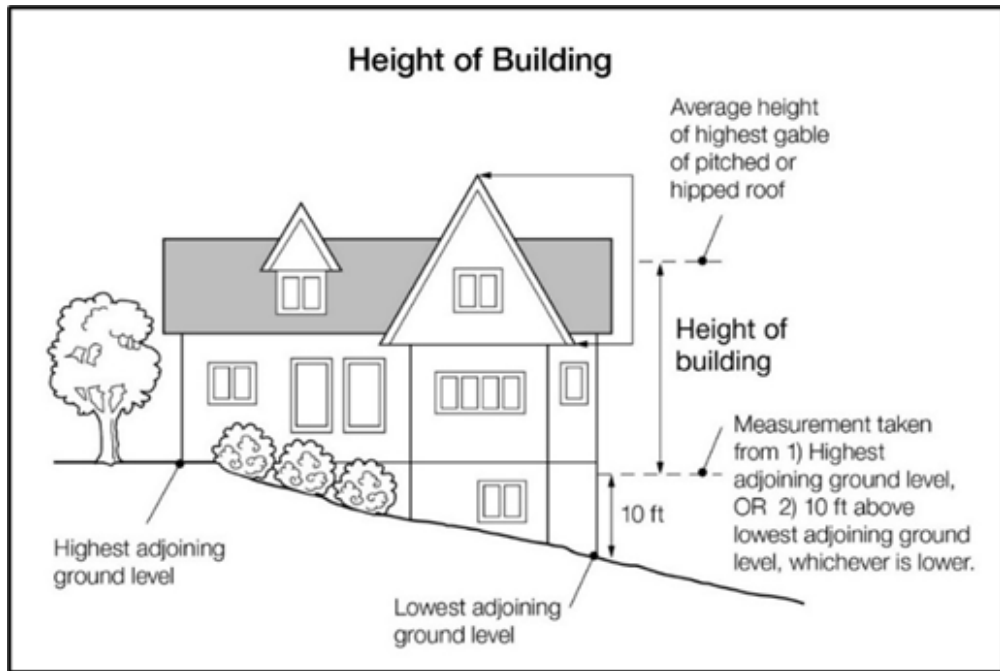
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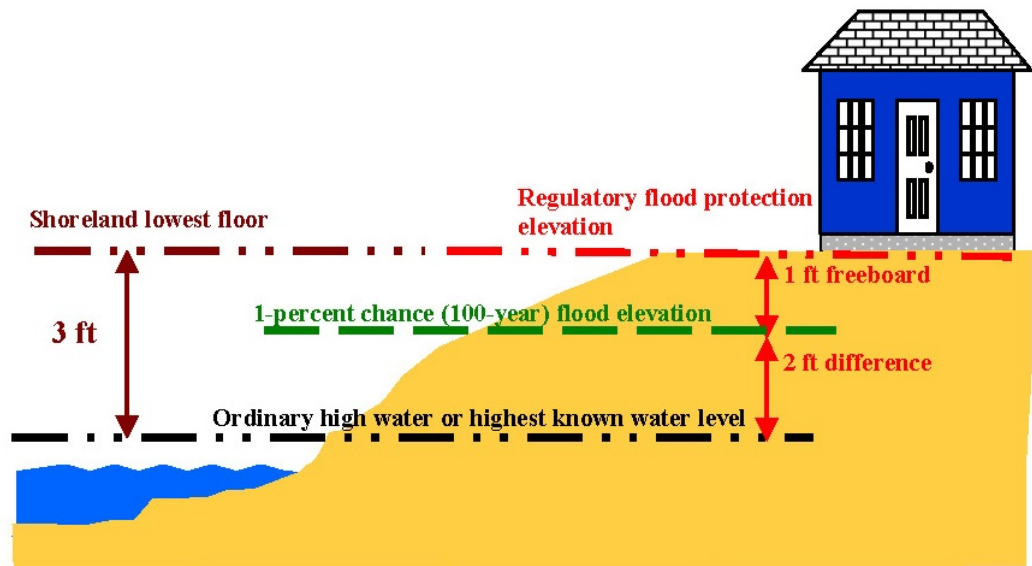
SECTION 2.2: DEFINITIONS

- (4) **Administrator:** The Administrator is the Director of the Pope County Land & Resource Management department and unless otherwise indicated, the word “Administrator” as it appears in this ordinance means the Director of the Pope County Land & Resource Management department.
- (7) **Agriculture:** The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, silviculture, aquaculture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.
- (8) **Agritourism:** Any activity carried out on a farm or ranch (ancillary to the primary farm or ranch use) that allows organizations or members of the general public, for recreational, entertainment, charitable, or educational purposes, to view, enjoy, or participate in rural activities, including, but not limited to: agriculture; horticulture; viticulture; winemaking; ranching; and historical, cultural, farm stay, gleaning, harvest-your-own, or natural activities and attractions. An activity is an agritourism activity whether or not the participant pays to participate in the activity.
- (13) **Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year. “Base flood” is synonymous with the term “regional flood” used in Minnesota Rules, Part 6120.5000.
- (20) **Certificate of Survey:** An official document prepared and signed by a professional land surveyor which depicts property dimensions and may include the location of improvements on the property and their distances to property lines, easements, rights-of-way, or other features on the property.
- (24) **Common Interest Community (CIC):** A common interest community shall have the meaning given in Minnesota Statutes, chapter 515B; or successor statutes.
- (34) **Dwelling Unit:** Any structure or portion of a structure, or other shelter designed as short or long-term living quarters for one or more persons.
- (37) **Flood Fringe:** The portion of the one-percent annual chance floodplain located outside of the floodway.
- (38) **Floodplain:** The beds and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the base flood.
- (39) **Floodway:** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the base flood discharge.
- (41) **Guest cottage:** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
- (42) **Guest quarter:** An area of an accessory structure that contains sleeping space and is not the primary use of the structure.

- (46) **Height of Structure:** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.



- (51) **Interim Use:** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.
- (53) **Lot:** A piece, parcel or plot of land intended for building development or as a unit for transfer of ownership.
- (55) **Lowest floor:** The lowest floor of the lowest enclosed area, including basement and crawl space. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement or crawl space area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.



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- (69) Planned Unit Development (PUD):** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- (a) Commercial planned unit developments:** Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- (b) Residential planned unit development:** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.
- (70) Plat (or Final Plat):** A delineation of one or more existing parcels of land drawn to scale showing all data as required by Minnesota Statutes, Chapter 505, or successor statutes, depicting the location and boundaries of lots, blocks, outlots, parks, and public ways and any other information required by statute or Pope County Subdivision Controls Ordinance.
- (76) Recreational camping vehicle:** A form of temporary living quarters which is designed such that it can be moved on the public highways system without additional moving permits beyond normal motor vehicle license requirements. Said temporary living quarters are commonly known as travel trailers, pick up campers, motor homes, camper trailers, slide-in campers and park trailers. Recreational camping units, as herein defined, are permitted to be located in recreational camping areas and private property regulated by this ordinance.
- (94) Subdivision:** The division or redivision of a lot, tract, or parcel of land regardless of how it is to be used, into two or more lots, parcels or tracts either by plat, by a liquot description or by metes and bounds description for the purpose of offer, sale or lease; or the division or redivision of land involving dedication of a new park, playground, road or other public right-of-way or facility; or the vacation, realignment or any other changes in existing roads, alleys, easements, recreation areas, water, or other public improvements or facilities.
- (104) Variance:** A modification or relief of the provisions of this ordinance where it is determined by the Board of Adjustment that, by reason of exceptional circumstances, the strict enforcement of any provision of the local ordinance would cause practical difficulties as defined in MN Chapter 394.27 Subdivision 7.

4.6.13 Steel Buildings, Pole Structures, and Other Dwellings:

- A. **Lots smaller than five acres:** The following uses, by their nature, are not necessarily typical on smaller lot developments and thus pose a potential for conflict with more traditional lot uses and development which may exist or which may develop in the immediate neighborhood. Typical arguments against such uses are devaluation of adjacent property values, cluttered or unsightly development and incompatibility of uses. The purpose of this section is to allow for public review of the following uses that may be proposed on parcels of less than five acres in size to minimize the potential conflicts of incompatible development, and to determine if they can or cannot be allowed.
1. Locating of accessory structures larger than 1100 square feet or with side wall height exceeding twelve (12) feet shall be by Conditional Use.
 2. Placement of residential structures less than 20 ft. wide over more than 25% of the residential structure area shall be by Conditional Use.
 3. Placement of any used accessory structure of greater than 200 square feet in area which is to be moved onto a lot shall be by Conditional Use.
 4. In allowing the types of structures regulated by this section, the Planning Commission findings shall determine that the proposed structure will not look out-of-place in comparison with other structures of the same neighborhood (within 500 feet), will not tend to cause devaluation of adjacent properties, will not create a use that is incompatible with existing uses of the neighborhood. A temporary permit for a period of up to a three year duration may be allowed even if the findings do not meet those described above.

4.6.14 Reserved for Future Use

5.6 RESIDENTIAL DISTRICT REGULATIONS:**5.6.1 Steel Buildings, Pole Buildings, and Other Dwellings:**

- A. **Lots smaller than five acres:** The following uses, by nature, are not necessarily typical on smaller lot developments and thus pose a potential for conflict with more traditional lot uses and development which may exist or which may develop in the immediate neighborhood. Typical arguments against such uses are devaluation of adjacent property values, cluttered or unsightly development and incompatibility of uses. The purpose of this section is to allow for public review of the following uses that may be proposed on parcels of less than five acres in size to minimize the potential conflicts of incompatible development, and to determine if they can or cannot be allowed.
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10.8 GUEST COTTAGE & GUEST QUARTERS

10.8.1 Guest Cottage

One guest cottage may be permitted on lots meeting or exceeding the duplex lot area and width dimensions according to this Ordinance, provided the following standards are met:

- A. The guest cottage shall meet all requirements, including impervious surface standards, setbacks, adequate septic system capacity or ability to connect to the city sewer system.
- B. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;
- C. A guest cottage, including any attached covered structures, must not cover more than 700 square feet of land surface and must not exceed 15 feet in height. Basements are prohibited.
- D. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- E. Existing boathouses and other detached accessory structures which do not comply with the minimum structure setback standards shall not be converted to a guest cottage.

10.8.2 Guest Quarters

One guest quarter per lot shall be permitted provided the following standards are met:

- A. Guest quarters shall meet all requirements, including but not limited to adequate septic system capacity or ability to connect to the city sewer system.
- B. Guest quarters shall not exceed 700 square feet in size, regardless of the size of the accessory structure wherein they are located.
- C. Existing boathouses and other detached accessory structures which do not comply with the minimum structure setback standards shall not be converted to a guest quarters.

10.15 RECREATIONAL CAMPING VEHICLES (RVs)

The purpose of this section is to provide standards for recreational camping vehicles (RV) utilized as temporary living quarters during recreational/vacation or other activities without the infringement upon and/or depreciation of neighborhood or adjacent properties.

A. This section applies to the following types of RVs:

1. Travel Trailer – A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified “travel trailer” by the manufacturer of the trailer.
2. Pick Up Campers – A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation. Examples of these would include horse trailers with sleeping area or “goose neck” trailers.
3. Motor Home – A portable, temporary structure to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
4. Camping Trailer – A folding structure mounted on wheels and designed for travel, recreation and vacation uses.
5. Slide-In-Campers – A structure designed to be mounted into a pickup truck in the pickup box, either by bolting through the floor of the pickup box or firmly clamping to the side of the pickup box.
6. Park Trailers – A structure not exceeding 8.5 feet in width but which is no larger than 400 square feet when the collapsible components are fully extended or at maximum horizontal width. Park trailers must be licensed for over the road.

B. **General Provisions:**

RVs may be allowed in any zoning district, subject to the following provisions:

1. One (1) RV per lot is permitted by right for intermittent recreational or guest use, provided the following criteria are met:
 - a. For periods no longer than ninety (90) consecutive days.
 - b. Minimum building setbacks are maintained as required by Ordinance for the applicable zoning district.
 - c. All wastewater must be disposed of at a dumping station or wastewater treatment facility and sanitation standards set forth in this Ordinance must be complied with.
 - d. The current year and class of vehicle license in accordance with State regulations shall be displayed and maintained.
 - e. All tires necessary for safe highway transport must remain mounted and inflated at all times.
2. A second RV per lot is permitted by right for seasonal intermittent recreational or guest use for periods no longer than fourteen (14) consecutive days, provided the following provisions are met:
 - a. All wastewater must be disposed of at a dumping station or wastewater treatment facility and sanitation standards set forth in this Ordinance must be complied with.

- b. The current year and class of vehicle license in accordance with State regulations shall be displayed and maintained.
 - c. All tires necessary for safe highway transport must remain mounted and inflated at all times.
3. Any RV which is used as temporary living quarters for more than ninety (90) consecutive days or that does not conform to the duration limitation prescribed above shall require an **interim use permit**, be appropriately sited and adequately sewered in accordance with Section 10.20 of this Ordinance.
4. The parking of an uninhabited RV by the property owner for strictly storage purposes is allowed. However, it shall not be hooked up to sewer and water.
5. Any RVs parked on a parcel for seventy-two (72) hours or less shall be exempt from any of the provisions of Section 10.15, excepting the provision regarding wastewater disposal.
6. RV siting in excess of two (2) units, except as provided for in Section 10.15.B.5 above, shall require an interim or conditional use permit, be deemed a campground, and are subject to Section 10.19 of this Ordinance.

11.5 CONDITIONAL & INTERIM USE PERMIT:**11.5.1 Description:**

Within the unincorporated areas of the County a Conditional Use Permit (CUP) or Interim Use Permit (IUP) shall be required for the establishment of each use permitted by ordinance as a CUP or IUP. An IUP may be granted in lieu of a CUP to regulate land use activities that the Board of County Commissioners, at its sole discretion, determines should be permitted for a limited duration.

Expansion of a permitted CUP/IUP shall require an amendment to the CUP/IUP, except that minor development activities determined by the Administrator to not increase the scale or intensity of the CUP/IUP may be allowed with the issuance of a Land Use Permit.

An interim use is granted to a particular individual or other applicant and does not accrue to the subject property.

Structures and other improvements allowed by interim use shall be of a size and nature such that they can be easily removed from the property or will conform to zoning regulations for permitted or conditional uses should the Interim Use Permit expire.

11.5.2 Procedure:**A. Application Requirements:**

The following requirements are for Conditional or Interim Use Permit applications where applicable:

1. The applicant for a Conditional or Interim Use Permit shall file an application in the office of the Administrator and pay a fee according to the fee schedule resolution of County Board of Commissioners.
2. Written description of the proposed activities, including:
 - a. Type of business or activity (including scope of operations);
 - b. Proposed number of employees;
 - c. Days and hours of operation;
 - d. Equipment and vehicles to be used for the activity;
 - e. Proposed floor plan of any structure or use indicated;
 - f. Sanitary sewer and water plan with estimated use per day;
 - g. Any maintenance to take place on-site, including how hazardous materials and solid waste will be stored and disposed of; and
 - h. Proposed exterior lighting, signage and storage.
3. Site plan (completed by a licensed land surveyor if applicable) including but not limited to:
 - a. Property lines;
 - b. Existing topography;
 - c. Existing and proposed development (including roads, driveways, structures, septic components, wells, etc.);

- d. Distance from water body, road, property lines, septic components (tank and drainfield), well, neighboring feedlots, etc.;
 - e. Finished grading and drainage plan;
 - f. Existing and proposed screening; and
 - g. Other requirements as deemed appropriate by the Administrator.
4. Any additional information required by the Administrator.
- B. The Administrator shall refer the application to the Planning Commission for a public hearing. Property owners of record within 1320 ft. of the affected property or the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners; and the Commissioner of Natural Resources shall be given ten (10) days notice of the date the Planning Commission will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city or village if the incorporated limits of same lie within two (2) miles of the proposed Conditional or Interim Use. Notice shall also be given the Town Board of the Township wherein the Conditional or Interim Use is proposed. Notice of the time, place and purpose of any public hearing shall be given by publication in a newspaper of general circulation in the town, municipality, or other area concerned, and in the official newspaper of the county, at least ten days before the hearing.
- C. The Planning Commission shall consider the application at its next regularly scheduled meeting after compliance with the provisions of notice above specified.
- D. The applicant or applicant representative shall appear before the Planning Commission and answer any questions concerning the proposed conditional or interim use.
- E. The Planning Commission shall consider possible adverse effects of the proposed conditional or interim use and what additional requirements may be necessary to prevent such adverse effects.
- F. The report of the Planning Commission shall be referred to the County Board and placed on the agenda of the Board at its regular meeting following referral from the Planning Commission.
- G. The County Board shall take action on the application within forty-five (45) days after receiving the report of the Planning Commission.
- H. In considering a Conditional or Interim Use Permit, the County Board shall consider the effect of the proposed use upon health, safety and general welfare of the occupants of surrounding lands, the effect of the proposed use on the environment, the effect of the use on existing and anticipated traffic conditions, including parking facilities on adjacent streets and land, and the effect on property values and scenic views in the surrounding area. It shall make at least the following findings, and others where applicable:
1. The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted.
 2. The use is not in conflict with the County Comprehensive Land Use Plan.

3. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair neighboring property values in the area, and will not interfere with the best interest of the surrounding area or the community as a whole.
 4. The use will not create an excessive burden on parks, schools, streets, water supply, public drainage systems and other public facilities and utilities which serve or are proposed to serve in the area.
 5. The structure and site shall have an appearance that will not have an adverse effect on adjacent properties.
 6. That the road on which the project is proposed is adequate to handle increased traffic during construction and operation, and that the use will not cause traffic hazards or congestion.
 7. Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare, odor or general unsightliness.
 8. That the establishment of the use will not impede the normal and orderly development and improvement of surrounding vacant property uses predominant to the area.
 9. That adequate utilities, drainage, and other necessary facilities have been or are being provided.
 10. That adequate measures have been or will be taken to prevent or control rodents, insects, offensive odors, fumes, dust, noise and vibration in order that none of these will constitute a nuisance, and that adequate measures have been or will be taken to prevent negative impacts on surface water, groundwater and air quality, and that measures have been taken to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- I. A certified copy of any Conditional or Interim Use Permit shall be filed with the County Recorder for record. The Conditional or Interim Use Permit shall include the legal description of the property involved.
 - J. Any conditional or interim use shall comply with all reasonable conditions deemed necessary to protect the public health safety, and general welfare. In connection with ordering the issuance of a conditional or interim use permit the designated approval authority may impose such additional restrictions or conditions as it deems necessary to protect the public interest, including but not limited to matters relating to appearance, lighting, hours of operation and performance characteristics. Interim use permits will be limited to a specific timeframe or event, may be terminated by a change in zoning regulations and may require an annual inspection fee if deemed necessary by the Board.

- K. Should there be any cause for revocation of a Conditional or Interim Use Permit, as in the case of violation of a conditional requirement, the Administrator shall require a hearing on revocation of said Conditional or Interim Use Permit. The hearing shall be conducted under the same procedures specified above. If the matters of concern are not resolved at the hearing or subsequent thereto, a Conditional or Interim Use Permit may be revoked and the use for which the permit was originally issued shall cease. Each Order of the Board which revokes a Conditional or Interim Use Permit shall be effective upon adoption or such other date as the Board may specify and shall be promptly recorded in the office of the Pope County Recorder upon it taking effect.
- L. A Conditional or Interim Use Permit shall take effect upon recording and shall be in effect perpetually or for a shorter period as fixed by the Board unless revoked by the Order of the Board for failure to observe conditions or other violations of law provided that nothing in this section shall prevent the Board from enacting or amending official controls to change the status of conditional or interim uses.
- M. In the event that there is a need to renew a Conditional or Interim Use Permit, the Planning Commission shall review the request for renewal under old business and may decide to: either renew or extend the validity of said permit, or schedule a public hearing on the question of whether the permit shall be renewed.
- N. All decisions made by the County Board in processing a Conditional or Interim Use Permit shall be final except that any aggrieved person shall have the right to appeal within 30 days, after receipt of notice of the decision, to the Pope County District Court.
- O. No application for a Conditional or Interim Use Permit shall be resubmitted for a period of 1 year from the date of said order of denial.
- P. An Interim Use Permit shall terminate on the happening of any of the following events, whichever comes first:
1. The date or event stated in the permit.
 2. Upon violation of conditions under which the permit was issued.
 3. Upon change in the County's zoning regulations where the use is no longer permitted.
 4. The Interim Use Permit shall expire if the approved use is inactive for one year or longer as determined by the Administrator and/or tax records indicating the use was inactive.
 5. Granted Interim Use Permits shall become void if the applicant does not proceed substantially on the work within one year of the date the permit is granted. To proceed substantially means to make visible improvement to the property and to have had applied to the property at least 40% of the man hours which it is reasonably estimated will be necessary for completion of the project. The Planning Advisory Commission may at their discretion grant an extension of not more than one year in order to establish the use.