

LAND USE ORDINANCES - PENDLETON  
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## **CHAPTER 400 - ZONING CODE**

### **ARTICLE I: TITLE, PURPOSE, AND LEGAL CLAUSES**

#### **SECTION 400.010: TITLE**

This Chapter shall be known and may be cited hereinafter as the "Zoning Code of the Village of Pendleton."

#### **SECTION 400.015: PURPOSE**

The purpose of this Chapter is to regulate and control the zoning of land and consequent use of said land within the Village of Pendleton in order to promote public safety, health, and general welfare of the citizens. These Regulations are specifically designed to:

1. Protect the character and stability of residential, recreation, commercial, industrial, and open space areas within the Village of Pendleton and promote their orderly and beneficial development;
2. Provide privacy and convenience of access to property; etc.
3. Regulate the intensity of land use and establish open areas surrounding buildings and structures necessary to provide adequate light and ventilation and to protect public safety and health;
4. Regulate and limit the height of buildings and structures;
5. Lessen and avoid congestion on public streets by providing off-street parking and loading;
6. Regulate and limit the density of population based on the Village's ability to provide for water, sewerage, schools, parks, and other essential public services;
7. Divide the Village into zoning land uses and establish, by reference to a map, the boundaries of said land uses;
8. Fix reasonable standards to which land, buildings, structures, and their uses must conform;
9. Prohibit uses, buildings, or structures which are incompatible with the character of development or uses, buildings, or structures permitted within specified zoning land uses;
10. Prevent illegal additions or alterations of existing buildings or structures;
11. Protect against fire, explosion, noxious fumes and odor, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards in the interest of public health, safety, and general welfare;
12. Prevent overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each zoning land use by regulating the use and bulk of buildings in relation to the land surrounding them;

13. Preserve and enhance the taxable value of land, buildings, and structures throughout the Village;
14. Provide for the completion, restoration, reconstruction, extension, or substitution of non-conforming uses;
15. Designate and define the powers and duties of the official(s) administering and enforcing this Chapter; and
16. Provide penalties for the violation of this Chapter.

#### **SECTION 400.020: VALIDITY AND SEVERABILITY CLAUSE**

- A. If any Court of competent jurisdiction shall declare any part of this Chapter to be invalid, such ruling shall not affect any other provisions of this Chapter not specifically included in said ruling.
- B. If any Court of competent jurisdiction shall declare invalid the application of any provision of this Chapter to a particular land, parcel, lot, land use, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, land use, use, building, or structure not specifically included in said ruling.

#### **SECTION 400.025: COMPLIANCE WITH THE REGULATIONS**

The regulations set by this Chapter within each land use shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

1. No building shall be erected, converted, placed, enlarged, reconstructed, or structurally altered, nor shall any building or land be used except for a purpose and in the manner permitted in the land use in which the building or land is located.
2. No land required for yards; open spaces, or off-street parking or loading spaces about an existing building or any building hereafter erected or structurally altered shall be considered as required yard or lot area for more than one (1) building.
3. Every building hereafter erected or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot except as otherwise provided in the Chapter.
4. The provisions of these Regulations shall be considered the minimum requirements for the promotion of the public health, safety, morals, comfort and welfare. Where provisions of the regulations of this Chapter impose greater restrictions than those of any Statute, other ordinance or regulation, the provisions of the regulations of this Chapter shall be controlling. Where the provisions of any Statute, other ordinance or regulation impose greater restrictions than this Chapter, the provisions of such Statute, other ordinance or regulation shall be controlling.
5. This Chapter is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provisions of this Chapter are more restrictive or imposes



a higher standard or requirement than such easement, covenant or other private agreement, the provision of this Chapter shall govern.

**ARTICLE II: RULES AND DEFINITIONS**  
**SECTION 400.030: RULES OF CONSTRUCTION**

For the purposes of this Chapter, certain rules of construction apply to the text, as follows:

1. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
2. The term "shall" and "must" are always mandatory and not discretionary; the words "may" or "should" are permissive.
3. Words or terms not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.
4. The word "person" includes a firm, organization, association, partnership, trust, company, or corporation, as well as an individual.
5. The words "use" or "occupy" shall include the words "intended", "designed", or "arranged" to be "used" or "occupied".

**SECTION 400.035: DEFINITIONS**

The following definitions shall apply in interpretation and enforcement of this Chapter, unless otherwise specifically stated:

- Access Easement: An easement which grants the right to cross property.
- Accessory Building or Structure: A subordinate building or structure having a use customarily Incident to and located on the lot occupied by the main building. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.
- Accessory Use: A use incidental and subordinate to the principal use of the premises.
- Adult Bookstore or Adult Video Store: Any business, commercial establishment or premises in which ten percent (10%) or more of its sales floor area is devoted to the sale, rental or lease of books, magazines, periodicals, photographs, films, motion picture, video cassette, slides, digital video disc, sexually-oriented toys or novelties designed for use in connection with specified sexual activities or other explicit sexual material that depict or describe specified sexual activities. Said adult bookstore or adult video store may not publicly display any of the books, magazines, periodicals, photographs, films, motion picture, video cassette, slides, digital video disc, sexually-oriented toys or novelties designed for use in connection with specified sexual activities or other obscene or explicit sexual material that depict or describe specified sexual activities. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older.

- Adult Cabaret: Any nightclub, tavern, bar, restaurant, cafe or similar commercial establishment that regularly, commonly, habitually or consistently features or otherwise offers to the public, customers, patrons or members in a viewing area, any live exhibition, performance or dance by persons whose exhibition, performance or dance includes any of the following:
  1. Persons who appear in a state of semi-nudity, and
  2. Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers. Any person who appears in a state of semi-nudity shall be at least ten (10) feet from any customer, patron, member or other individual in a state of semi-nudity at all times and shall be prohibited from touching a customer, patron, member or other individual in a state of semi-nudity or the clothing of a customer, patron or member. Any person who appears in a state of semi-nudity shall be at all times on a stage at least two (2) feet from the floor and behind a railing no less than twenty-four (24) inches in height. Any person who appears in a state of semi-nudity shall not knowingly or intentionally depict, simulate or perform specified sexual activities. All employees, performers, guests, customers, patrons and members shall be prohibited from knowingly and intentionally appearing in a state of nudity or depicting, simulating or performing specified sexual activities. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older.
- Adult Hotel/Motel: A hotel, motel, inn, building or similar commercial establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, digital video discs or other photographic reproductions fifty percent (50%) or more of the number of which are distinguished or characterized by the depiction or description of specified sexual activities, nudity or semi-nudity and/or which rents, leases or lets any single room for less than a six (6) hour period or rents, leases or lets any single room more than twice in an eighteen (18) hour period. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older.
- Adult Motion Picture Theater: An establishment emphasizing or showing sexually-oriented movies distinguished or characterized by an emphasis on matters depicting, describing or relating to nudity, semi-nudity or specified sexual activities. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older.
- Adult Theater: A theater, concert hall, auditorium or similar commercial establishment that regularly, commonly, habitually or consistently features live theatrical performances or persons who appear in a state of semi-nudity. Any person who appears in a state of semi-nudity shall be at least ten (10) feet from any customer, patron, member or other individual in a state of semi-nudity at all times and shall be prohibited from touching a customer, patron, member or other individual in a state of semi-nudity or the clothing of a customer, patron or member. Any person who appears in a state of semi-nudity shall be at all times on a stage at least two (2) feet from the floor and behind a railing no less than twenty-four (24) inches in height. Any person who appears in a state of semi-nudity shall not knowingly or intentionally depict,

simulate or perform specified sexual activities. All employees, performers, guests, customers, patrons and members shall be prohibited from knowingly and intentionally appearing in a state of nudity or depicting, simulating or performing specified sexual activities. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older.

- Adult Video Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained in a viewing room to show images distinguished or characterized by the depicting or describing of nudity or specified sexual activities. Said adult video arcade may not publicly display any such poster, interior signage or similar attraction distinguished or characterized by the depicting or describing of nudity or specified sexual activities. Any such viewing room shall not be obscured by any curtain, door, wall or other enclosure. No viewing room shall be occupied by more than one (1) individual at a time and there shall be no aperture between viewing rooms which is designed or constructed to facilitate sexual activity between persons in different rooms. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older.
- Agricultural: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture 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. The operation of commercial feed lots or pens, sales yards and auction yards for cattle or hogs shall be deemed an industrial and not an agricultural use.
- Alley: A private right-of-way with a minimum pavement width of twenty (20) feet that provides secondary vehicular access to the rear or side of a lot, block, or parcel of land otherwise abutting a street. Alleys shall:
  1. Be designated and signed for "one-way" traffic,
  2. Have a minimum five (5) foot wide easement strip placed adjacent to the right side of the alley easement designated for trash receptacle placement,
  3. Be designated and signed to prohibit on-street parking, and
  4. Be designated and signed as "private streets" in accordance with Section 405.210(C) of the Subdivision and Land Development Code.
- Alteration: Any addition, removal, extension, or change in the location of any exterior wall of a main building or accessory building.
- Apartment: A room or a suite of rooms within an apartment house arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.

- Apartment Hotel: An apartment house which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.
- Apartment House: A multi-family apartment building of four (4) or more stories in height served by one (1) or more elevators. Typical apartment houses are designed with an internal single or double loaded corridor which opens to a number of apartment flats. Apartment houses, because of their height, are usually constructed with steel frame or reinforced concrete. Typical apartment houses of four (4) stories in height have a project density of twenty (20) to twenty-four (24) apartment units per gross acre.
- Area Project:
  1. Gross Project Area: Total project area.
  2. Net Project Area: Total project area less land allocated to public street right of way, private streets, parking areas and any land allocated to specified non-project uses such as schools and churches when determining the "net residential project area" to be used as a basis for calculating the number of permitted dwelling units for a Planned Unit Development.
- As-Built Plans: Construction plans revised to show a facility or structure as actually constructed and as it appears on the tract of land involved.
- Assisted Living Facility: Any group housing and services program, other than a skilled nursing facility, for three (3) or more unrelated adults that promotes resident self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, independence and home-like surroundings and makes available, at a minimum; one (1) meal per day, housekeeping services and personal care services directly or through a formal written agreement with one (1) or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared units with private or area baths.
- Bank: An office building or portion thereof which provides for the custody, loan, exchange, or issue of money, the extension of credit, or facilitating the transmission of funds, and which may include accessory drive-up units on the same premises.
- Basement: A story below the first story as defined under "Story" counted as a story for height regulations, in multi-family land uses if subdivided and used for dwelling purposes.
- Block: An area of land within a subdivision that is entirely bounded by streets, highways, or right of way, except alleys, or between streets, highways, streams, parks, etc., or any other barrier, or combination thereof, to the continuity of development.
- Boarding House or Lodging House: A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for four (4) or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.
- Buffer Strip: See "Greenbelt".

- **Building:** Any structure having a roof supported by columns or walls built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, but not including any vehicle, trailer (with or without wheels) nor any movable device, such as furniture, machinery, or equipment.
- **Building Coverage:** The proportion of the lot area, expressed as a percent that is covered by the maximum horizontal cross-section of a building or buildings.
- **Building Height:** The vertical distance from the average ground level abutting a building or structure to the highest point of the roof of a building or highest point of any permanent part of a structure other than a building.
- **Building Line or Setback Line:** A line parallel to a street right of way line, edge of a stream, or other property line established on a parcel of land or lot for the purpose of prohibiting construction of a building or structure in the area between such building line and right of way, stream-bank, or other property line.
- **Bulk:** The term used to indicate the size and setback of a building or structure and the location of same with respect to another building or structure or to a lot line and includes the following: size and height of a building or structure; location of exterior walls of a building in relation to lot lines, streets, or other buildings; the floor area of a building in relation to the area of the lot on which it is located; the open space allocated to and surrounding a building; and the amount of lot area per dwelling unit.
- **Church:** A building used principally for religious worship but the word church shall not include or mean an undertakers chapel, or funeral building, a religious educational institution or parochial school or day care center.
- **Cemetery:** A place for burial of the dead, including crematory facilities as an accessory use.
- **Village:** The Village of Pendleton, Missouri.
- **Village Board:** The officially elected Board of Trustees of the Village of Pendleton; the term may be abbreviated in this Chapter as the Board of Trustees.
- **Village Planning and Zoning Commissioner:** The officially appointed Planning and Zoning Commissioner of the Village of Pendleton; the term may be abbreviated in this Chapter as the "Commission".
- **Club, Private:** A building or premises used for social, recreational, dining or philanthropic purposes the normal use of which is limited to specific members, patrons or otherwise listed and enumerated persons.
- **Code Enforcement Officer:** The officially designated representative of the Village of Pendleton responsible for the enforcement of the Sign Code, Zoning Code and other ordinances.
- **Commission:** The Planning and Zoning Commission for the Village of Pendleton, Missouri.
- **Common Elements (Condominiums):** All portions of a Condominium property, except the units.
- **Common Ground:** That land set aside for open space, recreational, or other common use by the owners of the lots in a subdivision, and which is owned by for the sole benefit, use and

enjoyment of the lot owners present and future. No lot owner shall have the right to convey his/her interest in the Common Ground except as an incident of the ownership of a platted lot.

- Comprehensive Development: A residential cluster subdivision, a commercial or industrial park, or a Planned Unit Development as defined in this Article.
- Comprehensive Plan: A comprehensive land use plan made and adopted by the Village Planning and Zoning Commission and Board of Trustees for the Village of Pendleton which through any combination of text, charts, and maps sets forth proposals for general locations for various land uses, streets, parks, schools, public buildings, utilities, and for the physical development of Village.
- Conditional Use: A conditional use is a use that would not be appropriate generally or without restriction throughout the Zoning Land use but which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such Zoning Land uses as conditional uses, if specific provisions for such conditional use is made in this Zoning Code.
- Condominium: A form of ownership pursuant to the provisions of Chapter 448 RSMo, in which individuals own the interior space of separate units, but together through an owner's association, share ownership of all Common Elements and Common Ground appurtenant to the units.
- Construction Plans: The engineering drawings showing types of materials and construction details for physical structures and facilities, excluding dwelling units to be installed in conjunction with development of a subdivision.
- Cul-de-Sac: A local street with only one outlet and having an appropriate turn around at the end for the safe and convenient reversal of traffic movement.
- Curb Level: The mean level of the curb in front of the lot or in case of a corner lot, along that abutting street where the mean curb level is the highest.
- Day Care Center: A place which provides shelter and personal care on a regular basis for six (6) or more children who are not related within the third degree computed according to civil law to the operator, for four (4) or more hours of any part of twenty-four (24) hour day, whether such place be organized or operated for profit or not. The term "day care center" includes child care facility, kindergarten, nurseries or any other facility that falls within the scope of the definitions set forth above, regardless of auspices. •
- Dedication: Intentional transfer by the developer to the public of ownership of or an interest in land for a public purpose. Dedication may be affected by formal deed of conveyance, or by any other method recognized by the laws of the State of Missouri.
- Density: The number of dwelling units per acre of gross land area.
- Detention Facilities: The use of a site for the provision by a public agency of housing and care for legally confined individuals.

- Developer: Any person, persons, corporation, or Government agency undertaking any development as defined in the Code. The term Developer includes such commonly used references as sub divider, owner, and proprietor.
- Development: Any subdivision of land as herein defined or any material change in the use or appearance of any parcel of land subject to provisions of this Chapter, or the act of building structures and/or installing site improvements.
- Director of Building Safety: The Chair of Board or his designee for the Village of Pendleton, Missouri.
- Land use: A section or sections of the Village for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.
- Domestic Animals: Animals kept exclusively for the personal enjoyment of the occupants of a principal building and including those animals normally kept as pets such as dogs, cats, birds, guinea pigs, etc.
- Dormitory: A building with many rooms providing sleeping and living accommodations for a number of usually unrelated persons; usually associated with an educational institution.
- Drive-In Establishments: Any business so developed that its retail or service character is primarily dependent upon serving patrons who remain in their motor vehicles in a driveway or parking spaces.
- Dwelling: A building or portion thereof, designed exclusively for residential occupancy, including one (1) family, two (2) family and multiple-family dwellings, boarding and lodging houses, apartment houses and townhouses, but not hotels.
- Dwelling Area: The area of a dwelling unit is composed of those rooms designed for and exclusively used for residential purposes, including bedrooms, kitchen, dining room, den/library, bathrooms, family and living rooms, and hallways connecting these rooms.
- Dwelling, Group Home: Any single-family residence or single-family dwelling in which eight (8) or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as house parents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home. A group home dwelling shall also include any private residence licensed by the division of family services or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption.
- Dwelling, Multiple-Family: A building or portion thereof, arranged, intended or designed for occupancy by three (3) or more families on a rental or ownership basis and commonly referred to as a triplex, four-plex, or apartment building.
- Dwelling, Single-Family: A detached building arranged, intended, or designed for occupancy by one (1) family.
- Dwelling, Two-Family: A building designed for occupation by two (2) families living independently of each other, and being designed in accordance with one (1) of the following:



1. The Two-Family Dwelling is located on a single platted lot of record that does not provide for the sale of the individual dwelling units. The individual dwelling units may be located side-by-side or with one (1) dwelling unit located above the other dwelling unit.
  2. The Two-Family Dwelling is located on two (2) separately platted lots of record and the interior side lot line (party lot line) runs coincident with the common firewall separating the side-by-side units.
  3. The Two-Family Dwelling is located on a single platted lot of record and: 1) the individual dwelling units share a common firewall separating the side-by-side units, 2) the individual dwelling units are sold as Condominium or Townhouse/Villa units, and 3) the remainder of the lot is set aside as Common Elements or Common Ground.
- Easement: A right or privilege to use a portion of another's property for a particular purpose.
  - Engineer: A professional engineer registered in the State of Missouri.
  - Escort: A person who for consideration agrees or offers to act as a companion, guide or date for another person or who agrees or offers to privately model lingerie or to privately perform for another person in a state of semi-nudity. Any escort or their guests, customers, patrons or members shall be prohibited from knowingly and intentionally appearing in a state of nudity or depicting, simulating or performing specified sexual activities.
  - Escort Agency: A business that furnishes, offers to furnish or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip or other consideration. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older.
  - Explicit Sexual Material: Any pictorial or three-dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse or emphasizing the depiction of post-pubertal human genitals; provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition. Explicit sexual material shall include undeveloped photographs, printing plates, computer software and other latent representational objects or material.
  - Extended Stay Facility: A building which, in whole or in part, has a main or accessory use, and is kept, maintained, advertised or held out to the public to be a place where living and sleeping accommodations are offered for consideration to guests and having a common entrance or entrances. The term "Extended Stay Facility" shall include any building which, although advertised as a "hotel" or "extended stay hotel" meets one (1) or more of the following:
    1. Kitchen or cooking facilities are located in more than ten percent (10%) of the rooms or units; or
    2. Rates for housing are calculated or advertised on a weekly or monthly basis; or
    3. Residents and/or guests are housed for more than thirty (30) days within a one (1) year period of time.

- Family: One (1) or more persons who are related by blood, marriage, or adoption, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five (5) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a non-profit cost-sharing basis.
- Flood Plain: That area of land adjoining the channel of a river, stream, watercourse, lake or similar body of water which will be inundated by a flood which can be expected once every one hundred (100) years for that region, as defined by the U.S. Corps of Engineers and required by the National Flood Insurance Act.
- Floor Area: For commercial business and industrial building or buildings, containing mixed uses; the sum of the gross horizontal areas of the several floors of the building measured from the exterior walls, but not including:
  1. Attic space providing headroom of less than seven (7) feet;
  2. Easement space not used for retailing;
  3. Accessory water and cooling towers.
- For residential buildings; the gross horizontal areas of the several floors of a dwelling exclusive of garages, basements and open porches measured from the external faces of the exterior walls.
- Frontage: The length of the property abutting on one side of a street measured along the dividing line between the property and the street right of way.
- Garage Sales: All general sales, open to the public, conducted from or on a residential premise in any residential zone land use for the purpose of disposing of personal property including, but not limited to, all sales entitled "estate", "garage", "lawn", "yard", "attic", "porch", "room", "backyard", "patio", "flea market" or "rummage sale".
- Garage, Community: A building or portion thereof, other than a public or repair garage, providing storage for motor vehicles but no other services, such garage to be in lieu of private garages within a block or portion of block.
- Garage, Private: An accessory building or portion of a main building used for storage of automobiles.
- Garage, Repair: A building or portion thereof, designed or used for the storage, sale, hiring, care or repair of motor vehicles and which is operated for commercial purposes.
- Garage, Storage: A building or portion thereof, except those defined as a private, a repair or a community garage providing storage for motor vehicles with facilities for washing but no other services.
- Garden Apartment Building: A two (2) or three (3) story multi-family apartment building usually of wood frame construction. The typical garden apartment building is designed with apartment flats which extend through the building without a central corridor. One-half( $\frac{1}{2}$ ) of the units have ground level patios and the second-story units have balconies. In land planning the trend is

toward two-story walk up buildings at low density, (typically fifteen (15) to eighteen (18) families per acre gross), with open spaces for recreational purposes and to preserve the natural terrain and trees. Frequently, a sloping site can be adapted to gain another story without necessitating more than one (1) flight of stairs.

- Greenbelt or Buffer Strip: A strip of land located between incompatible land uses which is subject to private use restrictions, or a negative easement, or is dedicated to public use as open space, for the purpose of protecting the built environment of a subdivision or to enhance a street right of way, or both.
- Hazardous Pipeline: A pipeline:
  1. Designed for the transmission of a "hazardous liquid", as defined by Title 49 of the Code of Federal Regulations, Section 195.2, with an inside diameter of eight (8) inches or more, and
  2. Which is regulated by the United States Department of Transportation.
- Height of Buildings and Structures: The vertical distance from the average ground level abutting a building or structure to the highest point of the roof of a building or highest point of any permanent part of a structure other than a building.
- Helipad or Helistop: A facility, either at ground level or atop a building, for the landing and takeoff of helicopters or other rotorcraft, which does not include passenger or cargo facilities, hangars, storage, fueling, service or similar facilities.
- Home Occupation: An occupation carried on within a dwelling or accessory building by members of the family occupying the dwelling with no servant, employee, or other person being engaged, provided the residence character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. .
- Hospital: An institution whose primary function is providing in-patient health services; medical or surgical care of the sick or injured; and maintaining, as an integral part of the institution, such related facilities as ambulance services, medical clinics, medical laboratories, out-patient physician services, staff offices, training facilities, central service facilities, as well as medical supplies sales and services. Such institutions may also provide pharmaceutical sales, food and beverage sales for consumption on-site, and gift shop and florist sales in support of their primary function.
- Hotel: A building which, in whole or in part, has a main or accessory use, and is, kept, maintained, advertised or held out to the public to be, a place where sleeping accommodations are offered for consideration to transient guests and having a common entrance or entrances. The term "transient guest" means persons who pay for and occupy a particular room or unit on a nightly basis and who occupy the premises for no more than thirty (30) days within a one (1) year period of time. A "hotel" shall not include any building in which more than ten percent (10%) of the rooms or units contain kitchen or cooking facilities; provided, however, that hotels may include in rooms a miniature refrigerator (commonly referred to as a "mini-bar"), microwave ovens, and automatic-drip coffee makers.

- Independent Living or Congregate Living Residence Facility: A facility that provides residential accommodations for senior adults who are in good health and do not require medical or skilled nursing. Residents shall have individual dwelling units with living, sleeping, bathroom and kitchen facilities. The facility may provide home health care or other community-based services on an individual basis and offer meals, linen and housekeeping services.
- Inpatient Care Facilities: The use of a site for the consultation, diagnosis, therapeutic, preventative or corrective personal treatment by doctors, dentists, medical or dental laboratories or similar practitioners of medical and healing arts for humans, licensed for practice by the State on an inpatient basis.
- Institution: A building occupied by a nonprofit corporation or a nonprofit establishment.
- Junk Yard: A parcel of land upon which the principal or accessory use is the accumulation of used, discarded, or worn out materials, or manufactured products, any of which may or may not be re-useable or salable.
- Laundromat: A business that provides washing, drying or ironing machines and professional type cleaning and pressing equipment for hire to be used by customers on the premises.
- Limited Improvement Area: Includes an area that begins twenty-five (25) feet of either side of any hazardous pipeline and extends to fifty (50) feet from either side of any hazardous pipeline.
- Live Theatrical Performance: A play, skit, opera, ballet, concert, comedy or musical drama.
- Loading Space: A space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, which space shall have a minimum dimension of twelve by thirty-five (12 x 35) feet and a vertical clearance of at least fourteen (14) feet.
- Long Term Care or Skilled Nursing Facility: A building or group of buildings which is licensed by the State of Missouri to provide twenty-four (24) hour, intensive, skilled and supportive nursing care, convalescent or chronic care under medical supervision to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.
- Lot: A measured portion of a parcel or a tract of land, set forth in a Recorded Plat, recorded or proposed to be recorded, and intended as a unit for transfer of ownership or for development.
- Lot. Corner: A lot abutting upon two (2) or more streets at their intersection.
- Lot. Interior: A lot whose side lines do not abut upon any street.
- Lot. Through: An interior lot having frontage on two (2) streets.
- Lot Coverage: Lot coverage shall include the total area of all principal and accessory buildings as measured along the outside wall at ground level or above as viewed from above and included all projections other than open porches, fire escapes, canopies or the first three (3) feet of a roof over-hang. Roads, driveways, parking lots and swimming pools shall not be included in the maximum lot coverage requirement. The percent of lot coverage shall be computed as follows:

- Percent of Lot Coverage= Square feet of ground coverage of all ground coverage of all principal and accessory buildings divided by the total square feet of lot area.
- Lot Lines: The lines bounding a lot as defined herein.
- Lot Line. Front: The boundary between a lot and the street on which it fronts.
- Lot Line. Rear: The boundary line or lines opposite and most distant from the front street line; except that in the case of uncertainty the Building Inspector shall determine the rear line.
- Lot Line. Side: Any lot boundary line not a front or rear line thereof; a side line may be a party lot line, a line bordering on an alley or place or a side street line.
- Lot Width: The horizontal distance between side lot lines, measured at the front building line.
- Mobile Home: A detached single-family dwelling unit, in an approved mobile home park, with all of the following characteristics:
  1. Designed for long-term occupancy, containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for, attachment to outside systems;
  2. Designed to be transported after fabrication on wheels or on a flatbed;
  3. Delivered to a site where it is to be occupied as a complete dwelling, including major appliances and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, etc., and
  4. Designed to have a permanent foundation.
- Mobile Home Park: Any plot of ground containing five (5) acres or more which is equipped as required for support of mobile homes and used or intended to be used by one (1) or more occupied mobile homes, but under no circumstances shall the mobile home spaces be sold or offered for sale individually. The term "mobile home park" does not include sales lots on which unoccupied mobile homes, whether new or used, are parked for the purposes of storage, inspection, or sale.
- Mobile Structure: A self-contained unit designed to be transported after fabrication on wheels or on a flatbed, delivered to a site with a permanent foundation; ready for use except for minor unpacking and assembly, location on foundation supports, connection to utilities, etc.
- Motel: Shall be the same as "Hotel".
- Negative Easement: A grant by the developer to the public, a corporation, or person(s) for use of a recorded strip of land for open space or other non-developed purposes.
- New Construction: The construction after May 1, 2005, of a structure intended for human occupancy. This Article shall not apply to any building or structure to be located on any lot or within any development which has received final approval of plats or site plans by either the

Board of Trustees or the Planning and Zoning Commission, as applicable, as of the date of the adoption of this Article.

- Non-Access Reservation: A parcel or tract of subdivision land withheld from development and subject to private use and access restrictions for the purpose of protecting the environment of subdivision, or to enhance a street right of way, or to improve traffic flow on a principal street.
- Non-Conforming Use, Building, or Yard: A use, building or yard existing legally at the time of the passage of this Chapter (June, 2007) or any amendment thereto which does not, by reason of design, use, or dimensions, conform, to the regulations of the land use in which it is situated.
- Nude, Nudity, or In A State of Nudity: The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or anal cleavage with less than fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state.
- Nursing Home: A residence or other place licensed by the State of Missouri as a nursing home.
- Obscene: Any material or performance if:
  1. Applying contemporary community standards, its predominant appeal is to prurient interest in sex;
  2. Taken as a whole with the average person applying contemporary community standards, it depicts or describes sexual conduct in a patently offensive way; and
  3. Taken as a whole, it lacks serious literary, artistic, political or scientific value.
- Open Space: Land dedicated or reserved for use by the general public or for use by residents of the subdivision, or land held out of development and retained in its natural conditions, with or without public access. Open space includes but is not limited to parks, parkways, playgrounds, school sites, wildlife or plant life preserves, and nature study areas.
- Parcel or Tract: A continuous area or acreage of land which can be divided or subdivided as provided by this Chapter.
- Parking Area: An open, unoccupied space used or required for use for parking vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.
- Parking Lot: An open surfaced area used exclusively for the temporary storage of motor vehicles and within which motor fuels and oils may be sold and fees charged, but no vehicles may be equipped, repaired, rented or sold.
- Parking Space: A surfaced area, enclosed in the main building or in an accessory building or unenclosed, having an area of not less than one hundred sixty-two (162) square feet, exclusive of driveways, permanently reserved.

- **Personal Property:** Property which is owned, utilized and maintained by an individual or members of his/her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.
- **Pipeline Company:** A person engaged in or organized for the purpose of owning, operating or controlling a hazardous pipeline.
- **Planned Unit Development:** A tract of land consisting of at least five (5) acres to be developed as an entity according to a plan and which may contain multiple uses; a Planned Unit Development (PUD) may be planned, developed, and regulated as a single land use unit.
- **Plat:** A map or chart of a tract of land or a subdivision of land.
- **Private Primary Educational Facilities:** The use of a site for a private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of the State of Missouri.
- **Private Secondary Educational Facilities:** The use of a site for a private or parochial school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the State of Missouri.
- **Public Primary Educational Facilities:** The use of a site for a public-school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of the State of Missouri.
- **Public Secondary Educational Facilities:** The use of a site for a public-school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the State of Missouri.
- **Public Use Areas:** Public parks, playgrounds, recreational areas, designated scenic or historic sites; school sites or sites for other public buildings; and other areas dedicated to public use or enjoyment.
- **Publicly Display:** Exposing, placing, posting, exhibiting or in any fashion displaying in any location within the interior or exterior of sexually-oriented business an explicit sexual material, obscene item or item portraying nudity, semi-nudity or specified sexual activities in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision from adjacent businesses, the property of others or when viewing it from a public or private street, highway, sidewalk or multi-purpose trail.
- **Restricted Pipeline Area:** Includes an area within twenty-five (25) feet of either side of any hazardous pipeline.
- **Reverse Frontage:** When a subdivision lot occurs between two (2) non-intersecting streets, one (1) of which is a parkway, thoroughfare, or collector and the other is a minor residential street, the lot will front on the minor residential street and a non-access reservation will be provided buffering the rear of the lot from the traffic artery.
- **Right-of-Way:** The land opened, reserved or dedicated for a street, sewer, water, walk, drainage course or other public purpose.

- **Sadomasochistic Practices:** Flagellation or torture by or upon a person clothed, nude or in a state of semi-nudity for the purpose of sexual arousal or the condition of being fettered, bound or otherwise physically restrained on the part of one clothed or nude for the purpose of sexual arousal.
- **Screen Planting:** A hedge of closely spaced shrubs with dense foliage in all seasons that effectively blocks view. Among the species that include varieties that would provide the necessary conformation are: American Holly, Chinese Juniper, Rocky Mountain Juniper, Eastern Red Cedar.
- **Semi-Nude. Semi-Nudity or In A State of Semi-Nudity:** A state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Semi-nudity shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by wearing apparel provided the areola is not exposed in whole or part.
- **Senior Community:** A development of land as a unified, self-contained, residential community constructed expressly for use and residency by persons who have achieved a minimum age of fifty-five (55) years or older. A senior community shall be permitted only within a Senior Community Overlay Land use and only upon the granting of a conditional use permit by the Board of Trustees.
- **Senior Community Center or Community Building(s):** A building or group of buildings, erected primarily for the use of the residents of a senior community and their guests, that provides educational, recreational or social services that may include, but are not limited to, a library, place of worship, game room, entertainment room, kitchen, cafeteria or dining room, pool, toilet facilities and similar facilities.
- **Senior Community Residential Subdivision:** A subdivision of land within a senior community that results in the creation of lots to serve as home sites upon which individual single-family dwellings are to be constructed for residency by seniors. The individual single-family dwellings may be detached homes, attached townhouses or other building type(s) approved by the Board of Trustees that is/are designed for occupancy by an individual family.
- **Sex Shop:** Any business, commercial establishment or premises in which ten percent (10%) or more of its sales floor area is devoted to the sale, rental or lease of sexually-oriented toys or novelties designed for use in connection with specified sexual activities or sadomasochistic practices. Said sex shop may not publicly display any sexually-oriented toys or novelties designed for use in connection with specified sexual activities or other obscene or explicit sexual material. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older.
- **Sexual Material:** Anything in print or writing, or any sexual picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any sexual recording or transcription, or any sexual mechanical, chemical or electrical reproduction, or anything sexual which is or may be used as a means of communication. Sexual material includes undeveloped sexual photographs, printing plates and other latent representational objects.



- Sexually-Oriented Business: Any adult cabaret, nightclub, tavern, bar, restaurant, cafe or similar commercial establishment that regularly, commonly, habitually or consistently features or otherwise offers to the public, customers, patrons or members any live exhibition, live theatrical performance or dance by persons whose exhibition, performance or dance includes any of the following:
  1. Persons who appear in a state of semi-nudity, and
  2. Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers. Any sex shop, adult video arcade, adult bookstore, adult video store, adult hotel/motel, adult motion picture theater, adult theater or escort agency shall also be considered a sexually-oriented business. Any business, commercial establishment or premises where ten percent (10%) or more of its sales floor area publicly displays explicit sexual material or services for sale, rental or viewing shall also be considered a sexually-oriented business. No building, premises, structure or other facility that contains any of the above-listed sexually-oriented businesses shall contain any other type of the above-listed sexually-oriented businesses. All employees, performers, guests, customers, patrons or members of any sexually-oriented business shall be prohibited from knowingly and intentionally appearing in a state of nudity or depicting, simulating or performing specified sexual activities. Any sexually-oriented business shall be prohibited from publicly displaying exposing, placing, posting, exhibiting or in any fashion displaying in any location within the interior or exterior of said sexually-oriented business any explicit sexual material, obscene item or item portraying nudity, semi-nudity or specified sexual activities in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision from adjacent businesses, the property of others or when viewing it from a public or private street, highway, sidewalk or multi-purpose trail. With the exception of individuals on the premises for repair or maintenance of the premises, equipment on the premises or for the delivery of goods to the premises, all employees, guests, customers, patrons or members must be age twenty-one (21) or older. A sexually-oriented business shall only be permitted if a conditional use permit is granted by the Board of Trustees per the requirements of Article VII of the Zoning Code. The review of a conditional use permit for a proposed sexually-oriented business shall follow the same procedure as the review of any other proposed use within the Village requiring a conditional use permit and shall not be unduly delayed under any circumstance.
- Sexually-Oriented Toys or Novelties: Instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts or designed or marked primarily for use to stimulate human genital organs. Leather goods marketed or presented in a context to suggest their use for sadomasochistic practices shall be considered sexually-oriented toys or novelties.
- Shopping Center: A group of retail stores, planned and developed for the site upon which they are built and owned and managed as a unit with off-street parking provided on the property.
- Site Plan: A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features--both natural and manmade--and, depending on requirements, the locations of proposed utility lines.

- Specified Sexual Activities: Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, fondling or other erotic touching of nude human genitals, pubic regions, buttocks or female breasts, whether covered or uncovered.
- Story: That part of a building included between the surface of one (1) floor and the surface of the floor next above or, if there be no floor above, that part of the building which is between the surface of a floor and the ceiling next above. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first (1st) story is a half story when between fifty percent (50%) and seventy-five percent (75%) of the area of its exterior walls are exposed to outside light and air entirely above grade and which exterior walls contain windows or doors permitting the entrance of daylight and outside air.
- Street: A general term denoting a public or private thoroughfare which affords the principal means of access to abutting property. The term includes all facilities which normally are found within the right of way; it shall also include such other designations as highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, lane, place, court, or other such terms but shall not include pedestrian way or alley.
- Structural Alterations: Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or the addition of new electrical circuits or plumbing fixtures to the building.
- Structure: Any improvement on land composed of manmade materials.
- Subdivider: The owner, agent or person having control of such land as the term is used in this Chapter. "Subdivision" shall mean the division of land into two (2) or more parts including the resubdivision of a lot or parcel. Any sale or rental of a division of land by metes and bounds or lot description shall constitute a subdivision of land and shall require compliance with this Chapter unless it is a separate parcel of record at the time of the effective date of this Chapter.
- Subdivision: The partitioning of a parcel or tract of land by an owner or developer into two (2) or more lots of any size for the purpose of sale, lease, or development, whether immediate or future; included are all changes in street lines, dedication or platting of streets, and changes in lot lines.
- Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
- Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
  1. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- Tavern: Any business establishment that derives more than fifty percent (50%) of its gross revenue from liquor sales, including package liquor sales.
  - Townhouse/Villa: A residential building: 1) containing between two and eight dwelling units constructed side-by-side, 2) constructed of one, two, or three stories in height, 3) in which each dwelling unit is separated by common firewall(s), 4) in which each dwelling unit has its own entrance/exit, and 5) each dwelling unit is sold separately from the others. Depending upon the Zoning Land use in which it is located, a Townhouse/Villa can either be: 1) platted as separate lots of record whereby the common firewall separating the dwelling units form the side lot line(s) or, 2) located on a single platted lot of record whereby the individual dwelling units are sold as Condominium or Townhouse/Villa units and the remainder of the lot is set aside as Common Elements or Common Ground.
  - Transition: A strip of land located between incompatible land uses which is subject to private use restrictions, or a negative easement, or is dedicated to public uses as open space, for the purpose of protecting the built environment of a development or to enhance a street right of way, or both.
  - Travel Trailers: Including automobile tent trailers, recreational vehicles, or house cars, designed to provide temporary mobile housing for highway and recreational travelers. Such use shall be considered equivalent to a hotel, tourist court or motel for zoning purposes.
  - Use: The purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained. •
  - Use Requiring Evacuation Assistance: Includes the following uses:
    1. Day care center;
    2. Detention facilities;
    3. Hospital;
    4. Independent living or congregate living residence facility;
    5. Inpatient care facilities exceeding five thousand (5,000) square feet of gross floor area;
    6. Nursing home;
    7. Private primary educational facilities;
    8. Private secondary educational facilities;
    9. Public primary educational facilities;
    10. Public secondary educational facilities;
    11. Senior community;
    12. Senior community center or community buildings;
    13. Senior community residential subdivision.
  - Variance: A modification of the specific requirements of this Chapter granted by the Board of Trustees in accordance with the terms of this Chapter for the purpose of assuring that no property because of special circumstances applicable to it shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and Zoning Land use. Such modifications shall not include authorizing a use not among the uses specified by this Chapter as permitted in the land use in which such property is located.

- Yard: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used. Where lots abut a street, all yards abutting said street shall be measured from the street right of way.
- Yard. Front: A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.
- Yard. Rear: A yard between the rear lot line and the rear line of the main building and the side lot lines.
- Yard. Side: A yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.
- Zero Lot Line Dwelling Unit: A development approach in which a freestanding building is sited on one (1) or more lot lines with no yard on the zero (0) lot line side in order to increase the amount of usable open space on the remaining area of the lot: zero (0) lot line dwellings are designed with no windows facing the zero (0) lot line side and are internally oriented to an enclosed, private courtyard or patio. Typically the zero (0) lot line unit is a one (1) story, L-shaped single-family house designed as a two (2), three (3) or four (4) bedroom unit on lots eighty (80) to one hundred (100) feet deep by forty (40), fifty (50), or sixty (60) feet wide, at density of five (5) to seven (7) families per gross acre. The zero (0) lot line unit is usually designed in group or cluster arrangements and the land saved from conventional size house lots are used as common open space for recreation or to preserve natural features of the site.
- Zoning Code: The duly approved, enacted, and amended ordinance which controls and regulates zoning in the Village of Pendleton.

### **ARTICLE III: GENERAL PROVISIONS**

#### **SECTION 400.045: CHANGES TO OFFICIAL ZONING MAP**

If, in accordance with procedures of this Chapter and of Chapter 89, RSMo., as amended, a change is made in a Zoning Land use boundary, such change shall be made by the Village Board or his/her designee promptly after the ordinance authorizing such change shall have been adopted by the Board of Trustees and published, with an entry on the Official Zoning Map.

#### **SECTION 400.050: AUTHORITY OF OFFICIAL ZONING MAP**

The Official Zoning Map shall be located in the possession of Board of Trustees and shall be available to public inspection, and shall be with the revised Code the final authority as to the current zoning status of any land, parcel, lot, land use, use, building, or structure in the Village.

#### **SECTION 400.055: REPLACEMENT OF THE OFFICIAL ZONING MAP**

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Board of Trustees may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map.

The new Official Zoning Map may correct drafting or other errors or omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending the Zoning Code or the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Chair of Board, attested by the Village Clerk, and bear the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Code, adopted on (June, 2007); this Map replaces and supersedes the previous Official Zoning Map." Unless the prior official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

#### **SECTION 400.060: RULES FOR INTERPRETATION**

Where uncertainty exists as to the boundaries of land use as shown on the Official Zoning Map the following rules for interpretation shall apply:

1. A boundary indicated as approximately following the centerline of a highway, street, alley or easement shall be construed as following such centerline.
2. A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.
3. A boundary indicated as approximately following the corporate boundary line of a Village, or Township shall be construed as following such line.
4. A boundary indicated as following a railroad line shall be construed as being midway between the main tracks.
5. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
6. A boundary indicated as following the center-line of a stream, river, canal, lake, or other body of water shall be construed as following such center-line.

7. A distance not specifically indicated on the Official Zoning map shall be determined by the scale of the map.
8. Where a physical or cultural feature existing on the ground is at variance with that shown on the Official Zoning Map, or in any other circumstances not covered by Subsections (1--7) above, the Board of Trustees shall interpret the Zoning boundary.
9. Where a boundary line divides a lot which is in single ownership at the time of adoption of this Chapter, the Board of Trustees may permit as a conditional use, the extension of the regulations for either portion of the lot to the nearest lot line, but not to exceed fifty (50) feet beyond the land use line into the remaining portion of the lot.

**ARTICLE IV: LAND USE REGULATIONS**  
**SECTION 400.080: "R-1" SINGLE-FAMILY RESIDENTIAL LAND USE**

- A. Purpose. This land use is composed of those areas of the Village whose principal use is and ought to be single-family dwellings on moderate to small sized lots. The regulations of this Land use are designed to create and preserve a predominately urban character as evidenced by lot sizes, and street and drainage requirements. In addition to the dwelling permitted in this Land use, certain compatible recreational and public uses are conditionally allowed and strictly regulated to ensure harmony with the principal use of this Land use.
- B. Permitted Uses. The listing of permitted uses is set out in APPENDIX
- C. Conditional Uses. The listing of conditional uses is set out in APPENDIX
- D. Regulations and Performance Standards. The following regulations shall apply:
  1. Lot area.
    - a. Single-family dwellings shall be located on lots containing an area ranging from ten thousand (10,000) square feet to twenty-one thousand, nine hundred and ninety-nine (21,999) square feet.
    - b. For uses other than dwellings, the lot area shall be adequate to provide the yard area required by this Land use.
    - c. Where a use is not connected to a public sewer, the lot area shall be increased to the area determined as adequate by the Board to meet current health standards, but in no case shall be smaller than three (3) acres in size, and shall require the review and approval of the Planning and Zoning Commission.
  2. Lot width and depth. The following minimum dimensions must be provided:
 

Lot Area (sq feet)	Minimum Lot Depth (feet)	Minimum Lot Width (feet) at the Building Line
10,000 - 11,499	100	80
12,000 - 14,999	120	85
15,000- 21,999	120	100

Where a lot fronts a cul-de-sac a thirty-five (35) foot width at the street right of way line is required.
  3. Lot Coverage. The Maximum Lot Coverage shall not exceed thirty-five percent (35%).

4. Yard requirements.
  - a. Front yard. Not less than twenty-five (25) feet.
  - b. Side yards. Not less than six (6) feet on each side of the dwelling.
  - c. Rear yard. Not less than twenty-five (25) feet.
5. Height requirements.
  - a. For buildings and structures. No building or structure shall exceed a height of two and one-half {2½} stories, or thirty-five (35) feet.
  - b. For accessory buildings. No detached accessory building shall be higher than twenty- five (25) feet, nor higher than the main building. (See Article VI, Supplementary Land use Regulations for additional regulations for accessory buildings.)
6. Off-street parking. Two (2) off-street parking spaces shall be provided for each single-family dwelling
7. Landscaping regulations.

#### **SECTION 400.090: "R-1B" SINGLE-FAMILY ESTATES LAND USE**

- A. Purpose. This land use is composed of those areas of the Village whose principal use is and ought to be single-family residences on large-sized lots. These Regulations are designed to preserve the open estate character of areas outlying the center of the Village.
- B. Permitted Uses. The only permitted use in this is single-family residences.
- C. Conditional Uses. None.
- D. Regulations and Performance Standards. The following regulations shall apply:

1. Lot area.
  - a. Single-family dwellings shall provide a minimum lot area of five (5) acres.
2. Lot width and depth. The following minimum dimensions must be provided.

Lot Area {sq ft}	Minimum Lot Depth	Minimum Lot Width at Building Line
5 acres	200	150

3. Lot coverage. The maximum lot coverage by structures shall not exceed twenty-five percent (25%) of the lot area.
4. Yard requirements.
  - a. Front yard. Not less than forty (40) feet.
  - b. Side yard. Not less than twenty (20) feet.
  - c. Rear yard. Not less than forty (40) feet.
5. Height.
  - a. For buildings and structures. No building or structure shall exceed a height of two and one-half (2½) stories, or thirty-five (35) feet.

- b. For detached accessory buildings. No detached accessory building shall exceed a height of twenty-five (25) feet, nor higher than the main building.
- 6. Off-street parking. Two (2) off-street parking spaces shall be provided for each single-family dwelling
- 7. Landscaping requirements. See Article X.
- 8. Utilities. The lots on these developments may be allowed to use private septic systems and private wells in conformance with BOCA Codes.
- 9. Streets. Minimum requirement of three (3) inch asphalt over six (6) inch rock base or five (5) inches of concrete.
- 10. Other. The following requirements will not be applicable to the Estates Residential District,
  - a. Sidewalks.
  - b. Storm water detention facilities.

#### **SECTION 400.120: "C-1" RESTRICTED BUSINESS LAND USE**

- A. Purpose. This Land use is composed of those areas of the Village whose principal use is and ought to be local retail, service and restricted repair business activities which serve surrounding residential neighborhoods. This Land use has been located within the Village to permit the development of these business activities to protect adjacent areas against the encroachment of incompatible uses, and to lessen congestion on public streets. To these ends, certain uses which would function more effectively in other land uses and would interfere with the operation of these business activities and the purpose of this Land use have been excluded.
- B. Permitted Uses. The listing of permitted uses is set out in APPENDIX
- C. Conditional Uses. The listing of conditional uses is set out in APPENDIX
- D. Regulations And Performance Standards. The following regulations shall apply in "C-1" Residential Business Land uses.
  - 1. Minimum site area. One (1) acre, unless the project abuts an existing commercial or industrial zone.
  - 2. Minimum lot width. Seventy (70) feet.
  - 3. Lot coverage. The maximum lot coverage by structures shall not exceed thirty percent (30%).
  - 4. Yard and setback requirements.
    - a. Front yard. Not less than twenty-five (25) feet.



- b. Side yards. Not required in this land use except where a side line of a "C-1" lot abuts the side line of a residential or office lot; in that instance a side yard shall be provided of the same dimensions required in the land use it abuts. A side yard of twenty-five (25) feet shall be provided on the side of a corner lot.
  - c. Rear yards. Not less than twenty-five (25) feet.
- 5. Height requirements. No building or structure shall exceed a height of thirty-five (35) feet or three (3) stories.
- 6. Performance standards.
  - a. Wholesale sales are prohibited.
  - b. Outdoor storage or display of merchandise, materials, or equipment is prohibited.
  - d. No separate business establishment shall occupy more than five thousand (5,000) square feet of floor space.
  - e. Flea markets, both those held inside and outside of a structure are prohibited.
- 8. Site plan review. By Planning and Zoning Commission prior to issuance of a Building Permit.
- 9. Landscaping and screening regulations.
- 10. Utilities. Any area zoned "C-1" Restricted Business Land use shall be served by approved public water and sewer facilities.

#### **SECTION 400.125: "C-2" GENERAL BUSINESS LAND USE**

- A. Purpose. This Land use is composed of those areas of the Village whose principal use is and ought to be general retail, service, and repair business activities which serve the entire Village and surrounding area. This Land use has been located within the Village to permit the development of these business activities, to protect adjacent areas against encroachment by incompatible uses, and to lessen congestion on public streets. To these ends, certain uses which would function more effectively in other land uses and would interfere with the operation of these business activities and the purpose of this Land use, have been excluded.
- B. Permitted Uses. The listing of permitted uses is set out in APPENDIX
- C. Conditional Uses. The listing of conditional uses is set out in APPENDIX
- D. Regulations And Performance Standards. The following regulations shall apply in all "C-2" General Business Land use:
  - 1. Minimum site area. Five (5) acres unless the project abuts existing commercial or industrial zone.
  - 2. Minimum lot width. Twenty-five (25) feet.
  - 3. Maximum lot coverage. No limit.

4. Yard and setback requirements.
  - a. Front yard. Not less than twenty-five (25) feet, excluding all signs, pump islands, and canopies of gasoline service stations.
  - b. Side yards. No side yard is required except that where a side line of a lot in this land use abuts the side line of a lot in any residential or office land use, a side yard shall then be provided the same as required in the land use it abuts. A side yard of not less than twenty-five (25) feet shall be provided on the street side of a corner lot.
  - c. Rear yards. No rear yard is required except that where a rear line of a lot in this land use abuts lots zoned residential or office a rear yard of not less than ten (10) feet shall be provided.
5. Height requirements. No building or structure shall exceed a height of fifty (50) feet.
7. Site plan review. By Planning and Zoning Commission prior to issuance of a Building Permit:
8. Businesses serving alcoholic beverages. Package liquor stores and businesses, other than restaurants, serving alcoholic beverages shall be at least three hundred (300) feet from the nearest property line of an existing school, church, or library.
9. Landscaping and screening regulations.
10. Utilities. Any area zoned "C-2" General Business Land use shall be served by approved public water and sewer facilities.
11. Any "Hotel" or "Extended Stay Facility" in existence in the Village at the time of the adoption of these Ordinances and that is, currently, more than five hundred feet (500') from any Residentially-Zoned property (regardless of political jurisdiction) shall not be subject to the provisions and requirements of said Ordinance.

#### **SECTION 400.140: "I-1" LIGHT INDUSTRIAL**

- A. Purpose. This Land use is composed of the area of the Village who principal use is or ought to be light manufacturing, warehousing, and other limited industrial uses. These uses generate a minimum of noise, glare, odor, dust, vibration, air and water pollutants, fire, explosive, radioactive and other hazards, and harmful or obnoxious matter. This Land use has been located within the Village to permit the development of these industrial uses, to protect adjacent areas against encroachment by incompatible uses, and to lessen congestion on public streets. To these ends, certain uses which would function more effectively in other land uses and would interfere with the operation of these industrial activities and the purpose of this Land use have been excluded.
- B. Permitted Uses. The listing of permitted uses is set out in APPENDIX
- C. Conditional Uses. The listing of conditional uses is set out in APPENDIX

- D. Regulations And Performance Standards. The following regulations shall apply in all "I-1" Industrial Park Land uses:
1. Site area. Five (5) acres minimum unless the proposed project abuts an existing industrial zone.
  2. Lot width. The minimum lot width shall be seventy-five (75) feet.
  3. Lot coverage. The maximum lot coverage by structures shall not exceed fifty percent (50%).
  4. Yard requirements.
    - a. Front yard. Not less than thirty (30) feet.
    - b. Side yard. Least width of either yard shall not be less than twenty (20) feet, except in the case of a corner lot or parcel where the side yard on the road or street side shall not, be less than thirty (30) feet.
    - c. Rear yard. Not less than thirty-five (35) feet.
  5. Height requirements. no building or structure should exceed a height of fifty (50) feet or three (3) stories.
  6. Landscaping and screening regulations. Note: Of particular importance where adjacent to residential uses.
  7. Utilities. Any area zoned "I-1" Light Industrial Land use shall be served by approved public water and sewer facilities.
  9. Site plan review. Prior to issuance of a Building Permit
  10. Performance standards.
    - a. All industrial operations shall be conducted within a fully enclosed building.
    - b. All storage of materials and equipment shall be within a fully enclosed building or in a side or rear yard so screened by berms, dense vegetative plantings, wooded fences, or brick walls, or combinations of these materials at least eight (8) feet in height so that said materials and equipment are not visible at eye level within one thousand (1,000) feet of the property line.

#### **SECTION 400.155: "AG" AGRICULTURAL LAND USE**

- A. Purpose. This Land use is composed of those areas of the Village whose principal use is and ought to be farming. The regulations of this Land use are designed to conserve, stabilize, enhance, and develop farming and related resource utilization activities.
- B. Permitted Uses. The listing of permitted uses is set out in APPENDIX
- C. Conditional Uses. The listing of conditional uses is set out in APPENDIX
- D. Regulations And Performance Standards. The following regulations shall apply in all "AG" Agricultural Land uses.

1. Lot area. No building or structure shall be established on any lot less than two (2) acres. The minimum lot area for the raising and keeping of livestock shall be ten (10) acres.  
Anything before 2009 need to be grandfathered in.
2. Lot width. The minimum lot width shall be one hundred fifty (150) feet.
3. Lot coverage. The maximum lot coverage by structures shall not exceed ten percent (10%).
4. Yard and setback requirements.
  - a. Front yard. Not less than fifty (50) feet from the right of way.
  - b. Side yards. Least width of either yard shall not be less than thirty (30) feet except in the case of a corner lot where the side yard on the street side shall not be less than fifty (50) feet.
  - c. Rear yard. Not less than fifty (50) feet.
  - d. The above requirements shall apply to every lot, building, or structure, provided further that where livestock is raised or kept, no structure or storage of hay, feed, or manure, shall be located less than one hundred (100) feet from a property line.
5. Height requirement. Except as otherwise provided in Section 400.255, the following height requirements shall apply in this Land use.
  - a. For dwelling and non-farm buildings and structures. No dwelling or non-farm building or structure shall exceed a height of two and one-half (2½) stories.
  - b. For general and specialized farm buildings and structures. No general and specialized farm building and structures shall exceed a height of fifty (50) feet.

#### **SECTION 400.161: MIXED-USE TRADITIONAL DEVELOPMENT LAND USE**

- A. Purpose. The purpose and intent of the Mixed-Use Traditional Development Land use (MUTD) is to encourage a variety of land uses in closer proximity to one another than would be permitted under the Village's more conventional zoning land uses and to encourage building configurations that create a distinctive and memorable sense of place. Developments in this land use are permitted to have a mixture of residential, office, commercial, cultural, entertainment, recreational and institutional uses under a single development plan, either within single structures or within multiple structures. It is the purpose of this land use to encourage a diversification of uses and structures which promote innovative and energy-conscious design, efficient and effective circulation systems which minimize automobile travel, offer a variety of housing types, styles and price ranges, encourage the conservation of land resources, and locate employment and retail centers in close proximity to housing. This Mixed-Use Traditional Development Land use is intended to allow use flexibility and design flexibility and to encourage the following development standards:
  1. Provide for an efficient use of land and public resources resulting in co-location of harmonious uses to share facilities and services in a logical network of utilities and streets;

2. Enhance the appearance of land through preservation of natural features, the provision of underground utilities and the provision of recreation areas and open space in excess of existing standards in other zoning land uses;
3. Ensure a more rational and compatible relationship between residential and non-residential uses for the benefit of all;
4. Provide a range of residential, commercial, cultural and institutional land uses;
5. Offer a range of housing opportunities;
6. Establish a neighborhood identity and focus;
7. Provide safe and efficient neighborhood identity and focus;
8. Encourage concentrated land use patterns which decrease the length of automobile travel, allow trip consolidation and encourage pedestrian circulation between land uses;
9. Increase and promote the use of pedestrian routes, bicycle routes, and the use of non-motorized vehicles;
10. Use vertical or horizontal integration of residential and commercial uses;
11. Design which provide for the compatible cohabitation of residential and non-residential uses;
12. Permit flexible property development regulations;
13. Utilize multiple-family homes to provide a transition area between commercial uses and adjacent residential development; and
14. Apply certain development regulations to the entire land use rather than to individual lots such as, but not limited to:
  - a. Access;
  - b. Parking;
  - c. Lot size and dimensions;
  - d. Lot frontage; and
  - e. Landscaping.

B. Permitted Uses. The Mixed-Use Traditional Development Land use shall offer a mix of land uses in order to provide commercial services and employment opportunities for the residential population and surrounding areas.

Commercial, residential, cultural, recreational and institutional uses shall be in accordance with the following listing of permitted uses:

1. Residential land uses. Single-family, multiple-family, senior citizens and apartment dwellings on moderate to small sized lots and, where appropriate, in conjunction with commercial and retail uses are permitted. This form of development permits higher overall densities than permitted under conventional suburban-type development, permits unique dwelling unit types, the size, width and height of which may be limited

but only by consistency with the character of the development. This form of development permits and may require slightly smaller lots than permitted within other zoning land uses, higher maximum heights, as well as restricted maximum and minimum setbacks for single-family, multiple-family and apartment dwellings than permitted under other zoning land uses. Based on the total acreage of any mixed-use development under a single development plan, the overall residential density of the entire development shall not exceed six (6) dwelling units per acre. However, the maximum density of the residential area within any mixed-use development under a single development plan shall not exceed twenty (20) dwelling units per acre.

2. Institutional land uses. Passive outdoor public recreational uses, active outdoor public recreational uses, indoor institutional uses, outdoor institutional uses, public service and utilities uses and institutional residential uses are permitted uses as described below:
  - a. Passive outdoor public recreational uses. Passive outdoor: public recreational land uses including all recreational land uses located on public property which involve passive recreational activities. Such land uses include arboretums, nature areas, wildlife areas, hiking trails, bike trails, cross-country trails, horse trails, open grassed areas not associated with any particular active recreational land use, picnic areas, picnic shelters, gardens, fishing areas and similar land uses.
  - b. Active outdoor public recreational uses. Active outdoor public recreational land uses including all recreational land uses located on public property which involve active recreational activities. Such land uses include play courts (such as tennis courts and basketball courts), playfields (such as ball diamonds, football fields and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, fitness courses, public golf courses and similar land uses.
  - c. Indoor institutional uses. Indoor institutional land uses include all indoor public and not-for-profit recreational facilities (such as gymnasiums, swimming pools, libraries, museums and community centers), public and private schools, churches, funeral homes, non-profit civic organizations, non-profit fraternal organizations, convention centers, conferencing centers, telecommunication learning centers and similar land uses.
  - d. Outdoor institutional uses. Outdoor institutional land uses include privately held permanently protected green space areas, country clubs, non-public golf courses, public and/or private art and cultural displays both transient and permanent and similar land uses.
  - e. Public service and utilities uses. Public service and utilities land uses include all Village, County, State and Federal facilities (except those otherwise treated in this Section), emergency service facilities such as fire departments and rescue operations, wastewater treatment plants, public and/or private utility substations, water towers, utility and public service related distribution facilities and similar land uses.
  - f. Institutional residential uses. Institutional residential land uses include group homes, convents, monasteries, senior citizen housing within assisted living or long-term/skilled nursing facilities, and similar land uses not considered to be community living arrangements.
3. Commercial land uses. Traditional commercial activities providing employment opportunity to residents of the Village, and economic activity primarily to serve adjacent

residential areas are permitted uses as described herein. Certain uses which would function more effectively in other land uses and which would interfere with the operation of these business activities, adjacent residential areas or the purpose of this Mixed-Use Traditional Development Land use are excluded. As with residential uses within this land use, this form of development permits and may require slightly smaller lots than permitted within other zoning land uses, higher maximum heights, as well as restricted maximum and minimum setbacks different from those permitted under other zoning land uses. This land use permits commercial uses identified as office, personal or professional service, indoor sales or service, indoor commercial entertainment, in-vehicle sales and service, outdoor display and sales, commercial animal boarding, commercial indoor lodging, group day care center (six (6) or more children) as described below:

- a. Office. Office land uses include all exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide services directly to customers on a walk-in or on-appointment basis.
- b. Personal or professional service. Personal service and professional service land uses include all exclusively indoor land uses whose primary function is the provision of services directly to an individual on a walk-in or on-appointment basis. Examples of such land uses include professional services, insurance services, realty offices, financial services, medical offices and clinics, banking and financial institutions, veterinary clinics, barber and beauty shops and related land uses.
- c. Indoor sales or service. Indoor sales and service land uses include all land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building. This includes self-service facilities such as coin-operated laundromats, artisan craft production, such as consumer ceramics, custom wood making, or other production activities directly associated with retail sales are permitted as accessory uses. Other accessory uses include display stands or service areas located outdoors, in limited space, immediately and only adjacent to the primary sales or service facility.
- d. Indoor commercial entertainment. Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, training studios (dance, art, martial arts, etc.), bowling alleys, arcades, roller rinks and pool halls. All commercial establishments which offer live entertainment shall be required to obtain a live entertainment business license per Chapter 640 of the Municipal Code.
- e. In-vehicle sales and service. In-vehicle sales and service land uses include all land uses which conduct sales and/or perform services to persons in vehicles or to vehicles which may be occupied at the time of such activity. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up and drive-through facilities, vehicular fuel stations and all forms of car washes. If performed in conjunction with a principal land use (for example, a convenience store, restaurant or bank), in-vehicle sales and service land uses shall be considered an accessory use. This use shall require approval of a conditional use permit. If this conditional use was not part of the approved area plan, it shall require review and approval of an amended area plan.

- f. Outdoor display and sales. Outdoor display and sales land uses are typically permitted only as an accessory use and include all land uses which conduct sales or display merchandise or equipment on a permanent basis outside of an enclosed building accessory to or incidental to a principal use on the lot, including patio seating for restaurants and/or outdoor kiosks. Outdoor display and sales shall be permitted as a primary use such as a farmer's market or similar type use with the approval of a conditional use permit. If this conditional use was not part of the approval area plan, it shall require review and approval of an amended area plan.
  - g. Commercial animal boarding. Commercial animal boarding land uses include land uses which provide short-term and/or long-term boarding for animals. Examples of these land uses include commercial kennels and commercial stables. Exercise yards, fields, training areas and trails associated with such land uses are considered accessory to such land uses and do not require separate approval. This use shall require approval of a conditional use permit. If this conditional use was not part of the approval area plan, it shall require review and approval of an amended area plan.
  - h. Hotels. Hotels, as such are defined in this Chapter and on-site facilities such as indoor recreational facilities for the exclusive use of the hotel's transient guests. Restaurants, arcades, fitness centers and other on-site facilities available to the general public are considered accessory uses.
  - i. Group day care center (six (6) or more children). Group day care centers are land uses in which qualified persons provide child care services for six (6) or more children. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a residential building. Such land uses may be operated on a for-profit or a not-for-profit basis. Such land uses may be operated in conjunction with another principal land use on the same environs, such as a church, school, business or civic organization. This use shall require approval of a conditional use permit. If this conditional use was not part of the approval area plan, it shall require review and approval of an amended area plan.
4. Additional accessory uses. Accessory uses are land uses which are incidental to the principal activity conducted on the subject property. With the exception of a carriage house (see (a) and (b), below), in no instance shall an accessory use, cellar, basement, tent or trailer be used as a residence. In addition to the specific regulations below for individual accessory uses and structures, all such uses and structures shall conform with the following standards:
- a. Carriage house. A carriage house means secondary dwelling or office unit located on the same lot as the principal single-family dwelling. Only carriage houses used as a secondary dwelling shall not be considered "dwelling units" for the purpose of calculating maximum allowable density for the Mixed-Use Traditional Development Land use. A carriage house may be an accessory dwelling that is a complete, independent living facility equipped with a kitchen and with provisions for sanitation and sleeping or an accessory office.
    - (1) A carriage house used as a second (2nd) dwelling may include a garage alone, a garage and apartment or an apartment alone and shall comply with the following supplementary use standards:
      - (a) Number of units. A maximum of one (1) dwelling may be permitted as an accessory use to a single-family dwelling. The



accessory dwelling may be attached to the principal dwelling unit or may be freestanding.

- (b) Floor area. The accessory dwelling shall not exceed eight hundred (800) square feet floor area, except when located on a lot that is at least one (1) acre in size, in which case the dwelling shall not exceed one thousand (1,000) gross square feet floor area. The floor area calculation shall include only that area of the accessory dwelling under a solid roof.
  - (c) Additional floor area. Floor area under a solid roof that is utilized as a porch, patio, porte cochere or carport shall not exceed five hundred (500) square feet and this area shall not be enclosed.
  - (d) Number of bedrooms. Accessory dwellings shall contain a maximum of one (1) bedroom.
  - (e) Compatibility. The accessory dwelling shall be architecturally compatible in character and materials and be subordinate in size to the principal dwelling unit.
  - (f) No separate ownership. The accessory dwelling shall remain accessory to and under the same ownership as the principal single-family dwelling unit and shall not be subdivided or sold as a condominium.
- (2) A carriage house used as an office unit may include a garage alone, a garage and apartment, or an apartment alone shall comply with home office use regulations as contained herein and shall comply with the following supplementary use standards:
  - (a) Number of units. A maximum of one (1) office may be permitted as an accessory use to a carriage house.
  - (b) Floor area. The office unit shall not exceed eight hundred (800) gross square feet floor area, except when located on a lot that is at least one (1) acre in size, in which case the dwelling shall not exceed one thousand (1,000) gross square feet floor area. The floor area calculation shall include only that area of the accessory office under a solid roof.
  - (c) Additional floor area. Floor area under a solid roof that is utilized as a porch, patio, porte cochere, carport or garage shall not exceed five hundred (500) square feet and this area shall not be enclosed.
  - (d) Compatibility. The accessory office unit shall be architecturally compatible in character and materials and be subordinate in size to the principal dwelling unit.
  - (e) Setbacks. The accessory office unit shall comply with the minimum yard setbacks applicable to the principal single-family dwelling unit.
  - (f) No separate ownership. The accessory dwelling shall remain accessory to and under the same ownership as the principal single-family dwelling unit and shall not be subdivided or sold as a condominium.
- b. On-site parking lot. On-site parking lots are any areas located on the same site as the principal land use which are used for the temporary parking of vehicles which are fully registered, licensed and operable.

- c. Private residential recreational facility. This land use includes all active outdoor recreational facilities located on a private residential lot including basketball courts, tennis courts, swimming pools and recreation-type equipment. Facilities using night lighting of activity areas shall require approval of a conditional use permit. If this conditional use was not part of the approval area plan, it shall require review and approval of an amended area plan.
- d. Company cafeteria. A company cafeteria is a food service operation which provides food only to company employees and their guests, which meets the State of Missouri and/or Warren County food service requirements, and is located on the same property as a principal land use engaged in an operation other than food service.
- e. Company provided on-site recreation. A company provided on-site recreational facility is any active or passive recreational facility located on the same site as a principal land use and which is reserved solely for the use of company employees and their guests. Facilities using night lighting of activity areas shall require approval of a conditional use permit. If this conditional use was not part of the approval area plan, it shall require review and approval of an amended area plan.
- f. The Collocation of Wireless Telecommunication Antennas on existing Wireless Telecommunication Support Structures, Disguised Telecommunication Facilities, and Mounted Antenna Telecommunication Facilities.
- g. Home occupations. Home occupation means a business, profession, occupation, trade, artisan or hand craft conducted within a dwelling unit for gain or support by a resident of the dwelling unit pursuant to the limits of this Section. A home occupation use shall not include those businesses which are required by State agencies to be open to the public such as gun dealers. A home occupation use shall be subject to the following supplementary use standards:
  - (1) Incidental nature. The home occupation shall be clearly incidental and secondary to the residential use of the building and shall be confined to no more than ten percent (10%) of the total floor area of the dwelling.
  - (2) Location. A home occupation with the exception of outside instructional services shall be conducted within the principal dwelling or off-site and shall not be conducted within any accessory building or structure, other than as provided for carriage houses, or within any open porch or carport that is attached to and part of the principal structure. Instructional services, which by their nature must be conducted outside of the principal structure, such as swimming lessons, shall be located in a rear or side yard.
  - (3) Character of dwelling. The home occupation shall not change the essential residential character of the dwelling in terms of exterior appearance and interior space.
  - (4) Employee. Home occupations shall only be conducted by members of the immediate family residing in the dwelling unit. A maximum of one (1) person who is not a member of the immediate family may assist in the operation of the home occupations.
  - (5) Business license. Home occupations shall be operated pursuant to a valid business license for the use held by a resident of the dwelling.
  - (6) No advertising. No external evidence or sign shall advertise, display or otherwise indicate the presence of the home occupation, nor shall the

- street address of the home occupation be advertised through signs, billboards, television, radio or newspapers.
- (7) No on-premises sales. A home occupation shall not involve the sale of any stock in trade, supplies, products or services on the premises, except for home instructional services.
  - (8) No outside storage. No equipment or materials used in the home occupation shall be stored or displayed outside of the dwelling including driveways.
  - (9) Nuisances prohibited. No home occupation shall involve the use of any mechanical, electrical or other equipment, materials or items which produce noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building. There shall be no storage of hazardous or noxious materials on the site of the home occupation. There shall be no noise of an objectionable nature from the home occupation audible at adjoining property lines.
  - (10) Violations or hazard. If any of the above requirements are violated, or if the use, or any part thereof, is determined by the Village to create a health or safety hazard, then the occupational license may be revoked.
  - (11) Vehicles. One (1) business related vehicle per dwelling unit not over one (1) ton rated capacity may be parked at the home, providing all of the following conditions are met: vehicle is registered or licensed and operable; used by a resident of the premises; gross weight does not exceed ten thousand (10,000) pounds, including load; height does not exceed nine (9) feet, including any load, bed or box; and total vehicle length does not exceed twenty-six (26) feet; the vehicle has no permanent signage related to the home occupation contained anywhere on the vehicle; and the vehicle is not construction equipment (such as a backhoe, bulldozer, forklift, etc.).
  - (12) Temporary uses.
    - (a) Contractor's project office. Includes any structure containing an on-site construction management office for an active construction project;
    - (b) Contractor's on-site equipment storage facility. Includes any structure or outdoor storage area designed for the on-site storage of construction equipment and/or materials for an active construction project; and
    - (c) On-site real estate sales office. Includes any building which serves as an on- site office for a development project.

C. Development Procedures and Standards.

1. Rezoning to the Mixed-Use Traditional Development Land use. A petition may be submitted for rezoning to the Mixed-Use Traditional Development Land use in conjunction with an application for area plan approval or prior to area plan submittal. However, with the exception of grading, no development may take place on a site rezoned to the Mixed-Use Traditional Development Land use until both an area plan and final plan have been approved by the Board of Trustees.
2. Minimum lot area. The minimum land area to be developed under any single development plan shall be five (5) acres.

3. Required mix of uses. All mixed-use developments shall be designed and developed to provide an appropriate interrelationship between the residential and non-residential uses within the development area in accordance with the following requirements:
  - a. A minimum of twenty percent (20%) of the land area within any mixed-use development under a single development plan shall be devoted to residential use. A minimum of twenty percent (20%) of the land area within any mixed-use development under a single development plan shall be devoted to non-residential development. The remaining development area may go to either residential or non-residential use, up to a maximum of eighty percent (80%). These percentages shall be calculated using the square feet of gross land area devoted to each the residential and non- residential uses, minus the area devoted to public right-of-way. The percentage of land area devoted to buildings with combined residential and non-residential uses shall be permitted to be calculated towards either the percentage of land area devoted to residential or non-residential use in order to meet this requirement.
  - b. Residential land uses in an institutional setting, such as group homes, convalescent homes, rehabilitation centers, limited care facilities, senior citizen housing within assisted living or long-term/skilled nursing facilities, convents, monasteries and similar land uses, shall not be permitted to be calculated towards the minimum twenty percent (20%) land area requirement for residential or non-residential uses outlined above.
4. Residential density. Based on the total acreage of any mixed-use development under a single development plan, the overall residential density of the entire development shall not exceed six (6) dwelling units per acre. However, the maximum density of any exclusively residential area within any mixed-use development under a single development plan shall not exceed twenty (20) dwelling units per acre.
5. Maximum building heights. No building or structure should exceed fifty (50) feet or three (3) stories. The Planning and Zoning Commission and Board of Trustees may allow additional height to a maximum of six (6) stories when it is determined:
  - a. The building heights are in appropriate scale to their surroundings both internal and external to the site.
  - b. Building design and orientation effectively preserve clearly identified significant view corridors from and through the development site.
  - c. The applicable fire protection land use can provide the necessary emergency fire protection and emergency access.
7. Standards for review of the area plan. The area plan shall be reviewed on the basis of whether or not it is meeting the purposes and intent of the Mixed-Use Traditional Development Land use including: A balanced land use mix, which develops neighborhoods; treats edged areas as a network of connecting open-spaced corridors; provides a pedestrian orientation in scale within the neighborhoods at a human scale; offers connections between the neighborhoods, residences, shopping, employment and recreational uses so that they are connected by sidewalks or pedestrian paths, bicycle paths or bicycle lanes and driveways and local streets; creates neighborhoods where there is mixed use (residential and non-residential uses), buildings having vertical integration and encouraging by design the cloistering of living, working, recreation, open space, shopping and civic uses; and offers a range of housing so that

people of different social and economic backgrounds may live in the same neighborhood, including a range of housing types such as single-family detached, town house, multiple-family and accessory structures.

- a. The area plan for the Mixed-Use Traditional Development Land use shall show a design for a circulation system based upon a hierarchy of transportation methods. The hierarchy shall attempt to consider pedestrians as the most important followed by cyclists, non-motorized vehicles and then automobiles. This system shall be designed to connect and provide access between different land uses within each neighborhood and the surrounding areas by providing pedestrian and bicycle linkages including, but not limited to, walking paths, sidewalks and bike trails or bike lanes. Parking areas shall be designed to encourage the pedestrian nature of the development. The area plan shall provide facilities for seating, bicycle parking, etc., to encourage non-vehicular on-site circulation.
- b. As part of the area plan submittal a general summary of the proposed development standards including architectural guidelines for each land use within the development shall be provided. At the time of final plan approval, detailed information including the covenants and restrictions on the development standards and architectural controls shall be provided. Such standards and controls shall be consistent with the concepts of Mixed-Use Traditional Development Land use as outlined within this Section.
- c. Public Hearing Notification and Sign Posting Requirements: The Area Plan shall be subject to the Public Hearing Notification and Sign Posting Requirements established in Section 400.685 of the Zoning Code.

8. Standards for Review of the Final Plan. The Area Plan shall be followed by a Final Plan(s). The Final Plan(s) shall be subject to the Public Hearing Notification and Sign Posting Requirements established in Section 400.685 of the Zoning Code.

D. Conditional Uses. The following conditional use procedures and standards apply to all conditional uses identified under Subsection (B) hereof. The purpose of these provisions, modeled on and adopting certain of the provisions of Article VII of Chapter 400 of the Village of Pendleton Zoning Code relating to conditional uses, is to facilitate site planning and community planning within the Mixed-Use Traditional Development Land use. These procedures and standards are intended to achieve the objectives of the Mixed-Use Traditional Development Land use and safeguard the present and future use and development of the Mixed-Use Traditional Development Land use while promoting and protecting the public health, safety and welfare of the Village.

1. In addition to those conditional uses identified under Subsection (B) hereof, conditional uses, as defined herein, are those types of uses, not identified on the area plan or the amended area plan, which are considered by the Village to be essentially desirable and necessary, or convenient to the community, but which by their natures or in their operation:
  - a. Adjoin too closely to a permitted use within the Mixed-Use Traditional Development Land use such that the conditional use could have a detrimental impact on the value or potential development of the adjacent properties; or
  - b. Have a tendency to generate excessive traffic; or
  - c. Have a potential for attracting a large number of persons to the Mixed-Use Traditional Development Land use, thus creating noise or other pollutants; or

- d. Have an extraordinary potential for accidents or danger to public health or safety.
- 2. Remaining provisions apply. The provisions of Sections 400.305, 400.310, 400.320 and 400.330 for conditional uses under Article VII of the Zoning Code, shall be applied with the same force and effect for the application and approval process for conditional uses in this Mixed-Use Traditional Development Land use.
- 3. Action by the Planning and Zoning Commission and the Board of Trustees. Upon receiving the application for conditional use permit from the Planning and Zoning Commission, the Board of Trustees shall publish notice and hold public hearings on the proposal. Procedures for public hearings shall be handled the same as a zoning amendment. The decision to recommend approval or denial of the proposed conditional use shall be based on the following criteria:
  - a. The proposed conditional use complies with all applicable provisions in place for the area plan of the Mixed-Use Traditional Development Land use.
  - b. The proposed conditional use at the specified location will contribute to and promote the welfare and convenience of the public.
  - c. The proposed conditional use will not cause substantial injury to the value of other property in the area in which it is to be located.
  - d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not prevent development and use of property within the Mixed-Use Traditional Development Land use in accordance with uses identified in Subsection (B) hereof.
  - e. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
  - f. Adequate access, entrance and exit drives will be provided and shall be designed to prevent traffic hazards and to minimize traffic congestion and parking congestion in the area.
  - g. The proposed conditional use complies with all the applicable provisions of Section 400.330 (additional development requirements of certain conditional uses).
  - h. In consideration of requests for any conditional use permit, the Planning and Zoning Commission and Board of Trustees shall require such conditions of use, not inconsistent with the approved area plan and the trust indentures/covenants/deed restrictions for the area, as deemed necessary to protect the best interests of the Village and the surrounding property and to achieve the objectives of this Mixed-Use Traditional Development Land use. If this conditional use was not part of the approved area plan, it shall require review and approval of an amended area plan.
- 4. Additional development requirements of enumerated conditional uses.
  - a. In-vehicle sales and services. This conditional use shall not be permitted in exclusively residential areas within the Mixed-Use Traditional Development Land use and as identified in the approved area plan. This conditional use shall not be permitted within an area designated as a village center or exclusively residential area on the approved area plan. If this conditional use was not part of the approved area plan, it shall require review and approval of an amended area plan.

- b. Commercial animal boarding. This conditional use shall not be permitted in exclusively residential areas within the Mixed-Use Traditional Development Land use as identified in the approved area plan. If this conditional use was not part of the approved area plan, it shall require review and approval of an amended area plan.
- c. Group day care center (six (6) or more children). This conditional use shall not be permitted in exclusively residential areas within the Mixed-Use Traditional Development Land use as identified in the approved area plan. If this conditional use was not part of the approved area plan, it shall require review and approval of an amended area plan.
- d. Night lighting of private residential recreational facility. Any approval for night lighting of activities as an accessory use for private residential recreational facilities within the Mixed-Use Traditional Development Land use shall require a conditional use permit and be conditioned on:
  - (1) That the height of the night lighting not exceed the height of the primary residential unit on the residential lot; and
  - (2) That the primary beam of lighting be permanently directed away from sight from other residences and completely comply with the Village's exterior lighting standards.
  - (3) If this conditional use was not part of the approved area plan, it shall require review and approval of an amended area plan.
- e. Night lighting of company provided on-site recreation. Any approval for night lighting of activities as an accessory use for company provided on-site recreation within the Mixed-Use Traditional Development Land use shall require a conditional use permit and be conditioned on:
  - (1) That the height of the night lighting not exceed thirty (30) feet;
  - (2) That the primary beam of lighting be permanently directed away from sight from residences and will completely comply with the Village's exterior lighting standards;
  - (3) That the activity for which nighttime lighting is used shall be limited to company uses and shall not be allowed within exclusively residential areas.
  - (4) If this conditional use was not part of the approved area plan, it shall require review and approval of an amended area plan.
- f. Wireless Telecommunication Facilities that include new or modified Wireless Telecommunication Support Structures.

#### **SECTION 400.230: COMPLETION, DEVELOPER RESPONSIBILITIES, AND THE ABANDONMENT OF A PLANNED DEVELOPMENT**

- A. Completion of a Planned Development: The construction of a Planned Development that is to be constructed in a single phase shall be completed within two (2) years of the date of the approved Area Plan. The construction of a Planned Development that is to be constructed in two (2) or more phases shall be completed within five (5) years of the date of the approved Area Plan. Upon written request by the applicant, if good cause can be shown as to why

construction has been delayed or is behind schedule, the Board of Trustees, in its discretion, may grant the extension of time requested by the applicant for the completion of the Planned Development.

- B. **Developer & Home Builder Responsibilities:** The developer and/or homebuilder(s) of the Planned Development shall maintain control and perform required maintenance of all common ground, associated facilities, and recreational amenities (if applicable) until the same are formally turned over to a Homeowner's Association. In addition, it shall be the responsibility of the developer and/or homebuilder(s) to prominently display and make available the following items in their sales office(s):
- 1) For a Planned Development that is to be constructed in a single phase, a copy of the approved Final Plan. For a Planned Development that is to be constructed in two (2) or more phases, a copy of the approved Area Plan for the entire Planned Development and a copy of the approved Final Plan(s) to date.
  - 2) A copy of the Record Plat(s) for Planned Development that clearly identify the location of all easements associated with hazardous pipelines, buried cables, and overhead electrical power transmission lines.
  - 3) A current copy of the Village's Official Zoning Map and a copy of the Village's most recently adopted Comprehensive Plan.
  - 4) A description of the responsibilities of the developer and/or home builder(s) and the Homeowner's Association regarding all common ground, associated facilities, and recreational amenities.
  - 5) A copy of all Trust Indentures, Covenants, and Deed Restrictions for the Planned Development.

## **ARTICLE VI: SUPPLEMENTARY LAND USE REGULATIONS**

### **SECTION 400.250: PURPOSE**

Unless otherwise stated, the regulations hereafter established shall apply within all land uses established by this Chapter. These general regulations supplement and qualify the land use regulations appearing elsewhere in this Chapter.

### **SECTION 400.251: PIPELINE SETBACKS**

- A. A use requiring evacuation assistance is prohibited in a structure intended for human occupancy that is located within five hundred (500) feet of a hazardous pipeline. This prohibition does not apply to a structure that is located at least two hundred (200) feet from a hazardous pipeline if, by resolution, the Board of Trustees determines, after receiving a recommendation from the Director of Building Safety, that:
1. The structure has a performance-based design that provides an adequate time period for occupant evacuation to a safe place in the event of a hazardous pipeline leak or fire association with a hazardous pipeline, after considering:
    - a. The requirements of the 2000 Edition of the National Fire Protection Association 101 Life Safety Code;
    - b. The site and structure design;
    - c. The structure's building materials;



- d. The structure's distance from the pipeline;
  - e. The use of radiant energy barriers;
  - f. Access to the site and the structure by emergency providers;
  - g. Available on-site resources for emergency responders;
  - h. The topography and other natural features;
  - i. The use of the structure;
  - j. The evacuation capability of the occupants.
- 2. The structure incorporates a system for the early detection and notification of a pipeline leak if the Board determines that an appropriate system is commercially available; and
  - 3. The performance-based design for occupant evacuation and the early detection and notification system are certified and sealed by an engineer registered in the State of Missouri.
- B. Except as otherwise set forth in this Section 400.251, a person may not build new construction within any restricted pipeline area or within any limited improvement area. Notwithstanding anything in this Section to the contrary, fences, signage, decks, sun porches, screen porches, patios, swimming pools, sheds, landscaping, detached garages, mechanical units, trash enclosures, lighting are permitted in a limited improvement area.
- C. A person may not place a structure or excavate within a restricted pipeline area.
- 1. This prohibition does not apply to:
    - a. The hazardous pipeline or an appurtenance to the pipeline;
    - b. A facility that produces, consumes, processes or stores the product transported by the hazardous pipeline, including a power generation facility;
    - c. A utility line that crosses the restricted pipeline area, including an appurtenance to the line;
    - d. A utility service connection;
    - e. A road;
    - f. A surface parking lot;
    - g. A structure or excavation that the Board determines does not disturb the pipeline or impede its operation;
    - h. Grading that the Board determines does not disturb the pipeline or impede its operation.
  - 2. Before a person may place a road, surface parking lot or utility line in a restricted pipeline area, the person must deliver to the Board a certification by an engineer registered in the State of Missouri stating that the proposed construction activity and structure are designed to prevent disturbing the hazardous pipeline or impeding its operation.
- D. In calculating minimum lot area under this Chapter, a restricted pipeline area is excluded.

#### **SECTION 400;255: HEIGHT EXCEPTIONS**

- A. **Public and Semi-Public Buildings.** In any land use, public or semi-public buildings, such as hospitals, churches, sanitariums or schools, either public or private, there permitted, may be erected to a height not exceeding seventy-five (75) feet, provided that such buildings shall

have yards which shall be increased one (1) foot on all sides for each additional foot that such buildings exceed the specified height limit as established by the regulations of the land use in which such buildings are situated.

**B. Structural Projections.**

1. Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers, or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the Land use Regulations, except that such structural projections shall not exceed the height regulations of the land use in which the structure is situated by more than fifteen percent (15%), except as indicated below.
2. Structural projections exceeding the above height limitations shall be considered as conditional uses and shall be processed in accordance with Article VIII of this Chapter, except in no event shall a radio aerial or television antenna support extend more than twenty-five (25) feet above the ridge of a roof in any residential land use.

**SECTION 400.270: ACCESS REGULATIONS**

- A. Access To Business And Industrial Land uses. No land which is located in a residential land use shall be used for a major access route to any land which is located in any business or industrial land use; provided, however, that this Section shall not prohibit pedestrian walks and driveway connections between residential land uses and neighborhood shops when incorporated as a part of a Planned Land use Development.
- B. Street Access. All lots shall abut a street other than an alley for a width of at least thirty-five (35) feet.

**SECTION 400.277: EXTERIOR LIGHTING STANDARDS**

- A. Purpose. The purpose of this Section is to regulate the spill-over of light and glare on operators of motor vehicles, pedestrians and land uses in the vicinity of a light source in order to promote traffic safety and to prevent the creation of nuisances.
- B. Applicability. The requirements of this Section apply to all private exterior lighting within the jurisdiction of this Section, except for lighting within public right of-way and/or lighting located on public property.
- C. Depiction On Required Site Plan. Any and all exterior lighting shall be depicted as to its location, orientation, intensity of illumination, and configuration on the site plan required for the development of the subject property (Refer to Article XIV of this Chapter Site Plan Review).
- D. Requirements.
  1. Orientation of fixture. In no instance shall an exterior lighting fixture be oriented so that the lighting element (or a transparent shield) is visible from a property located within a

residential zoning land use. The use of shielded luminaries and careful fixture placement is encouraged so as to facilitate compliance with this requirement.

2. Intensity of illumination. In no instance shall the amount of illumination attributable to exterior lighting, as measured at the property line, exceed 0.50 footcandles.
3. Location. Light fixtures shall not be located within required transition strips as defined in Section 400.425.
4. Flashing, flickering and other distracting lighting. Flashing, flickering and/or other lighting which may distract motorists is prohibited.
5. Minimum lighting standards. All areas designated on required site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 footcandles.
6. Height of fixtures. Lighting shall be permitted at heights reasonable to meet the minimum lumination requirements while maintaining complete compliance with the intensity, location and orientation standards of this Section.
7. Special events lighting. Any temporary use having exterior lighting which is not in compliance with the requirements of this Section shall secure a conditional use permit per Article VII of this Chapter.
8. Non-conforming lighting. All lighting fixtures legally existing prior to June 17, 1998, shall be considered as legal non-conforming uses.

#### **SECTION 400.278: STANDARDS FOR THE SCREENING OF OUTDOOR EQUIPMENT**

- A. Purpose. The purpose of this Section is to ensure that the visual impact of outdoor mechanical units and other appliances are visually screened from the view of adjacent property and public rights-of-way to promote a visually pleasing and uncluttering environment.
- B. Applicability. The requirements of this Section apply to all non-residential development within the jurisdiction of this Section.
- C. Requirements.
  1. Subject to the review and approval of the Planning Division and/or the Planning and Zoning Commission, all outside trash containers, HVAC units, electric, telephone and gas meters, satellite dishes and rooftop mechanical apparatus shall be thoroughly screened with materials and/or landscaping to conceal the visibility of such items from the views of rights-of-way and/or adjacent properties. Rooftop mechanical apparatus and all other objects that protrude from the rooftop of any structure shall, subject to the review and approval of the Commission, be screened by use of an architectural feature such as increased parapet wall height. The Commission may require that the screening shall extend to a height equal to or higher than the elevation of the highest rooftop mechanical apparatus or other protruding object if the Commission, in its discretion,

- determines that such height will more adequately hide the rooftop mechanical apparatus or other protruding object. The Commission may in its discretion require all rooftop mechanical apparatus or other objects protruding from the rooftop to be painted to match the color of the rooftop of the structure upon which the objects are located if, in the opinion of the Commission, painting would better hide the objects. Trash containers shall be screened by a six (6) foot high solid wall with a composite or vinyl sight proof gate consistent with the architectural theme of the primary structure on site.
2. In certain instances, the Board of Trustees or its designee may require submittal of site line studies to ensure that such apparatus is appropriately screened.

## **SECTION 400.280: HOME OCCUPATIONS**

- A. Restrictions And Limitations. Home occupations shall be permitted as an accessory use to a residential use in any area subject to the requirements of this Section.
  1. Home occupations shall be operated entirely from an enclosed structure and shall not occupy more than fifteen percent (15%) of the total floor area of the main residential building, with the use of the dwelling for a home occupation being clearly incidental and subordinate to its use for residential purposes by its occupants.
  2. No alteration of the exterior of the principal residential building shall be made which changes the character thereof as a residence, or other visible evidence of conduct of the home occupation. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
  3. There shall be no visible evidence of the home occupation except the owner may provide a home occupation sign which is in conformance with the Sign Standards of the Village of Pendleton.
  4. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his/her residence, and with no more than two (2) unrelated individuals being employed.
  5. No equipment shall be utilized that creates a nuisance due to odor, vibration, noise, electrical interference or fluctuations in line voltage beyond the property line of the lot upon which\_ the home occupation is conducted.
  6. Parking generated by the conduct of a home occupation shall be provided off-street, and other than in a required front yard.
  7. No commodities shall be displayed or sold outside of the main residential building.
  8. A home occupation permit shall be issued only to the individual occupying a dwelling as his/her residence. As such, home occupation permits shall not be transferable and shall terminate upon sale or transfer of the property to a new owner.
  9. Any individual requesting a home occupation permit for the retail sale or retail storage of firearms, weapons, potentially lethal items, or hazardous materials shall indicate on

their permit application the exact nature of their business. The individual must have complied with all Federal, State, and local regulations dealing with the handling of firearms, weapons, potentially lethal items, or hazardous materials prior to submitting the request for a Home Occupation Permit. The Village of Pendleton may request proof of compliance at time of application and/or any time the permit is in effect.

#### **SECTION 400.285: TEMPORARY USES**

- A. Temporary Use Permit. The Code Enforcement Officer is authorized to issue a permit for a temporary use within any land use provided it meets the requirements of this Section. The permit shall be issued for a specified period of time and shall contain health, safety and traffic and the Code Enforcement Officer may require such assurances or guarantees of compliance with conditions as is reasonable and appropriate under the circumstances. All temporary buildings used for commercial purposes shall require a temporary use permit.
- B. Temporary Uses Permitted.
  - 1. Christmas tree sales. Christmas tree sales in any business or industrial land use for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the applicable yard setback requirements provided that no display will encroach within the required yard setback for any land use by more than fifty percent (50%) and no display or equipment shall be located within the twenty-five (25) foot sight triangle of a street intersection as defined in this Chapter.
  - 2. Contractor's office. Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of construction for such project. Such use need not comply with yard and setback requirements of this Chapter.
  - 3. Real estate offices. Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development may continue only until the sale or lease of all dwelling units in the development. Such offices need not comply with the yard setback requirements of these Regulations, provided that a plan showing the proposed sales office location and parking layout is approved by the Planning Department.
  - 4. Seasonal sales. Seasonal sale of farm produce grown on the premises, in an "AG" Land use. Structures incidental to such sale need not comply with the applicable front yard requirements provided that no such structure shall be located within the twenty-five (25) foot sight triangle of a street intersection. All such structures shall be removed or moved back of the street setback line at the end of the season during which they are used.
  - 5. Carnivals and circuses. A carnival or circus, but only in a "AG", or "1-1" Land use, and then only for a period that does not exceed three (3) weeks. Such use need not comply with the applicable yard setback requirements, provided that no structures or equipment shall encroach within the required yard setback for the land use in which it is located by more than fifty percent (50%) and no structure or equipment shall be located within the twenty-five (25) foot sight triangle of a street intersection as defined in Section 400.260 (F) of this Chapter.

6. Disasters. A mobile home may be permitted as a temporary use for the purpose of providing a residential or non-residential structure following a disaster, such as a fire, windstorm or flood as determined by the Chair of the Village of Pendleton, provided that the mobile home is located on a three (3) acre site and is located to minimize its impact on adjacent residential areas. Such mobile home shall be removed from its location within six (6) months after its original placement. However, the Board Chair may extend the period six (6) additional months upon showing of good cause by the Owner.
7. Residential garage sales. Residential garage sales are permitted six (6) days per calendar year, per residential lot. The nature of goods to be sold shall be personal property, as defined in Section 400.035.
8. Temporary buildings for commercial purposes. The use of temporary buildings for commercial purposes shall be allowed subject to the following requirements:
  - a. The commercial establishment proposing a temporary building must have an approved site plan for the permanent facility by the Planning and Zoning Commission prior to installation of the temporary building.
  - b. The site plan must reflect the location of the temporary building and associated improvements.
  - c. The standards for site plan review of the permanent building apply to the review of the temporary building.
  - a. The temporary structure and area must comply with all Zoning, Fire, Building Code regulations, and State of Missouri Public Service Commission regulations.
  - b. The temporary facility must have sanitary sewer connections for restrooms.
  - c. The location of the temporary building must be reviewed and approved by the Planning, Engineering and Building Departments once Planning and Zoning Commission has approved the temporary building.
  - d. The temporary building and associated parking, vehicular movement and area must be completely separated from the construction area of the permanent facility. This may be achieved through fencing or other means to block public access to the construction site.
  - e. A construction site plan permit and building permit must be issued for the permanent structure prior to installation.
  - i. The temporary building will be allowed for a maximum of twelve (12) months from the date of installation on the site, unless additional time is approved in writing by the Board.
  - j. The temporary structure must have a finished appearance. If a modular unit is used, it must have skirting around all sides.
  - i. The temporary building must be located on the same site as the permanent facility or on the property directly abutting the site of the permanent facility.
  - l. A monetary guarantee, not less than fifty thousand dollars (\$50,000.00), must be escrowed to insure removal of the temporary building and associated improvements within the twelve (12) months. Said escrow funds shall be returned within thirty (30) days of its removal, less any expense incurred by the Village of the removal of the temporary building.

- C. Temporary Dwelling Structures. No cabin, garage, cellar, basement, or other temporary structure whether of a fixed or moveable nature may be erected, altered, or moved upon and

used in whole or in part for any dwelling purposes whatsoever for any length of time whatsoever.

#### **SECTION 400.290: NUMBER OF BUILDINGS PERMITTED PER LOT**

Not more than one (1) principal detached single-family dwelling unit shall be located on a lot, nor shall a principal detached single-family dwelling unit be located on the same lot with any other principal building or structure.

#### **SECTION 400.295: CONDOMINIUMS**

The declaration and all details of covenants, by-laws, and administrative provisions pertinent to the maintenance of buildings, structures, land, and other physical facilities for condominiums shall be reviewed and approved by the Planning and Zoning Commission prior to issuance of a Building Permit.

#### **SECTION 400.298: REQUIREMENTS FOR DEVELOPERS, OWNERS AND OPERATORS OF MULTI-FAMILY HOUSING**

- A. The developers, owners and operators of multi-family housing within the Village limits of Village, Missouri, shall henceforth be required to develop, implement and enforce tenant admission procedures no less stringent than those Federal Regulations which prescribe the grounds upon which a public housing authority may deny assistance to an applicant for rent assistance housing subsidies, including, without limitation, the following criteria:
1. If the applicant owes rent or other amounts to any public housing authority in connection with Section 8 or public housing assistance;
  2. If the applicant, as a previous participant in a Section 8 or other public housing assistance program, has not reimburse any public housing authority for any amounts paid to an owner under a housing assistance contract for rent or any other amount owed under their lease;
  3. If the applicant has violated any "family obligation", as that phrase is defined in the Federal Regulations for Section 8 housing;
  4. If the applicant has engaged in drug-related criminal activity or violent criminal activity, as defined in the Federal Regulations for Section 8 housing; and
  5. If the applicant has committed any fraud in connection with any federal housing program.
  6. Promptly evict tenants who openly and covertly use and sell drugs, assault other tenants, discharge guns within the subdivision and into neighboring properties, and engage in other dangerous, threatening, illegal and disruptive conduct; or who have permitted or encouraged non-residents to enter and/or reside in the subdivision whereupon such non- residents have then engaged in the above-mentioned dangerous, threatening, illegal and disruptive conduct.

- B. The Village of Pendleton hereby requires that developers, owners and operators of multi-family developments henceforth:
1. At a minimum, each access to the development shall provide, gated entrances to be wholly operated by electronic means, to promote the security and safety of the law-abiding residents of the subdivision. Each development will have the option to provide additional security measures.
  2. Shall provide adequate lighting throughout the subdivision to promote the security and safety of the law-abiding residents of the subdivision.
  3. Shall provide a full-time resident manager with the appropriate skills, training and experience to operate a subdivision development.
  4. Shall provide any recreation facilities, playground(s), community center(s), landscaping or greenspaces and other amenities that would help develop and sustain sense of dignity and community among the tenants of a multi-family subdivision.
- C. Any person, firm, corporation or agency found to be violation of the provisions of this Section shall be subject to a fine of five hundred dollars (\$500.00) or to up to ninety (90) days of community service, or to both such fine and community service. Each day of such violation shall constitute a separate offense.

**ARTICLE VII: CONDITIONAL USES**  
**SECTION 400.300: PURPOSE**

- A. Conditional uses are those types of uses which are considered by the Village to be essentially desirable, necessary, or convenient to the community, but which by their nature or in their operation have:
1. A tendency to generate excessive traffic.
  2. A potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants.
  3. A detrimental effect upon the value or potential development of other properties in the neighborhood.
  4. An extraordinary potential for accidents or danger to public health or safety.
- B. Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain land uses without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

**SECTION 400.305: AUTHORITY TO GRANT CONDITIONAL USE PERMITS**



Upon receipt of a recommendation from the Planning and Zoning Commission, the Board shall have the authority to grant a Conditional Use Permit. The Conditional Use Permit under consideration by the Board shall be in the form of an Ordinance. Said Ordinance shall include all conditions, safeguards, and restrictions upon the Conditional Use deemed necessary by the Board.

#### **SECTION 400.310: APPLICATION FEES, PUBLIC HEARING NOTIFICATION, AND SIGN POSTING REQUIREMENTS**

Applications for any Conditional Use Permit permissible under the provisions of this Chapter shall be submitted to the Planning and Development Department in accordance with Section 400.315 of this Article. The Conditional Use Permit application shall be subject to the Public Hearing Notification and Sign Posting Requirements established in Section 400.685 of the Zoning Code. The fees and costs for the Conditional Use Permit application are identified in the Schedule of Fees, Costs, and Expenses within Appendix B of Title IV: Land Use. The initial application fee shall be paid when the application is submitted to the Planning and Development Department. The cost for the Legal Notice advertising the required Public Hearings before both the Planning and Zoning Commission and Board of Trustees and the cost for the notification of adjacent property owners shall be subject to the collection procedures established within Section 400.650 (A)(2) of the Zoning Code.

#### **SECTION 400.315: INFORMATION REQUIRED IN APPLICATION**

An application for a Conditional Use Permit shall contain the applicant's full name and address, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved, a list of all abutting property owners and their addresses, an accurate survey drawing and site plan of said property, showing the existing and proposed location of all buildings and structures thereon, the type thereof, and their uses together with supporting data and exhibits regarding the required findings set forth in this Chapter.

#### **SECTION 400.320: PROCESSING PROCEDURES FOR CONDITIONAL USE PERMITS**

The review and determination procedures on an application for a Conditional Use Permit are as follows:

1. Application submitted to the Board or its designee. Report prepared by the Board or its designee.
2. Meeting #1: Public Hearing and recommendation to the Board by the Planning and Zoning Commission.
3. Meeting #2: Public Hearing and First Reading of the Ordinance by the Board.
4. Meeting #3: Second Reading of the Ordinance and Vote by the Board.

#### **SECTION 400.325: ACTION BY THE PLANNING AND ZONING COMMISSION/BOARD OF TRUSTEES**

The Conditional Use Permit application shall be subject to the Public Hearing Notification and Sign Posting Requirements established in Section 400.685 of the Zoning Code. The decision to recommend approval or denial of the proposed Conditional Use Permit shall be based on the following criteria:

1. The proposed conditional use complies with all applicable provisions of these Regulations, including intensity of use regulations, yard regulations and use limitations.
2. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
4. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable Zoning Land use regulations. In determining whether the conditional use will dominate the immediate neighborhood, consideration shall be given to:
  - a. The location, nature and height of buildings, structures, walls, and fences on the site and
  - b. The nature and extent of proposed landscaping and screening on the site.
5. Off-street parking and loading areas will be provided in accordance with the standards set forth in these Regulations.
6. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
8. In consideration of requests for any Conditional Use Permits the Planning and Zoning Commission/Board shall require such conditions of use as it deems necessary to protect the best interests of the Village and the surrounding property and to achieve the objectives of this Chapter. These additional requirements shall include, but not be limited to, those special provisions applying to Miscellaneous Conditional Uses, specified in Section 400.330. A violation of a requirement, condition, or safeguard shall be considered a violation of this Chapter, and grounds for an Administrative Official of the Village to terminate and cancel such Conditional Use Permit.
9. A time limitation may be required on the conditional use specified in Appendix "A" of this Chapter. Said Conditional Use Permit shall be renewable at the discretion of the Planning and Zoning Commission/Board.
10. No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Board.

If the facts in the case do not establish that the findings and standards set forth in this Chapter will apply to the proposed use, the conditional use shall be denied.

## **SECTION 400.330: ADDITIONAL DEVELOPMENT REQUIREMENTS OF CERTAIN USES**

A Conditional Use Permit shall not be issued to certain uses in this Section due to their deleterious effects on public safety, health, welfare, and the Village's property values unless they comply with the following site development requirements.

1. Quarries, sand and gravel pits. The removal of soil, including top soil, sand, gravel, stone and other earth materials shall be subject to the following conditions:
  - a. There shall be not more than one (1) entrance way from a public road to said lot for each six hundred sixty (660) feet of front lot line. Those Village streets proposed as haul routes from the pit to a State or Federal highway shall be approved by the Board Chair and Board of Trustees. A maintenance bond shall be posted by the party mining such minerals to guarantee maintenance of the haul route, with the amount to be approved by the Board Chair and Board of Trustees and subject to review on a two (2) year continuing basis if the mining operation is to continue beyond a two (2) year period.
  - b. Such removal shall not take place before sunrise or after sunset.
  - c. On said lot no digging or excavating shall take place closer than one hundred (100) feet to any lot line.
  - d. On said lot all road, driveways, parking lots and loading and unloading areas within one hundred (100) feet of any lot line shall be paved, oiled, watered or chemically treated so as to limit on adjoining lots and public roads the nuisance caused by windborne dust.
  - e. Any odors, smoke, fumes, or dust generated on said lot by digging, excavating or processing operation and borne or able to be borne by the wind shall be confined within the lines of said lot as much as is possible so as not to cause a nuisance or hazard on any adjoining lot or public road.
  - f. Such removal shall not be conducted as to cause the pollution by any material of any surface or subsurface water course or body outside of the lines of the lot on which such use shall be located.
  - g. Such removal shall not be conducted as to cause or threaten to cause the erosion by water of any land outside of said lot or of any land on said lot so that earth materials are carried outside of the lines of said lot, and that such removal shall not be conducted as to alter the drainage pattern of surface or sub-surface waters on adjacent property, and that in the event that such removal shall cease to be conducted it shall be the continuing responsibility of the owner or operator thereof to assure that no erosion or alteration of drainage patterns, as specified in this paragraph, shall take place after the date of the cessation of operation.
  - h. All fixed equipment and machinery shall be located at least one hundred (100) feet from any lot line and five hundred (500) feet from any residential Zoning Land use, but that in the event the zoning classification of any land within five hundred (500) feet of such equipment or machinery shall be changed to residential subsequent to the operation of such equipment or machinery, the operation of such equipment or machinery may continue henceforth but in no case less than one hundred (100) feet from any lot line.
  - i. There shall be erected a fence of not less than six (6) feet in height around the periphery of the area being excavated. Fences shall be adequate to prevent trespass, and shall be placed on level terrain no closer than fifty (50) feet to the top edge of any slope.

- j. All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned to a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form so as to appear reasonably natural.
  - k. Restoration of development area.
    - (1) The operator or operators shall file with the Village a detailed plan for the restoration of the development area which shall include the anticipated future use of the restored land, proposed final topography indicated by the contour lines of not greater interval than five (5) -feet, steps which shall be taken to conserve topsoil; the type and number per acre of trees or shrubs to be planted; and the location of future roads, drives, drainage courses, and/or other improvements to be made by a definite date.
    - (2) The restoration plans shall be filed with and approved by the Village before quarrying or removal operations begin. The plans shall be certified by a soil or geology engineer. In restoration, no filling operations shall be permitted which will likely result in contamination of ground or surface water, or soils, through seepage of gases into surface or sub-surface water or into the atmosphere. The proposed plan shall be submitted to and approved by the Department of Natural Resources.
    - (3) The operator or operators shall file with the Board of Trustees a bond or other surety payable to the Village and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The rate per acre of property to be used of the required bond shall be fixed by the Planning and Zoning Commissioner. The bond shall be released upon written certification of the Planning and Zoning Commissioner that the restoration is complete and in compliance with the restoration plan.
2. Junk yards and inoperative vehicles. In addition to and as an integral part of development, the following provisions shall apply:
- a. Junk yards shall be established and maintained in accordance with all applicable State of Missouri Statutes and Village of Pendleton ordinances.
  - b. It is recognized by this Chapter that the location in the open of such materials included in this Chapter's definition of "Junk Yard" will cause the reduction of the value of adjoining property. To that end the character of the land use shall be maintained and property values conserved. A solid, unpierced fence or wall of uniform color and construction at least seven (7) feet in height, and not less in height than the materials located on the lot on which a junk yard shall be operated, shall be located on said lot no closer to the lot lines than the yard requirements for buildings permitted in this land use. All gates, doors, and access ways through said fence or wall shall be of solid, unpierced material. In no event shall any materials included in this Chapter's definition of "Junk Yard" be located on the lot on which a junk yard shall be operated in the area between the lines of said lot and the solid unpierced fence of wall located on said lot.
  - c. There shall be only one point in ingress and egress.
  - d. On the lot on which a junk yard shall be operated, all streets, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, oiled, watered, or chemically treated so as to minimize the nuisance caused by wind-borne dust.
  - e. The burning of automobiles, parts, or any junk material will not be allowed at anytime.

3. Drive-in theaters. In addition to and as an integral part of development, the following provisions shall apply:
  - a. Drive-in theaters shall be enclosed for their full periphery with a solid screen fence at least seven (7) feet in height. Fences shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
  - b. All fenced-in areas shall be set back at least fifty (50) feet from any front street right of way with the area between the fence and the street or property line to be landscaped with trees and shrubs.
  - c. All traffic ingress and egress shall be on major streets and all local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements into or out of the public thoroughfares. 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.
  - d. The movie screen shall not be visible from the front street or any major thoroughfare.
4. Group Homes. In addition to and as an integral part of development, the following provisions shall apply:
  - a. Group homes shall be limited in number to one (1) per square mile within the Village.
  - b. Group homes shall conform in exterior appearance to the general character of the neighborhood.
5. Wireless Telecommunication Facilities. See Article XVIII- Regulations for Wireless Telecommunication Facilities.
6. "Tattoo and/or body piercing establishments" defined as a retail business providing the service of placing tattoos on a person's skin known as indelible marking of the skin produced by introducing minute amounts of pigments into the skin and/or providing the service of providing any perforation, penetration or puncturing of human tissue, other than the ear, for a non- medical purpose, by the use of needles, studs, posts, or any other instruments, thereby creating an opening into or through the tissue in which either studs, post, ornaments, jewelry or similar items are or can be inserted, or on which markings are left. In addition to and as an integral part of the development, the following provisions shall apply:
  - a. No other tattoo and/or body piercing establishment shall be established within two thousand five hundred (2,500) feet of any other such facility as measured from property line to property line.
  - b. No tattoo and/or body piercing establishment shall be located a minimum of one thousand (1,000) feet from any residentially zoned properties and shall be located a minimum of one thousand (1,000) feet from as measured from property line to property line any State licensed day care facility, school, church, or outdoor recreational facility.
  - c. Exterior building appearance and signage shall be designed to ensure that the use does not detract from the ability of business in the vicinity to attract customers, nor affect the marketability of properties in the vicinity for sale at their assessed values.
  - d. The owner/operator must submit to a Police background check prior to the issuance of a business license.

- e. Shall meet the health license standards, and other applicable regulations, as set from time to time by the Village, County, and State.
  - f. These provisions shall not apply to veterinarians and other persons or businesses placing tattoos on animals. Further, these provisions shall also not apply to State licensed physicians and registered professional nurses performing cosmetic and reconstructive surgery.
7. Sexually-oriented business. In addition to and as an integral part of development, the following provisions shall apply:
- a. Sexually-oriented businesses shall be limited in number to one (1) such business per one thousand (1,000) feet radius within the Village.
  - b. A sexually-oriented business shall not be located closer than one thousand (1,000) feet radius from any educational or religious institution.
  - c. A sexually-oriented business shall not be located closer than one thousand (1,000) feet radius from any residential use.
  - d. A sexually-oriented business shall not be located closer than one thousand (1,000) feet radius from any business selling liquor.
  - e. The owner/operator of a sexually-oriented business must submit to a police background check.
  - f. The Planning and Zoning Commission and/or the Board of Trustees may place reasonable restrictions on hours of operation.
  - g. Any employee must be eighteen (18) years or older. The owner/operator shall demonstrate to the Village all employees are eighteen (18) years or older.
  - h. Compliance with all State Statutes and Village ordinances governing pornography, obscenity, and matters of that nature.
8. Extended Stay Facilities. In addition to and as an integral part of development, the following provisions shall apply:
- a. Any Extended Stay Facility may not be developed within 750 feet of any lot upon which another Extended Stay Facility is located and may not be developed within 1,000 feet of any property which is zoned as residential property.
  - b. Extended Stay Facilities shall be developed, constructed and maintained in accordance with the fire, building, electric, plumbing and other technical codes which are applicable to apartment complexes and other types of multiple family housing.
  - c. Extended Stay Facilities shall be designed with a common entrance and lobby with a front desk which is operated on a twenty-four (24) hour basis.
  - d. Each room shall be a minimum of 325 square feet and shall have a bedroom that is separated by a wall and door from the kitchen or cooking facilities and other facilities within the unit.
  - e. There shall be no more than two (2) beds (any size) located within a bedroom. There shall be no other sleeping facilities (such as convertible sofas or temporary cots) other than the beds which are located in the bedroom(s).
  - f. Extended Stay Facilities shall comply with the following parking requirements:
    - (1) One and one-half (1-½) parking spaces for one (1) bed within a particular room or unit and one (1) additional parking space for each additional bed within a particular room or unit.
  - g. Each Extended Stay Facility shall provide an on-duty manager twenty-four (24) hours per day, seven (7) days per week who shall be available on-site.

- h. In order to promote security and safety of the residents, each Extended Stay Facility shall either provide gated entrances to be wholly operated by electronic means or an on-duty licensed security guard on site twenty-four (24) hours per day, seven (7) days per week.
- i. There shall be no areas for parking or storage of large tractor trailer vehicles or other large commercial vehicles. There shall be no outside parking or storage of large commercial vehicles or equipment.
- j. Each Extended Stay Facility shall keep a registration list which notes the date of arrival of and proper identification of each occupant of each room or unit within the development. "Proper Identification" shall include the full name, permanent address and date of birth or social security number of each person. Such list shall be provided to the Village's police department upon request.
- k. The maximum occupancy limit for any room or unit shall be based on the following standard: One (1) person per twin or single bed and two (2) persons per full, queen or king size bed. No room or unit may be occupied so as to exceed the maximum occupancy limit.
- l. Extended Stay Facilities shall provide housekeeping services to every room or unit a minimum of three (3) times per seven (7) day period.

#### **SECTION 400.333: EXEMPTIONS RELATING TO AMENDMENTS TO APPENDIX "A": LISTING OF PERMITTED AND CONDITIONALLY PERMITTED LAND USES**

Any legally existing land use located at a site within the Village, for which, prior to the adoption of these ordinances as of June 2007 either: 1) the land use as described in the Village Code did not require a Conditional Use Permit, or 2) the site existed as a Non-Conforming Use prior to the adoption of these ordinances, shall be exempt from requiring a Conditional Use Permit if said land use shall now require a Conditional Use Permit in the Zoning Land use in which it is located per these ordinances. The exemption for these legally existing land uses shall only apply for the site or portions of property upon which they are actually located prior to the adoption of this ordinance adopted in June, 2007.

### **ARTICLE VIII: NON-CONFORMING USES**

#### **SECTION 400.335: PURPOSE**

Within the land uses established by this Chapter or by amendments thereto, there exist buildings and structures and uses of parcels, lots, buildings, and structures which were lawful before this Chapter was adopted or amended including legal non-conforming uses, buildings and structures which would be prohibited, regulated, or restricted; it is the intent of this Chapter to permit these buildings and structures and uses of parcels, lots, buildings and structures herein referred to as non-conformities, to continue until they are discontinued, damaged, or removed. These non-conformities are declared by this Chapter to be incompatible with the buildings and structures and uses of parcels, lots, buildings, and structures permitted by this Chapter in certain land uses. It is further the intent of this Chapter that such non-conformities shall not be enlarged, expanded, or extended except as provided herein nor to be used as grounds for adding other buildings and structures and uses of parcels, lots, buildings and structures prohibited elsewhere in the same land use.

#### **SECTION 400.340: NON-CONFORMING USES OF LOTS**

Where, on the 'date of adoption (June, 2007) or amendment of this Chapter, a lawful use of a parcel or lot (such use not involving any building or structure or upon which parcel or lot a building or structure is accessory to such principal use) exists that is no longer permissible under the provisions of this Chapter, such principal use may be continued so long as it remains otherwise lawful subject to the following provisions:

1.     **Enlargement.** No such non-conforming use of a parcel or lot shall be enlarged, expanded or extended to occupy a greater area of land or floor space than was occupied on the date of adoption or amendment of this Chapter and no additional accessory use, building, or structure shall be established thereon.
2.     **Relocation.** No such non-conforming use of a parcel or lot shall be moved in whole or in part to any other portion of such parcel or lot not so occupied on June, 2007, or to a parcel or lot not in conformance with this Chapter.
3.     **Discontinuance.** If such non-conforming use of a parcel or lot ceases for any reason for a period of more than one hundred and eighty (180) consecutive days (except where Government action causes such cessation) the subsequent use of such parcel or lot shall conform to the regulations and provisions set by this Chapter for the land use in which such parcel or lot is located.

#### **SECTION 400.345: NON-CONFORMING BUILDINGS AND STRUCTURES**

Where, on the date of adoption (June, 2007) or amendment of this Chapter, a lawful building or structure exists that could not be built under the regulations of this Chapter by reasons of restrictions upon lot area, lot width, lot coverage, height, open spaces, off-street parking, loading spaces and setbacks, or other characteristics, such building or structure may be continued so long as it remains otherwise lawful subject to the following provisions:

1.     **Enlargement.** Such building or structure may be enlarged, expanded, extended, or altered only if the non-conformity is removed.
2.     **Destruction.** Should any such building or structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.
3.     **Relocation.** Should any such building or structure be moved for any reason for any distance, it shall thereafter conform to the regulations of the land use in which it is located after it is moved.



## **SECTION 400.350: NON-CONFORMING USES OF BUILDINGS AND STRUCTURES**

Where, on the date of adoption (June, 2007) or amendment of this Chapter, a lawful use of a building or structure exists that is no longer permissible under the regulations of this Chapter, such use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. **Enlargement.** No existing building or structure devoted to a use not permitted by this Chapter in the land use in which it is located shall be enlarged, constructed, reconstructed, moved, or structurally extended or altered except in changing the use of such building or structure to a use permitted in the land use in which such building or structure is located.
2. **Change in use not permitted.** An existing non-conforming land use or structures shall not cause further departures from the Zoning Code. Although an existing non-conforming use may be continued, except as hereinafter limited, it may not be changed to another use, except to a similar use or to a use permitted in the land use in which it is situated and provided it complies with the requirements of that land use.
3. **Discontinuance.** When a non-conforming use of a building or structure is discontinued or abandoned for more than one hundred and eighty (180) consecutive days (except where Government action prevents access to the premises) the building or structure shall not thereafter be used except in conformance with the regulations of the land use in which it is located.

## **SECTION 400.355: REPAIRS AND MAINTENANCE**

Repairs and normal maintenance required to keep buildings in a safe condition may be made to non-conforming buildings or structures, provided that no alterations shall be made except those required by law or ordinance, unless the building or structure is changed to be conforming with this Chapter.

## **SECTION 400.360: CHANGE OF TENANCY OR OWNERSHIP**

There may be a change of tenancy, ownership, or management of an existing non-conforming use, building or structure, provided there is no change in the nature or character, extent or intensity of such non-conforming use, building or structure.

## **SECTION 400.365: COMPLETION OF PENDING CONSTRUCTION AND BUILDING PERMITS**

To avoid undue hardships, nothing in this Chapter shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption (June, 2007) or amendment of this Chapter and upon which actual building construction has been carried on diligently. Nothing herein contained shall require any change in the plans or designated use of a building for which a Building Permit has been heretofore issued, or plans or final subdivision plats which have been approved by the Board on or before June, 2007.

#### **SECTION 400.370: CONDITIONAL USES**

Any use existing on June, 2007, and which is permitted as a conditional use in a land use under the terms of this Chapter shall be deemed a conforming use in such land use, and shall without further action be considered a conforming use.

#### **SECTION 400.375: SUBSTANDARD NON-CONFORMING LOTS OF RECORD**

In any land use in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single-family dwelling and customary accessory buildings or structures may be erected on any single lot of record at the effective date of adoption (June, 2007) or amendment of this Chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership as of the date of adoption of this Chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the land use, provided that yard dimensions and other requirements, not involving area or width, or both, of the lot shall conform to the regulations for the land use in which such lot is located. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Chapter (June, 2007) and if all or part of the lots do not meet the requirements for lot width and area as established by this Chapter, the lands involved shall be considered to be an undivided parcel for the purpose of this Chapter, and no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this Chapter, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this Chapter.

#### **SECTION 400.380: EXISTENCE OF A NON-CONFORMING USE**

In cases of doubt, and on specific questions raised, whether a non-conforming use exists shall be a question of fact and shall be decided by the Board of Trustees after notice, a public hearing, and receipt of a report and recommendation of the Planning and Zoning Commission.

#### **SECTION 400.385: NON-CONFORMING USES NOT VALIDATED**

A use in violation of a provision of the ordinance which this repeals shall not be validated as a non-conforming use by this Chapter.

#### **SECTION 400.390: JOINT USE OF BUILDINGS, STRUCTURES, AND/OR LAND**

Where a non-conforming use exists, and a conforming use is proposed, the non-conforming use must cease upon initiation of the conforming use. No joint use of either buildings, structures, and or land shall be permitted.

#### **SECTION 400.393: EXEMPTIONS RELATING TO AMENDMENTS TO LISTING OF PERMITTED AND CONDITIONALLY PERMITTED LAND USES**

Any legally existing land use in a Zoning Land use within the Village, that, after the adoption of this ordinance in 2007, is no longer "Permitted" or "Conditionally Permitted" within that Zoning Land use, shall be exempt from the requirements of this Article.

## **ARTICLE IX: PROHIBITED USES**

### **SECTION 400.395: PURPOSE**

The intent of this Article is to provide for public safety and health and public welfare by prohibiting hazardous uses and practices.

### **SECTION 400.400: REGULATIONS**

No temporary or uncompleted building, nor any automotive equipment, trailer, garage, or appurtenances incident to a family dwelling, shall be erected, maintained or used for residence purposes, provided where the exterior, kitchen, at least one (1) bathroom, and more than fifty percent (50%) of the interior of a permanent residence have been completed, this regulation shall not apply. Temporary or outwardly incomplete buildings or structures, open excavation for a basement or foundation, and buildings or structures so damaged as to become unfit for use of habitation shall not be permitted, maintained, or remain in such condition for more than a time period to be stipulated by the Code Enforcement Officer. No building material, construction equipment, machinery or refuse shall be stored, maintained or kept in the open upon any lot, tract or parcel other than in such land uses as permitted in this Chapter, except during actual construction operations upon said premises or related premises. No Mobile home parks or prefabricated Homes shall be permitted in the village.

## **ARTICLE X: LANDSCAPING AND SCREENING REGULATIONS**

### **SECTION 400.405: PURPOSE**

The purpose of this landscaping and screening regulation is:

1. To provide greenery to visually soften paved areas and buildings.
2. To establish healthy environmental conditions by providing shade, air purification, oxygen regeneration, ground water recharge, storm water runoff retardation, and noise, glare and heat abatement.
3. To ensure that the local stock of native trees is replenished, plant material shall generally be native or hardy to this region.
4. To buffer uncomplimentary land uses and generally enhance the quality and appearance over the entire site of the project.

### **SECTION 400.410: AUTHORITY**

The Village Code Enforcement Officer shall have authority to approve the Landscape Plan subject to such additional requirements as may be deemed necessary by the Planning and Zoning Commission or Board of Trustees to promote the purpose of this Chapter.

## **SECTION 400.415: APPLICATION**

All plans submitted in support of a Final Development Plan or Building Permit shall hereafter include a landscape plan with a transition strip where applicable. Upon an application for a Building Permit any of the following uses shall be exempt from this Section:

1. "AG" Agricultural.
2. Single Family and Duplex Dwellings in "R-1"

## **SECTION 400.420: LANDSCAPE PLAN REQUIREMENTS**

A. *Information Required.* All plans submitted for approval of a landscape plan shall have the following information included:

1. North point and scale.
2. Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
3. The location, size, and surface of materials of all structures and parking areas.
4. The location, size, and type of all above ground and underground utilities and structures with proper notation, where appropriate, as to any safety hazards to avoid during landscape installation.
5. The approximate location, type, size and quantity of all proposed landscape materials, along with the names of all plant species. The size, grading and condition shall be specified according to American Association of Nurserymen standards.
6. The location, size and common name of all existing plant materials to be retained on the site. Large masses of trees may be indicated by mass outline only.
7. Mature sizes of plant material shall be drawn to scale and called out on plan by common name or appropriate key.
8. Location of hose connections and other water sources.
9. The location of all existing trees, twelve (12) inch caliper or larger measured at four and one-half (4%) feet above ground level on sites that are proposed for removal.
10. The location, size and type of required screening methods as required in Subsection (D) of this Section.
11. Tree Protective Zone as defined in Chapter 230 (Preservation of Trees) of this Code.

B. *Minimum Tree Requirements Per Zoning Land use.*

1. *Residential zoning land uses ("R-1")*

- a. Where record plats have been approved in a subdivision prior to June 2007, without an approved landscape plan, said plat shall conform with the ordinance requirements in place at the time of approval which typically required the installation of one (1) tree per fifty (50) feet, or portion thereof of street frontage, public or private, within an area between the front of a structure and the curb. Said trees can be clustered or arranged within the setback and need not be placed evenly at fifty (50) foot intervals.
- b. For residential subdivisions approved after June 2007, there shall be a minimum of one (1) tree for every Jot; in cases of Jots having frontage on more than one (1) street (e.g. corner lots), there shall be a minimum of one (1) tree for each street on which the Jot has frontage. Each tree shall be at least two (2) inches in caliper.
- c. *Standards.* Trees as required to meet this Section shall be located within a street right-of-way or easement subject to the following:
  - (1) Street trees shall not be planted closer than three (3) feet to any curb.
  - (2) Street trees shall not be placed within twenty-five (25) feet of street lights.
  - (3) At street intersections, no street tree shall be placed within the sight triangle.
  - (4) Street trees shall not be planted within ten (10) feet of street inlets or manholes.
  - (5) All trees must be an acceptable species. A list containing acceptable species shall be maintained by Village staff.
  - (6) After normal warranty periods, trees shall be maintained in good condition by the corresponding homeowners' association as part of the covenants and restrictions of the subdivision. Said restrictions shall include language approved by the Village to allow the Village to remove trees should public safety be threatened.
  - (7) Street trees must be planted by the builder within one (1) year of issuance of the final certificate of occupancy.
2. *Commercial land uses ("C-1" and "C-2").* One (1) tree for every forty (40) feet, or portion thereof, of street frontage, public or private, shall be required within the landscape setback abutting said street frontage. Said trees may be clustered or arranged within the setback and need not be placed evenly at forty (40) foot intervals. In addition to the required trees, based upon street frontage, one (1) tree shall also be required for every three thousand (3,000) square feet of landscaped open space. These may include the trees required in parking lots, as set out in Subsection (C) hereof.
3. *"1-1" land uses.* One (1) tree for every forty (40) feet (or portion thereof) of street frontage, public or private, shall be required within the landscape setback and need not be placed evenly at forty (40) foot intervals. In addition to the required trees, based upon street frontage, one (1) tree shall be required for every four thousand (4,000) square feet of landscaped open space. These trees may include trees required in parking lots, as set out in this Subsection (C).
4. *Existing trees saved.* Existing trees saved on the site during construction may be credited toward the minimum tree requirements specified for landscaped open space for each zoning

land use, except the residential land uses. Those existing trees credited shall be a minimum of two (2) inch caliper as measured six (6) inches above the ground for deciduous trees. Minimum size for existing ornamental and evergreen species shall be six (6) feet in height. All existing plant material saved shall be healthy and free of mechanical injury.

5. *Trees planted.* The majority of the required trees planted shall be medium and large deciduous shade trees as specified in Subsection (D).

C. *Planting Requirements Within Parking and Vehicular--Use Areas.*

1. The intent of this Section is to encourage interior landscaping within vehicular parking areas, to break up the large expanses of pavement, and to provide relief from the reflected glare and heat, as well as to guide vehicular and pedestrian traffic.
2. Except for vehicle storage lots, multiple level parking structures and parking lots having a paved area no wider than a double-loaded aisle no more than sixty-five (65) feet in width, all parking areas in all Zoning Land uses shall include the following as minimum requirements.
  - a. Not less than six percent (6%) of the interior of a parking lot shall be landscaped. The interior of a parking lot shall be calculated by multiplying the number of parking spaces by two hundred seventy (270) square feet. Planting which is required along the perimeter of a parking lot shall not be considered as part of the interior landscaping requirement.
  - b. The landscaping and planting areas shall be reasonably dispersed throughout the parking lots.
  - c. The interior dimensions of any planting area or planting median shall be sufficient to protect the landscaping materials planted therein and to insure proper growth. Any protected planting strip where trees are to be planted shall be a minimum of seven (7) feet wide and shall be protected from vehicle overhang.
  - d. The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting material may be used to complement the tree landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscaping plan.
  - e. In those instances where plant material exists on parking lot site prior to its development, such landscape material may be used if approved as meeting the requirements in Subsection (D) hereof.
  - f. No landscaping, tree, shrub, fence, wall or similar item shall be placed in zones of ingress or egress at street corners, or in the intersection of a public right of way that will create an obstruction to visibility, or is a traffic hazard.

D. *Planting Requirements.* The minimum planting sizes for all plant material shall be the following:

1. *Medium and large deciduous shade trees.* Two (2) inch caliper, as measured six (6) inches above the ground as specified by the American Association of Nurserymen.
2. *Small deciduous or ornamental trees.* Four (4) feet in height as specified by the American Association of Nurserymen, with the exception of true dwarf species.
3. *Conifers.* Six (6) feet in height.

4. *Upright evergreen trees.* Four (4) feet in height as specified by the American Association of Nurserymen, except for true dwarf varieties.
5. *Shrubs.* (Deciduous and conifer including spreader and globe tree forms): Size optional as determined by applicant.
6. *Ground cover plants.* Crowns, plugs, containers: In a number as appropriate by species to provide fifty percent (50%) surface coverage after two (2) growing seasons.
7. *Grass-seeding.* As appropriate to provide complete coverage within the first growing season.
8. *Sod.* As necessary to provide coverage and soil stabilization.

#### **SECTION 400.425: STANDARDS FOR BUFFERYARD AREAS BETWEEN NON RESIDENTIAL AND RESIDENTIAL LAND USES AND ZONING LAND USES**

- A. *Purpose.* This Section provides the landscaping and width requirements for bufferyards on lots developed after the effective date of this Section (June 2007). A "bufferyard" is a combination of distance and a visual buffer or barrier. It includes an area, together with the combination of plantings, berms and/or fencing, that are required to eliminate or reduce existing or potential nuisances. These nuisances can occur between adjacent zoning land uses and between different land uses. Such nuisances include dirt, litter, noise and glare of lights, signs and incompatible land uses, buildings or parking areas.

Rationale: One (1) of the most important functions of a Zoning Code is the separation of land uses into land uses which have similar character and contain compatible uses. The location of land uses is supposed to provide protection, but in the Village of Pendleton this is not the case since zoning land uses permitting uses as diverse as single-family residential and industrial use were located adjacent to each other long before the effective date of this Section (June, 2007). Bufferyards will operate to minimize the negative impact of any future use on its neighboring uses.

- B. *Required Locations For Bufferyards.* Bufferyards shall be located along (and within) the outer perimeter of a lot wherever two (2) different zoning land uses or a non-residential land use and a residential land use abut one another. Bufferyards are not required adjacent to any right-of-way nor between residential development and properties zoned "P-R" Parks and Recreation.

C. *Determination Of Required Bufferyard.*

1. The following paragraphs shall be used to select the minimum levels of bufferyard width, landscaping, berming and/or fencing needed to achieve the minimum level of screening for the required bufferyard. The landscaping component of each option is given in plant units. For any given bufferyard, any combination of options for the same level of screening may be used. This approach provides a range of choice for bufferyard width, landscaping, berming and/or fencing which can be varied according to site features. Note that in all instances, bufferyard

areas must remain as permanent green space although they may be included within the required building setback areas.

2. For commercial zoning land uses or uses otherwise permitted in commercial land uses which abut any residentially zoned property or property projected for future residential development by the Village's Comprehensive Plan, the following bufferyard options shall be available:
    - a. For every one hundred (100) feet of frontage where the bufferyard is required:
      - (1) A total of two (2) plant units and a sight proof, six (6) foot high (as measured from the adjacent finished grade) white vinyl fence or other fence as approved by the Planning and Zoning Commission shall be provided within a minimum twenty (20) foot wide bufferyard area;
      - (2) A total of four (4) plant units and a four (4) foot high berm shall be provided within a minimum forty (40) foot wide bufferyard area; or
      - (3) A total of five (5) plant units shall be provided within a minimum fifty (50) foot wide bufferyard area.
  3. For industrial zoning land uses or uses otherwise permitted in industrial land uses which abut any residentially zoned property or property projected for future residential development by the Village's Comprehensive Plan, the following bufferyard options shall be available:
    - a. For every one hundred (100) feet of frontage where the bufferyard is required:
      - (1) A total of three (3) plant units and a sight proof, six (6) foot high (as measured from the adjacent finished grade) white vinyl fence or other fence as approved by the Planning and Zoning Commission shall be provided within a minimum thirty (30) foot wide bufferyard area; or
      - (2) A total of five (5) plant units and a five (5) foot high berm shall be provided within a minimum fifty (50) foot wide bufferyard area.
- D. *Definition Of A Plant Unit.* A plant unit shall consist of a combination of landscape materials which shall equal thirty (30) points where deciduous canopy trees measuring two (2) to two and one-half (2.5) inch caliper equal ten (10) points each, evergreen trees measuring six (6) to eight (8) feet tall equal ten (10) points each, ornamental deciduous trees measuring one and one-half (1.5) to two (2) inch caliper equal five (5) points each, and shrubs measuring eighteen (18) to twenty-four (24) inches tall or three (3) to four (4) feet wide equal one (1) point each. All sizes specified are at the time of planting. While any combination of materials may be used to achieve the total point requirement, the mixture of a combination of types of materials is strongly encouraged. An example of various plant unit alternatives is on file in the Village offices.
- E. *Credits For Maintaining Existing Landscaping.*
1. The maintenance of existing mature landscaping on a property where it may serve the bufferyard requirements is strongly encouraged and to this end the following incentive for its retention is offered. Existing landscaping that is retained within a required bufferyard area shall count toward meeting plant unit point total requirements based on the size of the materials. For instance, a ten (10) inch caliper deciduous canopy tree will count as fifty (50) points in that it is equal to five (5) trees under the plant unit definition. The



amounts that such existing landscaping will count toward meeting plant unit requirements will be at the discretion of the planning division and, as necessary, the Planning and Zoning Commission.

2. Special circumstances such as topography may necessitate changes in the location of the screen fencing as recommended by staff and approved by the Planning and Zoning Commission. Increased screening may be required by the Planning and Zoning Commission through the site plan or conditional use permit processes where the Commission finds that such screening is necessary based on the nature of the proposed commercial or industrial use and its relationship to the adjacent residential.

#### **SECTION 400.430: INSTALLATION, MAINTENANCE AND ENFORCEMENT**

A. *Landscaping In Place Prior To Occupancy Permit.* All landscape material, living and non- living, except street trees, shall be healthy and in place prior to issuance of a final certificate of occupancy. If all landscape material, living and non-living, except street trees, is not installed at the time of final inspection, the Board or the designee may issue a certificate of temporary occupancy and the builder shall escrow with the Village a cash amount, certified check or irrevocable bank letter of credit in an amount determined by the Board Chair to be equal to the material and installation cost. If all landscape material is not installed when the proper season arrives, it shall be the responsibility of the Board Chair to have such work completed and reimburse the Village for the cost and expense thereof by appropriating funds in the escrow.

B. *Maintenance.*

1. The trees, shrubs, fences, walls and other landscaping materials depicted on plans approved by the Village shall be considered as elements of the project in the same manner as parking, building materials and other details are elements of the plan.
2. The developer, his/her successor and/or subsequent owners and their agents shall be responsible for the continued maintenance.
3. Plant material which exhibits evidence of insect pests, disease, and/or damage shall be appropriately treated, and dead plants promptly removed and replaced within the next planting season.
4. All landscaping will be subject to periodic inspection by the Village's Code Enforcement Officer or his/her designee.
5. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and his/her agent or agents shall be considered in violation of the terms of the Building or Occupancy Permit.

#### **ARTICLE XI: PLANNING AND ZONING COMMISSION**

##### **SECTION 400.435: AUTHORITY TO MAKE A MUNICIPAL PLAN**

The Village of Pendleton, Missouri, shall be authorized to make, adopt, amend, extend, and carry out a municipal plan as authorized by law.

##### **SECTION 400.440: VILLAGE PLANNING AND ZONING COMMISSION CREATED-**

## **MEMBERSHIP**

A Commission to be known as the "Village Planning and Zoning Commission" is hereby created which shall consist of: 1) the Board Chair, if the Board Chair chooses to be a member of the Commission, 2) a member of the Board of Trustees selected by the Board of Trustees, if the Board of Trustees chooses to have a member serve on the Commission, and 3) five (5) citizen members appointed by the Board Chair with the approval of the Board of Trustees. The nine (5) citizen members shall be compensated in the amount of twenty-five dollars (\$25.00) per meeting attended up to two hundred dollars (\$200.00) per month.

## **SECTION 400.445: OFFICERS, TERMS AND VACANCIES**

The Planning and Zoning Commission shall elect its Chairperson and Vice-Chairperson from among the citizen members. The term of Chairperson and Vice-Chairperson shall be for one (1) year with eligibility for re-election. The term of each of the citizen members shall be for four (4) years, except that the terms of the citizen members first appointed shall be for varying periods so that succeeding terms will be staggered. Any vacancy in a membership shall be filled for the un- expired term by appointment as aforesaid. The Board of Trustees may remove any citizen member for cause stated in writing and after Public Hearing.

## **SECTION 400.450: MEETINGS, RULES, RECORDS TO BE KEPT**

The Village Planning and Zoning Commission shall hold regular meetings and special meetings as they provide by rule. The Commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. Any member of the Planning and Zoning Commission who within any twelve (12) month period has three (3) unexcused absences or a total of five (5) absences, shall be subject to immediate removal by the Board Chair for neglect of duty unless there are extenuating circumstances. Any member being more than thirty (30) minutes late to a meeting shall be charged with one-half(%) of an unexcused absence.

## **ARTICLE XIV: SITE PLAN REVIEW**

### **SECTION 400.565: PURPOSE**

- A. It is recognized by this Chapter that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this Chapter requires Site Plan review and approval by the Commission for certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, adjacent land usage, and the character of future development.
- B. The Site Plan is intended to demonstrate to the Planning and Zoning Commission the character and objectives of the proposed development in adequate detail for the Commission

to evaluate the effect the proposed development would have on the community, and determine what provisions, if any, should be included as part of the plan and be binding on the use and development of the property.

#### **SECTION 400.570: BUILDINGS, STRUCTURES AND USES REQUIRING SITE PLAN APPROVAL**

All development within the Village of Pendleton shall be required to *receive* Site Plan approval from the Planning and Zoning Commission prior to the issuance of a building permit with the following exceptions:

1. Single-family homes;
2. Mobile homes; or
3. Multi-family structures containing four (4) or less dwelling units.

#### **SECTION 400.575: APPLICATION AND FEE**

- A. Any persons may file a request for a Site Plan *review* by the Commission by filing with the Planning Department the completed application upon the forms provided and payment of the review fee. As an integral part of said application, the applicant shall file at least twenty-one (21) copies of a Site Plan.
- B. The Clerk upon receipt of such Site Plan, other necessary data, and payment of the required fee, shall forthwith transmit the copies to the Commission prior to its next regularly scheduled meeting and the Commission shall undertake a study of same and shall approve or deny the Site Plan. Written notice will be sent to the applicant stating the time and place of *review* of the Site Plan by the Commission.

#### **SECTION 400.580: REQUIRED DATA FOR SITE PLAN**

Every Site Plan submitted to the Commission shall be in accordance with the requirements of this Section.

1. The Site Plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Commission can readily interpret the Plan, and shall include more than one (1) drawing where required for clarity.
2. The property shall be identified by lot lines and location, including dimensions, angles, and size, correlated with the legal description of said property. The Site Plan shall be designed and prepared by a qualified land planner, registered professional architect, engineer or land surveyor. It shall also include the name and address of the property owner(s), developer(s), and designer(s) (and their seal).
3. It shall show the scale, north point, boundary dimensions, natural features such as woodlots, streams, rivers, lakes, drains, topography (at least five (5) foot contour intervals; when terrain is irregular or drainage critical, contour interval shall be two (2) foot) and similar features.

4. It shall show existing manmade features such as buildings, structures, easements, high tension towers, pipe lines, existing utilities such as water and sewer lines, etc., excavations, bridges, culverts, and drains and shall identify adjacent properties within one hundred (100) yards and their existing uses.
  5. It shall show the location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, their relation one to another and to any existing structures to remain on the site, and the height of all buildings and structures, as well as building elevations and materials proposed for the structures under consideration.
  6. It shall show the proposed streets, driveways, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and identification of service lands, service parking and loading zones.
  7. It shall show the location and size of all existing utilities (public and private) serving the property as well as the location and size of all proposed utilities to serve the property. All necessary utilities (public and private) will be available, functioning, and usable at the time any stage of the project or the total project is ready for occupancy.
  8. A Landscape Plan that meets the requirements of section, "Landscaping and Screening Regulations", shall be included as part of the Site Plans submitted.
  9. Any proposed alterations to the topography and other natural features shall be indicated.
  10. The location, height, and intensity of all exterior lighting.
  11. The location and type of trash pick-up proposed must be designated. With the exception of industrial land uses screening must be shown.
  12. Any other information deemed necessary by the Commission.
  13. "Concept Plans" may be presented to the Planning and Zoning Commission for speculative buildings. These plans only need to reference that "8", "10", and "11" will be met. All other requirements must be shown. Submittal deadline is the same for all items to be reviewed by the Commission. For those buildings where an approved concept plan has been submitted, a complete site plan reflecting all requirements will be required once the building is sold. These plans may be submitted up to the day before the Planning and Zoning Commission meeting.
  14. Tree Protective Zone as defined in Chapter 230 (Preservation of Trees) of this Code.
  15. All Site Plan applications shall include twenty-five (25) color elevations of the front, side and rear facades of all buildings being proposed. Such elevations shall accurately depict the proposed color, materials and textures of the proposed facades.
- *Note:* All plans, architectural drawings, renderings or other materials or visual aids either submitted to the Planning and Zoning Commission or presented at their meeting shall become the property of the Village and part of the permanent record of any approval.

#### **SECTION 400.585: STANDARDS FOR SITE PLAN REVIEW**

In reviewing the Site Plan, the Commission shall ascertain whether it is consistent with all regulations of the Zoning Code. Further, in consideration of each Site Plan, the Commission shall endeavor to assure the following:

1. That the movement of vehicular and pedestrian traffic within the site and in relation to access streets shall be safe and convenient.
2. That provisions are made so that the proposed development will not be harmful to the existing and future uses in the immediate area and the vicinity.
3. All site plans will be reviewed for adherence to the Performance Standards

#### **SECTION 400.590: APPROVAL OF SITE PLAN**

Upon Commission approval of a Site Plan the applicant shall file with the Commission four (4) copies thereof. The Secretary of the Commission shall transmit one (1) copy each to the Clerk and Code Enforcement Officer with the Secretary's signature affixed thereto, certifying the Site Plan conforms to the provisions of the Zoning Code as determined and approved by the Commission. If the Site Plan is denied by the Commission, explanation and notification of denial shall be given to the applicant(s).

#### **SECTION 400.592: EFFECT OF DENIAL OF A SITE PLAN**

No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Board.

#### **SECTION 400.595: EXPIRATION OF SITE PLAN CERTIFICATE**

The Site Plan Certificate shall expire, and be of no effect, one hundred eighty (180) days after the date of issuance thereof, unless within such time a Building Permit for any proposed work authorized under the said site certificate has been issued. The Site Plan certificate shall expire and be of no effect three hundred and sixty (360) days after the date of its issuance, if construction has not begun and been pursued diligently on the property.

#### **SECTION 400.600: REVISION OF SITE PLAN**

A Site Plan may be amended or revised by the Commission so far as the Commission approved Site Plan is concerned, for which the Code Enforcement Officer has not issued a Building Permit, or the work authorized under an issued building has not been completed. Such amendment shall be made upon application and in accordance with the procedure provided under Section 400.575 of this Chapter.

#### **SECTION 400.605: SITE PLAN BOND**

As a condition of approval of the Site Plan, the Commission may require a deposit by the applicant with the Village Clerk in the form of cash, certified check, or surety bond acceptable to the Board of Trustees, to insure performance of any obligations of the applicant to make improvements shown upon the detailed Site Plan. The deposit shall be in an amount sufficient to insure completion of the improvements within the time specified by the Commission in accordance with regulations and standards established by the Board of Trustees. The Clerk shall rebate to the applicant, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire improvements shown upon the detailed Site Plan as verified by the Planning and Zoning Commissioner and authorized by the Board of Trustees.

#### **SECTION 400.610: VIOLATIONS**

The filing of a Site Plan shall constitute an agreement by the owner and applicant, their heirs, successors, and assigns that if the Site Plan is approved by the Planning and Zoning Commission, permits issued for the improvement of such property and activities subsequent thereto shall be in conformance with the approved Site Plan for the property in question. The approved Site Plan shall have the full force and effect of the Zoning Code. Any violations shall be grounds for the Code Enforcement Officer to issue stop work orders, withhold further permits, and take all actions necessary for the assessment of all penalties and fines.

#### **ARTICLE XV: ADMINISTRATION AND ENFORCEMENT**

##### **SECTION 400.615: PURPOSE**

It is the purpose of this Article to provide the procedures for the administration of this Chapter, issuance of permits, inspection of properties, collection of fees, and enforcement against violators of the provisions of this Chapter and amendment thereto.

##### **SECTION 400.620: ADMINISTRATION**

- A . Except where herein otherwise stated, the provisions of this Chapter shall be administered by the Code Enforcement Officer (, or by deputies of his/her department as the Board may designate to enforce provisions of this Chapter.
- B . The Code Enforcement Officer (or his/her authorized representative) is hereby empowered in performance of its functions to enter upon any land in the Village for the purpose of making inspections, examinations, and surveys, or to place and maintain thereon markers, notices, or signs required to effect provisions of this Chapter. The above authorized person shall be required to present proper credentials upon demand when entering upon any land or structure for the purpose of this Section.

##### **SECTION 400.625: DUTIES OF THE CODE ENFORCEMENT OFFICER**

- A. The Code Enforcement Officer shall have the power to grant Certificates of Zoning Compliance and to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this Chapter.

- B. It shall be improper for the Code Enforcement Officer to approve plans or issue any permits or certificates for any excavation or construction until he/she has inspected such plans in detail and found them to conform with this Chapter, nor shall the Code Enforcement Officer vary or change any terms of this Chapter.
- C. If the Code Enforcement Officer shall find that any of the provisions of this Chapter are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and stating the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Chapter to insure compliance with or to prevent violation of its provisions.

#### **SECTION 400.630: CERTIFICATES OF ZONING COMPLIANCE**

- A. The Code Enforcement Officer shall require that all applications for Certificates of Zoning Compliance shall be accompanied by plans and specifications including a plot plan for the site in duplicate drawn to scale. The Code Enforcement Officer shall retain the original copy for his/her files.
- B. The Certificate of Zoning Compliance signifies that, in the opinion of the Code Enforcement Officer, the intended use, building, or structure complies with all provisions of this Chapter. No Building Permit shall be issued unless a Certificate of Zoning Compliance has been issued. It shall be unlawful to change a type of use of land, to change the type of use or occupancy of any building or structure, or to extend any use on any lot on which there is a non-conforming use or structure, until a Certificate of Zoning Compliance has been issued. Where a Building Permit is required, application for a Certificate of Zoning Compliance shall accompany or precede the application for a Building Permit. In all other cases in which a Building Permit is not required, the application for a Certificate of Zoning Compliance shall be made prior to the date when a new or enlarged use of a building or lot or part thereof is intended to begin.
- C. Applications for Certificates of Zoning Compliance shall be made to the Code Enforcement Officer.
- D. Applications for Building Permits shall be made to the Board.

#### **SECTION 400.635: VOIDING OF CERTIFICATE OF ZONING COMPLIANCE**

Any Certificate of Zoning Compliance granted under this Chapter shall become null and void unless construction and/or use is commenced within one hundred eighty (180) days and completed within three hundred and sixty (360) days of the date of issuance.

#### **SECTION 400.640: BUILDING PERMITS**

- A. It shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion, alteration, enlargement, extension, razing, or moving of any building or structure or any portion thereof without first having applied in writing to the Building

Official for a Building Permit to do so and a Building Permit has been granted therefore. Primary responsibility for securing the necessary permits shall be the property owner's. However, if the property owner should contract part or all of the proposed work, it shall become the responsibility of the person or firm hired to ensure that all required permits and approvals

have been secured prior to any work being initiated.

- B. Blank forms shall be provided by the Building Official for the use of those applying for permits as provided in this Chapter. Any permits issued by the Building Official shall be on standard forms for such purpose and furnished by the Board of Trustees. There shall be a separate permit for each building or structure to be constructed, altered, or erected except for accessory buildings which may be included in the permit for the principal building when construction is simultaneous.
- C. Any Building Permit under which no construction work has commenced within six (6) months after the date of issuance of said permit shall expire by limitation. Any Building Permit issued shall become invalid if the authorized work is not completed within nine (9) months after issuance of permit. This applies to all new construction and any improvements on existing structures. After the period of nine (9) months has passed and the initial permit has been voided, the applicant must reapply and fees will again be collected. Approved display homes shall be excluded from this time requirement. The Building Official shall have the authority to grant a time extension for permits if, in his opinion, extenuating circumstances have led to justifiable delays.

#### **SECTION 400.645: VOIDING OF BUILDING PERMIT**

A permit may be revoked by the Building Official at any time prior to the completion of the building or structure for which the same was issued, when it shall appear to him/her that there is departure from the plans, specifications, or conditions as required under terms of the permit, that the same was procured by false representation, or that any provisions of this Chapter are being violated. Written notice of such revocation shall be served upon the owner, his/her agent, or contractor, or upon any person employed on the building or structure for which such permit was issued, via a stop-work order, which shall be posted in a prominent location, and thereafter no such construction shall proceed.

#### **SECTION 400.650: SCHEDULE OF FEES, COSTS, AND EXPENSES**

- A. The Board of Trustees shall establish a *Schedule of Fees, Costs, and Expenses* for all matters pertaining to the *Zoning Code*. The *Schedule of Fees, Costs, and Expenses* shall be established as Appendix. The *Schedule of Fees, Costs, and Expenses* shall be filed with the Village Clerk and posted in the **Village Hall**. The *Schedule of Fees, Costs, and Expenses* shall only be amended by the Board of Trustees and shall not require a recommendation from the Planning and Zoning Commission.
- 1) No final action shall be taken on any *Permit, Site Plan, Planned Unit Development Final Plan, Variance Request, or Appeal of an Administrative Decision* that requires a straight application fee until said fee has been paid in full.
  - 2) *Zoning Land use Classification Amendments, Planned Development Area Plans, Planned Development Final Plans, Mixed-Use Traditional Development Land use Area Plans, Mixed-Use Traditional Development Land use Final Plans, and Conditional Use Permits* which



require that the applicant pay: 1) an initial application fee, 2) the cost for the Legal Notice advertising the Public Hearings, and 3) the cost for the notification of adjacent property owners must pay the initial application fee before final action shall be taken. If the application is tabled by either the Planning and Zoning Commission or Board of Trustees at the request of the applicant or for failure of the applicant and/or their authorized or designated representative(s) to attend the meeting, the applicant will be responsible for the cost of re-advertising the Public Hearing(s) and there-notification of the adjacent property owners. The applicant will subsequently be billed for the cost of the Legal Notice(s) advertising the Public Hearings and the cost for the notification of adjacent property owners. Failure to pay for these costs within thirty (30) days of being billed by

the Village will result in the issuance of a Summons by the Code Enforcement Division.

#### **SECTION 400.655: VIOLATIONS AND PENALTIES**

- A. Uses of land, and dwellings, buildings or structures, including tents and mobile homes, erected, altered, razed, or converted contrary to any provision of this Chapter are hereby declared to be a violation. Any person, firm or corporation making an alteration to real property within the Village limits of Village, Missouri, including but not limited to driveways, fences, additions to homes and businesses, and any building activity regulated by Village ordinance or Code, who fails to obtain the proper permits prior to commencing construction shall be in violation of this Chapter.
- B. Anyone violating any of the provisions of this Chapter shall upon conviction thereof be subject to a fine of not more than one hundred dollars (\$100.00), or up to (90 hours) of community service or both. Each day that a violation continues shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Chapter.

#### **SECTION 400.660: COMPLIANCE WITH PERMITS AND CERTIFICATES**

Building Permits or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Chapter, and punishable as provided by Section 400.645, herein.

### **ARTICLE XVI: AMENDMENT PROCEDURE**

#### **SECTION 400.665: ZONING LAND USE AMENDMENTS AND TEXT AMENDMENTS**

- A. Text Amendments: A proposed amendment to the written text of the Village's *Zoning Code*, *Subdivision and Land Development Code*, *Signage Regulations*, or *Flood Hazard Prevention Requirements* shall be submitted for consideration by the Planning and Zoning Commission and Board of Trustees. Said proposed text amendment shall only be submitted by the Board of Trustees, any member of the Planning and Zoning Commission, or other appointed Official of the Village. A text amendment proposed by any citizen, organization, or other governmental body must be sponsored by the Board Chair or a member of the Board of Trustees. Said proposed text amendment shall not require the filing of an application per the requirements of Section

400.670 of this Article, but shall be prepared in a format that identifies the proposed new text to be added or amended and/or the proposed text to be deleted. Said proposed text amendment shall be subject to a Public Hearing before both the Planning and Zoning Commission and Board of Trustees. The Legal Notice advertising the Public Hearings shall be in accordance with the requirements of Section 400.685(A) of this Article.

- B. *Zoning Land use Classification Amendments (Zonings and Rezonings)*: An application for an amendment, revision, or change in the *Zoning Land use Classification* on the Village's *Official Zoning Map* may be filed in the Community Development Department for consideration by the Planning and Zoning Commission and Board of Trustees. Said application may be filed by the owner(s) or their authorized or designated representative(s) of the property proposed to be *Zoned/Rezoned*. For Village initiated *Zonings/Rezonings*, said application may be filed by the Board, and any member of the Planning and Zoning Commission, or other appointed Official of the Village. All proposed *Zoning Land use Classification* amendments shall be referred to the Planning and Zoning Commission for review and recommendation to the Board of Trustees. All proposed *Zoning Land use Classification* amendments, including Village initiated *Zonings/ Rezonings*, shall be subject to the *Public Hearing Notification and Sign Posting Requirements* established in Section 400.685 of this Article.
- C. *The Zoning of Newly Annexed Territories*: All new territories that are not *Zoned* to one (1) or more of the Village's existing *Zoning Land use Classifications* concurrent with their annexation into the Village shall retain their County *Zoning Land use Classification* until such time as the new territory is *Zoned* to one (1) or more of the Village's existing *Zoning Land use Classifications* per the requirements of this Article.
- D. *Protest of a Zoning Land use Classification Amendment*: In case a protest against a proposed *Zoning Land use Classification* amendment is presented, duly signed, notarized and acknowledged by the owners of more than thirty percent (30%) of the areas of the land (exclusive of streets and alleys) included in said *Zoning Land use Classification* amendment, or thirty percent (30%) of the owners within an area determined by lines drawn parallel to and one hundred eighty-five (185) feet distant from the boundaries of the proposed *Zoning Land use Classification* to be amended, said amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all of the members of the Board of Trustees.
- E. *Fees*: The owner(s) or their authorized or designated representative(s) of a property proposed to be *Zoned/Rezoned* per the requirements of this Article shall pay the fees, costs, and expenses established in *Appendix B- Schedule of Fees, Costs, and Expenses*, no part of which shall be refundable to the petitioner(s).
- F. *Effect of the Denial of a Zoning/Rezoning*: No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Director of Planning and Engineering.

## **SECTION 400.670: INFORMATION REQUIRED IN AMENDMENT PROCEDURE**

The petitioner shall submit a detailed description of the property to the Planning Department. When the petition involves a change in the Zoning Map, the petitioner shall submit the following information.

1. A legal description of the property.
2. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
3. The name and address of the petitioner.
4. The petitioner's interest in the property, and if the petitioner is not the owner, the name and address of the owner(s).
5. Date of filing with the Village Clerk.
6. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
7. The present and proposed zoning.

#### **SECTION 400.675: PROCESSING PROCEDURES FOR ZONING AMENDMENTS**

The review and determination procedures on an application for a zoning amendment shall be as follows:

1. Application Submitted to Board.
2. Planning and Zoning Commissioner:

Public Hearing No. 1  
Recommendation for approval or disapproval

3. Village Board:

Public Hearing No. 2  
First Regular meeting - approval or disapproval  
Second Regular meeting - zoning change if approved or denied

#### **SECTION 400.680: FINDINGS OF FACT REQUIRED**

A. In reviewing any petition for a Zoning Amendment, the Planning and Zoning Commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the Board. The facts to be considered by the Commission shall include but not be limited to, the following:

1. Whether or not the requested zoning change is justified by a change in conditions since the original ordinance was adopted or be an error in the original ordinance.
2. The precedents, and the possible affects of such precedents, which might likely result from approval or denial of the petition.

3. The ability of the Village or other Government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
  4. Effect of approval of the petition on the condition and/or value of property in the Village or in adjacent civil divisions.
  5. Effect of approval of the petition on adopted development policies of the Village and other Government units.
  6. The zoning and land use recommended by the Comprehensive Development Plan.
- B. All findings of fact shall be made a part of the public records of the meetings of the Commission and the Board. A petition shall not be approved unless these and other identified facts be affirmatively resolved in terms of the general health, safety, welfare, comfort, and convenience of the citizens of the Village.

#### **SECTION 400.685: PUBLIC HEARING NOTIFICATION AND SIGN POSTING REQUIREMENTS**

- A . Legal Notice Advertising the Public Hearing(s): Proposed Zoning Land use Classification Amendments (Zonings/Rezoning), Revised Planned Unit Development Area Plan applications, Planned Development Area Plan applications, Planned Development Final Plan applications, Mixed-Use Traditional Development Land use Area Plan applications, Mixed-Use Traditional Development Land use Final Plan applications, Conditional Use Permit applications, and amendments to the written text of the Village's Zoning Code, Subdivision and Land Development Code, Signage Regulations, and Flood Hazard Prevention Requirements will be subject to Public Hearings before both the Planning and Zoning Commission and Board of Trustees. Preliminary Plat applications will be subject to a Public Hearing before the Planning and Zoning Commission. The Board or a designee will prepare the Legal Notice advertising the Public Hearing(s). The Legal Notice shall be placed at least fifteen (15) days prior to the date of the Public Hearing before the Planning and Zoning Commission in a newspaper of general circulation throughout the Village. The Legal Notice shall contain the date, time, place, and nature of the Public Hearing(s). The Public Hearing before the Board of Trustees (not applicable for Preliminary Plat applications) will be scheduled for the next regularly scheduled meeting of the Board of Trustees following the initial Public Hearing before the Planning and Zoning Commission.
- B . Notification of Adjacent Property Owners: The Village will be responsible for researching and notifying by mail, all property owners of the Public Hearing(s) whose property limits are within an area determined by lines drawn parallel to and within a distance of three-hundred (300) feet from the site of proposed Zoning Land use Classification Amendments (Zonings/Rezoning), Revised Planned Unit Development Area Plan applications, Planned Development Area Plan applications, Planned Development Final Plan applications, Mixed- Use Traditional Development Land use Area Plan applications, Mixed-Use Traditional Development Land use Final Plan applications, Conditional Use Permit applications, and Preliminary Plat applications. Notices shall be postmarked at least fifteen (15) days prior to the Public Hearing before the Planning and Zoning Commission.

C . Sign Posting Requirements: Upon filing an application requesting a Zoning Land use Classification Amendments (Zonings/Rezoning), approval of a Revised Planned Unit Development Area Plan, approval of a Planned Development Area Plan, approval of a Planned Development Final Plan, approval of a Mixed-Use Traditional Development Land use Area Plan, approval of a Mixed-Use Traditional Development Land use Final Plan, approval of a Conditional Use Permit, or approval of a Preliminary Plat, the petitioner shall, within seven (7) days of the application filing deadline (5:00 P.M. the following Friday), post a sign(s) upon the subject property advertising the Public Hearings before the Planning and Zoning Commission and Board of Trustees (NOTE: Preliminary Plats only require a Public Hearing before the Planning and Zoning Commission). It shall be the responsibility of the petitioner to make, buy, or rent the sign(s) and to post the same. The Village will be responsible for posting sign(s) for Village initiated Zoning Land use Classification Amendments per the requirements of this Section. Signs posted under the requirements of this Section are exempt from the Signage Regulations contained within Chapter 410 (Signage Regulations) of the Municipal Code. The required sign(s) shall be designed, placed, and removed in accordance with the following requirements:

1) Sign Specifications: The required sign(s) shall be a minimum of twenty-four (24) square feet in size. The sign(s) shall be constructed of medium density overlay (MOO) board, laminated plywood, or any other wood material that is completely covered or encased in a durable material. The sign(s) shall have a white background with black lettering in bold print. The sign heading shall read "Public Hearing Notice" in a minimum of six (6) inch lettering followed by the "requested action" in a minimum of four (4) inch lettering. The remainder of the lettering shall be a minimum of two (2) inches in height. To insure clarity and readability, all sign lettering shall be mechanically printed in a standard recognizable type face (hand lettering is prohibited). In addition to the "Public Hearing Notice" heading, the sign(s) shall contain the following information:

(1) The requested action (Zoning Land use Classification Amendment, Revised Planned Unit Development Area Plan approval, Planned Development Area Plan approval, Planned Development Final Plan approval, Mixed-Use Traditional Development Land use Area Plan approval, Mixed-Use Traditional Development Land use Final Plan approval, Preliminary Plat approval, or Conditional Use Permit approval).

(2) Date, time, and location of the Public Hearings before the Planning and Zoning Commission and the Board of Trustees (NOTE: Preliminary Plats only require a Public Hearing before the Planning and Zoning Commission).

(3) Project name. (4) Existing Zoning.

(5) Proposed Zoning/Rezoning (if applicable). (6) Acreage of the site.

(7) Ward number.

(8) Contact name and phone number of the applicant.

(9) The following statement: "For possible updated information regarding the date, time and location of the Public Hearings or for further details on the requested action, please contact the Village of Pendleton Board or a designee at 636-379-5544."

2) Required Number of Signs: One (1) sign shall be placed along each street that abuts the subject site. However, the Director of Planning and Engineering shall have the discretion of

waiving the requirements for sign placement along multiple street frontages if he/she determines that sign placement along the most heavily traveled street frontage(s) will suffice. If the subject site has more than three hundred (300) feet of frontage along any street, the Director of Planning and Engineering shall have the discretion of requiring the placement of additional signs. If the subject site does not abut a street, the sign(s) shall be placed on each side of any contiguous land owned by the petitioner or owner(s) of the subject site which does abut a street. If no such contiguous property is owned by the applicant or owner(s) of the subject site, the sign(s) shall be placed in such location(s) as deemed appropriate by the Director of Planning and Engineering to best inform the general public of the Public Hearing(s). If the Director of Planning and Engineering determines that there is no location where a sign could be placed that would be visible to the general public, the Director shall have the discretion of waiving the sign posting requirements.

- 3) Sign Placement: The required sign(s) shall be posted in a conspicuous location unobstructed to view from the street, and shall be placed no closer than ten (10) feet from any right-of-way line and/or property line and no further than fifteen (15) feet back from the right-of-way line and/or property line. The required sign(s) shall not be erected in the street right-of-way or in a manner that would obstruct the vision of motorists or pedestrians per the Sight Triangle requirements of Section 400.260(F) of the Zoning Code. Unless otherwise approved by the Director of Planning and Engineering, all signs shall be freestanding and the bottom edge shall be a minimum of four (4) feet from the ground.
- 4) Verification of Sign Posting: The petitioner shall post the required sign(s) within seven (7) days of the application filing deadline (5:00P.M. the following Friday). Staff of the Board or a designee will verify that the required sign(s) have been posted in accordance with the requirements of this Article by this deadline. If the petitioner fails to post the required sign(s) per the requirements of this Article by this deadline, the application will not be placed on the originally requested agenda of the Planning and Zoning Commission, and a letter will be sent to the petitioner which outlines the reasons for the postponement of the requested action and which also provides a schedule of upcoming meetings and the corresponding sign posting deadlines.
- 5) Sign Removal: The required sign(s) shall remain posted until final action is taken on the proposed *Zoning Land use Classification Amendment, Revised Planned Unit Development Area Plan, Planned Development Area Plan, Planned Development Final Plan, Mixed- Use Traditional Development Land use Area Plan, Mixed-Use Traditional Development Land use Final Plan, Preliminary Plat, or Conditional Use Permit*. The applicant shall remove all signs within seven (7) days of final action.

## **ARTICLE XVII: BOARD OF ADJUSTMENT**

### **SECTION 400.690: ESTABLISHMENT**

- A. A Board of Adjustment is hereby established in accordance with Chapter 89, RSMo., regarding the Zoning of Cities.
- B. The Board of Adjustment as established herein is hereby designated and appointed to serve as and perform all the duties and responsibilities of the Board of Appeals as established in "The BOCA Basic Building Code" as adopted by the Village of Pendleton.

### **SECTION 400.695: MEMBERSHIP**

The Board of Adjustment shall consist of five (5) regular members who shall be residents of the Village. The membership of the first Board of Adjustment appointed shall serve respectively: one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years. Thereafter, members shall be appointed for terms of five (5) years each. Three (3) alternate members may be appointed to serve in the absence of or the disqualification of the regular members. The alternate members shall only vote when a regular member is unable to vote on any matter before the Board, or when one (1) or more regular members are absent from a meeting. All regular members and alternate members shall be appointed by the Board Chair with the approval of the Board of Trustees. All regular members and alternate members shall be removable for cause by the Board of Trustees upon written charges and after a Public Hearing. Vacancies shall be filled for the unexpired term of any regular member or alternate member whose term becomes vacant. The regular members and alternate members of the Board of Adjustment shall elect its own Chairman who shall serve for one (1) year, except that said Chairman may not be elected from among the alternate members.

#### **SECTION 400.700: MEETING AND VOTING**

The Board of Adjustment shall adopt rules in accordance with the provisions of this Code. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. Such Chairman, or, in his/her absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment, and shall be public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the Board of Adjustment for that purpose.

#### **SECTION 400.705: POWERS AND DUTIES**

The Board of Adjustment shall have the following powers and duties.

1. *Variances.* To authorize in specific cases a variance from the specific terms of these Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such land use.
- a. The applicant must show that this property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date (June, 2007) of the land use zoning regulations, or where by reason of exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the practical use of his/her property in the manner similar to that of other property in the zoning land use where it is located.

- b. A request for a variance may be granted, upon a finding of the Board of Adjustment that all of the following conditions have been met. The Board of Adjustment shall make a determination on each condition, and the finding shall be entered in the record.
  - (1) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or land use; and is not created by an action or actions of the property owner or applicant.
  - (2) The granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents.
  - (3) The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
  - (4) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
  - (5) The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- c. In granting a variance, the Board of Adjustment may impose such conditions, safeguards and restrictions upon the premises benefitted by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Regulations.
2. *Other matters.* To hear and decide all matters referred to it or upon which it is required to pass under this Chapter.
3. *Conditions of determination.* In exercising the foregoing powers such Board of Adjustment may, in conformity with the provisions of this Chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination as ought to be made, and to that end shall have all the powers of the Officer from whom the appeal is taken. In considering all appeals under this Chapter, the Board of Adjustment shall before making any findings in a specific case, first determine that the proposed change will not constitute a change in the Land Use Map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the Village of Pendleton, Missouri. Every change granted or denied by the Board of Adjustment shall be accompanied by a written finding of fact specifying the reason for granting or denying the variation and said written report shall be filed in the office of the Board within ten (10) days after the date of the action of the Board of Adjustment.
4. A concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in this Code.
5. The Board of Adjustment as established in this Article, is hereby appointed, designated, and empowered to hear and decide all appeals where it is alleged there is an error in any order, requirement, decision, or determination of the Code Enforcement Officer, Planning and Zoning Commissioner, or Director of Planning and to authorize in specific cases a variance from the



specific terms of Chapter 405 "Subdivision and Land Development," Chapter 410 "Sign Code", Chapter 510 "Fences" and all other ordinances and regulations of the Village not specifically set forth herein.

#### **SECTION 400.710: APPLICATION FOR ZONING ADJUSTMENT**

A. *Procedure.* The procedure for requesting a hearing before the Board of Adjustment shall be as follows:

1. All applications to the Board of Adjustment shall be in writing on forms provided by the Board of Adjustment and filed with the Village.
2. An application shall be accompanied by a filing fee in an amount established by the Board of Trustees. A separate filing fee shall be required for each request.

B. *Additional Requirements.* In addition to the above requirements, certain applications require additional information as follows:

##### *Variances.*

1. The applicant shall submit a statement, in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five (5) conditions as set out in Section 400.705, (1,b) of this Article.
2. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board of Adjustment in consideration of the application shall be included.

#### **SECTION 400.715: PERFORMANCE**

- A. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the land use regulations, the Board of Adjustment shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property.
- B. The Board of Adjustment may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board of Adjustment, and shall be enforceable by or payable to the Board of Trustees in this sum equal to the cost of constructing the required improvements.
- C. In lieu of the performance bond requirement, the Board of Adjustment may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board of Adjustment may declare the granting of the application nil and void after reconsideration.

#### **SECTION 400.720: APPEAL OF BOARD OF ADJUSTMENT DECISION**

- A. Any person or persons, jointly or severally aggrieved by any decision of the Board of Adjustment, or any Officer, department or Board of the municipality, may present to the Circuit Court of the County a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board of Adjustment.
- B. Upon the presentation of such petition, the Court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board of Adjustment and on due cause shown, grant a restraining order.
- C. The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portion thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- D. If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with the findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- E. Costs shall not be allowed against the Board of Adjustment unless it shall appear to the Court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.
- F. All issues in any proceeding under this Section shall have preference over all other civil actions and proceedings.

#### **SECTION 400.722: EFFECT OF DENIAL OF AN APPLICATION BY THE BOARD OF ADJUSTMENT**

No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Director of Community Development.

### **ARTICLE XVIII: REGULATIONS FOR WIRELESS TELECOMMUNICATION FACILITIES**

#### **SECTION 400.800: PURPOSE**

In recognition of the requirements of the *Federal Telecommunications Act of 1996*, this Article is designed and intended to balance the interests of the residents of Village, the *Wireless Telecommunication Service* providers, and the *Wireless Telecommunication Service* customers in the siting of *Wireless Telecommunication Facilities* within the Village of Pendleton while ensuring that this objective is achieved in a manner that preserves the aesthetic character of the Village

and is accomplished without posing a hazard to the health, safety, and public welfare of the residents of the Village and adjacent communities.

## SECTION 400.810: DEFINITIONS

The following Definitions shall apply in the interpretation and enforcement of this Article:

- Collocation: The act of installing an additional *Wireless Telecommunication Antenna* on an existing *Wireless Telecommunication Support Structure* that has one (1) or more existing *Wireless Telecommunication Antennas*.
- Disguised Telecommunication Facility: A *Wireless Telecommunication Facility* whereby the *Wireless Telecommunication Antennas* are completely disguised within or appear as a common architectural feature of a building or structure. *Disguised Telecommunication Facilities* include, but are not limited to, clock towers, bell towers, church steeples, chimneys, and rooftop religious symbols whereby the *Wireless Telecommunication Antennas* are completely internal and completely concealed from view to a casual observer.
- Fall Line: One (1) foot of setback for each foot of height of a *Wireless Telecommunication Support Structure* plus ten (10) feet.
- Guved Telecommunication Tower: A *Wireless Telecommunication Support Structure* that is not self-supporting, and is instead supported by guy wires and ground anchors, and is used to support one (1) or more externally-visible *Wireless Telecommunication Antennas*.
- Lattice Telecommunication Tower: A self-supporting *Wireless Telecommunication Support Structure* constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top, and is used to support one (1) or more externally-visible *Wireless Telecommunication Antennas*.
- Monopole Telecommunication Tower: A self-supporting, pole-type *Wireless Telecommunication Support Structure* used to support one (1) or more externally-visible *Wireless Telecommunication Antennas*. NOTE: A *Monopole Telecommunication Tower* whereby the *Wireless Telecommunication Antennas* are completely internal and completely concealed from view is considered a *Stealth Telecommunication Tower*.
- Mounted Antenna Telecommunication Facility: A *Wireless Telecommunication Facility* whereby the *Wireless Telecommunication Antennas* are externally attached to an existing structure. *Mounted Antenna Telecommunication Facilities* include, but are not limited to, water towers, clock towers, chimneys, smoke stacks, building parapets, building facades, building rooftops, bell towers, church steeples, billboards, sign structures, and observation towers whereby the *Wireless Telecommunication Antennas* are external to the structure, but are camouflaged, screened, painted, or otherwise obscured so as not to be easily identifiable to a casual observer.
- Stealth Telecommunication Tower: A self-supporting *Wireless Telecommunication Support Structure* that has the false appearance of a man-made or natural feature whereby the

*Wireless Telecommunication Antennas* are completely internal and completely concealed from view. *Stealth Telecommunication Towers* include, but are not limited to, poles, artificial trees, flagpoles, and light poles.

- *Wireless Telecommunication Antenna*: The physical device through which electromagnetic, wireless telecommunication signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators and satellite dish receiving antennas permitted under Section 500.420 of the *Municipal Code* are excluded from this definition.
- *Wireless Telecommunication Equipment Shelter or Cabinet*: The structure or cabinet in which the electronic receiving and relay equipment, and all related equipment such as cabling, backup generators, batteries, etc., for *Wireless Telecommunication Service* is housed.
- *Wireless Telecommunication Facility*: Any structure, facility, or location established for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal telecommunications service, and paging service. A *Wireless Telecommunication Facility* may include, but is not limited to, the *Wireless Telecommunication Support Structure*, the *Wireless Telecommunication Antenna*, the *Wireless Telecommunication Equipment Shelter or Cabinet*, and all related equipment such as cabling, backup generators, batteries, etc.
- *Wireless Telecommunication Service*: The transmission and reception of audio, video, data, and other information by radio frequency, electromagnetic waves, light, or other non-wired electronic or electromagnetic systems.
- *Wireless Telecommunication Support Structure*: A structure primarily designed to support *Wireless Telecommunication Antennas*, including, but not limited to, *Stealth Telecommunication Towers*, *Monopole Telecommunication Towers*, *Lattice Telecommunication Towers*, and *Guyed Telecommunication Towers*. NOTE: Speculative *Wireless Telecommunication Support Structures*, whereby there is not at least one (1) *Wireless Telecommunication Service* provider identified for the proposed structure at the time of application for the *Conditional Use Permit* and *Site Plan*, shall be prohibited.

## **SECTION 400.820: REVIEW PROCESS FOR WIRELESS TELECOMMUNICATIONS FACILITIES**

- A. *Proposed Wireless Telecommunication Facilities Requiring a Conditional Use Permit and Site Plan Review Approval*: Applicants for a *Wireless Telecommunication Facility* that include a proposed new or enlarged *Wireless Telecommunication Support Structure* shall require a *Conditional Use Permit* and *Site Plan Review* approval. A proposed *Wireless Telecommunication Facility* that includes a new *Wireless Telecommunication Support Structure* that is within a one (1) mile radius of any existing *Wireless Telecommunication Support Structure(s)* (regardless of political jurisdiction) shall only be *Conditionally Permitted* if the applicant demonstrates to the satisfaction of the Planning and Zoning Commission and Village Board that: 1) none of the existing *Wireless Telecommunication Support Structure(s)* within the one (1) mile radius of the proposed site are suitable for the *Collocation* of the

applicant's proposed *Wireless Telecommunication Antenna(s)*, and 2) no existing buildings or structures within a one (1) mile radius of the proposed site are suitable for installation of either

a *Disguised Telecommunication Facility* or a *Mounted Antenna Telecommunication Facility*.

In making the determination if a proposed new *Wireless Telecommunication Support Structure* that is within a one (1) mile radius of an existing *Wireless Telecommunication Support Structure* shall be *Conditionally Permitted*, the following criteria shall be evaluated by the Planning and Zoning Commission and Board of Trustees:

- 1) The existing *Wireless Telecommunication Support Structure(s)* already contain the maximum number of *Wireless Telecommunication Antennas* for which they were designed.
- 2) The existing *Wireless Telecommunication Support Structure(s)* are not of sufficient height to meet the applicant's engineering requirements.
- 3) The existing *Wireless Telecommunication Support Structure(s)* are not of sufficient structural strength to support the applicant's proposed *Wireless Telecommunication Antenna(s)*.
- 4) The applicant's proposed *Wireless Telecommunication Antenna(s)* would cause interference with the existing *Wireless Telecommunication Antenna(s)* on the existing *Wireless Telecommunication Support Structure(s)* or vice versa.
- 5) The installation of the applicant's proposed *Wireless Telecommunication Antenna(s)* on the existing *Wireless Telecommunication Support Structure(s)* would be more visually obtrusive than the construction of the applicant's proposed new *Wireless Telecommunication Support Structure*.
- 6) In order to share an existing *Wireless Telecommunication Support Structure(s)*, the fees, costs, or contractual provisions required by the owner of the existing *Wireless Telecommunication Support Structure(s)* would be in excess of one-hundred twenty-five percent (125%) of the cost of construction of the applicant's proposed new *Wireless Telecommunication Support Structure*.
- 7) The applicant demonstrates that other factors than those listed above render the *Collocation* of new *Wireless Telecommunication Antenna(s)* on an existing *Wireless Telecommunication Support Structure(s)* to be unsuitable.
- 8) The applicant demonstrates to the satisfaction of the Planning and Zoning Commission and Board of Trustees that no existing buildings or structures exist within a one (1) mile radius of the site for the installation of either a *Disguised Telecommunication Facility* or a *Mounted Antenna Telecommunication Facility*.
- 9) It is the responsibility of the applicant proposing a new *Wireless Telecommunication Facility* that includes a new *Wireless Telecommunication Support Structure* to submit to the Village signed affidavits that they have contacted and negotiated in good faith with the owners of all existing *Wireless Telecommunication Support Structures* within a one (1) mile radius of the site (regardless of political jurisdiction) for the *Collocation* of their proposed *Wireless Telecommunication Antenna(s)* on the existing *Wireless Telecommunication Support Structure(s)*. Said affidavits shall include the exact reasons why *Collocation* has been determined to be unsuitable.

- B . Proposed Wireless Telecommunication Facilities Requiring Site Plan Review Approval: Applicants for: 1) the proposed *Collocation of a Wireless Telecommunication Antenna* on an existing *Wireless Telecommunication Support Structure*, 2) a *Disguised Telecommunication Facility*, and 3) a *Mounted Antenna Telecommunication Facility*, shall require *Site Plan Review* approval. Because the above-mentioned types of proposed *Wireless Telecommunication Facilities* do not require the construction of a new *Wireless Telecommunication Support Structure*, they shall not require a *Conditional Use Permit* and shall not be limited to one (1) such facility within a one (1) mile radius of other *Wireless Telecommunication Facilities*.

#### **SECTION 400.830: WIRELESS TELECOMMUNICATION FACILITIES IN RESIDENTIAL ZONING LAND USES**

A . *Conditionally Permitted Wireless Telecommunication Facilities:*

- 1) Within the Village's residential *Zoning Land uses* (R-1), *Stealth Telecommunication Towers* shall be *Conditionally Permitted* at any non- residential site that has a residential *Zoning Land use Classification* (such as religious institutions, schools, fire stations, libraries, utility sub-stations, cemeteries, parks, golf courses, etc.). *Stealth Telecommunication Towers* shall not exceed seventy-five (75) feet in height and all *Wireless Telecommunication Antennas* must be internal and completely concealed from view. *Stealth Telecommunication Towers* must conform to the established building setbacks for the *Zoning Land use* in which it is situated and shall be set back a minimum distance equal to the *Fall Line* from the property line of any residentially *Zoned* property or property used for residential purposes.
- 2) Within the Village's residential *Zoning Land uses* (R-1, R-1B) and the residential areas within the Village's *Mixed-Use Traditional Development Land use* (MUTDD), *Stealth Telecommunication Towers* shall be *Conditionally Permitted* within the Common Ground of a residential subdivision with approval of the subdivision's Homeowner's Association. The residential subdivision's Homeowner's Association must be under the complete control of the residents of the subdivision (Homeowner's Associations under full or partial control of developers and/or home builders are not eligible). *Stealth Telecommunication Towers* shall not exceed seventy-five (75) feet in height and all *Wireless Telecommunication Antennas* must be internal and completely concealed from view. *Stealth Telecommunication Towers* within the Common Ground of a residential subdivision shall be set back a minimum distance equal to the *Fall Line* from any residential structure, and from such uses as pools, picnic pavilions, sport courts, sport fields, playgrounds, etc.

- 8 . Permitted Wireless Telecommunication Facilities: Within the Village's residential *Zoning Land uses* (R-1, R-1B), the following types of proposed *Wireless Telecommunication Facilities* shall require *Site Plan Review* approval and shall meet the following requirements:

- 1) Collocation of a Wireless Telecommunication Antenna: The *Collocation* of a proposed new *Wireless Telecommunication Antenna* on an existing *Telecommunication Support Structure* shall be permitted if the existing *Telecommunication Support Structure* is not proposed to be increased in height.
- 2) Disguised Telecommunication Facilities: *Disguised Telecommunication Facilities* shall be permitted on any non-residential structure that is within a residential *Zoning Land use* (such as religious institutions, schools, fire stations, libraries, utility sub-stations, etc.). All *Wireless Telecommunication Antennas*, electronic receiving and relay equipment, and related

equipment such as cabling, backup generators, batteries, etc. must be completely internal and completely concealed from view to a casual observer.

- 3) *Mounted Antenna Telecommunication Facilities:* *Mounted Antenna Telecommunication Facilities* shall be permitted on any non-residential structure that is within a residential *Zoning Land use* (such as a water towers, billboards, religious institutions, schools, fire stations, libraries, utility sub-stations, etc.). *Wireless Telecommunication Antennas* shall not extend greater than five (5) feet beyond the edge of the structure to which it is attached. The *Wireless Telecommunication Antennas* shall be camouflaged, screened, painted to match the existing structure, or otherwise obscured so as not to be easily identifiable to a casual observer.

#### **SECTION 400.840: WIRELESS TELECOMMUNICATION FACILITIES IN COMMERCIAL, MIXED-USE, AGRICULTURAL**

- A. *Conditionally Permitted Wireless Telecommunication Facilities:* Within the Village's commercial *Zoning Land uses* (C-1, C-2), the *Agricultural Zoning Land use* (AG), and non-residential sites within the Village's *Mixed-Use Traditional Development Land use* (MUTDD), *Stealth Telecommunication Towers* and *Monopole Telecommunication Towers* shall be *Conditionally Permitted* and shall *meet* the following requirements:
  - 1) *Stealth Telecommunication Towers:* *Stealth Telecommunication Towers* shall not exceed one hundred twenty-five (125) feet in height and all *Wireless Telecommunication Antennas* must be internal and completely concealed from view. *Stealth Telecommunication Towers* must conform to the established building setbacks for the *Zoning Land use* in which it is situated and shall be set back a minimum distance equal to the *Fall Line* from the property line of any residentially *Zoned* property or property used for residential purposes.
  - 2) *Monopole Telecommunication Towers:* *Monopole Telecommunication Towers* with externally-visible *Wireless Telecommunication Antennas* shall not exceed one hundred twenty-five (125) feet in height. *Monopole Telecommunication Towers* must conform to the established building setbacks for the *Zoning Land use* in which it is situated and shall be set back a minimum distance equal to the *Fall Line* from the property line of any residentially *Zoned* property or property used for residential purposes.
- B. *Permitted Wireless Telecommunication Facilities:* Within the Village's commercial *Zoning Land uses* (C-O, C-1, C-2, C-3, and SC-1), the *High-Tech Corridor Land use* (HTCD), the *Agricultural Zoning Land use* (AG), the *Parks-Recreation Zoning Land use* (P-R), and the non-residential sites within the Village's *Mixed-Use Traditional Development Land use* (MUTDD), the following types of proposed *Wireless Telecommunication Facilities* shall require *Site Plan Review* approval and shall meet the following requirements:
  - 1) *Collocation of a Wireless Telecommunication Antenna:* The *Collocation* of a proposed new *Wireless Telecommunication Antenna* on an existing *Telecommunication Support Structure* shall be permitted if the existing *Telecommunication Support Structure* is not proposed to be increased in height.
  - 2) *Disguised Telecommunication Facilities:* *Disguised Telecommunication Facilities* shall be permitted on any non-residential structure that is within the Village's commercial *Zoning Land uses* (C-1, C-2), the *Agricultural Zoning Land use* (AG), and the non-residential sites within the Village's *Mixed-Use Traditional Development Land use* (MUTDD). All *Wireless Telecommunication Antennas*, electronic receiving and relay equipment, and related

equipment such as cabling, backup generators, batteries, etc. must be completely internal and completely concealed from view to a casual observer.

- 3) *Mounted Antenna Telecommunication Facilities:* *Mounted Antenna Telecommunication Facilities* shall be permitted on any non-residential structure that is within the Village's commercial *Zoning Land uses* (C-1, C-2,), the *Agricultural Zoning Land use* (AG), and the non-residential sites within the Village's *Mixed-Use Traditional Development Land use* (MUTDD). *Wireless Telecommunication Antennas* shall not extend greater than five (5) feet beyond the edge of the structure to which it is attached. The

*Wireless Telecommunication Antennas* shall be camouflaged, screened, painted to match the existing structure, or otherwise obscured so as not to be easily identifiable to a casual observer.

#### **SECTION 400.850: WIRELESS TELECOMMUNICATION FACILITIES IN INDUSTRIAL ZONING LAND USES**

- A. *Conditionally Permitted Wireless Telecommunication Facilities:* Within the Village's industrial *Zoning Land uses* (1-1 and 1-2), *Stealth Telecommunication Towers*, *Monopole Telecommunication Towers*, *Guyed Telecommunication Towers*, and *Lattice Telecommunication Towers* shall be *Conditionally Permitted* and shall meet the following requirements:

- 1) *Stealth Telecommunication Towers:* *Stealth Telecommunication Towers* shall not exceed one hundred fifty (150) feet in height and all *Wireless Telecommunication Antennas* must be internal and completely concealed from view. *Stealth Telecommunication Towers* must conform to the established building setbacks for the *Zoning Land use* in which it is situated and shall be set back a minimum distance equal to the *Fall Line* from the property line of any residentially *Zoned* property or property used for residential purposes.
  - 2) *Monopole Telecommunication Towers:* *Monopole Telecommunication Towers* with externally-visible *Wireless Telecommunication Antennas* shall not exceed one hundred fifty (150) feet in height. *Monopole Telecommunication Towers* must conform to the established building setbacks for the *Zoning Land use* in which it is situated and shall be set back a minimum distance equal to the *Fall Line* from the property line of any residentially *Zoned* property or property used for residential purposes.
  - 3) *Guyed Telecommunication Towers and Lattice Telecommunication Towers:* *Guyed Telecommunication Towers* and *Lattice Telecommunication Towers* with externally-visible *Wireless Telecommunication Antennas* shall not exceed one hundred fifty (150) feet in height. *Guyed Telecommunication Towers* (including the guy wires and ground anchors) and *Lattice Telecommunication Towers* must conform to the established building setbacks for the *Zoning Land use* in which it is situated and shall be set back a minimum distance equal to the *Fall Line* from the property line of any residentially *Zoned* property or property used for residential purposes.
- B. *Permitted Wireless Telecommunication Facilities:* Within the Village's industrial *Zoning Land uses* (1-1 and 1-2), the following types of proposed *Wireless Telecommunication Facilities* shall require *Site Plan Review* approval and shall meet the following requirements:
- 1) *Collocation of a Wireless Telecommunication Antenna:* The *Collocation* of a proposed new *Wireless Telecommunication Antenna* on an existing *Telecommunication Support Structure*



shall be permitted if the existing *Telecommunication Support Structure* is not proposed to be increased in height.

- 2) *Disguised Telecommunication Facilities:* *Disguised Telecommunication Facilities* shall be permitted on any non-residential structure that is within the Village's industrial *Zoning Land uses* (1-1 and 1-2). All *Wireless Telecommunication Antennas*, electronic receiving and relay equipment, and related equipment such as cabling, backup generators, batteries, etc. must be completely internal and completely concealed from view to a casual observer.

3) *Mounted Antenna Telecommunication Facilities:* *Mounted Antenna Telecommunication Facilities* shall be permitted on any non-residential structure that is within the Village's industrial *Zoning Land uses* (1-1 and 1-2). *Wireless Telecommunication Antennas* shall not extend greater than five (5) feet beyond the edge of the structure to which it is attached. The *Wireless Telecommunication Antennas* shall be camouflaged, screened, painted to match the existing structure, or otherwise obscured so as not to be easily identifiable to a casual observer.

#### **SECTION 400.860: REGULATIONS PERTAINING TO WIRELESS TELECOMMUNICATION FACILITIES**

The following regulations pertain to all new *Wireless Telecommunication Facilities* proposed to be located within the Village:

- A. *Right to Modify Regulations and/or Impose Additional Requirements and Conditions:* In granting *Site Plan* approval and/or a *Conditional Use Permit* for a proposed *Wireless Telecommunication Facility*, the Planning and Zoning Commission and/or Board of Trustees may impose any additional requirements or conditions deemed necessary to minimize any adverse effect of the proposed *Wireless Telecommunication Facility* on adjoining properties or the general health, safety, and welfare of the inhabitants of the Village and adjacent communities. In addition, in granting *Site Plan* approval and/or a *Conditional Use Permit* for a proposed *Wireless Telecommunication Facility*, the Planning and Zoning Commission and/or Board of Trustees may modify any of the requirements of this Article deemed to constitute an unnecessary hardship on the applicant without the need for a *Variance(s)* through the Village's Board of Adjustment if it is determined that it shall not adversely effect the general health, safety, and welfare of the inhabitants of the Village and adjacent communities. By allowing the Planning and Zoning Commission and/or Board of Trustees to modify any of the requirements of this Article deemed to constitute an unnecessary hardship on the applicant, this would no longer place the burden upon the Planning and Zoning Commission and/or Board of Trustees of having to decide whether a proposed *Wireless Telecommunication Facility* should be approved contingent upon receiving a *Variance(s)* through the Board of Adjustment. This would also no longer place the burden upon the Board of Adjustment of having to decide whether or not to grant the requested *Variance(s)* on a proposed *Wireless Telecommunication Facility* that they have limited familiarity with that was approved by the Planning and Zoning Commission and/or Board of Trustees contingent upon receiving the requested *Variance(s)*.
- B. *Wireless Telecommunication Facilities:* All new *Wireless Telecommunication Support Structures* over fifty (50) feet in height shall be designed to accommodate *Wireless Telecommunication Antennas* for at least one (1) additional user. The *Wireless Telecommunication Support Structure* shall be designed to accommodate the number of

additional users that is proportional to the type and height of said *Wireless Telecommunication Support Structure* as determined by the Planning and Zoning Commission and/or Board of Trustees at the time of the granting of the *Conditional Use Permit*.

- C. *Measurement of the Height and Distance Requirements for Wireless Telecommunication Support Structures:* The height of a *Wireless Telecommunication Support Structure* shall be measured from the existing grade of the base of the *Wireless Telecommunication Support Structure* to the top of the *Wireless Telecommunication Support Structure*, or, if higher, to the top of the highest *Wireless Telecommunication Antenna* mounted on said *Wireless Telecommunication Support Structure*. The distance of a *Wireless Telecommunication Support Structure* from another *Wireless Telecommunication Support Structure* shall be measured from the center of the bases of the *Wireless Telecommunication Support Structures*. The distance of a *Wireless Telecommunication Support Structure* from a residentially *Zoned* property or property used for residential purposes shall be measured from the center of the *Wireless Telecommunication Support Structure* to the property line of any residentially *Zoned* property or property used for residential purposes.
- D. *Design of Wireless Telecommunication Facilities:* *Wireless Telecommunication Facilities* shall be constructed of non-reflective materials and colors that match or blend with the surrounding natural or built environment to minimize visibility. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used. All *Wireless Telecommunication Facilities* shall be compatible in scale and integrated architecturally with the design of surrounding buildings and the surrounding natural or built environment. *Wireless Telecommunication Antennas* that are external shall be the smallest and least visible to accomplish the coverage objectives of the *Wireless Telecommunication Service* providers. *Wireless Telecommunication Antennas* that are external shall be camouflaged, screened, painted, or otherwise obscured so as not to be easily identifiable to a casual observer. *Rooftop Mounted Antenna Telecommunication Facilities* shall only be erected on buildings and structures with a flat roof and shall be set back from the edge of the building or structure no less than one (1) foot for every one (1) foot of vertical height of the *Wireless Telecommunication Antenna* and shall be screened so as not to be readily visible from surrounding properties. *Stealth Telecommunication Towers* in the form of artificial trees must resemble trees native to this region that hold their leaves or needles during the winter, including, but not limited to, evergreens such as pine and spruce trees. *Stealth Telecommunication Towers* in the form of artificial trees shall be compatible in size and scale with the surrounding natural environment and all *Wireless Telecommunication Antennas* must be completely internal and completely concealed from view.
- E. *Design of Wireless Telecommunication Equipment Shelters and Cabinets:* Equipment and other supplies in support of *Wireless Telecommunication Facilities* shall be stored inside a *Wireless Telecommunication Equipment Shelter or Cabinet* at least equal in height to the equipment to be stored within said *Wireless Telecommunication Equipment Shelter or Cabinet*. The type, design, size, and appearance of all *Wireless Telecommunication Equipment Shelters or Cabinets* shall be to the satisfaction of the Planning and Zoning Commission and/or Board of Trustees. *Wireless Telecommunication Equipment Shelters or Cabinets* placed within underground vaults are encouraged and may be required by the

Planning and Zoning Commission and/or Board of Trustees. All *Wireless Telecommunication Equipment Shelters and Cabinets* shall be located where they will be least visible from surrounding properties. All *Wireless Telecommunication Equipment Shelters and Cabinets*

must conform to the established building setbacks for the *Zoning Land use* in which it is situated.

F. *Landscaping and Fencing:* *Wireless Telecommunication Equipment Shelters and Cabinets* may be required by the Planning and Zoning Commission and/or Board of Trustees to be enclosed with security fencing and/or sight-proof fencing. Landscaping may be required by the Planning and Zoning Commission and/or Board of Trustees around the perimeter of the fencing to aid in the visual screening of the *Wireless Telecommunication Equipment Shelters and Cabinets*. A minimum six (6) foot tall security fence with an appropriate anti-climbing device shall be placed around the perimeter of all *Lattice Towers* and *Guyed Towers* (including the guy wires and anchors). Landscaping at least equal in height to the security fencing may be required by the Planning and Zoning Commission and/or Board of Trustees around the perimeter of the security fencing of all *Lattice Towers* and *Guyed Towers*. The Planning and Zoning Commission and/or Board of Trustees may require fencing and/or landscaping around the perimeter of *Stealth Telecommunication Towers* and *Monopole Telecommunication Towers* if deemed necessary to visually screen and/or provide security around the *Wireless Telecommunication Support Structures*.

G. *Lighting of Wireless Telecommunication Support Structures:* Beacon lights shall not be permitted on the top of *Wireless Telecommunication Support Structures* except as required by the *Federal Aviation Administration*. Other forms of lighting, such as the ground-mounted lighting of flagpoles in the form of *Stealth Telecommunication Towers*, may be permitted by the Planning and Zoning Commission and/or Board of Trustees.

H. *Access and Parking:* Paved access shall be provided to all *Wireless Telecommunication Equipment Shelters and Cabinets* and to all *Wireless Telecommunication Support Structures*. A minimum of one (1) paved parking space may be required on site for each two (2) *Wireless Telecommunication Service* providers the *Wireless Telecommunication Facility* is designed to support.

I. *Maintenance, Construction, and Operation:* Licensed maintenance and construction personnel shall perform all maintenance and construction of *Wireless Telecommunication Facilities*. *Wireless Telecommunication Service* providers shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Operators shall install and maintain *Wireless Telecommunication Facilities* and equipment in full compliance with the requirements of the *National Electric Safety Code* and all *Federal Communication Commission*, state, and Village regulations. All *Wireless Telecommunication Facilities* shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person. *Wireless Telecommunication Facilities* shall be operated in a manner that will minimize noise impacts. All air conditioning units and any other equipment that may emit noise shall be enclosed or

equipped with noise attenuation devices. Backup generators shall only be operated during periods of power outages or for routine daytime testing.

- J. *Removal of Abandoned Wireless Telecommunication Facilities:* Any *Wireless Telecommunication Facility* that is no longer in service for any reason for six (6) consecutive months shall be deemed abandoned and hazardous to the public health and safety. In the case of multiple operators sharing use of a *Wireless Telecommunication Facility*, this provision shall not become effective until all users cease operations. Determination of the date of abandonment shall be made by the Director of Planning and Engineering based upon documentation provided from the owner/operator of the *Wireless Telecommunication Facility* and/or the *Federal Communication Commission* as to the date the said *Wireless Telecommunication Facility* ceased operation. Any *Wireless Telecommunication Facility* that is deemed abandoned shall be *removed* at the owner/operator's expense and the site restored to a natural state. The owner/operator shall be given ninety (90) days from the date of abandonment to *remove* the *Wireless Telecommunication Facility*. If the owner/operator fails to *remove* said *Wireless Telecommunication Facility* within ninety (90) days from the date of abandonment, the Village shall cause the *removal* of the *Wireless Telecommunication Facility* and the restoration of the site to its natural state, the cost of which shall be billed to the owner/operator. Failure to pay for the cost of the *removal* and restoration of the abandoned *Wireless Telecommunication Facility* within thirty (30) days of being billed by the Village will result in the issuance of a Summons by the Village's Code Enforcement Division.
- K. *Pre-Existing Wireless Telecommunication Support Structures:* An inventory of all *Wireless Telecommunication Support Structures* that exist within the Village and within a one (1) mile radius of the Village shall be maintained by the Board or a designee. *Wireless Telecommunication Support Structures* that are not in compliance with this Article that exist prior to the effective date of this Article shall be considered a legal *Non-Conforming Use* subject to the provisions of Article VIII: *Non-Conforming Uses*. The proposed *Collocation* of additional *Wireless Telecommunication Antennas* on a legal *Non-Conforming Wireless Telecommunication Support Structure* shall only require *Site Plan* approval. In reviewing the *Site Plan*, the Planning and Zoning Commission may impose any of the requirements of this Article deemed necessary to minimize any adverse effect of the *Wireless Telecommunication Facility* on adjoining properties or the general health, safety, and welfare of the inhabitants of the Village and adjacent communities.

#### **SECTION 400.870: APPLICATION REQUIREMENTS FOR WIRELESS TELECOMMUNICATION FACILITIES**

- A. *General Requirements:*
- 1) Applicants for a *Wireless Telecommunication Facility* that include a proposed new or enlarged *Wireless Telecommunication Support Structure* shall require a *Conditional Use Permit* and *Site Plan Review* approval. In accordance with Section 400.820(A) of this Article, a proposed *Wireless Telecommunication Facility* that includes a new *Wireless Telecommunication Support Structure* that is within a one (1) mile radius of any existing *Wireless Telecommunication Support Structures* (regardless of political jurisdiction) shall only be *Conditionally Permitted* if the applicant demonstrates to the satisfaction of the

Planning and Zoning Commission and Board of Trustees that: 1) none of the existing *Wireless Telecommunication Support Structure(s)* within the one (1) mile radius of the proposed site are suitable for the *Collocation* of the applicant's proposed *Wireless Telecommunication Antenna(s)*, and 2) no existing buildings or structures within a one (1) mile radius of the proposed site are suitable for installation of either a *Disguised Telecommunication Facility* or a *Mounted Antenna Telecommunication Facility*.

Speculative *Wireless Telecommunication Support Structures*, whereby there is not at least one (1) *Wireless Telecommunication Service* provider identified for the proposed structure at the time of application for the *Conditional Use Permit* and *Site Plan*, shall be prohibited.

- 2) Applicants for: 1) the proposed *Collocation* of a *Wireless Telecommunication Antenna* on an existing *Wireless Telecommunication Support Structure*, 2) a *Disguised Telecommunication Facility*, and 3) a *Mounted Antenna Telecommunication Facility*, shall require *Site Plan Review* approval. Because the above-mentioned types of proposed *Wireless Telecommunication Facilities* do not require the construction of a new *Wireless Telecommunication Support Structure*, they shall not require a *Conditional Use Permit* and shall not be limited to one (1) such facility within a one (1) mile radius of other *Wireless Telecommunication Facilities*.
- 3) *Pre-Application Conference*: Prior to the submittal of the application(s) for a *Wireless Telecommunication Facility*, it is highly recommended that the applicant request and attend a *Pre-Application Conference* with the Board or a designee. The purpose of the *Pre-Application Conference* is to: 1) review with the applicant the inventory of existing *Wireless Telecommunication Support Structures* within the Village and within a one (1) mile radius of the Village that is maintained by the Board or a designee, 2) assist the applicant in identifying the location for possible *Collocation* on existing *Wireless Telecommunication Support Structures*, 3) identify which type of a proposed *Wireless Telecommunication Facility* the applicant is requesting per the requirements of this Article, 4) assist the applicant in identifying the location of existing buildings and structures that may be suitable for the installation of either a *Disguised Telecommunication Facility* or a *Mounted Antenna Telecommunication Facility*, and 5) to discuss the siting requirements, design requirements, and application requirements of this Article.

B. *Application Requirements- Proposed Wireless Telecommunication Facilities that Include a New or Enlarged Wireless Telecommunication Support Structures*: Applicants for a proposed *Wireless Telecommunications Facility* that includes a new or enlarged *Wireless Telecommunication Support Structure* shall require both approval of a *Conditional Use Permit* and a *Site Plan* submitted in accordance with the following requirements:

- 1) A completed *Conditional Use Permit* application with all the required accompanying information listed on the application Checklist. If the applicant is not the owner of the parcel of land upon which the *Wireless Telecommunication Facility* is proposed, the written consent of the owner, and the name, address, telephone number of the owner shall be included with the application. NOTE: *Conditional Use Permit* applications are subject to the *Public Hearing Notification* and *Sign Posting Requirements* established in Section 400.685 of the *Zoning Code*.
- 2) A proposed *Wireless Telecommunication Facility* that includes a new *Wireless*

*Telecommunication Support Structure* that is within a one (1) mile radius of any existing *Wireless Telecommunication Support Structures* within the Village shall submit to the Village signed affidavits that they have contacted and negotiated in good faith with the owners of all existing *Wireless Telecommunication Support Structures* within a one (1) mile radius of the site for the *Collocation* of their proposed *Wireless Telecommunication Antenna* on the existing *Wireless Telecommunication Support Structure(s)*. In accordance with Section 400.820(A) of this Article, said affidavits shall include the exact reasons why *Collocation* has been determined to be unsuitable. In addition, the applicant shall demonstrate in writing why no existing structures exist within a one (1) mile radius of the site for the installation of either a *Disguised Telecommunication Facility* or a *Mounted Antenna Telecommunication Facility*.

- 3) A completed *Site Plan* application with all the required accompanying information listed on the application Checklist. If the applicant is not the owner of the parcel of land upon which the *Wireless Telecommunication Facility* is proposed, the written consent of the owner, and the name, address, telephone number of the owner shall be included with the application.
- 4) In addition to information required to be shown on the *Site Plan* per Section 400.580 of the *Zoning Code*, the *Site Plan* shall clearly indicate: 1) the location of the proposed *Wireless Telecommunication Facility*, 2) the location and dimension of the proposed lease area, 3) a vertical profile sketch of the type, design, and height of the proposed new or enlarged *Wireless Telecommunication Support Structure* that includes the type, size, number, design, and location of the *Wireless Telecommunication Antenna* to be installed on the *Wireless Telecommunication Support Structure*, 4) identification of the number of additional *Wireless Telecommunication Antennas (Collocation)* that the *Telecommunication Support Structure* has been designed to accommodate, 5) the setback distances and required *Fall Line* distances from adjacent residences, 6) the proposed location, size, and design of the applicant's proposed *Wireless Telecommunication Equipment Shelter or Cabinet*, 7) the proposed landscaping and fencing of both the *Telecommunication Support Structure* and the *Wireless Telecommunication Equipment Shelter or Cabinet* and 8) the proposed access and parking for the *Wireless Telecommunication Support Structure* and the *Wireless Telecommunication Equipment Shelter or Cabinet*.
- 5) An inventory of all existing *Wireless Telecommunication Facilities* within a one (1) mile radius of the site (regardless of political jurisdiction), including specific information about the nature of the location, ownership of the site, ownership of the lease space, listing of existing users, type, design, and the height of the existing *Wireless Telecommunication Support Structures*, the number of existing *Wireless Telecommunication Antennas* on the structure, and the number of potential *Wireless Telecommunication Antennas* that could be *Collocated* on the structures in the future.
- 6) A map of the Village and all areas within a three (3) mile radius of the Village showing the design of the applicant's entire existing or proposed *Wireless Telecommunication Service* network. Such map shall, at minimum, indicate the exact location of all proposed or existing *Wireless Telecommunication Facilities* within their network and signal area coverage.

- 7) The results of any drive test data or other computerized signal area coverage studies conducted by the applicant within the Village, including a non-technical description of the results of the studies and implications for the siting of the proposed *Wireless Telecommunication Facility* in the Village.
- 8) Written, technical report from a licensed professional engineer that the proposed *Wireless Telecommunication Facility* meets the standards set forth in Section 400.860 of this Article.
- 9) Color photo simulations showing the proposed site of the *Wireless Telecommunication Facility* with a photo-realistic representation of the proposed *Wireless Telecommunication Support Structure* and *Wireless Telecommunication Antennas* as it they would appear viewed from all sides of site. The color photo simulations shall show the proposed *Wireless Telecommunication Facility* and all proposed landscaping, fencing, and other methods of screening.
- 10) Material and color samples shall be provided of the proposed *Wireless Telecommunication Support Structure*, *Wireless Telecommunication Antennas*, and *Wireless Telecommunication Equipment Shelter or Cabinet* at the meetings of the Planning and Zoning Commission and Board of Trustees.

C. *Application Requirements- Proposed Collocation of a Wireless Telecommunication Antennas on existing Wireless Telecommunication Support Structures, Disguised Telecommunication Facilities, and Mounted Antenna Telecommunication Facilities:* Applicants for the proposed *Collocation of a Wireless Telecommunication Antenna* on an existing *Wireless Telecommunication Support Structure*, a *Disguised Telecommunication Facility*, and a *Mounted Antenna Telecommunication Facility*, shall require approval of a *Site Plan Review* submitted in accordance with the following requirements:

- 1) A completed *Site Plan* application with all the required accompanying information listed on the application Checklist. If the applicant is not the owner of the parcel of land upon which the *Wireless Telecommunication Facility* is proposed, the written consent of the owner, and the name, address, telephone number of the owner shall be included with the application.
- 2) In addition to information required to be shown on the *Site Plan* per Section 400.580 of the *Zoning Code*, the *Site Plan* shall clearly indicate: 1) the type of the proposed *Wireless Telecommunication Facility*, 2) the location and type of building or structure upon which or within the proposed *Wireless Telecommunication Antenna* is to be located, 3) the type, design, height, and method of screening for the proposed *Wireless Telecommunication Antenna*, 4) a vertical profile sketch of the type, design, and height of the existing *Wireless Telecommunication Support Structure* (if *Collocating* on an existing *Wireless Telecommunication Support Structure*) and the type, size, design, and location of the proposed *Wireless Telecommunications Antenna* to be installed on the existing *Wireless Telecommunication Support Structure*, 5) the setback distances and required *Fall Line* distance from adjacent residences (if *Collocating* on an existing *Wireless Telecommunication Support Structure*), 6) the location and dimension of the proposed lease area, 7) identification of the number of additional *Wireless Telecommunication Antennas (Collocation)* that the *Wireless Telecommunication Facility* has been designed to accommodate (if applicable), 8) the proposed location, size, and design of the proposed *Wireless Telecommunication Equipment Shelter or Cabinet*, 9) the proposed landscaping and fencing of both the *Telecommunication Support Structure* (if applicable) and the *Wireless*

*Telecommunication Equipment Shelter*, and 10) the proposed access and parking for the existing *Wireless Telecommunication Support Structure* (if applicable) and the *Wireless Telecommunication Equipment Shelter or Cabinet*.

## **CHAPTER 405 -SUBDIVISION AND LAND DEVELOPMENT CODE**

### **ARTICLE 1: GENERAL PROVISIONS**

#### **SECTION 405.010: GENERAL PROVISIONS**

- A. *Short Title*. This Chapter shall be known and may be cited hereinafter as the "Subdivision and Land Development Code" of the Village of Pendleton, Missouri.
- B. *Purpose*. The purpose of this Chapter is to regulate and control subdivision and development of land and matters relating thereto within the Village of Pendleton in order to promote public safety, health, and general welfare of the community. These regulations are specifically designed to:
1. Provide for orderly growth and harmonious development of Village consistent with established policies of the Village.
  2. Secure proper arrangement of streets for efficient traffic circulation through the coordination of existing and planned streets, Comprehensive Plan, public facilities and adjoining developed land.
  3. Achieve lots of maximum utility and viability laid out and of size so as to be in harmony with existing and proposed development of the area.
  4. Secure adequate provisions for water, drainage, sanitary sewer facilities based upon Village, State and Federal requirements.
  5. Provide open space, recreation areas, school sites and other public facilities.
- C. *Authority*. This Chapter is enacted pursuant to the statutory authority of Sections 89.010 through 89.490, RSMo., as amended.
- D. *Interpretation and Conflict with Other Laws*. This Chapter shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to June 2007, except for further dividing of existing lots, or the addition of improvements not authorized or approved under previous platting. This Chapter is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other ordinances, or regulations, private agreements, or with recorded restrictive covenants running with the land to which the Village of Pendleton is a party. Where this Chapter imposes a greater restriction upon land than is imposed or required by previous ordinances of the Village of Pendleton, the provisions of this Chapter shall prevail.
- E. *Administration*. The provisions of this Chapter shall be administered in accordance with



Chapter 89, RSMo., as amended, and shall be administered by the Planning and Zoning Commission, and the Board of Trustees.

- F. *Schedule of Fees, Costs, and Expenses*: The Board of Trustees shall establish a *Schedule of Fees, Costs, and Expenses* for all matters pertaining to the *Subdivision and Land Development Code*. The *Schedule of Fees, Costs, and Expenses* shall be established as Appendix B of Title IV: Land Use. The *Schedule of Fees, Costs, and Expenses* shall be filed with the Village Clerk and posted in the office of the Community Development Department.

The *Schedule of Fees, Costs, and Expenses* shall only be amended by the Board of Trustees and shall not require a recommendation from the Planning and Zoning Commission.

1. No final action shall be taken on any *Display House Plat*, *Variance Request*, or *Appeal of an Administrative Decision* that requires a straight application fee until said fee has been paid in full.
2. A *Preliminary Plat* which requires that the applicant pay: 1) an initial application fee, 2) the cost for the Legal Notice advertising the Public Hearing, and 3) the cost for the notification of adjacent property owners must pay the initial application fee before final action shall be taken. If the application is tabled by the Planning and Zoning Commission at the request of the applicant or for failure of the applicant and/or their authorized or designated representative(s) to attend the meeting, the applicant will be responsible for the cost of re-advertising the Public Hearing and the re-notification of the adjacent property owners.  
The applicant for the *Preliminary Plat* will subsequently be billed for the cost of the Legal Notice(s) advertising the Public Hearing and the cost for the notification of adjacent property owners. Failure to pay for these costs within thirty (30) days of being billed by the Village will result in the issuance of a Summons by the Board Chair or a designee.
3. *Construction Site Plans* and *Grading Plans* which require that the applicant pay a fee of two percent (2%) of the estimated cost for *Improvements* shall be due at the time of plan approval.

- G. *Exclusion of Cemeteries*. Cemeteries shall not be included in the definition of "subdivision" and shall not be subject to provisions of this Chapter.

H. *Conformity with Zoning Code*. All plats reviewed under provisions of this Chapter shall conform to all Zoning Code provisions for the land use in which the proposed plat is to be located. All required zoning changes shall be made prior to approval of the Record Plat by the Board.

- I. *Platting Exceptions*. The requirements of this Chapter do not apply to the following types of land subdivision:
1. The division or subdivision of land into parcels or tracts of fifteen (15) acres or more in size which do not involve any new public streets or access easements--provided no illegally-zoned lot is created by the subdivider.

2. Recording of a subdivision plat shall not be required in case of the sale or exchange of parcels of land between owners of adjoining properties for the purpose of adjustments in boundaries, provided that: additional lots are not thereby created; that the original lots are not reduced below the minimum sizes required by this Chapter or the Zoning Code; and that a survey of the adjustments of boundaries is recorded with the Recorder of Deeds of Warren County.
  3. The conveyance of parcels of land or interests therein for use as a right of way for railroads or other public utility facilities or other pipe lines which do not involve any new streets or easements of access.
  4. The conveyance of land for highway or other public purposes or grants or conveyance relating to the vacation of land impressed with a public use.
  5. Conveyances made to correct description of prior conveyances.
  6. The subdivision or resubdivision of lots or parcels of land for the use of villa, condominium, or multi-family units as defined by the Zoning Code consisting of no more than eight (8) dwelling units per structure. Said plat shall be reviewed by the Board Chair or a designee and the Planning and zoning Commissioner and/or his/her designees for compliance with approved final plans and/or preliminary plats.
- J. *Non-Platted Developments--Development Performance Guarantee.* All developments will be reviewed for performance guarantee of construction plans and site plan improvements.
- K. A subdivider shall determine whether a hazardous pipeline crosses a proposed subdivision.
- L. A subdivider shall depict on the plat a restricted pipeline area and a limited improvement area, if any.
- M. A person may not place a structure or excavate within a restricted pipeline area.
1. This prohibition does not apply to:
    - a. The hazardous pipeline or an appurtenance to the pipeline;
    - b. A facility that produces, consumes, processes or stores the product transported by the hazardous pipeline, including a power generation facility;
    - c. A utility line that crosses the restricted pipeline area, including an appurtenance to the line;
    - d. A utility service connection;
    - e. A road;
    - f. A surface parking lot;

- g. A structure or excavation that the Board determines does not disturb the pipeline or impede its operation;
  - h. Grading that the Board determines does not disturb the pipeline or impede its operation.
2. Before a person may place a road, surface parking lot or utility line in a restricted pipeline area, the person must deliver to the Board a certification by an engineer registered in the State of Missouri stating that proposed construction activity and structure are designed to prevent disturbing the hazardous pipeline or impeding its operation.
- N. A person with actual knowledge of the existence of a restricted pipeline area or a limited improvement area on his/her lot who seeks to convey a lot containing such area shall, before execution of a contract to convey the lot or if no contract is executed before title is transferred, deliver to the other party a document describing such area, the limitations on its development and the name and address of the pipeline owner or operator. All marketing materials related to any new construction occurring or contemplated to occur upon any portion of a lot which contains a restricted pipeline area or a limited improvement area shall include a description of such area, the limitations on its development and the name and address of the pipeline owner or operator.
- O. All property within the restricted pipeline area shall be platted as common ground.

## ARTICLE II: RULES AND DEFINITIONS

### SECTION 405.020: RULES APPLYING TO THE TEXT

- A. *Rules of Construction.* For the purposes of this Chapter rules of construction applying to the text, as follows:
1. Words used in the present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.
  2. The term "*shall*" is always mandatory and not discretionary; the word "*may*" or "*should*" is permissive.
  3. Words or terms not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.

### SECTION 405.030: DEFINITIONS

The following definitions shall apply in interpretation and enforcement of this Chapter, unless otherwise specifically stated:

- *Abuts/Abutting:* To be separated by common property lines or an alley. This term implies a closer proximity than the term "*adjacent*".

- Access: A place or means of entering and exiting from public right of way to private property.
- Access Easement: An easement which grants the right to cross property.
- Accessory Building or Structure: A subordinate building or structure having a use customarily incident to and located on the lot occupied by the main building. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.
- Accessory Use: A use incidental and subordinate to the principal use of the premises.
- Adjacent: Lying near or close to; sometimes, contiguous; neighboring.
- Alleys: A private right-of-way with a minimum pavement width of twenty (20) feet that provides secondary vehicular access to the rear or side of a lot, block or parcel of land otherwise abutting a street. Alleys shall:
  1. Be designated and signed for "One-Way" traffic;
  2. Have a minimum five (5) foot wide easement strip placed adjacent to the right side of the alley easement designated for trash receptacle placement;
  3. Be designated and signed to prohibit on-street parking; and
  4. Be designated and signed as "Private Streets" in accordance with Section 405.210(C) of the Subdivision and Land Development Code.
- Alteration: Any addition, removal, extension, or change in the location of any exterior wall of a main building or accessory building.
- Area. Gross: The entire area within the boundary lines of a territory proposed for a subdivision, including the area to be dedicated for street and alley right of way and public use.
- Area. Net: The entire area within the boundary lines of a territory proposed for subdivision, less the area to be dedicated for street and alley right of way and public use.
- As-Built Plans: Construction plans revised to show a facility or structure as actually constructed and as it appears on the tract of land involved.
- Benchmark: A definite point of known elevation and location and more or less permanent character.
- Block: An area of land within a subdivision that is entirely bounded by streets, highways, or rights of way, except alleys, or between streets, highways, streams, parks, etc., or any other barrier, or combination thereof, to the continuity of development.

- *Boulevard or Parkway*: A broad often landscaped, thoroughfare.
- *Buffer Strip*: See "GREENBELT".
  - *Building*: Any structure having a roof supported by columns or walls built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, but not including any vehicle, trailer (with or without wheels) nor any movable device, such as furniture, machinery or equipment.
- *Building Coverage*: The proportion of the lot area, expressed as a percent that is covered by the maximum horizontal cross-section of a building or buildings.
- *Building Height*: The vertical distance from the average ground level abutting a building or structure to the highest point of the roof of a building or highest point of any permanent part of a structure other than a building.
- *Building Line or Setback Line*: A line parallel to a street right of way line, shore of a lake, edge of a stream, or other property line established on a parcel of land or lot for the purpose of prohibiting construction of a building or structure in the area between such building line and right of way, lakeshore, streambank or other property line.
- *Building Official*: The person designated by the Board of Trustees to administer all building permits and related construction items.
- *Caption or Title*: The name by which the plat is legally and commonly known.
- *Certificate of Occupancy*: Official certification which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the building permit.
- *Village*: The Village of Pendleton, Missouri.
- *Village Board of Trustees*: The officially elected Board of Trustees of the Village of Pendleton; the term may be abbreviated in this Chapter as the "*Board*".
- *Village Clerk*: The person designated by the Board of Trustees to sign the Record Plat signifying approval by the Board of Trustees.
- *Planning and Zoning Commissioner*: An official appointed by the Board of Trustees as the Planning and zoning Commissioner.
- *Village Planner*: The person designated by the Board of Trustees to work with the Board of Trustees, Planning and Zoning Commission and Board of Adjustment on all development related matters.
- *Village Planning and Zoning Commissioner*: The officially appointed Planning and Zoning Commission of the Village of Pendleton; the term may be abbreviated in this Chapter as the "*Commission*".

- *Common Ground*: That land set aside for open space, recreational, or other common use by the owners of the lots in a subdivision, and which is owned by for the sole benefit, use and enjoyment of the lot owners present and future. No lot owner shall have the right to convey his/her interest in the Common Ground except as an incident of the ownership of a platted lot.
- *Comprehensive Plan*: A comprehensive land use plan made and adopted by the Village Planning and Zoning Commission and Board of Trustees for the Village of Pendleton which through any combination of text, charts, and maps, sets forth proposals for general locations for various land uses, streets, parks, schools, public buildings, utilities, and for the physical development of Village.
- *Construction Plans Improvement Plans*: The engineering drawings showing types of materials and construction details for physical structures and facilities, excluding dwelling units to be installed in conjunction with development of a subdivision.
- *Cul-de-Sac*: A local street with only one (1) outlet and having an appropriate turnaround at the end for the safe and convenient reversal of traffic movement.
- *Curb Level*: The mean level of the curb in front of the lot or in case of a corner lot, along that abutting street where the mean curb level is the highest.
- *Dedication*: Intentional transfer by the developer to the public of ownership of or an interest in land for a public purpose. Dedication may be effected by compliance with Statutes relating to dedication of land, by formal deed of conveyance, or by any other method recognized by the laws of the State of Missouri.
- *Deed*: A legal document which conveys real property.
- *Deed Restriction*: A form of covenant contained in a deed of conveyance.
- *Developer*: Any person, persons, corporation, or government agency undertaking any development as defined in this Chapter. The term "developer" includes such commonly used references as subdivider, owner, and proprietor.
- *Development*: Any subdivision of land as herein defined or any material change in the use or appearance of any parcel of land subject to provisions of this Chapter, or the act of building structures and/or installing site improvements.
- *Director of Building Safety*: The Board for the Village of Pendleton, Missouri.
- *Display Home*: A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision.
- *Easement*: A right or privilege to use a portion of another property for a particular purpose.
- *Engineer*: A professional engineer registered in the State of Missouri.

- Escrow Agent: A title company, bank, savings and loan association, trust company, attorney or other person, company, or agency approved by the Village Board of Trustees to act as escrow agent under provisions of Article IV, Section 405.110 of this Chapter.
- Flood Plain: That area of land adjoining the channel of a river, stream, watercourse, lake or similar body of water which will be inundated by a flood which can be expected once every one hundred (100) years for that region, as defined by the U.S. Corp. of Engineers and required by the National Flood Insurance Act.
- Frontage: The length of the property abutting on one side of a street measured along the dividing line between the property and the street right of way.
- Grade: The slope of a surface specified in percent and shown on a surface profile plan as required herein.
- Greenbelt or Buffer Strip: A strip of land located between incompatible land uses which is subject to private use restrictions, or a negative easement, or is dedicated to public use as open space, for the purpose of protecting the built environment of a subdivision or to enhance a street right of way, or both.
- Hazardous Pipeline: A pipeline:
  1. Designed for the transmission of a "hazardous liquid", as defined by Title 49 of the Code of Federal Regulations, Section 195.2, with an inside diameter of eight (8) inches or more, and
  2. Which is regulated by the United States Department of Transportation.
- Improvement Plans (Construction Plans): The engineering plans showing types of materials and construction details for the physical structures and facilities to be installed both in, or in conjunction with, the proposed subdivision.
- Improvements: Any structural, material or physical change incident to servicing or furnishing facilities for a subdivision such as, but not limited to, grading, street pavements, curb and gutter, driveway approaches, sidewalks and pedestrian ways, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lakes, waterways, canals, permanent street monuments, and other appurtenant construction; demolition of structures; planting and landscaping; or removal of trees and other vegetative cover.
- Industrial Subdivision: A subdivision and development of land, as defined in this Article, in which the land is to be used for medium or light manufacturing plants, trucking and/or railroad facilities, warehousing, industrial research and similar activities.
- Limited Improvement Area: Includes an area that begins twenty-five (25) feet of either side of any hazardous pipeline and extends to fifty (50) feet from either side of any hazardous pipeline.
- Lot: A measured portion of a tract of land, described and fixed in a Recorded Plat or in a plat proposed to be recorded, considered, and intended as a unit for transfer of ownership

or for development.

- Lot Area: The total horizontal surface area within the boundaries of a lot exclusive of any area designated for street purposes.
- Lot. Corner: A lot abutting two (2) or more streets at their intersection.
- Lot. Double Frontage: A lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot. Also known as a "through lot".
- Lot. Interior: A lot whose side lines do not abut upon any street.
- Lot Depth: The mean horizontal distance from the front lot line to the rear line.
- Lot Line. Front: The boundary between a lot and the street on which it fronts.
- Lot Line. Rear: The boundary line or lines opposite and most distant from the front street line; except that in the case of uncertainty the Building Inspector shall determine the rear line.
- Lot Line. Side: Any lot boundary line not a front or rear line thereof; a side line may be a party lot line, a line bordering on an alley or place or a side street line.
- Lot Line. Width: The horizontal distance between side lot lines, measured at the front building line.
- Material Change: Includes, but is not limited to, any commencement of mining, excavation, grading, or land clearance; deposit of refuse, waste, or fill on land not already used for that purpose or permitted to be used for that purpose by the Zoning Code; or which extends the height of any existing deposit above the level of land adjoining the site; alteration of a shore bank, or flood plain of a river, stream, or any lake, natural or artificial.
- Mobile Home (Manufactured Home): A detached single-family dwelling unit, in an approved mobile home park, with all of the following characteristics:
  1. Designed for long-term occupancy, containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
  2. Designed to be transported after fabrication on its own wheels or on a flatbed.
  3. Delivered to a site where it is to be occupied as a complete dwelling, including major appliances and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, etc.; and
  4. Designed to have a permanent foundation.
  5. Manufactured according to H.U.D. regulations.



- Modular Home: A self-contained unit transported in one or more sections to a site with a permanent foundation; built to Village's current BOCA code specifications.
- Negative Easement: A grant by the developer to the public, a corporation, or person(s) for use of a recorded strip of land for open space or other non-developed purposes.
- Non-Access Reservation: A parcel or tract of subdivision land withheld from development and subject to private use and access restrictions for the purpose of protecting the environment of a subdivision, or to enhance a street right of way or to improve traffic flow on a principal street.
- Off-Site: Any premises not located within the area of the property to be subdivided or developed, whether or not in the same ownership of the applicant for subdivision approval or a building permit.
- Open Space: Land dedicated or reserved for use by the general public or for use by residents of the subdivision, or land held out of development and retained in its natural conditions, with or without public access. Open space includes but is not limited to parks, parkways, playgrounds, school sites, wildlife or plant life preserves and nature study areas.
- Parcel or Tract: A continuous area or acreage of land which can be divided or subdivided as provided for in the State of Missouri and by this Chapter.
- Pedestrian Way: A separate right of way dedicated to or reserved for public use by pedestrians, which crosses blocks or other tracts of land to facilitate pedestrian access to adjacent streets and properties.
- Plat: A map or chart of a tract of land or a subdivision of land.
- Plat, Preliminary: The map(s), drawing(s) and/or chart(s) on which a developer's plan of subdivision and existing conditions are presented to the Planning and Zoning Commission which will submit its findings as to approval, conditional approval, or disapproval to the Board of Trustees and shall include the reasons for such action as part of their permanent record.
- Plat, Record: A Plat depicting a subdivision previously granted preliminary approval by the Planning and Zoning Commission, designating information set forth in this Chapter designating exact survey location of lots or parcels, as well as bearing the seal of a professional engineer or surveyor registered in the State of Missouri.
- Private Street or Roadway: Property in either platted or unplatted areas, which has been approved under the terms of this Chapter used and open for private and public vehicular traffic, but not dedicated, owned or maintained by the Village of Pendleton.
- Public Improvement: Any facility for which the local government or utility may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government, or utilities responsibility is established.

- Public Use: Public parks, playgrounds, recreational areas, designated scenic or historic sites; school sites or sites for other public buildings; and other areas dedicated to public use or enjoyment.
- Public Use. Quasi: Any use which is essentially public, as in services rendered, although it is under private ownership or control.
- Public Utility: A business or service, having an appropriate franchise from the Village/State and engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electric, gas, water, etc.
- Replat: The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or portion thereof.
- Restricted Pipeline Area: Includes an area within twenty-five (25) feet of either side of any hazardous pipeline.
- Restrictive Covenant: A restriction on the use of land, normally among private participants, contained in the deed to the property or otherwise formally recorded.
- Reverse Frontage: When a subdivision lot occurs between two (2) non-intersecting streets, one of which is a parkway, thoroughfare, or collector and the other is a minor residential street, the lot will front on the minor residential street and a non-access reservation will be provided buffering the rear of the lot from the traffic artery.
- Right-of-Way: The land opened, reserved, or dedicated for a street, sewer, water, walk, drainage course or other public purpose.
- Road Bed: The entire improved portion of the street, including shoulder, parking lanes, travel ways, curbs and gutters which lie between the right of way lines.
- Setback: The required distance between every structure and the lot line on the lot on which it is located.
- Sidewalk: A structure, including necessary guardrails and steps, placed within the right of way of existing streets or connecting buildings, parking lots, public use area, or other facilities having access to the street right of way, for the purpose of providing safe pedestrian movement.
- Street: A general term denoting a public or private thoroughfare which affords the principal means of access to abutting property. The term includes all facilities which normally are found within the right of way; it shall also include such other designations as highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, lane, place or court or other such terms but shall not include alley or pedestrian way.
- Street. Access: A private thoroughfare or driveway which affords a means of access to

parking areas and bays and to abutting buildings and is less than four (400) feet in length.

- *Streets. Arterials:* Arterials are facilities designed to collect and distribute traffic in a manner similar to the primary arterial, except that the traffic generators served are of smaller nature than those serviced by primary arterials. Secondary arterials provide service to specific traffic destinations and easy movement from one neighborhood area to another within the same part of the metropolitan area. Minor arterial streets, like principal arterials, should not provide direct access to residential lots and should have the same standards as principal arterials regarding access to commercial developments. Minimum rights of way should be eighty (80) feet and a minimum pavement width of forty-four (44) feet.
- *Streets. Principal Arterials:* Are the major traffic facilities in urban areas. They are intended to move traffic through the Village Planning Area with a minimum amount of delay. Minimum rights of way should be one hundred (100) feet and minimum pavement width should be forty-eight (48) feet or sixty-four (64) feet (when constructed with a sixteen (16) foot center median). Because principal arterials are designed to move traffic, they should provide no driveway access to adjacent residential land uses. Residential lots should back or side onto arterial streets. Commercial land uses may be provided access to arterial streets, but only when access to local or collector streets cannot be obtained. Additional access standards for principal arterial streets provide for a maximum of seven (7) street cuts per mile at a minimum interval of five hundred (500) feet.
- *Structure:* Any object or assembly of materials constructed or installed on, above, or below the surface of a parcel and includes but is not limited to any combination of materials, whether portable or fixed, having a roof, to form a building for occupancy by persons, animals or property; anything attached to a building; any pole, pipeline, or other part of a distribution system whether located on, above or below the surface of a parcel. A *structure* is any improvement as defined in this Article, other than a material change as defined in this Article.
- *Subbase:* That portion of a roadbed upon which lies above a compacted subgrade and is to be constructed of material meeting Missouri Department of Transportation (MoDOT) Type 1 or Type 5 aggregate specifications and compacted for a road surface to be placed upon.
- *Subdivider:* The owner, agent or person having control of such land as the term is used in this Chapter. "*Subdivision*" shall mean the division of land into two (2) or more parts including the re-subdivision of a lot or parcel. Any sale or rental of a division of land by metes and bounds or lot description shall constitute a subdivision of land and shall require compliance with this Chapter unless it is a separate parcel of record at the time of the effective date of this Chapter.
- *Subdivision:* The partitioning of a parcel or tract of land by an owner or developer into two (2) or more lots of any size for the purpose of sale, lease, or development, whether immediate or future; included are all changes in street lines, dedication or platting of streets, and changes in lot lines.

- Subgrade: That portion of a roadbed upon which a compacted subbase is to be constructed.
- Surveyor: A professional land surveyor registered in the State of Missouri.
- Surety Bond: A bond approved by the Board of Trustees posted with a surety company, as defined in this Article to guarantee a developer's performance of subdivision improvements in accordance with Section 405.110 of this Chapter.
- Surety Company: A surety, title, or insurance company approved by the Board of Trustees to act as surety under Section 405.110 of this Chapter.
- Temporary Occupancy: A permit to occupy a development prior to site improvements being completed, issued by the Board of Adjustment.
- Transition: A strip of land located between incompatible land uses which is subject to private use restrictions, or a negative easement, or is dedicated to public uses as open space, for the purpose of protecting the built environment of a development or to enhance a street right of way, or both.
- Yard: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used. Where lots abut a street, all yards abutting said street shall be measured from the street right of way.
- Yard, Front: A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.
- Yard, Side: A yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.
- Yard, Rear: A yard between the rear lot line and the rear line of the main building and the side lot lines.
- Zero Lot Line Dwelling Unit: A development approach in which a freestanding building is sited on one or more lot lines with no yard on the zero lot line side in order to increase the amount of usable open space on the remaining area of the lot: Zero lot line dwellings are designed with no windows facing the zero lot line side and are internally oriented to an enclosed, private courtyard or patio. Typically the zero lot line unit is a one story, L-shaped single-family house designed as a two (2), three (3) or four (4) bedroom unit on lots eighty (80) to one hundred (100) feet deep by forty (40), fifty (50), or sixty (60) feet wide, at density of five (5) to seven (7) families per gross acre. The zero lot line unit is usually designed in group or cluster arrangements and the land saved from conventional size house lots are used as common open space for recreation or to preserve natural features of the site.

### ARTICLE III: PLAT PROCEDURES AND SPECIFICATIONS

#### SECTION 405.040: PRELIMINARY PLAT PROCEDURES

- A. *Filing Procedures.* The developer shall submit twenty-one (5) copies of the proposed Preliminary Plat, a completed application form and plat review fees, to the Village Planning and Zoning Commission at least fifteen (30) working days prior to the meeting at which approval is requested.
- B. *Information Required.* The following information is required for all Preliminary Plats submitted for approval. The required information may be combined for presentation on one (1) or more drawings or maps. The Planning and Zoning Commission may request that the information be presented on drawings or maps in addition to those submitted in the interests of clarity, speed and efficiency in the review process. In all cases the Preliminary Plat submission should include.
1. Name of the proposed subdivision, which shall be original and not a duplication of any previously recorded subdivision.
  2. Legal description of the entire site to be subdivided, including approximate acreage in tract.
  3. A key map showing the tract in relation to the surrounding area.
  4. Scale, date and north point shall be indicated on each map or plan.
  5. Name and addresses of the developer(s), owner(s) of record, engineer, surveyor or designer responsible for the subdivision layout.
  6. Within one hundred (100) yards of the proposed subdivision, names of adjacent subdivisions, layout of streets (with names), right of way widths, connections with adjoining platted streets, widths and locations of alleys, easements and public walkways adjacent to or connecting with the tract, location and size of all existing sanitary sewer, storm sewer and water supply facilities.
  7. Existing topography at five (5) feet intervals. All topographic data shall directly relate to USGS data.
  8. Layout and width of right of way, surfacing and names of all streets, sidewalks or public ways proposed for the subdivision.
  9. Lot layout, dimensions and setback requirements.
  10. All parcels of lands to be dedicated or reserved for public use or for use in common by property owners in the subdivision shall be indicated on the Preliminary Plat, along with any conditions of such dedication or reservation.
  11. Identification, location and nature of all proposed zoning and uses to be included with

the subdivision.

12. Designation of utilities to serve proposed subdivision. The developer will ensure that the staging of the subdivision will include adequate provision for all utilities and streets for adjacent undeveloped properties.
13. Zoning status of property included in the Preliminary Plat and of all adjacent properties; political subdivisions of all such properties.
14. Receipt from the Village Clerk showing paid Preliminary Plat fee.
15. Preliminary Plats for industrial subdivisions shall be required to have covenants attached. These covenants shall include, but not be limited to, delineating who will be responsible for the site improvements: developer and/or prospective owner.
16. Elevations of structures to be built within the subdivision are to be provided as a part of submittal. In the case of custom-built homes, a plot plan of a "typical" structure must be provided.
17. As a part of submittal, a preliminary copy of the Trust Indentures/Covenants/Deed Restrictions must be provided.
18. Proposed layout of the public sanitary, storm and water systems that will serve the subdivision.

C. *Procedure for the Review of a Preliminary Plat:*

1. *Public Hearing Notification and Sign Posting Requirements:* The *Preliminary Plat* application shall be subject to the *Public Hearing Notification and Sign Posting Requirements* established in Section 400.685 of the *Zoning Code*.
2. *Review of the Preliminary Plat Application:* Upon receipt of the *Preliminary Plat* application, Village's Board or a designee will determine if it contains all the necessary information to proceed with the review. If it is determined that it is complete, Staff from the Village's Board or a designee will conduct a comprehensive review of the applicant's 1<sup>st</sup> submittal and provide a written list of any items that will need to be corrected, modified, or amended in order to meet the requirements of this Article. The applicant will then be given the opportunity to make the needed corrections, modifications, and amendments on their 2nd submittal. If the applicant fails to address the needed corrections, modifications, and amendments on the 2nd submittal to the satisfaction of the Board or a designee, Staff will recommend to the Planning and Zoning Commission that this item be tabled. If tabled by the Planning and Zoning Commission for failure of the applicant to address the needed corrections, modifications, and amendments on the 2nd submittal to the satisfaction of the Board or a designee, the applicant will be responsible for the cost of re-advertising the Public Hearing and the re-notification of the adjacent property owners.
3. *Preparation of a Staff Report:* The Board or a designee will prepare a *Staff Report* containing an analysis of the proposed *Preliminary Plat* application. A copy of the *Preliminary Plat* and the *Staff Report* will be distributed to each of the members of the Planning and Zoning Commission. A copy of the *Staff Report* will be provided to the

applicant. The *Staff Report* will also be available for public review in the Village hall.

4. *Review by the Planning and Zoning Commission:* The Planning and Zoning Commission will review the *Preliminary Plat* and conduct a Public Hearing. The Public Hearing is open to all citizens. The applicant and/or their authorized or designated representative(s) must attend the meeting and make a formal presentation to the Planning and Zoning Commission. Failure of the applicant and/or their authorized or designated representative(s) to attend the meeting shall cause the Planning and Zoning Commission to table the request for *Preliminary Plat* approval. If tabled by the Planning and Zoning Commission for failure of the applicant and/or their authorized or designated representative(s) to attend the meeting, the applicant will be responsible for the cost of re-advertising the Public Hearing and the re-notification of the adjacent property owners. During the Public Hearing, the Planning and Zoning Commission will entertain comments from both proponents and opponents of the proposed *Preliminary Plat*. After the Public Hearing, the Planning and Zoning Commission shall conduct a formal vote on the *Preliminary Plat* and either: 1) table the request due to lack of sufficient information, 2) approve the *Preliminary Plat*, 3) approve the *Preliminary Plat* with conditions, or 4) deny the *Preliminary Plat*. The Planning and Zoning Commission shall then confer approval, conditional approval or disapproval of the *Preliminary Plat* with written reasons for its action to the Board of Trustees and Planning and Zoning Commissioner.

- D. *Effect of Preliminary Plat Approval.* Preliminary Plat approval shall confer upon the developer, for a period of one (1) year from date of approval, the conditional right that the general terms and conditions under which the approval was granted will not be changed by the Commission. This one (1) year period may be extended by the Commission if the developer has applied in writing for such an extension and the Commission determines a longer period should be granted due to unusual circumstances. If an extension is not granted, the Preliminary Plat approval is null and void. If no Record Plat of a subdivision for which preliminary approval has been given is approved within said one (1) year period, or such longer period as the Commission may allow, a resubmission and review by the Planning and Zoning Commission may be required upon determination by the Commission. After approval of the Preliminary Plat, the developer may proceed with the detailed Construction Plan required for all facilities and utilities to be provided and may submit the proposed Record Plat to the Board of Trustees for approval.

#### **SECTION 405.050: DISPLAY HOME PLAT PROCEDURE**

- A. *Purpose.* To provide a procedure whereby the construction of a display home or homes may begin prior to the recording of the Record Subdivision Plat.
- B. *Procedure.* After receiving approval of a Preliminary Plat of a proposed subdivision from the Planning and Zoning Commission, the developer may submit an application for a Display Home Plat for review and action by the Planning and Zoning Commission. A reasonable number of displays may be approved where, in the opinion of the Planning and Zoning Commission, they are appropriate for the type of development contemplated. The Display Home Plat shall show the location, size, proposed builder, and the number and location of parking areas of each display home in relation to the proposed lots and shall contain terms and conditions as required by the Commission including, but not limited to, the following:

1. The Display Home Plat shall become null and void upon the recording of a Record Plat which establishes that each display home is on an approved lot; and
  2. No part of the proposed subdivision may be conveyed, nor an occupancy permit issued, for any structure therein until the display home or homes have been located on an approved lot.
  3. Per Section 400.495, off-street areas used for standing and maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
- C. *Condominium Display Home Plat.* The same procedure as used for detached display homes shall be used for condominium development.

### **SECTION 405.060: RECORD PLAT PROCEDURES**

- A. *Filing Procedures.* Three (3) copies of the proposed Record Plat shall be submitted in the form required in this Chapter to the Planning and zoning Commissioner together with completed application form and fees and security agreement required for performance guarantee. Upon correction, notification and corrections made accordingly, a reproducible original (Mylar) and a reproducible mylar (Sepia) must be submitted at least fifteen (15) working days prior to the meeting of the Board of Trustees at which the plat is to be considered. The Planning and zoning Commissioner shall determine if the submittal is complete, and if so, transmit same to the Board in adequate time for inclusion on the agenda for the Board of Trustee's next meeting. If the application is not complete, the Planning and zoning Commissioner shall so notify the applicant in writing and shall indicate deficiencies. A Record Plat shall not be accepted for review after the date of expiration of the approval of the Preliminary Plat. The Record Plat shall be signed by the registered land surveyor and by the developer prior to filing with the Planning and zoning Commissioner. The Record Plat shall be prepared on tracing cloth, or similar quality material, with maximum size of 23% inches x 34% inches, or those dimensions required by the Warren County Recorder of Deeds.
- B. *Information Required.* Prior to approval of the Record Plat, the Board of Trustees shall require the following information:
1. Name of subdivision, plat, etc.
  2. Date, scale, and north point.
  3. Acreage in plat.
  4. Abstract of title or other certificate establishing ownership interests and proof that proper parties have signed the plat for all land in the subdivision.
  5. The boundary lines within the out-boundary lines of the subdivision, with accurate distances and bearings; also all section, U.S. Survey and Congressional township and range lines.



6. On the final plat all proposed public and private streets and alleys with their widths and names shall be identified. Private streets shall state "Maintained by Property Owners".
7. An accurate delineation of any property offered for dedication to public use.
8. The line of departure of one street from another.
9. The boundary lines of all adjoining lands for a distance of one hundred (100) feet and showing (with dotted lines) the right of way lines of adjacent streets and alleys with their widths and names.
10. All lot lines and an identification system for all lots and blocks.
11. Building lines and easements for rights of way provided for public use, services or utilities, with figures showing their dimensions, and listing uses that are being provided.
12. All dimensions and bearings, both linear and angular, radii and arcs, necessary for locating the boundaries of the subdivision, blocks, lots, streets, alleys, easements, building lines, and of any other areas for public or private use. The linear dimensions are to be expressed in feet and decimals of a foot.
13. All survey monuments, together with their description.
14. Area in square feet for each lot or parcel on the plat or supplemental sheet showing same: The total for each lot should equal or exceed ordinance requirements.
15. An accurate drawing of the proposed subdivision prepared at the scale of not less than one inch equals one hundred feet (1 inch= 100 feet) horizontal.
16. Certification by a land surveyor to the effect that the plat represents a survey made by him/her, and that the locations of all required survey monuments, installed or to be installed, are correctly shown thereon. The months and year during which the survey was made shall be shown.
17. A notarized letter shall be submitted to the Village Clerk showing that there are no delinquent taxes outstanding.
18. Dedication of all streets, public highways, alleys, and land intended for public use together with lot restrictions signed by all parties who have mortgage or lien interest including owners.
19. The developer shall provide the Village with proof of a guarantee of completion for those improvements to be installed after Record Plat approval, as approved in the Preliminary Plat.
20. A copy of all Trust Indentures/Covenants/Deed Restrictions to be recorded must be submitted as a part of the Record Plat.
21. Depict flood hazard boundaries as shown on FEMA Maps (attached in the Appendix)
22. The developer's Engineer shall identify on the Record Plat any lot for which special precautions should be taken to prevent damage to any structure caused by the forces commonly known as "street creep". The developer's Engineer shall also recommend any special construction technique required to counter the forces.

- C. *Review Procedures.* The Record Plat shall conform closely to the Preliminary Plat as approved. Adequate security for all improvements and facilities to be provided by the developer shall be submitted in accordance with Section 405.110 and all dedications and easements shall be evidenced as having been made before the Board may approve the Record Plat. However, approval of the Record Plat shall not constitute acceptance of items for dedication. Such acceptance requires separate, formal action of the Board.
- D. *Record Plat Approval.* The Board of Trustees shall review all recommendations and either approve or disapprove the proposed Record Plat within thirty (30) days of the date of submission. The Board shall approve the plat if it conforms to the Preliminary Plat as finally approved and to the provisions of the Subdivision Code and Zoning Code. If the proposed Record Plat is approved and accepted by the Board by ordinance, the Clerk shall sign the Record Plat signifying approval by the Board of Trustees which shall include the date of approval and the date on which the Clerk signs the certificate. If the proposed Record Plat is disapproved, the Planning and zoning Commissioner shall record the reasons for rejection in the minutes of the Board meeting, notify the developer in writing of the action and reasons therefor, and return the Plat to the developer.
- E. *Effect of Record Plat Approval.* Approval of the Record Plat shall confer upon the developer, for a period of one (1) year from the date of approval, a right that all existing zoning regulations and subdivision regulations shall remain unchanged as they apply to the property included in the Record Plat. No subdivision or plat shall be recorded in the office of the Recorder of Deeds for Warren County, Missouri, unless and until the Planning and zoning Commissioner approves the Construction Plan and the approval of the Board Chair or a designee of the Record Plat is endorsed thereon. No lot in the subdivision plat may be sold until the Construction Plan have been approved by the Planning and zoning Commissioner and Building Official and the Plat officially recorded by the County Recorder of Deeds. If no Record Plat of a subdivision for which final approval has been given is recorded by the Warren Recorder of Deeds within said one (1) year period, the Board shall formally request the developer to explain extenuating circumstances preventing recording of the Plat. The Board shall then determine whether provision of an extension would serve the best interests of the Village of Pendleton. If these findings are negative, then the Board shall formally revoke final approval of the Plat and shall so notify the developer and the Warren Recorder of Deeds.

If the Construction Plan is approved and the Plat officially recorded with said time periods, the developer must diligently proceed with the proposed construction (applying for construction and building permits, installing streets, utilities, etc.) within two (2) years of recording the Plat. The Village shall have authority to complete all escrow items.

Once the developer has received record plat approval, the developer shall prominently display the following items of information in their sales office:

1. Description of the developer's/subdivision responsibilities for common ground within the subdivision.
2. A copy of the approved record plat/area map indicating the nature of all current zoning adjacent to the development is required to be prominently posted in the sales office.
3. A copy of all indentures, restrictions, and covenants be available also.

4. Developers are required to post these items at the sales office for review by potential buyers and for inspection by Village of Pendleton employees.

#### **SECTION 405.070: GRADING PLAN PROCESS**

A *Filing Procedures.* Within any unzoned, "R-1" Single-Family Residential Land use, "R-1B" Single-Family Estates Residential Land use, "AG" Agricultural Land use, and "MUTDD" Mixed-Use Traditional Development Land use, the owner(s) of real property must have first obtained approval of the applicable site plan, preliminary plat or area plan for a proposed land development project prior to the submitting a grading plan for said proposed land development project. Within the Village's "C-1" Restricted Business Land use, "C-2" General Business Land use, and "I-1" Light Industrial Land use, the owner(s) of real property may submit a grading plan for review by the Planning and zoning Commissioner at any time. The developer shall submit five (5) copies of the proposed grading plan and a completed application form to the Planning and zoning Commissioner.

B. *Information Required.* The following information is required for all Grading Plan submittals for approval. The required information may be combined for presentation on one or more drawings or maps. The Planning and zoning Commissioner may request that the information be presented on drawings or maps in addition to those submitted in the interests of clarity, speed and efficiency in the review process. In all cases the Grading Plan submission should include:

1. The Grading Plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Planning and zoning Commissioner can readily interpret the Plan, and shall include more than one (1) drawing where required for clarity.
2. The property is identified by lot lines and location, including dimensions, angles and size, correlated with the legal description of said property. The Grading Plan shall be designed and prepared by a qualified land planner, registered professional architect, engineer or land surveyor. It shall also include the name and address of the property owner(s), developer(s), and designer(s).
3. It shall show the scale, north point, boundary dimensions, natural features such as wood lots, streams, rivers, lakes, drains, topography (at least five (5) foot contours intervals; when terrain is irregular or drainage critical, contour interval shall be two (2} foot), and similar features. All topographic data shall directly relate to USGS data.
4. It shall show existing man-made features such as buildings, structures, easements, high tension towers, pipe lines, existing utilities such as water and sewer lines, etc., excavations, bridges, culverts, and drains and shall identify adjacent properties within one hundred (100) yards and their existing uses.
5. Any proposed alterations to the topography or other natural features is indicated.
6. All filled places under proposed storm and sanitary sewer lines and/or paved areas shall be compacted to ninety (90%) of maximum density as determined by the Modified AASHTO T-180 Compaction Test or ninety-five (95%) of maximum density as determined by the Standard Proctor Test AASHTO T-99.

7. All filled places in proposed roads shall be compacted from the bottom of the fill up to ninety (90%) maximum density as determined by the Modified AASHTO T-180 Compaction Test or ninety-five (95%) of maximum density as determined by the Standard Proctor Test AASHTO T-99. All tests shall be verified by a soils engineer concurrent with grading and backfilling operations.

8. The sediment control plan should be implemented before grading begins. No graded area is to remain bare without being seeded and mulched. Also, when deemed necessary positive steps should be exercised to prevent this soil from damaging adjacent property and silting up all storm drainage systems whether on or off site.

9. All low places whether on or off site should be graded to allow drainage. This can be accomplished with temporary ditches.

C. *Review Procedures.* The Planning and zoning Commissioner shall review the grading plan for its conformance to standards and specifications set forth in this Chapter and other applicable ordinances. The Planning and zoning Commissioner may request modifications in the Grading Plan. The Planning and zoning Commissioner shall then confer approval, conditional approval or disapproval of the Grading Plan within forty-five (45) days of filing and shall notify the Village Planner and Building Official with written reasons for its action.

D. *Effect of Grading Plan Approval.* Grading Plan approval shall confer upon the developer, for a period of one (1) year from date of approval, the conditional right that the general terms and conditions under which the approval was granted will not be changed by the Planning and zoning Commissioner. This one (1) year period may be extended by the Planning and zoning Commissioner if the developer has applied in writing for such an extension and the Planning and zoning Commissioner determines a longer period should be granted due to unusual circumstances. If an extension is not granted, the Grading Plan approval is null and void. After approval of the Grading Plan, the developer may proceed with the grading operations upon the final direction of the Planning and zoning Commissioner and under the inspection of the Building Department.

E. *Improvement Installation or Performance Guarantee.* After approval of the Grading Plans by the Village, the Owner/Developer must post a financial guarantee of performance as required by Section 405.110 of this Chapter. The following items if they apply shall be included in the financial guarantee:

1. Grading.
2. Siltation control.
3. Temporary storm drainage.
4. Seeding and mulching.

F. *Definitions.* When used within the Subdivision and Land Development Code, unless otherwise specifically stated, the following words shall have the meanings set out herein:

- Clearing: Disturbance of the existing topography by the removal of existing trees, shrubs and other indigenous vegetation but not including grass and weeds.

- Excavating: The removal or recovery of soil, rock, minerals, sand, gravel or other similar earthen materials from water or land, on or beneath the land surface, whether exposed or submerged.
- Filling: The depositing or dumping of earthen material on or into the ground resulting in the raising of the grade at that location.
- Grading: Any earthwork or activity that alters the natural or existing grade, including excavating, clearing, grubbing, filling, stockpiling, stripping, quarrying or any combination thereof.
- Grading Plan: The development plan that must be reviewed and approved by the Planning and zoning Commissioner prior to the grading of fifty (50) or more cubic yards of any site within the Village.
- Grubbing: The removal or destruction of tree root systems by mechanical, chemical or other means.
- Quarrying: The removal, excavation or processing of stone, rock, sand, gravel or other earthen material by method of blasting, crushing or excavation equipment.
- Stockpiling: The accumulation or storage of soil, rock, stone, sand, gravel or other earthen material.
- Stripping: Any activity which removes or disturbs vegetated or otherwise stabilized soil surfaces.

## ARTICLE IV: SUBDIVISION IMPROVEMENTS

### SECTION 405.080: INITIAL CONSIDERATIONS

- A. *General*. After approval of the Preliminary Plat and prior to Board Chair or a designee approval of the Record Plat, Construction Plans prepared by an engineer for the subdivision of all, or a specified stage, of the tract shall be submitted to the Planning and zoning Commissioner. If substantive changes are to be made after approval of the Construction Plan has been granted, the Planning and zoning Commissioner shall require revised plans be submitted for approval. Improvements required under this Chapter are the minimum acceptable improvements.
- B. *Preparation of Plan*. It shall be the responsibility of the developer to have prepared by a registered engineer, in the State of Missouri, a complete Construction Plan for streets, utilities, and other improvements required. Such Construction Plans are subject to approval by the Planning and zoning Commissioner and shall be prepared in accordance with standards and specifications stipulated in this Chapter (see Section 405.100, Subsections (A--J)).
- C. *Approval of Construction Plan*. Prior to both recording of the Record Plat and sale of any lot in the Plat, the Planning and zoning Commissioner must review and approve the Construction Plans; after such approval, the Planning and zoning Commissioner shall issue an appropriate letter certifying approval and Construction Permits.

- D. *Construction Schedule.* The developer shall submit to the Planning and zoning Commissioner and to all approving agencies and to public utility companies that will service the subdivision, prior to approval of the Construction Plan a general schedule of the timing and sequence for construction of all required improvements at a preconstruction meeting.
- E. *Timing of Improvements.* No grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change except for the purpose of aiding in review of the Record Plat, shall commence on the subject property until the developer has:
1. Received letter of approval of Grading Plan and removal of trees or other vegetation; and
  2. Obtained necessary approvals and permits from other affected Municipal, County, or State agencies.
- F. *Staging.* Where a subdivision is to be developed in stages, the provisions of this Article shall apply to each stage. However, improvements and financial guarantees may be required to extend beyond the boundaries of a subdivision stage if such extension is necessary to ensure the relative self sufficiency of the stage pending completion of the entire subdivision. Such extensions, schedules, and similar arrangements shall be set forth in an agreement between the developer and the Board prior to approval of the Record Plat.

#### **SECTION 405.090: ENGINEERING DRAWINGS OF IMPROVEMENTS**

- A. *Required Prior to Construction.* Engineering drawings of all required improvements shall be reviewed and approved by the Board Chair or a designee, except for improvements to be made under the jurisdiction of other Municipal, County, or State agencies, in which case the drawings shall be submitted to the appropriate agency for review and approval. Where review and approval of engineering drawings is made by such agency, the Board or a designee shall be given written confirmation that the necessary reviews have been completed and approvals have been granted.
- B. *Modification During Construction.* All installations and construction shall conform to the approved engineering drawings. However, if the developer chooses to make minor modifications in design and/or specifications during construction, he/she shall make such changes at his/her own risk, without any assurance that the Planning and zoning Commissioner will approve the completed installation or construction. It shall be the responsibility of the developer to notify the Planning and zoning Commissioner of any changes from the approved drawings. The developer may be required to correct the installed improvement so as to conform to the approved engineering drawings.
- C. *As-Built Drawings.* The developer shall submit to the Planning and zoning Commissioner a reproducible copy of "as-built" engineering drawings and three sets of prints of each of the required improvements that have been completed. Each set of drawings shall be certified by the developer's engineer. This provision does not apply to improvements made under jurisdiction of other public agencies.

#### **SECTION 405.100: CONSTRUCTION PLAN REQUIREMENTS**

- A. *General.* The Construction Plan for all aspects of the site development shall be prepared by an engineer and five (5) copies shall be submitted for review to the Planning and zoning Commissioner. The Construction Plan shall be any scale from (1 inch= 10 feet) through (1 inch = 100 feet), so long as the scale is an increment of ten (10) feet and is sufficiently clear in reflecting details of the proposed construction. Construction Plans shall be prepared on exhibits 23% inch x 34% inch. The Site Plan or Title Page shall be used as the cover sheet for the Construction Plan. The Plan shall generally consist of the following:
1. The site plan (single lot developments) or title page (subdivision developments).
  2. Roadway construction detail sheets.
  3. Sanitary sewer plan and profile sheets.
  4. Storm sewer plan and profile sheets.
  5. Grading-cross section and/or contour sheets.
  6. Water plan and profile sheets.
  7. Detention plan if so required.
  8. Storm drainage map plan.
  9. Amenities plan and schedule.
- B. *Roadway Construction Detail Sheets.* All construction details pertaining to the roadway improvements (e.g. paving details, pavement widening, curbing, sidewalk, unpaved areas, entrances, etc.) shall be shown on typical section and in plan and profile. Specific details shall include, but not be limited to:
1. Pavement installation, widening, or resurfacing improvements dimensioned and developed in accordance with the Standard Typical Section applicable to the project.
  2. Pavement widening and resurfacing improvements established about the right of way centerline;
  3. Mathematical Profile Grade elevations at twenty-five (25) feet intervals on vertical curves and fifty (50) feet intervals on tangent sections for all roadway construction. Elevations at ten (10) feet intervals along pavement edge at street intersection corners;
  4. Resurfacing Profile Grade elevations on existing centerline and edges of pavement at
  5. twenty-five (25) feet intervals and breaks in grade (i.e. irregularities in pavement), and establish new centerline and edge of pavement profiles;
5. Location and type of joint where different from Pavement Construction; and

6. Type and location of entrance construction.

C. *Sanitary Sewer, Storm Sewer, and Water Line Plan and Profile Sheets.*

All construction details pertaining to the sewer and water improvements shall be prepared in accordance with requirements of this Chapter and other pertinent ordinances and shown in plan and profile. Specific details shall include, but not be limited to:

1. Existing ground and finished grade shown and designated;
2. Open trenching of concrete pavements will require replacement of entire slab from joint to joint;
  2. Open trenching of asphalt pavements will require saw cut at edge and replacement with full depth asphalt. Contractor will be responsible for repair of settlement, etc., for a period of one (1) year. Contractor is to
    3. notify the Village to make an inspection when installing the asphalt pavement.
4. Limits of backfill and pavement replacement at all crossings of existing roadway surfaces not bored;
5. Location of all utilities to be encountered in construction. Plans must be submitted to all utilities for verification of conflicts. Contact the Planning and zoning Commissioner regarding all major utility conflicts within road rights of way; and
6. Proof of plan approval by other political subdivisions having jurisdiction must be received prior to Construction Plan approval.
7. All required details for the installation of the Sanitary Sewer, Storm Sewer, and Water Mains.

D. *Grading Plan and Cross Section Sheets.* A Grading Plan for the entire plat shall be provided. All grading details pertaining to site development shall be shown in plan or on cross-section sheets.

Specific details shall include, but not be limited to:

1. Existing and proposed contours, normally at two (2) foot intervals. Contour intervals for Grading Plans other than the above will require special approval.
2. Site grading shall be compatible with ultimate roadway elevations.
3. Existing ground and finished grade for cross-section sheets plotted at scale of not less than one inch equals one hundred feet (1 inch = 100 feet) horizontal and one inch equals ten feet (1 inch = 10 feet) vertical.
4. Sinkholes to be affected by grading must be treated.
5. Siltation control details shall be provided.



- E. *Amenities Plan and Schedule.* Detailed construction plans and specifications along with progress schedules shall be provided for, but not limited to, recreational buildings, swimming pools and appurtenant structures, tennis courts, jogging trails, fences and decorative landscaping provided as subdivision amenities.
- F. *Easements/Dedications Outside Subdivision Plat Boundaries.* Where development or construction will require easements and right of way dedications, no approval of Construction Plans for developments will be granted until verification of the recording of all easements and right of way dedications has been received.
- G. *Permits.*
1. No person, firm or corporation shall develop, alter, or modify any tract of land, roadway, or any Village-owned utility within the Village of Pendleton, or cause the same to be undertaken without first securing the approval of the construction plans as required by this Chapter or other Village ordinances, nor shall any person, firm or corporation undertake such work or cause the same to be undertaken without first obtaining the required permits from necessary agencies, including the Village of Pendleton, County, State or Federal Governments for the proposed construction.
  2. Applications for building permits shall be filed with the Board Chair or his/her duly authorized representative, upon the prescribed forms, setting forth the legal description of the lot, tract or parcel of land, together with a general description of the building or structure to be constructed, erected or altered thereon including the approximate size and shape, principal material or construction, location of the building or structure upon the lot, tract or parcel and the intended use.
  3. There shall be a separate permit for each building or structure to be constructed, erected or altered except accessory buildings which may be included in the permit for the principal building when construction is simultaneous. For each permit issued there shall be charged and collected from the applicant a fee, in accordance with ordinances establishing same.
  4. No permit shall be issued for any building, structure, or construction unless the same is in conformity in every respect with all provisions of this Chapter.
  5. The Board Chair, or his/her duly authorized representative, shall be empowered to act within provisions of this Chapter upon all applications for building permits and the same shall be approved or denied not later than the tenth (10th) business day succeeding the day of filing. In the event of refusal to issue a permit upon an application, as herein provided, the applicant shall have the right to appeal.
  6. A permit may be revoked by the Board Chair or a designee at any time prior to the completion of the building or structure for which the same was issued, when it shall appear to him/her that there is departure from the plans, specifications or conditions as required under terms of the permit, that the same was procured by false representation, or that any provisions of this Chapter are being violated. Written notice of such revocation shall be served upon the owner, his/her agent or contractor, or upon any person employed on the building or structure for which such permit was issued, or shall be posted in a prominent location, and thereafter no such construction shall proceed.
- H. *Violation and Penalty.*

1. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used in violation of this Chapter, the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.
2. Failure to obtain and display the required permit prior to making such improvement shall constitute a violation of this Chapter. Each day of such non-compliance shall constitute a separate violation.
3. The owner or general agent of a building or premises where a violation of any provision of the regulations of this Chapter has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person commits, takes part, or assists in any such violation or who maintains any building or premises in which any such violation exists shall be guilty of a violation of this Chapter punishable by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) for each and every day that such violation continues or up to 90 days of community service or by both such fine and community service in the discretion of the court. Any such person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten (10) days after such service or shall continue to violate any provision of this Chapter in the respect named in such order, shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).
  - I. *Permit Applicants.* The applicant shall be the owner(s) of record or legal representative designated by the owner(s).
  - J. *Plans and Fees.* Five (5) sets of plans shall accompany all applications or permits required by the Village of Pendleton. Submit directly to:

Mary Raterman, CPA  
812 E Veterans Memorial Pkwy,  
Warrenton, MO 63383

- K. *Completion of Construction.* The construction of all subdivision improvements shall be completed within two (2) years of the Planning and zoning Commissioner's approval of the construction plans. Where the improvements have not been completed within the specified time, new construction plans will be required to be submitted. Time extensions may be granted, by the Board of Trustees or a designee, for those developments showing good cause as to why the improvements have not been completed.

#### **SECTION 405.110: IMPROVEMENT INSTALLATION OR PERFORMANCE GUARANTEE**

- A. *Escrow Agent.* The developer shall deposit with the Village Clerk, or an escrow agent agreed upon by the Board or a designee and the developer, a cash amount, certified check or an

irrevocable bank letter of credit endorsed to the escrow agent. The developer has the option of which form to utilize.

- B. *Escrow Agreement.* For all developers proposing to establish escrows, the escrow agreement shall be in form approved by the Village Attorney.
- C. *Surety Bond.* In lieu of an escrow agreement, the Village may accept a surety bond and such bond shall be in an amount and with surety and other reasonable conditions providing for and securing the actual construction and installation of the improvements and utilities.
- D. *Amount.* The bond or escrow account shall be an amount, estimated by the Planning and zoning Commissioner, equal to the estimated cost for completing construction of the improvements over the anticipated construction period and contingencies based on an estimating guide acceptable to the Planning and zoning Commissioner. The Planning and zoning Commissioner, in order to protect the Village's taxpayers from the cost of correcting or completing development projects in a timely manner, is required to conservatively estimate its costs to cure or complete.
- E. *Term, Length.* The term length in which the bond or escrow is in force shall be for a period not to exceed two (2) years for the improvement, unless extended by the Board of Trustees.
- F. *Failure To Complete The Construction Of An Improvement.* In the event the developer shall, in any case, fail to complete such work within the period of time required by the escrow agreement or bond for the completion of improvements under the jurisdiction of the Village, it shall be the responsibility of the Board of Trustees to have such work completed and reimburse the Village for the cost and expense thereof by appropriating funds in the escrow or by making a claim on the bond.
- G. *Successor Developer.* In the event a developer who has posted an escrow, letter of credit or bond with the Village in accordance with Section 405.110 transfers title of the subdivision property prior to full release of the escrow, letter of credit or bond, the Village shall accept a replacement escrow or letter of credit from the successor developer in the form allowed in Section 405.110 and in the amount of the escrow or letter of credit held by the Village at the time of the property transfer and, upon receipt of the replacement escrow or letter of credit, the Village shall release the original escrow or letter of credit in full and release the prior developer from all further obligations with respect to the subdivision improvements if the successor developer assumes all of the outstanding obligations of the previous developer. The Village may accept a surety bond from the successor developer in the form allowed in Section 405.110 and in the amount of the bond held by the Village at the time of the property transfer and, upon receipt of the replacement bond, the Village shall release the original bond in full and release the proper developer from all further obligations with respect to the subdivision improvements.
- H. *Escrow Release.* The bond or escrow amount held by the Village to secure actual construction and installation on each component of the improvements or utilities shall be released within thirty (30) days of completion of each category of improvement or utility work to be installed, minus a maximum retention of five percent (5%) which shall be released as set forth herein. The Village shall inspect each category of improvement or utility work within twenty (20) business days after a request for such inspection. Any such category of improvement or utility work shall be deemed to be completed upon certification by the Village that the project is complete in accordance with the ordinance of the Village, including the filing of all

documentation and certifications required by the Village in complete and acceptable form. The release shall be deemed effective when the escrow funds are duly posted with the United States Postal Service or other agreed upon delivery service or when the escrow funds are hand delivered to an authorized person or place as specified by the owner or developer. Once the developer or builder has completed the site improvements in a timely and satisfactory manner, the Village should promptly release the appropriate amount of escrow funds. If the Village has not released the escrow funds within thirty (30) days as provided in this Section, the Village shall be subject to pay the owner or developer, in addition to the escrow funds due the owner or developer, interest at the rate of one and one-half percent (1 1/2 %) per month calculated from the expiration of the thirty (30) day period until the escrow funds have been released. Any owner or developer aggrieved by the Village's failure to observe the requirements of the ordinance may bring a civil action to enforce the provisions of the ordinance. In any civil action or part of a civil action to enforce the provisions of this Section, a court may award the prevailing party or the Village the amount of all costs attributable to the action, including reasonable attorney's fees.

#### **SECTION 405.120: INSPECTION OF IMPROVEMENTS**

- A. The Village shall certify that the project is complete in accordance with the following process:
1. Once the improvements or utilities have been constructed or installed, the developer is responsible for obtaining necessary inspections. Following a satisfactory inspection and receipt by the Board Chair or a designee of verification from the appropriate inspecting authority that all improvements are constructed or installed in accordance with the approved plans, the Board Chair or a designee will then review all documents to verify that each category of improvement or utility work is constructed or installed and, if so, will recommend release of the escrow for that category and notify the necessary entities of said approval for release.
  2. The Board Chair or a designee will forward a construction inspection approval memorandum to the Board of Trustees or issue a construction inspection report listing all deficiencies within thirty (30) days of receipt of a written request to approve or inspect improvements subject to the following requirements:
    - a. All inspections will be made within thirty (30) working days after the receipt of a written request for inspection. This time frame represents the normal maximum time span required from receipt of written request to signing the construction inspection approval memorandum or the construction inspection report. Inspections may be delayed by workload, weather and ground conditions, especially during the winter when a complete inspection cannot be accomplished. A construction inspection approval memorandum will not be issued where deficiencies exist. Without a construction approval memorandum, the Board Chair or a designee will not recommend release of escrow. When deficiencies exist, Board Chair or a designee will mail a construction inspection report to the developer.
    - b. If deficiencies listed in a construction inspection report are corrected within sixty (60) days of the date of the construction inspection report, the Board Chair or a designee will not conduct any additional inspections other than to verify the correction of the deficiencies. If the deficiencies listed in a construction inspection report are corrected between sixty (60) and ninety (90) days, the Board Chair or a designee will not conduct any additional inspections other than to verify the correction of the deficiencies or discover additional major deficiencies. If deficiencies listed in a construction inspection report are not corrected until more than ninety (90) days time after

the date of the construction inspection report, the site is subject to reinspection and any deficiencies may be added requiring correction.

3. The Board Chair or a designee will not conduct an inspection in order to issue either a construction inspection report or construction approval memorandum until all required as-built plans have been submitted to and approved by the Village. As-built plans shall serve as certification by the developer's engineer that improvements have been installed.
4. The Board Chair or a designee shall assure that all documentation and certifications required by the Village of Pendleton have been received in complete and acceptable form prior to release of any escrow monies.
5. Inspection criteria for categories of improvements or utilities:
6. Approval of installation and construction of improvements or utility work by the Board Chair or a designee shall not constitute acceptance by the Village of Pendleton of the improvements or utilities for dedication purposes. Such acceptance shall be made only on formal action of the Board of Trustees if deemed appropriate.
7. The developer shall be responsible for removal of all equipment, material and general construction debris from the subdivision and from any lot, street or public way or therein or adjacent thereto. Dumping such debris into sewers, adjacent property, or other land in the Village is also prohibited. Burning of debris is prohibited unless a permit is obtained from the appropriate fire officials.

## **ARTICLE V: DESIGN AND DEVELOPMENT STANDARDS**

### **SECTION 405.130: INITIAL CONSIDERATIONS**

In the Board of Trustees' consideration of applications for plat approval, the standards set forth in this Article shall be considered minimum requirements.

### **SECTION 405.140: RESIDENTIAL LOT DESIGN STANDARDS**

The following standards are regarded as guidelines for desirable development. The size, shape and orientation of lots shall be designed to provide desirable building sites and logically related to topography, natural features, streets, and adjacent land uses. Due regard shall be given to natural features such as large trees; unusual rock formations; watercourses; and sites which have historical significance, scenic views, and similar assets, the preservation of which would add attractiveness and value to the subdivision. The following minimum standards are set forth as guides to these goals.

1. Where additional widening strips are dedicated on existing streets, calculations of the area of a lot should not include the dedicated strips in determining the gross area of the lot. Dedicated widening strips shall be required for all proposed subdivisions which front along a county road. The area of all lots must be calculated exclusive of the street right of ways.
2. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, soil conditions, steepness of terrain, flood conditions, or other adverse natural physical conditions, the Commission may, after adequate investigation, withhold approval of such lots until engineering studies are presented to the Commission

which establish that the method proposed to meet any such condition is adequate to avoid significant danger to health, life or property.

3. Alleys are undesirable except where alleys of adjoining subdivisions would be closed off from access by the failure to provide alleys in new subdivisions.

#### **SECTION 405.150: BLOCKS**

Blocks shall be designed so as to provide good circulation of traffic.

1. *Lengths.*
2. *Width.* Blocks shall be wide enough to allow two (2) tiers of lots with sufficient depth to provide an adequate building site on each lot, except as consistent with street design standards as set forth.

#### **SECTION 405.160: LOT DIMENSIONS, SHAPES AND POSITION**

The size, orientation and dimensions of lots shall be appropriate for the location and physical character of the proposed subdivision and for the type of development contemplated in compliance with the applicable Zoning Order or Regulation. Building lines shall be shown on all lots intended for residential use; and shall not be less than the setback required by the Zoning Order.

1. *Depth.* Excessive depth in relation to width shall be avoided. (A proportion of 1 to 1 or 2 to 1 will normally be considered appropriate, unless topography is such that other lot dimensions allow for proper development).
2. *Street access.* Each proposed lot shall front upon a street improved to standards and specifications of the Village of Pendleton unless the lots front on a private roadway.
3. *Width.* Lots for residential purposes shall have sufficient width at the building setback lines to permit compliance with side yard or distance requirements of the applicable Zoning Order or Regulations and still be adequate for a building of practicable width. The minimum lot width required for a lot fronting on a circular turn-around shall be measured along a line tangent to the setback line at a point midway between the side lot lines.
4. *Double-frontage.* Lots with double frontage and reversed frontage shall be avoided, except where necessary to provide separation of development from traffic arteries, or as otherwise required by topography or similar conditions.
5. *Side lot lines.* Side lot lines shall be at right angles to straight streets and radial to curved streets except when said radial lot lines detract from desirability of the lot, in which event some deviation may be allowed.
6. *Corner lots.* Corner lots for residential use shall be platted to permit compliance with the yard and setback requirements for the applicable Zoning Order. The right of way radius on corner lots shall be a minimum of twenty-five (25) feet, or in the

case of a straight line, the line connecting two (2) points twenty-five (25) feet distance from the intersection of the projected lot lines.

7. *Markings.* The corners of all lots shall be marked with iron stakes, or if the front property line is contiguous to a street, by an approved recognizable mark on street or curb, as specified by the Missouri Land Survey Authority.

#### **SECTION 405.170: NON-RESIDENTIAL SUBDIVISION (COMMERCIAL AND INDUSTRIAL)**

In addition to the standards of this regulation, which are appropriate to the platting of all subdivisions, the subdivider shall demonstrate to the satisfaction of the Commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated. The following standards shall, therefore, be observed.

1. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
2. Street right of way and pavement shall be adequate to accommodate the type of volume of traffic anticipated.
3. Block Length. Refer to Exhibit "A", Section 405.370.
4. Every effort shall be made to protect adjacent residential areas from the proposed non-residential subdivision, including the provision of extra depth in parcels adjacent to an existing or potential residential development, and provision for a permanently landscaped buffer strip where indicated by the Planning Commission.
5. Streets carrying non-residential traffic, especially truck traffic, shall not be extended to the boundaries of adjacent residential areas, and not be connected to streets intended for predominantly residential traffic.

#### **SECTION 405.180: RIGHT OF WAY, UTILITY EASEMENT REQUIREMENTS AND SIDEWALKS**

##### **A. General Standards.**

1. Streets shall conform to existing topography as nearly as possible. Streets shall intersect, as nearly as possible, at right angles. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet are prohibited.
2. Streets will not be approved which are subject to flooding or frequent inundation.
3. The system of streets designated for the subdivision, except in unusual cases, must connect with any streets already dedicated in adjacent subdivisions; and where no adjacent connections are platted, must in general be the reasonable project of streets in adjacent tracts and must continue to the boundaries of the tract subdivided, so that other subdivisions may connect therewith.
4. The Planning and zoning Commissioner may require a street to be dedicated to public use in order to provide circulation.

B. *Street Right-Of-Way And Utility Easement Requirements.*

1. *Highways and major thoroughfares.* Highways and major thoroughfares shall have widths as specified in the Comprehensive Plan.
2. *Collector streets.*
3. *Minor stub and cul-de-sac streets.* All cul-de-sacs shall have a minimum radius of fifty-two (52) feet.\* Minor stub streets shall have a minimum turnaround radius of fifty (50) feet. The Planning Commission may approve a "T" or "Y" shaped paved space instead of a required turning circle. Turnarounds may not be required on stub streets which are less than two hundred fifty (250) feet in length and are planned to be extended in the future.  
All stub streets in excess of two hundred fifty (250) feet in length must provide a temporary turnaround with three (3) standard specification, "Manual on Uniform Traffic Control Devices",\* end of roadway markers mounted on two (2) pound "U" channel sign posts. Each marker shall consist of an eighteen (18) inch diamond reflectorized red panel. The bottom of each panel shall be mounted a minimum of four (4) feet above the elevation of the permanent surface and installed at terminus of pavement. Refer to Exhibit "A" for general street standards.
4. *Utility easements.* Utility easements, where required, shall be at least ten (10) feet wide (five (5) feet on each side of the lot line) along rear, front and side lot lines. Easements of adequate width shall be provided for open drainage channels, where required.  
Easements five (5) feet in width may be allowed for underground cable installations. Telephone and electric power lines shall be located underground, except in subdivisions where all of the lots are twenty thousand (20,000) square feet or larger in size, and then the developer will have the option of underground or overhead utility lines.
5. *Utility/roadway easements.* A minimum of ten (10) foot utility/roadway easement shall be required adjacent to all Village, County and State right-of-way. Such utility/roadway easements shall also include working space to work on such utility and/or roadway.
6. *\*Note:* In subdivisions with no through streets, a fifty-five (55) foot pavement radius and a sixty-seven (67) foot right-of-way radius will be required on at least one (1) cul-de-sac in order to facilitate school bus circulation. For individual cul-de-sacs the fifty-five (55) foot pavement radius and sixty-seven (67) foot right-of-way radius shall only be required if the cul-de-sac exceeds one thousand three hundred (1,300) feet in length.

C. *Minimum Pavement Widths.*

1. *Highways, major thoroughfares and collector streets.* Thirty-nine (39) foot minimum. In the case of a major thoroughfare requiring an improvement different than a thirty-nine (39) foot pavement width, the matter of financial and other arrangements for installing wide pavements at the time shall be taken up by the developer with the officials having jurisdiction.
2. *Minor, stub and cul-de-sac streets.* Twenty-six (26) feet minimum. Refer to Exhibit "A", Sections 405.370--405.420. The pavement of a turning circle at the end of a cul-de-sac street shall have a minimum outside diameter of eighty-four (84) feet.

A "T" or "Y" shaped paved space, when approved by the Planning Commission in place of a turning circle, shall extend entirely across the width of the street right-of-way, except for sidewalk



space, and shall be at least ten (10) feet wide with the flared portion rounded by a minimum radii of twenty (20) feet.

3. *Alleys.* Twenty (20) feet minimum.

D. *Sidewalks.*

1. Sidewalks are required on both sides of the street except for:
  - a. Single-family residential subdivisions with an average lot size one-half(%) acre or larger, no sidewalks will be required.
  - b. Cul-de-sac streets containing eight (8) or fewer single-family lots, including corner lots, no sidewalks will be required.
  - c. Cul-de-sac streets containing nine (9) or more single-family lots, including corner lots, sidewalks are required on only one (1) side of the street.
    - a. The circular portion of single-family lot cui-de-sacs, no sidewalks will be required. e. Industrial streets, no sidewalks will be required.
2. Based on a recommendation by the Planning and Zoning Commission, sidewalks may be required by the Board on one (1) or both sides of the streets exempted above in order to provide direct access for pedestrians to recreational areas, common ground, schools, churches, shopping areas and pedestrian ways and multi-purpose trails linking adjoining streets and neighborhoods. Based on a recommendation by the Planning and Zoning Commission, the Board of Trustees may limit the requirement of sidewalks to one (1) side of the street in commercial, office and high-tech developments that are deemed to likely experience lesser amounts of pedestrian traffic.
3. Sidewalks shall have a minimum pavement width of four (4) feet and shall have a minimal lateral slope of one-fourth (Y.) inch per foot of width. Sidewalks shall be placed within the street right-of-way, one (1) foot away from the property line. Sidewalks shall be four (4) inch thick concrete, except in driveways where it shall be six (6) inches. Driveway aprons shall not break the sidewalk level. Wheelchair ramps shall be installed at all street intersections according to Federal regulations. Maintenance of sidewalks shall be the responsibility of the adjacent property owner.

**SECTION 405.190: STREET GRADES AND CURVES**

The grades of streets shall not exceed the following, except where unusual or exceptional conditions exist, the Planning Commission may modify these requirements.

1. *Highway and major thoroughfares.* Six percent (6%).
2. *Collector streets.* Eight percent (8%).
3. *Minor streets, service drives and alleys.* Ten percent (10%).
4. *Pedestrian ways or crosswalks.* Five percent (5%), unless steps of an acceptable design are to be constructed.

5. *Minimum grade.* In no event shall the minimum grade be less than two percent (2%) unless approved by the Planning and zoning Commissioner.

#### **SECTION 405.200: STREET NAME SIGNS AND STREET NAMES**

- A. Street name signs meeting the requirements of the Village of Pendleton shall be erected by the subdivider at all intersections.
- B. Stop signs, yield signs, etc., non-illuminated, non-electric, reflectorized, shall conform to "current" Manual on Uniform Traffic Control Devices and be provided by the developer as determined by the Village of Pendleton.
- C. Whenever a new street is constructed along the approximate alignment or extension of an existing street, its name shall be the same as that of the existing one.
- D. Whenever a cul-de-sac street serves not more than three (3) lots, the name of the intersecting street shall apply to the cul-de-sac.
- E. To avoid duplication and confusion, the proposed names of all streets shall be approved by the Warren County Planning Department prior to preliminary plat approval and such names being assigned or used.

#### **SECTION 405.210: PUBLIC STREET CONSTRUCTION**

- A. *Public Street Construction.* Streets shall be graded to full width of the right-of-way and fully constructed of asphaltic concrete, or portland cement concrete pavements, in accordance with the Standard Specifications of the County of Warren Highway Department. Refer to Exhibit "A" (attached) and Exhibit "C" (Standard Specifications for Warren County Highway Department) for applicable construction standards. Before streets are constructed, soil tests on the subgrade shall be submitted and approved by the Planning and zoning Commissioner. In all fill areas in the roadways, soil tests shall be submitted and approved by the Planning and zoning Commissioner for every two (2) feet of fill. No traffic will be allowed on new concrete pavement until it has cured for seven (7) days and it reaches 3500 psi. The streets shall not be approved unless it reaches 4000 psi.
- B. *Improvement of Existing Streets.* For any development fronting on an existing road or street, it shall be the responsibility of the developer to bring the road or street up to Village specifications, as required, to the center line of the road or street.
- C. *Designation of Private Streets.* The construction of new private streets within any residential zoned development shall be prohibited. Private streets will be allowed in commercial and industrial zoned areas. For any existing or approved subdivision having private streets, the developer must construct a sign at all entrances of the subdivision within fifty (50) feet of the centerline of the road, this shall state: "Private Streets Maintained by Property Owners". These signs shall be installed where they are easily visible to anyone entering the subdivision and maintained in good order by the developer until the last lot is sold in the subdivision. The minimum size for sign shall be twelve (12) inches high by eighteen (18) inches wide with two (2) inch high

letters. There shall also be a sufficient contrast in the coloring of the sign background as compared to the message lettering. When private streets are built, they are to be built to public streets standards.

- D. *Approval of Subgrade and Subbase.* The Planning and zoning Commissioner shall approve the subgrade before any subbase is placed thereon and shall approve the subbase before concrete or surface course is placed. The subgrade and subbase shall be so constructed that it will be uniform in density throughout. Subgrade and subbase beneath pavements shall be compacted to either ninety five percent (95%) of maximum density as determined by the "Standard Proctor Test AASHTO T-99, Method C" (ASTM D-698) or ninety percent (90%) of maximum density as determined by the "Modified AASHTO T-180 Compaction Test" (ASTM D-1557). The moisture range for compaction of fill shall be specified by a licensed geotechnical engineer and approved by the Planning and zoning Commissioner. The moisture range shall be determined by the Standard Proctor Density Method AASHTO T-99. The entire width and length will conform to line, grade and cross-section shown on the plans or as established by the engineer. If any settling or washing occurs, or where hauling results in ruts or other objectionable irregularities, the contractor shall reshape and reroll the subgrade or subbase before the pavement is placed. Additional rolling or methods to verify compaction shall be at the discretion of the Planning and zoning Commissioner. Tolerance allowed on all lines, grades and cross-sections shall be plus or minus 0.04 feet.
- E. *Utility Work Prior to Base Construction.* No base course work may proceed on any street until all utility excavations (storm and sanitary sewers, water, gas, electric, etc.) have been properly backfilled with granular material, crushed stone, or gravel mechanically tamped in ten (10) inch lifts or jetted with water and allowed to set for a length of time satisfactory to the Planning and zoning Commissioner.
- F. *Required Joint Details in Concrete Streets.* Construction joints shall be required in all concrete roadways as a normal requirement. MoDOT standard specifications shall apply. Additionally:
1. Transverse construction joints shall be spaced sixteen (16) feet apart.
  2. Longitudinal construction joints shall be Type C -with bars.
  3. Expansion joint A-2, from Warren County pavement construction details, shall be allowed in addition to type A and AA expansion joints.
  4. Expansion joints in the driveway approach area shall be one (1) inch at the back of curb. In all cases if the driveway approach depth exceeds the minimum six (6) inches thickness the joint material shall extend the full depth of pavement, no concrete to concrete interface.
  5. The expansion joint between the driveway and garage floor shall be one (1) inch and full depth of slab.
- G. The developer's Engineer shall identify on the Record Plat any lot for which special precautions should be taken to prevent damage to any structure caused by the forces commonly known as "street creep". The developer's Engineer shall also recommend any special construction technique required to counter the forces.

#### **SECTION 405.220: MONUMENTS REQUIRED**

As part of public street construction, sufficient permanent and distinguished monuments shall be accurately placed throughout the subdivision so that street alignment may be traced with accuracy. Such monuments shall be in the form of iron pins not less than one-half inch in diameter and three (3) feet long driven into the earth, or spikes not less than six (6) inches long driven into the pavement, or of something equal. Such monuments shall be installed by the subdivider as soon as reasonably possible. The location of such monuments shall be indicated on the final plat and shall be placed in accordance with the following requirements:

1. *Street points.* Monuments shall be set at the intersection of all streets and the beginning and end of all curves along street centerlines.
2. *Curb marks.* Curbs shall be permanently marked at the beginning and end of all curves and at the prolongation of all lot sidelines.

#### **SECTION 405.230: PUBLIC STORM SEWERS AND OTHER DRAINAGE APPURTENANCES**

- A. In addition to the installation of curbs or gutters along the streets as required by this Chapter, storm sewers shall be required. Such systems will be equipped with adequate basins, inlets and outlets, and shall be constructed in accordance with the applicable provisions in the specifications. The storm water drainage system shall be separate and independent of the sanitary sewer system. The plans and specifications for the disposing of storm water shall be approved by the Planning and zoning Commissioner.
- B. *General.* All construction details and specifications pertaining to storm water drainage shall be in accordance with the Village of Pendleton's requirements unless otherwise noted herein. A registered engineer's seal is required on all drainage plans submitted for approval.
- C. *Design Criteria.* All storm water design is to be by the Rational Method, except that in certain large developments, the use of other methods of analysis such as the Unit Hydrograph will be considered for storm water design. However, prior approval must be obtained from the Planning and zoning Commissioner at the preliminary design stage, where use of the Unit Hydrograph or other methods of analysis are requested.
  1. Run-off factors based on fifteen (15) year design storm frequency are generally as follows:
    - a. 1.7 c.f.s. per acre, five percent (5%) impervious for parks and large perpetual charter cemeteries;
    - b. 1.9 c.f.s. per acre, fifteen (15%) impervious for one (1) acre or larger tracts, single-family residences;
    - c. 2.0 c.f.s. per acre, twenty percent (20%) impervious for one-half (Y:!) acre lots;
    - d. 2.2 c.f.s. per acre, thirty percent (30%) impervious for small non-perpetual charter cemeteries;
    - e. 2.4 c.f.s. per acre, forty percent (40%) impervious for single-family residences, ten thousand (10,000) square feet or less.

- f. 3.0 c.f.s. per acre, seventy percent (70%) impervious for multi-family apartments, condominiums, etc.;
- g. 3.5 c.f.s. per acre, one hundred percent (100%) impervious for developed manufacturing and industrial areas.

*Note:* Drainage areas may be broken down into component areas, with the appropriate run-off factor applied thereto: e.g. an apartment complex may show 3.5 c.f.s. per acre for roofed and paved areas and 1.7 c.f.s. per acre for grassed areas.

- 2. Twenty-five (25) year frequency rainfall can be obtained by the factor of 1.18 times the fifteen (15) year frequency rainfall.
- 3. Fifty (50) year frequency rainfall can be obtained by the factor of 1.28 times the fifteen (15) year frequency rainfall.
- 4. One hundred (100) year frequency rainfall can be obtained by the factor of 1.39 times the fifteen (15) year frequency rainfall.
- 5. The runoff factors shall also include a factor to account for ground saturation. The runoff factors shall be increased by the following:
  - a. Fifteen (15) year design storm - 1.1.
  - b. Twenty-five (25) year design storm - 1.15.
  - c. Fifty (50) year design storm - 1.20.
  - d. One hundred (100) year design storm - 1.25.
- 6. Using the above factors the values are as follows:

D. *Drainage Structures.* All structures shall be designed for HS20-44 loading.

- 1. *Bridges.*
  - a. Bridges in flood plain areas shall be designed for one hundred (100) year storm frequency and provide one (1) foot of freeboard between the bottom of superstructure and high water elevations.
  - b. Bridges in non-flood plain areas shall be designed on a storm frequency of one hundred (100) years and provide two (2) feet of freeboard between the bottom of superstructure and high water elevations.
- 2. *Culverts.*
  - a. Crossroad culverts, not at low points, shall be designed on a storm frequency of fifteen (15) years, with entrance control and two (2) feet of freeboard at the shoulder line.
  - b. Culverts, at or near low points in flood plains, shall be designed on a storm frequency of one hundred (100) years with entrance control and two (2) feet of freeboard at the shoulder line.
  - c. Culverts, at or near low-points not in flood plains, shall be designed on a storm frequency of fifty (50) years, with entrance control and two (2) feet of freeboard at the shoulder line.

3. *Roadways.* Whenever a watercourse is proposed or exists within proximity of and is approximately parallel to an existing or proposed roadway, the low shoulder elevation of the roadway shall be established from the highwater elevation with one (1) foot of freeboard in non-flood plain areas and two (2) feet of freeboard in flood plain areas.
4. *Street inlets.* In certain cases, where steep grades or other unusual conditions are encountered, a grated trough may be required in lieu of multiple inlet structures upstream in order to eliminate excessive by-pass.
5. *Pipes.*
  - a. Pipes within the public right-of-way or easement shall either be reinforced concrete pipe ASTM C-76, Class III, a minimum of 15" RCP or corrugated steel M-36, 16 gauge asphalt polymer, or aluminized coating, a minimum of 18 CSP. Design calculations may be submitted allowing a lower class of RCP or higher gauge of CSP. Also the required stormwater hydraulics shall be submitted with all types of pipes. In situations where storm pipe cover is less than three (3) feet, calculations will be required to determine the class or gauge of pipe. All concrete pipe will be installed with O-Ring rubber type gaskets per M.S.D. Standard Construction Specifications. The use of flexible thermoplastic sewer pipe, meeting Missouri Highway and Transportation Department and ASTM D-2321 specifications, will be allowed with these conditions.
    - (1) The Planning and zoning Commissioner shall review the proposed project for suitability.
    - (2) Standard concrete drainage structures and flared end sections will be used in the installation process.
    - (3) Installation shall be in accordance with ASTM D-2321 and/or manufacturers recommendation, whichever is more stringent.
  - b. Pipes normally should be sized using the partial flow design, however, under special circumstances, full flow design will be allowed provided hydraulic grade line information is shown indicating adequate freeboard. This additional information will be supplied for the 15, 25 and 100 year storms.
  - c. Storm sewer pipes not located in public right-of-way or easement shall be reinforced concrete pipe. Storm sewers eighteen (18) inches in diameter or smaller shall be ASTM C-14. Storm sewers twenty-one (21) inches in diameter or larger shall be ASTM C-76, Class III. Asphalt coated, polymer or aluminized coated corrugated steel pipe or thermoplastic pipe may be substituted with appropriate submitted calculations.

#### **SECTION 405.240: STORM WATER DETENTION**

- A. *Policy.* It is the policy of the Village of Pendleton to protect and promote the public health, safety and general welfare. The criteria for storm water detention will reduce the possibility of damage to public and private property, will reduce the erosion of land and creek channels, will assist in the attainment and maintenance of water quality standards, and will preserve and enhance the environmental quality of the watercourses in the Village. This criteria provides

uniform procedures for designing and checking the design of storm drainage detention systems.

B. *Definitions.* When used in this Section, the following words shall have the meanings set out herein:

- *Drainage Area:* That part of the tributary area for which a detention facility is designed to control peak discharge rates.
- *Drainage Development:* Any activity, including subdivision, that alters the surface of the land to create additional impervious surfaces including, but not limited to, pavement, buildings and structures except:
  1. Additions to, improvements, and repair of existing single-family and duplex dwellings.
  2. Construction of any buildings, structures, and/or appurtenant service roads, drives and walks on a site having previously provided storm water control as part of a larger unit of development consistent with the original development plan.
  3. Remodeling, repair, replacement and improvements to any existing structure or facility and appurtenances that does not increase the impervious area on the site in excess of ten percent (10%) or add one (1) acre of impervious-area.
  4. Construction of any one (1) new single-family or duplex dwelling unit, irrespective of the site area on which the same may be situated.
- *Emergency Spillway:* A device or devices used to discharge water under conditions of inflow that exceed the design inflow. The emergency spillway functions primarily to prevent damage to the detention facility that would permit the sudden release of impounded water. It shall be designed to handle the runoff from a one hundred (100) year storm.
- *Freeboard:* The difference in elevation between the top of a structure such as a dam or open channel and the maximum design water surface elevation or high water mark and is an allowance against overtopping by waves or other transient disturbances.
- *Principal Spillway:* A device such as an inlet, pipe, weir, etc., discharge water during operation of the facility under the conditions of a fifteen (15) year or less return frequency of the existing conditions, before the proposed development.
- *Private Detention Facility:* Any detention facility located on the controlling discharge from a site wholly owned and controlled by one (1) owner and not platted for future subdivision of ownership. Also, all facilities incorporating detention storage of storm water in or on any of the following:
  1. Roofs of buildings or structures also used for other purposes.
  2. Paved or surfaced areas also used for other purposes.
  3. Enclosed underground pipes or structures on private property when the surface is used for other purposes.

- *Public Detention Facility:* Any detention facility controlling discharge from a tributary area owned by more than one owner and/or platted for future subdivision of ownership, except as defined as a "*private detention facility*" herein.
- *Rational Method:* An empirical formula for calculating peak rates of runoff resulting from rainfall.
- *Soil Conservation Service Method:* A technique for calculating storm water runoff volume and peak flow described in Soil Conservation Services (SCS) Technical Release 55, 2nd Edition, June 1986.
- *Tributary Area:* All land draining to the point of consideration, regardless of ownership.

### C. *General Guidelines.*

1. *Applicability.* This Chapter shall apply to all development within the corporate limits of the Village of Pendleton, Missouri. Residential developments having a total area of less than five (5) acres, and commercial or industrial developments having a total area of less than two (2) acres, may be given a waiver by the Village in accordance with Article V of this Chapter subject to the following conditions:
  - a. The Village retains the right to require detention storage in all cases in which the proposed development will generate excess runoff that adversely affects the carrying capacity of the receiving watercourse.
  - b. Developments less than two (2) acres with less than thirty (30%) of the area paved and developments generating less than one (1) cubic foot per second per acre (CFS/acre increased runoff shall not be required to provide detention storage unless condition 3.1(2) is applicable).
  - c. This Chapter shall apply for all newly platted areas and new developments proposed after June 2007. All developments that have an approved preliminary plan by the Planning and Zoning Commission at the time of the approval of this Chapter will not have to conform to this Chapter.
2. *Affidavit of disclosure of property interest.* The effective acreage for a site is not limited to a fractional part of the total. If a project is developed in phases or small plats, the total acreage of the project site must be considered. At the time the owner of any development submits a preliminary plat or preliminary plan, he shall also identify to the Village all contiguous property or property in the watershed that he/she has interest in.
3. *Method of evaluation.* The storage of the Village and discharge rate shall be based upon the calculated volume and peak flow of the storm water runoff, respectively. The calculations for sites having an area of one hundred (100) acres or less shall be made using either the Soil Conservation Service Method or the Rational Method. If the site is larger than one hundred (100) acres then the Engineer shall use the Soil Conservation Service Method. If another method is desired to be used, the Engineer, shall submit a proposed method of evaluation for the calculations for review and approval. The permitted discharge rate of storm water runoff shall be determined by calculating the rate of runoff for the site's pre- and post-development conditions. The Engineer shall determine the most critical storm looking at three (3) different time periods:



- a. The time of concentration, b. A one (1) hour storm, and
- c. A twenty-four (24) hour storm.

- 4. *Detention of differential runoff.* All new developments shall provide a storm water detention system that insures that the rate of flow of storm water runoff discharge from the site after development for a two (2) year, fifteen (15) year, and twenty-five (25) year twenty (20) minute storm, unless given a waiver by the Village in accordance with Article V of this Chapter. Data shall be submitted for the two (2), fifteen (15), twenty-five (25) and one hundred (100) year frequency twenty (20) minute storms.

If the proposed or modified development is in the Peruque or Belleau Creek watershed, then detention of the differential runoff shall also be provided for the one hundred (100) year twenty (20) minute storm. Data shall be submitted for the two (2), fifteen (15), twenty-five (25) and one hundred (100) year frequency twenty (20) minute storms. The maximum ponding elevation shall be calculated based on a routing of the design storm assuming the low flow outlet is blocked with the water ponded to its maximum elevation. A minimum of one (1) foot of freeboard shall be provided from the top of the basin to the maximum ponding elevation.

- 5. *Flows from upstream areas.* Flows from upstream areas outside the site should be based upon the assumption that those areas are fully developed under forecast land use patterns. The required storage volume will be based upon the site only, with flows from upstream areas being by-passed or discharged via over-flow spillways or other devices for the one hundred (100) year storm.
- 6. *Facilities in floodplains.* If detention storage is provided within a floodplain, only the net increase in storage volume above that which naturally existed on the floodplain shall be credited to the development. No credit will be granted for volumes below the elevation of the base flood at that location unless compensatory storage is also provided. Where encroachments in the existing floodplain fill the valley storage areas, an equal amount of detention volume shall be provided.
- 7. *Land credit for detention facilities.* The number of units/lots shall be based on the total area of the tract to be developed. All areas to be used as detention facilities shall be included in this total area.

#### D. *Design Criteria.*

- 1. *General requirements.* The design shall be accomplished under the direction of a Registered Professional Engineer. The design shall also be based on land use in the tributary area as zoned, actually developed, or indicated by an adopted future land use plan, whichever basis produces the greatest runoff.
- 2. *Other references.* Other agencies have criteria and regulations pertaining to drainage systems which may complement this criteria. When conflicts are encountered the most rigorous criteria shall govern.
- a. *Federal insurance Agency--Floodplain regulations and implementing ordinances adopted by municipalities.* Drainage systems designed within the limits of the designated one hundred (100) year floodplain on the principal stream shall be designed to convey the flood as defined by applicable published floodplain information studies. For areas located in FIA Zone "A" outside the detailed study the Developer shall prepare studies and calculations establishing

the floodplain, elevation and width. These calculations shall be submitted to the reviewing agency for approval.

- b. *Missouri Department of Natural Resources.* Rules and regulations of the Dam and Reservoir Safety Council shall apply to those Missouri structures classified as dams thereunder.
- 3. *Storm water runoff.* The design criteria used in determining the amount of runoff shall be the same as set out in Section 405.230 of this Chapter.
- 4. *Hydraulic considerations for detention storage.*
  - a. *Principal spillways.* Shall be designed to meet the following requirements:
    - (1) The principal spillway shall be designed to function without requiring attendance or operation of any kind or requiring use of equipment or tools.
    - (2) All discharge from the detention facility when inflow is equal to or less than the one hundred (100) year inflow shall be via the principal spillway(s).
    - (3) The design shall allow for discharge of at least eighty percent (80%) of the detention storage volume within twenty-four (24) hours after the peak, or center of mass of the inflow has entered the detention basin. On basins less than one hundred (100) acres, this shall not apply.
    - (4) The design discharge rate via the spillway shall continuously increase with increasing head and shall have hydraulic characteristics similar to weirs, orifices, or pipes.
  - b. *Emergency spillways.* The emergency spillway shall be provided to pass a one hundred (100) year storm, without damaging any property and where applicable, designed to DNR Dam Safety Requirements.
  - c. *Outlet works.* Detention storage facilities shall have an outlet works consisting of valves, gates, pipes and other devices as necessary to completely drain the facility in seventy-two (72) hours or less when required for maintenance or inspection on normally wet basins.
  - d. *Sediment storage.* Shall be designed to provide for five (5) years of sediment accumulation calculated by using Figure 1. All other detention facilities shall provide storage for two (2) years of sediment accumulation by using Figure 1, except for those using roofs of buildings, paved parking areas or other facilities designed to preclude the deposition or accumulation of sediment. Sediment storage volume shall be in addition to the volume required for temporary storage of storm water to properly size the detention facility on normally wet basins.
  - e. *Erosion control.* Principal spillways and outlet works shall be designed to prevent erosion and if necessary equip with energy dissipating devices to slow the water to normal velocity as called out in Section 405.230 of this Chapter. Special measures shall be taken by the developer to not permit sediment from filling the proposed detention basin during all construction of the proposed development.
  - f. *Public detention facilities.* The owner shall dedicate the detention facility and easements as set forth upon completion of the one (1) year warranty period and approval by the Planning and zoning Commissioner, except:

- (1) When multipurpose wet facilities are planned or are suitable for use for private aquatic recreation or for aesthetic enhancement of the owner's property.
- (2) When multipurpose dry facilities incorporate surface recreational improvements. g. *Private detention facilities*. Shall be designed requiring the same criteria as the public detention facilities. The amount of easement shall be equal to the land occupied by the facility, plus a twenty (20) foot wide strip around the perimeter of the highest elevation attained by the design storage volume, plus an access easement twenty (20) feet in width between the facility and public street. This easement shall be shown as common ground or be dedicated to the of the subdivision or owner of the property for the purpose of maintenance of the storm water detention facility.
- (1) A plan for perpetual maintenance and designating responsibility for the maintenance, shall be provided for its continuing performance to the standards established by this criteria.
- (2) When multipurpose dry facilities incorporate surface recreational improvements. h. *Plan requirements*. The plan requirements shall be the same as set out in Section 405.230 of this Chapter, with the following additions:
  - (1) Elevation-area- curves for the storage facility including notation of the storage volumes allocated to runoff, and permanent residual water storage for other uses. Of wet basins only).
  - (2) Inflow hydrograph (detention volumes for rational method) for the fifteen (15), twenty-five (25) and one hundred (100) year recurrence interval design storms.
  - (3) Stage-discharge rating curves for each spillway and for combined spillway discharges.
  - (4) Routing curves for the fifteen (15) year and all greater criteria recurrence interval design storms with time plotted as the abscissa and the following plotted as ordinates (this item is not required for the Rational Method):
    - (a) Cumulative inflow volume. (b) Cumulative discharge.
    - (c) Stage elevation. E. *Construction Alternates*.
      1. Developer shall build as part of his/her development, a detention basin as required by this Section unless the following Subsections apply.
      2. If requested by the Developer or by the Village of Pendleton, the Village at its option, may waive the construction of a detention basin for the development. If the waiver is granted, the developer shall pay an amount equal to one thousand dollars (\$1,000.00) per acre for the tract of land the development is to occur on. This money is to be used in a storm water fund for future Village storm water projects.
      3. Developers of adjacent tracts may combine to build one (1) detention site large enough to meet the requirements of all tracts of land with approval of the Village. The basin shall be located in the same drainage basin.
      4. On-site detention will be required whenever increased runoff from the proposed development creates a hazard downstream.

F. *Inspection, Maintenance and Acceptance by the Village of Pendleton.*

1. The Planning and zoning Commissioner shall inspect or cause to be inspected, all storm water detention systems constructed within the Village of Pendleton, Missouri. Through such

inspections the Planning and zoning Commissioner shall ensure that the facilities under construction are being constructed in accordance with the approved plans for such development.

3. Each owner of the property being developed, has the responsibility and duty, to properly operate and maintain any storm water management system which has not been accepted for maintenance by the Village. The responsibility of maintenance of the system and subdivision projects shall remain with the developer until such time as the storm water management system escrow for such development has been released at the end of the one (1) year warranty period. Upon release of escrow, the maintenance responsibility shall be vested in the subdivision by virtue of a trust indenture. Indenture of trusts shall clearly indicate resident responsibility for maintenance. All such privately owned maintained systems shall be subject to periodic inspections by the Planning and zoning Commissioner or its representative. After an inspection by the Planning and zoning Commissioner, he/she determines whether or not the conditions of the privately owned storm water detention system are safe and correct. Any cost incurred by the Village, as a result of the Planning and zoning Commissioner's actions, shall be assessed against the owner(s) of the system. Initially the storm water funds as set up in Subsection E(2) above, may be used to pay for any such emergency, authorized by the Village.

3. Upon acceptance by the Board of Trustees, the storm water detention system may be dedicated to the Village for perpetual maintenance. Any such system shall include adequate perpetual access and sufficient area for maintenance by the Village personnel and vehicles.

G. *Penalties for Violations.*

1. *General.* Violation of the provisions of this Chapter or failure to comply with any of its requirements, including conditions and safeguards established shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense.
2. *Corrective Actions.* Nothing contained within this Chapter shall prevent the Village of Pendleton from other actions against violators. All such costs connected therewith, shall accrue to the person or persons responsible.
3. Any person who violates this Section shall be subjected, upon conviction, to a fine of up to one hundred dollars (\$100.00) or up to ninety (90) days of community service, or both such fine and community service.

H. *Existing Drainage Ditches.* Existing drainage ditches in a proposed development shall either provide ditch improvements or underground storm drainage systems installed. Or an undisturbed drainage easement of thirty (30) feet width for less than twenty (20) acres drainage basin or fifty (50) feet width from twenty (20) to fifty (50) acres drainage basin or sixty (60) feet greater than fifty (50) acres. This drainage easement is to be dedicated to the Village of Pendleton.

I. *Plans and Calculations.*

1. *General.* Plans shall be any scale from 1 inch=10 feet through 1 inch= 100 feet so long as the scale is an increment often (10) feet. Plans shall be prepared on exhibits 23% by

34% inches. All calculations submitted shall be in accordance with Section 405.100 and shall include the following information.

2. *Site drainage map.* A drainage map is required and should be developed from a base reproduction of the site plan or Grading Plan. The map must include the following information:
  - a. Existing and proposed contours, normally at two (2) foot intervals for the subject property, extending off-site as required for proper design of proposed improvements. Contour intervals other than the above as determined by the topography. Use U.S.G.S. Datum only.
  - b. Location of existing and proposed property lines, streets, sinkholes, area within the tract subject to inundation by storm water, railroads, easements of record, and other significant natural features such as wooded areas and rock formations, etc.
  - c. All existing and proposed storm water facilities, such as inlets, manholes, pipes, culverts, bridges, channels, etc.
  - d. All existing and proposed improvements where required for proper design review, which may include, but not be limited to, pavement, curbs, sidewalks, buildings, utilities, etc.
  - e. Existing waterways, including names; if not named, an indication of any branch, creek, or river to which the waterways are tributary.
  - f. Runoff details are required, showing flows tributary to each proposed and existing structure and cumulative flows in pipes and gutters; include "Q" area.
  - g. All existing bodies of water (such as lakes or ponds), indicating surface area and elevation.
3. *Supplemental drainage map.* A supplemental map may be required and should be developed from a portion of U.S.G.S. Quadrangle Map. This map must include the site boundary and the watershed tributary to the project area.
4. *Surface drainage.* For areas not in a flood plain the following information shall be provided by the developer.
  - a. No sheet flow will normally be allowed over terraces that are steeper than a 3:1 slope and/or greater than five (5) feet in height. Berms and/or swales shall be provided to collect the flow at the top of the terrace and carry it to a drainage structure. Total accumulation inside berm and/or swales shall be a maximum of four (4) cubic feet per second.
  - b. Provide critical cross-sections, profiles, and hydraulic computations for ditches and swales with flows in excess of one (1) c.f.s. and creeks with flows in excess of four (4) c.f.s.
5. *Location of drainage structures.* The lateral location of all drainage structures shall be shown by street centerline stationing and perpendicular offset distance, and in large lot subdivisions, by referencing to rear lot line, in addition to the following requirements:
  - a. Inlets shall be appropriately sized and spaced, taking into consideration bypass, depth of flow, and width of spread of flow in gutters.

- b. For inlets in vertical sag curves, the center of the main chambers shall be placed within one (1) foot of the exact mathematical low point.
  - c. All manholes shall be located outside of the proposed roadway pavements. d. Inlets shall be located as follows:
    - (1) Inlet face shall be one (1) foot behind the back of the roadway curb of asphalt streets and two (2) feet behind the back of roadway curb for concrete streets. The sump shall begin two (2) feet in front of the back of the curb. The top elevation shall remain three (3) inches above the top of the rolled curb and level with the top of the vertical curb. When required, the nearest two (2) sections of sidewalk on each side of the inlet shall be warped down to meet the top of the inlet stone elevation. The curb approach to the inlet shall start at five (5) feet upstream of the inlet wall and three (3) feet downstream of the inlet wall. This approach shall be on a direct line to the inlet and not curved.
    - (2) The flowline of incoming and outgoing storm pipes maintain a (0.2) foot drop through the inlet with the same size pipes or match (0.8) of the pipe diameters on different size pipes.
    - (3) Location of area inlets in roadway ditches shall be compatible with ultimate improvements at an elevation compatible with the shoulders and sidewalks.
    - (4) Inlets shall be placed at intersections such that no part of the inlet structure or sump is in the street corner rounding.
  - e. By-pass shall be minimized at inlet structures and shall be shown on the hydraulic computations and site drainage map. No greater than one (1) c.f.s. of storm water shall be allowed to cross an intersection.
  - f. Where termination of pavement occurs, erosion protection in the form of asphalt curb, gutters, additional structures, paving and/or revetment may be required.
  - g. Data required on plans and/or profiles shall include:
    - (1) Type of drainage structure (single, double, grated, etc.)
    - (2) Flowline and top elevations;
    - (3) "Q" in upstream gutter line;
    - (4) The hydraulic grade line of the structure may be shown on the plan, profile or computation sheets; and
    - (5) Attach hydraulic computations.
  - h. For non-standard structures, two (2) additional sets of plans shall be submitted for review.
6. *Pipes.*
- a. The following information shall be shown on the plans and/or profiles: (1) Location and length of pipes;
  - (2) Grade;
  - (3) Alignment; and

- (4) Curve data for radius pipes.

*Note:* On intake structures, such as flared end section or headwalls, entrance control shall be applied. Two (2) foot minimum freeboard is required. Check for inundation upstream. Butt-off walls are required to be two (2) feet deep on headwalls upstream, three (3) feet deep on headwalls downstream.

b. Outfall termination shall conform to the following:

- (1) Any concrete outfall pipe twenty-four (24) inches or smaller in diameter will require a cutoff wall and revetment or paving.
- (2) Any concrete outfall pipe larger than twenty-four (24) inches in diameter shall have a reinforced concrete headwall or flared end section with cutoff wall and revetment or paving.
- (3) Any corrugated metal outfall pipe shall be installed with a cutoff wall. Revetment or paving may be required for erosion control.
- (4) If discharge is at a property line, discharge easements will be acquired on affected adjacent properties prior to approval of the Planning and Zoning Commissioner. A guarantee will be required for future extension of the outfall to the property line. Open trenching of roadway pavements will normally be permitted where traffic volume (current year) is under twenty-five thousand (25,000) ADT.

*Note:* Road closings will not be permitted without approval of the Planning and Zoning Commissioner. Contractors will be required to maintain one (1) lane open to traffic at all times or to devise and implement a detour plan approved by the Planning and Zoning Commissioner.

#### **SECTION 405.245: STORM WATER QUALITY MANAGEMENT AND ILLICIT DISCHARGE CONTROL**

A. Purpose and Intent: The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the Village of Pendleton through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Section establishes methods for controlling the introduction of pollutants into the *Municipal Separate Storm Sewer System (MS4)* in order to comply with requirements of the *National Pollutant Discharge Elimination System (NPDES)* permit process. The objectives of this Section are:

1. To regulate the contribution of pollutants to the *Municipal Separate Storm Sewer System (MS4)* by storm water discharges by any user.
2. To prohibit Illicit Connections and Illicit Discharges to the *Municipal Separate Storm Sewer System (MS4)*.
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Section.

B. Definitions: For the purposes of this Section, the following words shall have the meanings set out herein:

- Authorized Enforcement Agency: Employees or designees of the director of the municipal agency designated to enforce this Section.
- Best Management Practices (BMP's): Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. *BMP's* also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- Clean Water Act: The federal *Water Pollution Control Act* (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- Construction Activity: Activities subject to *National Pollutant Discharge Elimination System (NPDES)* Construction Permits issued by MDNR. These include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- Illegal Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in subsection 405.245(G)(1) of this Section.
- Illicit Connections: An illicit connection is defined as either of the following:
  1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and chlorinated water discharged from swimming pools to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or;
  2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- Industrial Activity: Activities subject to *National Pollutant Discharge Elimination System (NPDES)* Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- Municipal Separate Storm Sewer System (MS4): The system of facilities designed or used for collecting and/or conveying storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, inlets, ditches, storm drains, swales, sidewalks, and natural or man-made drainage channels, owned and operated by the Village and which is not used for the collecting or conveying of sewage.



- National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by Federal Environmental Protection Agency (or by a State under authority delegated pursuant to 33 USC§ 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
  - Non-Storm Water Discharge: Any discharge to the storm drain system that is not composed entirely of storm water.
  - Person: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
  - Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non- hazardous liquid and solid wastes and yard wastes; silt, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, Ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
  - Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
  - Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
  - Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
  - Storm Water Pollution Prevention Plan: A document which describes the *Best Management Practices (BMP's)* and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.
  - Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
- C. Applicability: This Section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.
- D. Responsibility for Administration: The Village of Pendleton shall administer, implement, and enforce the provisions of this Section. Any powers granted or duties imposed upon the Board or a designee may be delegated by the Board or a designee to persons or entities acting in the beneficial interest of or in the employ of the Village.

- E. Severability: The provisions of this Section are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Section.
- F. Ultimate Responsibility: The standards set forth herein and promulgated pursuant to this Section are minimum standards; therefore this Section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

. Discharge Prohibitions:

1. Prohibition of Illegal Discharges: No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- a. The following discharges are exempt from discharge prohibitions established by this Section: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, sump pumps (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if de-chlorinated -typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.
- b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- c. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- d. The prohibition shall not apply to any non-storm water discharge permitted under an *NPDES* permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or Missouri Department of Natural Resources (MDNR) and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
2. Prohibition of Illicit Connections:
- a. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

- b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- c. A person is considered to be in violation of this Section if the person connects a line conveying sewage to the *MS4*, or allows such a connection to continue.

H. Suspension of MS4 Access:

- 1. Suspension Due to Illicit Discharges in Emergency Situations: The Village of Pendleton may, with appropriate notice, suspend *MS4* discharge access to a person in order to prevent an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the *MS4* or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the *MS4* or waters of the United States, or to minimize danger to persons.
- 2. Suspension Due to the Detection of Illicit Discharge: Any discharge to the *MS4* in violation of this Section may result in termination of *MS4* access. If such termination would abate or reduce an illicit discharge, the Village shall notify the violator of the proposed termination of its *MS4* access. The violator may petition or request a hearing before the Board of Trustees, but must suspend the illicit discharge until after the reconsideration and hearing are held.
- 3. A person commits an offense if the person reinstates *MS4* access to premises suspended or terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.
- I. Industrial or Construction Activity Discharges: Any person subject to an industrial or construction activity *NPDES Storm Water Discharge Permit* shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Village of Pendleton prior to the allowing of discharges to the *MS4*.

J. Monitoring of Discharges:

- 1. Applicability: This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.
- 2. Access to Facilities and Records:
  - a. Facility operators shall provide to the Village of Pendleton copies of records that must be kept under the conditions of an *NPDES* permit to discharge storm water.
  - b. Upon consent of the property owner, the Village of Pendleton may install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense; however, such equipment shall remain the property of the Village of Pendleton. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy. No person shall damage such equipment or alter such equipment so that proper results cannot be obtained.

- c. If the Village of Pendleton has been refused access to any part of the premises from which storm water is discharged or if the property owner is not available to give consent to access the premises, the Village may, upon demonstrating probable cause to believe that there may be a violation of this Section or a need to inspect and/or sample to verify compliance with this Section or any order issued hereunder, seek issuance of an administrative search warrant from any court of competent jurisdiction.
- K. Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices (BMP's): The Village of Pendleton will adopt requirements identifying *Best Management Practices (BMP's)* for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural *BMP's*. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, will be required to implement, at said person's expense, additional structural and non-structural *BMP's* to prevent the further discharge of pollutants to the *Municipal Separate Storm Sewer System (MS4)*. Compliance with all terms and conditions of a valid *NPDES* permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These *BMP's* shall be part of a *Storm Water Pollution Prevention Plan (SWPP)* as necessary for compliance with requirements of the *NPDES* permit.
- L. Watercourse Protection: Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
- M. Notification of Spills: Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Village in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Village of Pendleton within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.
- N. Enforcement:
1. Notice of Violation: Whenever the Board or a designee finds that a person has violated a prohibition or failed to meet a requirement of this Section, the Board or a designee may order

compliance by written notice of violation to the responsible person. Such notice and order may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit connections or discharges;
- c. That violating discharges, practices, or operations shall cease and desist;
- d. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- e. The implementation of source control or treatment *BMP's*.

The Board or a designee may order that such work be completed within a reasonable time from the date of the notice of violation.

- 2. If the property owner fails to abate the violation and/or restore the affected property within the time prescribed following notice or appeal, the work may be done by the Village or a contractor designated by the Board or a designee and the expense in accordance with the Village's procedures for abatement of a nuisance. The property owner shall be responsible for all costs of such work.

0. Appeal of Notice of Violation: Any person receiving a *Notice of Violation* may appeal the determination and order of the Board or a designee. The notice of appeal must be received within thirty (30) days from the *date* of the *Notice of Violation*. Hearing on the appeal before the Board of Trustees or its designee shall take place within thirty (30) days from the date of receipt of the notice of appeal. Any aggrieved party shall then be entitled to judicial review in accordance with the provisions of the Missouri Administrative Procedures Act.

P. Injunctive and Other Relief: It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section. If a person has violated or continues to violate the provisions of this Section, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. In addition, the authorized enforcement agency may utilize any remedy, at law or in equity, in order to enforce the provisions of this Ordinance. The Village may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses.

Q. Violations Deemed a Public Nuisance: In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

R. Prosecution for Violations: Any person that has violated or continues to violate this Section shall be liable to prosecution to the fullest extent of the law, and, upon conviction, shall be subject to a fine in an amount not to exceed five hundred dollars (\$500.00) per charge and/or up to (90) days of community service.

- S. Remedies Not Exclusive: The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Village to seek cumulative remedies.

#### **SECTION 405.250: SANITARY SEWERS**

All buildings, structures and uses of land in the incorporated area of the Village of Pendleton shall hereafter be required with an adequate, safe and sanitary disposal system for all human disposal of sewage or other liquidated wastes and shall conform to the methods outlined herein:

1. Where a public sanitary sewer main is reasonably accessible, in the opinion of the Village, the subdivision shall be provided with a complete sanitary sewer system connected with such sewer main, including a lateral connection for each lot. Such systems and connections shall comply with the regulations of the Missouri State Board of Health and Missouri Department of Natural Resources and Village of Pendleton
2. It shall be the responsibility of the developer/applicant to comply with all requirements of the Village of Pendleton (where applicable). Verification of the service shall be provided at the time of submission of the preliminary plat.
3. Where no sewers are accessible and no plans for a sewer system have been prepared and approved, the developer shall either install a sewage collection and disposal system in accordance with the requirements of Subsection (2) above, or individual disposal devices may be installed on each lot within the subdivision, provided that no individual disposal device should be permitted unless the lots to be served have sufficient area to allow adequate soil absorption for on-site sewage disposal. The Planning Commission may modify lot area requirements in relation to soil conditions and other pertinent facts and findings in any particular subdivision. All such individual devices and systems shall be constructed and maintained in accordance with the regulations and requirements of the Missouri Department of Natural Resources. In no case shall there exist on lots of less than three (3) acres in an area, both individual water systems and individual sanitary sewage disposal systems.
4. In no case shall there exist on lots of less than five (5) acres in area, individual water systems and sanitary sewage disposal systems.

#### **SECTION 405.260: WATER SUPPLY**

- A. Where a public water supply main is reasonably accessible, in the opinion of the Village, the subdivision shall be provided with a complete water distribution system adequate to serve the area being platted, including a connection for each lot and appropriately spaced fire hydrants. In no case shall there exist on lots one (1) to three (3) acres in area, both individual water systems and individual sanitary sewage disposal systems. The water system shall be designed and approved by the Village of Pendleton, Missouri Cities Water Company, or Water Land use No. 2 or the approved water company serving the area of the proposed development.
- B. In no case shall there exist on lots of less than five (5) acres in area, individual water systems and sanitary sewage disposal systems.

#### **SECTION 405.270: GAS, WIRE, OR CABLE UTILITIES**

- A. All lines for telephone, electrical, television, and other services distributed by wire or cable shall be placed underground throughout a subdivision. Overhead lines may be permitted upon recommendation of the Planning and Zoning Commission and approval by the Board of Trustees at the time of approval of the Preliminary Plat where it is determined that such lines will not impair the health, safety, general welfare, design, appearance and character of the subdivision, and only where such overhead lines are brought to the perimeter of the subdivision. This Section shall not be construed to prohibit the construction of above ground or surface equipment associated with an underground distribution system, such as (but not limited to) surface mounted transformers, power terminal pedestals, meters and meter boxes, concealed wires, street lights and street light poles.
- B. Cable lines for house service are to be extended promptly to new residential subdivisions by either simultaneous ditching (joint trenching) with other utilities or extending lines along the back portions of the subdivision lots, and cable boxes are to be installed below ground unless otherwise approved by the Board or a designee. The property owner's ground that has been disturbed in established subdivisions will promptly be sodded by the provider of multi-channel video service. Landowners who fence their backyards where cable boxes are installed shall have a gate for service of that installation by the provider of multi-channel video service. The Village strongly prefers simultaneous ditching whenever feasible.

#### **SECTION 405.280: EASEMENTS**

- A. All underground public utility installations, including lines for street lighting systems, which traverse privately owned property, shall be protected by easements granted by the developer to the appropriate public utility and approved by the public utility. Such easements shall be so located as to not interfere with the use of any lot or other part of the subdivision. The size of, and restrictions pertaining to, such easements shall be in accordance with the standards and the specifications of the agency having jurisdiction over the utility lines and subdivision and shall be indicated on the Record Plat submitted for approval.
- B. Storm water easements and drainage rights of way may be required by the Village of Pendleton if necessary for proper drainage within or through a subdivision. Where a cut or fill for a street extends beyond the limits of the right of way, the developer shall provide a slope easement as determined by the Planning and zoning Commissioner to be of sufficient area and limits to permit the construction and maintenance of the slope.
- C. Whenever a stream or surface drainage course is located in an area proposed for a subdivision, the developer shall provide an easement determined by the Planning and zoning Commissioner to be adequate in area to contain facilities to control flooding or erosion along said stream or surface drainage course.

#### **SECTION 405.290: SOIL EROSION AND SEDIMENT CONTROL**

Since considerable erosion can take place prior to the construction of houses and other buildings, facilities, and features in a subdivision, the various plats for a subdivision shall contain proposed erosion and sediment control measures. The measures shall be incorporated into the record plat and final construction drawings. Erosion and sediment control measures shall conform to the standards and specifications established by the Board of Trustees and the Planning and zoning Commissioner. The measures shall apply to all street and utility installations as well as to the protection of individual lots. Measures shall also be instituted to

prevent or control erosion and sedimentation during the various stages of construction of the subdivision.

### **SECTION 405.300: LARGE LOT (5 ACRE AND LARGER) RESIDENTIAL SUBDIVISIONS**

- A. The following is a list of exemptions in this Chapter for large-lot subdivisions; all other requirements of this Chapter must be met:
1. Cui-de-sacs and dead-end streets of reasonable length (normally not over eight hundred (800) feet) may be approved where necessitated by topography or where, in the opinion of the Planning and Zoning Commission, they are appropriate for the type of development contemplated.
  2. Minor residential streets shall have a minimum improved surface of twenty-four (24) feet, with four (4) foot shoulders, three (3) feet of which are oil and chip and one (1) of foot grass.
    - a. Curb and gutter are not required; flat bottom open drainage ditches, approved by the Planning and zoning Commissioner, shall be provided;
    - b. Sidewalks are not required except in situations in which the Board of Trustees believes public safety demands their installation; and
    - c. Street lights are not required.
- B. If residents of a large lot subdivision desire to install any of the above improvements, such installation shall be solely at the expense of property owners of said subdivision. The Village of Pendleton has no responsibility or obligation to provide such improvement or to share in such provision. The developer of a large lot subdivision shall include language to this effect in recorded restrictions as a condition of Record Plat approval.

### **SECTION 405.310: INSPECTION**

- A. Prior to starting any of the work covered by the above plans, and after approval thereof, the developer shall make arrangements to provide for inspection of the work, sufficient in the opinion of the Board Chair or a designee, to assure compliance with the plans and specifications as approved.
- B. The Board of Trustees or a designee, or their duly authorized representative shall make all necessary inspections of all pavement construction, along with all roadway related storm sewer construction.
- C. Twenty-four (24) hours' notice shall be given to the Board Chair or a designee office regarding any requested inspection.

### **SECTION 405.320: STREET LIGHTS**

Street lights shall be provided in all subdivisions, except as stated under large lot residential subdivisions, Section 405.300. All street lights shall have underground wiring and meet minimum specifications of the electric utility company serving the area of the proposed



subdivision. Locations of proposed street lights shall be approved by the Village prior to installation. Street lights shall be installed prior to occupancy of structures within the subdivision.

#### **SECTION 405.330: COMPLETION OF CONSTRUCTION**

- A. The construction of all improvements required by these rules and regulations shall be completed within two (2) years from the date of approval of the record plat by the Board of Trustees, unless good cause can be shown for the granting of an extension of time by authority of the Planning Commission upon recommendation by the Planning and zoning Commissioner.
- B. The final release of ten percent (10%) of the escrow on all public improvements (streets and storm drainage) cannot be made at the end of the one (1) year warranty period until a final inspection is made and all discrepant items are corrected.
- C. The Board or a designee shall not issue building permits for any residential structures located on lots within a recorded plat until all street improvements, storm sewers, sanitary sewers, and water service required to be installed within such recorded plat have been installed and are usable.
- D. The Board or a designee shall not issue any occupancy permit for any residential structure located on a lot within a recorded plat until all permanent utilities servicing such structure have been installed and finally approved. For the purpose of enforcing this Subsection (D) only, utilities shall include water, sanitary sewer, storm sewer, electric, and natural gas (if applicable for heating of the structure).

#### **SECTION 405.340: MAINTENANCE AND SUPERVISION**

Where the subdivision contains sewers, sewage treatment plants, water supply systems, or other physical facilities that are necessary or desirable for the welfare of the area or that are of common use or benefit and which are not or cannot be satisfactorily maintained by an existing public agency; provision shall be made which is acceptable to the agency having jurisdiction over the location and maintenance of such facilities and for the proper and continuous operations, maintenance, and supervision of such facilities.

#### **SECTION 405.350: TRUST INDENTURES/COVENANTS/DEED RESTRICTIONS**

- A. As a part of preliminary plat submittal, all Trust Indentures/Covenants/Deed Restrictions will be required. These should address the maintenance of common areas, private roads, and other applicable amenities and minimum square footage for structures located within the subdivision.
- B. Any recorded Trust Indentures/Covenant/Deed Restriction establishing a Board of Trustees shall provide for not less than the following representation by purchasers of developed lots among the : one-third (1/3) of the shall be purchasers of developed lots after permits for fifty percent (50%) of the lots have been issued; two-thirds (2/3) of the shall be purchasers of developed lots after permits for ninety-five (95%) percent of the lots have been issued; all of the shall be chosen by purchasers of developed lots after all of the lots have been sold.

#### **SECTION 405.360: VARIANCES**

Variances may be granted by the Board of Trustees or a designee where there are demonstrated practical difficulties or unnecessary hardship in compliance with specific provisions of this Chapter, public safety and welfare are secured, and substantial justice done.

## SECTION 410.060: DEFINITIONS

The following definitions shall be used by these regulations to assist in the establishment of well-defined signage regulations:

- **ACCESSORY SIGN:** A wall sign that is mounted on a building or structure that is accessory (or secondary) to the primary building or structure on a lot. For the purpose of this Ordinance, accessory buildings or structures may include, but are not limited to, stand-alone ATM's, stand-alone drive-up tellers, car washes, and pump island canopies.
- 
- **Building Floor Area:** The amount of available floor space (measured in square feet) contained within the building's physical structure.
- **Business Name:** The word or series of words, initials, abbreviations, or numbers used to identify and designate either a for-profit business or not-for-profit service entity that is operating within the Village of Pendleton, and that are recorded as such on all official records including the business license issued to said entity by the Village.
- **Campaign Sign:** A sign that is erected in relation to an upcoming election, for the purpose of expressing support for, or bringing attention to, a political party, political organization or committee, candidate or ballot issue.
- **Electronic Message Sign:** A sign or portion thereof with a face designed specifically to allow characters, letters, or illustrations to be changed or altered electronically at will, excluding time and temperature signs.
- **Erect:** To build, construct, re-construct, attach, hang, re-hang, alter, place, affix, enlarge, move, or relocate any signage or associated structures and components.
- **Exempt Sign:** A sign that requires no sign permit.
- **Illegal Signs:** A sign that contravenes the requirements of this Chapter, or any sign for which a permit is required but has not been obtained.
- **Installed Sign:** A permanently affixed ground or building sign which directs attention to either a for-profit business or not-for-profit service entity, by establishing its identity and location, for the purpose of conducting commercial transactions.
- **Institutional Land Uses:** Uses generally engaged in providing community services that are non-profit, governmental, or quasi-governmental in nature. Such uses include: libraries, fire stations, and public schools.
- **Lot:** A parcel, tract, plot, or area of land accessible by means of a street or other permanently reserved principal means of access. It may be a single parcel separately described in a deed or plat which is recorded in the Office of the County Recorder of Deeds, or it may include parts of or a combination of such parcels when adjacent to one another and used as one as determined by Development Services.

- **Lot Frontage:** The length of the subject lot along the street side. A lot bordering more than one (1) street is considered to have a separate frontage for each street.
- **Memorial Sign:** A sign, grave marker, plaque, building marker or other remembrance of people or events which are cut into a masonry surface or made of bronze or similar material usually permanently embedded into a wall, structure, or the ground and which are non-commercial in nature.
- **Mobile (Portable) Sign:** A permanent sign mounted on a frame or chassis in such a way that it is easily transported or relocated for use as a temporary sign.
- **Monument Sign:** A self-supporting, free standing, sign resting on or supported by a solid base or similar structure, on a foundation, in the ground.
- **Picketer:** An individual not located within the physical confines of an entity or business, who attempts to engage patrons or passersby through verbal, physical, or other contact, in order to communicate a non-business message, political idea, or social commentary.
- **Picket Signs:** Any temporary signs used to communicate a non-business message, political idea, or social commentary that are not affixed to any type of building or support structure, but are instead, carried by an individual as part of a public demonstration.
- **Political Sign:** A sign that is not erected in relation to an upcoming election, but is erected for the sole purpose of expressing political speech or viewpoints.
- **Premises:** An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.
- **Prohibited Sign:** A sign that is not allowed to be erected within the corporate limits of the Village.
- **Projecting Sign:** A type of wall sign that is attached to and projects generally perpendicular from a structure or building face to a distance of greater than 18 inches.
- **Pylon Sign:** A self supporting, free-standing, sign resting on or supported by pylon(s) or post(s) specifically designed to create a sign with a height greater than twelve (12) feet above grade.
- **Right-of-Way (R.O.W.):** The area of land adjacent to the paved surface of any public roadway that has been dedicated to or is maintained by the Village, County, State, or any other government agency.
- **Right-of-Way Signs:** Any and all signage placed within the public rights-of-way.
- **Roof Sign:** A sign erected or constructed wholly on the roof of a building, supported by the roof structure.
- **Setback:** The minimum horizontal distance between either: the face of curb, the edge of pavement, or the right of way line and the sign structure as specified in this Chapter.
- **Sign:** Any object, devise, display, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution,

organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

- Sign Area: The size of the sign face (panel) measured in square feet, as defined by the calculations herein; or the area of the smallest square or rectangle that can encompass all items of information if it is a wall sign.
- Sign Face (Panel): The surface area of the sign structure or building facade or wall on which items of information could be placed and/or viewed simultaneously.
- Sign Structure: The sign and all parts associated with its construction.
- Specialty Displays: A non-permanent, non-sign type, attention getting devices (streamers, tassels, inflatables, floats, or other non-sign type visual media) that are used for a short, usually fixed period of time that directs attention to either a for-profit business or not-for-profit service entity for the purpose of conducting commercial transactions.
- Statuary Sign: A sign with more than two surfaces having height, width, and depth, which can be viewed from all sides usually designed as an object related to the operation or activity on the premises. Statuary signs are considered Specialty Displays.
- Street: A paved surface contained within a public right-of-way or easement that serves as a permanently reserved principal means of vehicular and pedestrian access between defined properties.
- Structural Trim: The molding, batten, capping, nailing strips, latticing, and platforms that are attached to the sign structure.
- Temporary Signs: A non-permanent, sign type, advertising display intended to be used for  
a short, usually fixed period of time that directs attention to either a for-profit business or  
not-for-profit service entity for the purpose of conducting commercial transactions.
- Time and Temperature Sign: An electronic message board displaying only the time and temperature.

Use: The legal purpose for which a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

- Wall Sign: A sign mounted on a building facade or other vertical building surface.  
Wall signs shall not extend beyond the edge of any wall or other surface to which they are mounted, nor shall the front of a flush-mounted wall sign project more than 18 inches from the wall's surface.
- Window Sign: A sign placed on the internal side of a window, or painted on the inside or  
outside of a window as individual letters or symbols and used for advertising purposes.
- Zoning Ordinance: The Zoning Code of the Village of Pendleton and the current Zoning Land use Map related thereto.

### ARTICLE III: SIGNAGE USE AND DESIGN STANDARDS

#### SECTION 410.070: DESIGN, ILLUMINATION, AND PLACEMENT OF INSTALLED SIGNS

The following standards relate to the number, design, and appearance of all signs permitted on a lot within all zoning land uses unless specifically exempted elsewhere in this Chapter:

A) Maximum Number of Signs: The maximum number of signs per lot is defined as the sum of the total allowable number of free-standing signs and the total allowable number of wall signs.

1) Free-Standing Signs: A maximum of one (1) free-standing sign is allowed per lot.

2) Wall Signs:

a) Single Tenant Buildings: A maximum of one (1) wall sign per facade will be allowed, except in cases where the facade fronts onto an adjacent property that is residentially zoned. Attached wall signs are prohibited on any facade fronting on property that is residentially zoned.

b) Multi-tenant Buildings: A maximum of one (1) wall sign is allowed on each tenant unit with a public entrance. Common walls (elevations with no entrances or accesses) may have allowed directory signs. In cases where all the tenants are accessed through one common entrance, one sign per tenant is allowed, as long as the total square footage of all signage on the facade added together does not exceed the maximum amount of signage allowed for that facade.

B) Height of Sign: Wall signs shall not extend beyond the limits of the wall they are attached to.

For freestanding signs, the overall sign structure may not exceed twelve (12) feet in height. Only wall signs and freestanding signs not exceeding eight (8) feet in height are permitted in residential zoning land uses.

However, pylon signs up to 35 feet in height are permitted in the interchange sign land use.

C) Sign Area: Sign Area is defined as the size of the sign face (panel) measured in square feet, as determined by the calculations herein. The supporting structure or bracing of a sign shall not be counted as a part of the sign area unless such structure or bracing is made a part of the sign's message. Where a sign has two display faces (panels) back to back, the area of only one (1) face (panel) shall be considered the sign area. Where a sign has more than one (1) display face (panel) not back to back, the maximum area which can be viewed simultaneously from any point, shall be considered the sign area.

1) Calculations: The maximum permitted sign area of an individual sign is computed based on the type of sign as follows:

a) Free Standing Signs for Single Tenant Buildings: The size of the sign face shall be no greater than seventy-five one hundredths of a percent (0.75%) of the floor area of all primary and accessory structures on site, or seventy (70) square feet, whichever is less. A permitted ground sign face may be at least twenty-four (24) square feet regardless of the building's floor area; or may be smaller than twenty-four (24) square feet at the applicant's discretion.

b) Free Standing Signs for Multiple Tenant Developments: Multiple-tenant developments shall be allowed the option to erect either a Directory Sign or Center Sign.

(1) Directory Sign: A single sign identifying the different tenants in a development.

- (a) The sign area shall be equal to either thirty-five (35) percent of the development's linear footage along the right-of-way or 150 square feet, whichever is less.
  - (b) If the sign has two faces (back to back) tenant panels shall have the same configuration on both sides.
  - (c) No other free-standing signs are permitted, except as specifically called out in this Chapter.
- (2) Center Sign: A single sign identifying the development as a whole instead of listing the tenants in the development.
- (a) The sign area shall be equal to either twenty (20) percent of the development's linear footage along right-of-way or 70 square feet, whichever is less.
  - (b) A Center Sign shall display the name and/or logo of the multiple-tenant development, a street address, or other non-advertisement items of information.
  - (c) No other free-standing signs are permitted, except as specifically called out in this Chapter.
- c) Wall Signs: The maximum permitted area of a wall sign for an individual tenant unit or building facade shall be equal to a percentage of the square footage of the respective tenant unit or building face. For multi-tenant buildings with a common entrance, this percentage applies to the allowable wall signs per facade for the structure as a whole, therefore only one such sign shall be allowed if the maximum percent or maximum sign area square footage is used in a single sign.
- d) Accessory Signs: Accessory signs are regulated in the same manner as other wall signs. The maximum permitted area of an individual accessory sign shall be equal to five percent (5%) of the square footage of the accessory building's wall or canopy facade or thirty (30) square feet, which ever is less.
- D) Items of Information: All signs shall be limited to one (1) business name, unless it is a directory sign, whereby each tenant panel will be allowed one business name. Including the business name, a maximum of eight (8) items of information may be displayed on a sign.
- E) Commercial Address Plates: Each permitted freestanding sign shall contain a placard that displays the assigned numerical street address of the subject property. In the case of multi tenant signs, the placard shall list the numerical addresses or suite numbers for each tenant unit within the building. The dimensions of the address plate shall be a size not more than 10% of the allowed square footage of the sign face (for single tenant signs) or 30% of the allowed square footage of the sign face (for directory signs). This additional square footage shall not count against the sign's allowed square footage; and the addresses listed shall not count against the sign's allowed number of items of information.
- F) Illumination: All illuminated signs shall comply with all applicable codes and regulations, including Section 400.277 of the *Village Zoning Code* that refers to Exterior Lighting Standards. In addition all electrical equipment and devices shall be UL listed and approved for their proposed use.

G) Placement: Any sign erected within the Village limits must be placed in accordance with the following regulations:

- 1) Setbacks for Free Standing Signs: All free-standing signs shall be located a minimum of ten (10) feet away from any right-of-way line and/or property line and a minimum of three (3) feet from the back of any curbing or sidewalk. All signs shall abide by the regulations for visibility at corners, including visibility corners from driveways and the street it intersects per Section 400.260 of the *Village Zoning Code*.
- 2) Location of Wall Signs: Wall signs may only be placed on a facade that does not front on residentially zoned property. No maximum permitted height is provided for wall signs except that no sign shall be higher than the building wall on which it is mounted. Signs shall not encroach upon any window, doorway, or architectural feature.
- 3) Placement Within or on a Frame: All signs designed for a pre-existing structure or frame shall be designed to fit the frame or structure as though it were the original sign. Any portion of any sign or unused remaining frame or structure shall be subject to removal.
- 4) Additions to Existing Signs: No sign over four (4) square feet in area may be attached to another sign without being designed as an integral part of the original sign. No signs may be attached to, or cover up, any portion of a sign's frame, structure or base unless originally designed or subsequently redesigned for that purpose.

#### **SECTION 410.080: REGULATIONS FOR THE USE OF TEMPORARY SIGNS AND SPECIALTY DISPLAYS**

Periodically, businesses may obtain a permit to temporarily erect additional signage on site associated with special events or uses such as store sales or promotions, openings, closing, and seasonal uses. These rules shall apply to both temporary signs and specialty displays.

- A) Number: Once a business obtains a Temporary Sign Permit, they may display one sign for each permit obtained. (In the case of lot with multiple frontages, the applicant may display a maximum of two (2) temporary signs / specialty displays on a single permit, so long as each sign is facing a different street).
- B) Duration: Temporary Sign Permits may be obtained in any number for any length of time provided that the applicant does not exceed ninety (90) days of display time during any one calendar year. The start date is specified by the applicant at the time the permit is obtained.
- C) Size: Temporary business signs shall not exceed forty-eight (48) square feet in size. This includes attention getting devices and signs carried by Barkers. The area of streamers and similar displays shall not be limited or included within this maximum square footage.
- D) Type: Temporary business signs may be wall signs, free-standing signs, or banners. Out of the ordinary, unique attention getting devices such as pennants, streamers, barkers, etc are also permitted; and all temporary signs are exempt from the limit on the items of information. Changeable copy signs, electronic message signs, or any signs otherwise prohibited by this Chapter are not permitted.



- E) Height: Free-standing temporary signs shall not exceed twelve (12) feet in height. Signs or attention getting devices attached to the building shall not exceed the height of the principal structure nor be erected upon or above the roof including when hung from poles or other accessory structures.
- F) Placement: Temporary Signs / Specialty Displays may be moved within the limits of the lot at any time during the duration of the permit, so long as each sign complies with the following:
- 1) Setbacks for Free Standing Signs: All free-standing specialty displays must be fully contained within the subject property; shall be located on the subject property a minimum of five (5) feet from the right-of-way line or property line; a minimum of three (3) feet from the back of any curb; and shall abide by the regulations for visibility corners including visibility corners from driveways and the street it intersects per Section 400.260 of the *Village Zoning Code*. The applicant will be asked to call out the location of the sign when the permits are issued, and spot inspections may be used by Board Chair or a designee to verify the sign is suitably located.
  - 2) Location of Wall Signs: No maximum permitted height is provided for wall signs (including banners), except that no sign shall be higher than the building wall on which it is mounted. Signs shall not encroach upon any window, doorway, or architectural feature.
  - 3) Barkers: Barkers may only operate under permission of the owner of the site on which the event occurs, or in a designated public space (common ground, sidewalks, etc), and may not operate in the public right-of-way. Their activities shall not impede vehicular or pedestrian traffic, or constitute a safety hazard. For each Barker on site under the age of 16, there shall be one competent person of legal majority on site to supervise their activities.

#### **SECTION 410.090: SUPPLEMENTAL REGULATIONS FOR SPECIAL USE SIGNS**

The sign types and sign uses in this section are ones which, by their design or purpose, require special regulations in addition to those for typical wall, or free-standing signs. These special signs are considered permanent signs and require permits. The exceptions to this rule are the Subdivision Construction ID Signs and the Off Premise Directional Signs; they require permits, but are considered temporary signs.

- A) Interchange Sign: An Interchange Sign is a modified freestanding sign that can be installed on a lot adjacent to the right of way of a highway or service road. Interchange Signs are to be used in place of, not in addition to, the permitted freestanding signs allowed on the site. Interchange signs are allowed only on non-residentially zoned properties, adjacent to the right-of-way for Interstates 70. Properties fronting on Veteran's Memorial Parkway; or the outer roads adjacent to Highway 70 may be granted pole signs if they can prove, via a sight line study, that they have visibility from 1-70.
- 1) A maximum of one (1) free-standing Interchange Sign per lot shall be permitted to be installed up to a maximum height of thirty-five (35) feet.
  - 2) The sign face shall have a clearance of at least ten (10) feet from the surrounding ground level.
  - 3) Interchange Signs will be allowed to increase their size by adding in fifty (50%) of their allowed area to their total.

- 4) Interchange signs shall comply with all other requirements for free-standing signs unless amended by this Chapter.
- 5) As part of the sign permit application, the applicant will be required to submit a scaled drawing / rendering showing the size of the proposed sign in relation to the surrounding structures and topography. The drawings shall be prepared by a licensed or registered professional. (i.e. architects, engineers).
- B) Changeable Copy Signs: Changeable copy signs will only be allowed as wall or free-standing signs, if, they are included as part of the permitted permanent signage. The lines of changeable copy shall be designed as an integral part of the sign and not added to the same pole or structure without being designed as part of the original sign.
- C) Electronic Message Signs: Electronic message signs will only be allowed as wall or free-standing signs, if, they are included as part of the permitted permanent signage. The electronic message center shall be designed as an integral part of the sign and not added to the same pole or structure without being designed as part of the original sign. All electronic message centers shall adhere to the following:
  - 1) A maximum of one (1) message shall be displayed during each item frame. No continuous or rolling displays shall be permitted.
  - 2) The minimum display time per message shall be five (5) seconds.
  - 3) The intensity of the lights used in the message board shall not constitute a visual hazard for vehicular or pedestrian traffic and shall comply with all requirements of section 400.277 of the Village Zoning Code.
- D) Auxiliary Signs: Auxiliary signs shall only be permitted subject to the review and approval by The Board or a designee as to whether the sign meets the definition of an Auxiliary Sign. Said signs shall be calculated independently of the Maximum Number of Signs (Section 410.070 A). There shall be a limit of two (2) such signs on a single lot and the total square footage for both signs added together shall not exceed sixty (60) square feet. Such signs shall conform to all design, location and other applicable regulations. Auxiliary signs shall not exceed a maximum height of eight (8) feet, if free standing.
- E) Community Information Signs: In MUTDD zoned areas, HTCD zoned areas, and/or other specially designated areas where different types of activities, entities, or zonings, are brought together as a single "Community" or "Neighborhood Style" development, there will be permitted, within the limits of the development, signs that are used to direct people to the different amenities or destinations within the development. Such signs shall be granted through the approval of a Conditional Use Permit. The proposed size, height, configuration, design, and number of the sign(s) allowed shall be reviewed and approved as part of the

Conditional Use Permit application. All signs designated as Community Information Signs will have to abide by the following conditions of approval:

- 1) Such signs shall only display information that identifies or locates an amenity or destination within the development; and/or provides a directional aide (such as an arrow) to persons attempting to find said amenity or destination.

- 2) Items of information that may be considered as advertising a product, service, private organization, or a restricted participation event or activity shall be prohibited.
  - 3) Such signs shall abide by all other applicable provisions of this Chapter.
  - 4) Such signs may be located on private or public property, but not within the right-of-way.
  - 5) Such signs shall conform to the visibility requirements of the Village pertaining to intersections, per Section 400.260 of the *Village Zoning Code*.
  - 6) Such signs shall not be counted toward the total allowed signage on the subject property. F)
- F) Common Sign Package- Multiple-Building Developments: All multiple tenant developments containing two or more buildings on separate lots may install signs for the development as a whole in conjunction with signage for the individual entities within the development. These types of comprehensive sign packages shall be composed of two parts and be structured in the manner listed below:
- 1) External Development Signage: A primary directory or center sign may be installed within the subdivision pursuant to section 410.070 of this Chapter. The calculations for this sign shall be based on the largest street frontage on the site (to be designated as the "primary" frontage). In addition to the allowed "primary" sign, a "secondary" sign may be installed on one additional street frontage if that frontage is in excess of 125 linear feet and contains an entrance to the site from a public right-of-way. If the option to install both the "primary" and the "secondary" signs is taken, then the permitted square footage is calculated as if only one sign is being installed (35% of the linear footage along the "primary" frontage). That maximum allowed square footage is then divided among the two signs. The "secondary" sign will be installed as close to the entrance on the "secondary" frontage as possible.
  - 2) Internal Outlot Signage: In addition to the external signage allowed for the identification of the whole development, a single freestanding sign may be installed on each lot within the development for identification purposes. These identification signs shall be limited to a maximum of twenty-four (24) square feet in size. In the case of multi-tenant buildings, directory signs with a maximum size of forty-eight (48) square feet will be allowed.
- G) Non-Residential Land Use Identification Signs in Residential Zoning Land uses: For any permitted home occupation, or other commercial use permitted in a residentially zoned area (unless otherwise noted), one (1) sign, not to exceed two (2) square feet in area, is permitted per lot. These signs may be placed without a permit.
- I) Residential Land Use Identification Signs:
- 1) Multiple-Family or Institutional Residential Lots with more than Four Dwelling Units: For each development made up of multiple-family or institutional residential lots containing more than four (4) dwelling units, one (1) identification sign, not to exceed thirty-two (32) square feet in area, is permitted per entrance. The sign shall indicate only the name of the complex, the telephone number, address, and/or the name of the management company. Such signs shall comply with the Village's visibility standards for intersections per Section 400.260 of the *Village Zoning Code*.

- 2) Subdivision Identification Signs: Subdivision identification signs containing only the name of the subdivision are permitted and shall not exceed thirty-two (32) square feet in area. A maximum of two (2) such signs is permitted per entrance. Such signs shall comply with the Village's visibility standards for intersections per Section 400.260 of the *Village Zoning Code*.
- 3) Subdivision Construction Identification Signs: For each real estate subdivision that has been approved in accordance with the *Village Zoning Code*, one (1) temporary project identification sign is permitted per entrance. Each such sign shall be not more than seventy-two (72) square feet in area and shall not exceed ten (10) feet in height (if free-standing). Such signs shall be allowed to have two (2) faces if placed back-to-back or in a "V" shape. These signs shall comply with the Village's visibility standards pertaining to driveway and street intersections. All signs shall be removed upon the cessation of the presence of an active sales office within the subdivision.
- J) Off Premise Directional Signs: To assist the public in locating and navigating to various amenities within the Village of Pendleton, the Village will allow Commercial entities, with valid permits, to install, at specified locations within the village, additional signage to promote both businesses and developments operating within the village limits. The primary purpose of these signs will be way finding and providing direction to potential consumers of both commercial and residential developments within the Village and will be divided into two categories:
  - 1) Annual Use: These signs are semi-permanent; once installed; they may be left in place as long as the entity advertised is actively conducting business transactions, are not in a state of disrepair and maintain current information, and apply for renewal on a yearly basis. In addition to all other applicable parts of this chapter, all signs used under this section must adhere to the following:
    - a) The business or development being advertised must be located within the Village of Pendleton.
    - b) Signs shall be free standing and shall not exceed thirty-two (32) square feet in sign face size.
    - c) These signs shall be out of any public rights-of-way, out of the applicable sight triangles, and shall require the written approval of the property owner of the lot on which the signs are placed.
    - d) Sign shall only contain business name and the business the petitioner is advertising, directions, and prices.
  - e) A separate annual permit shall be required for each Annual Use Off Premise Directional Sign installed within the Village. The Permit Fee is identified in the Schedule of Fees, Costs and Expenses within Appendix 8 of Title IV: Land Use. Failure to pay the fee prior to placement of the sign shall result in a citation. Each sign shall be considered a separate violation. Each annual use sign will expire at the end of the calendar year and will be subject to submitting a renewal application. The Fee for a renewal is identified in the Schedule of Fees, Costs and Expenses within Appendix B of Title IV: Land Use.
- 2) Weekend Use: These signs are to be displayed during the higher volume traffic periods on the weekends. The signs may not contain any product or pricing information, only the business or subdivision name and an arrow or similar directional aide. In addition to all other applicable parts of this Chapter, all signs used must adhere to the following:

- a) Signs may only be displayed between 6 p.m. Fridays and 6 a.m. Mondays of the same weekend.
- b) Shall be free standing and shall not exceed four (4) square feet in area, or six (6) feet in height from the adjacent finished grade.
- c) Placement of such signs shall be prohibited on private property without the express permission of the property owner.
- d) Signs shall not be placed as to interfere in any way with public health or safety. Such signs placed within the State right of way are further subject to the rules and regulations of the Missouri Department of Transportation.
- e) No such sign shall be attached to any utility structure, tree, fence, or any public or existing private sign standard.
- f) An annual permit shall be required for each entity requesting to place Weekend Directional Signs within the Village. The Annual Permit Fee is identified in the Schedule of Fees, Costs and Expenses within Appendix 8 of Title IV: Land Use. Failure to pay the fee prior to placement of the signs shall result in a citation. Each sign shall be considered a separate violation.

#### **SECTION 410.095: PLANNED SIGNING PROGRAM**

Special conditions may exist within large-scale developments which make application of the sign requirements set forth in this Chapter inappropriate or problematic. A planned signing program is intended to provide maximum incentive and latitude to encourage variety and aesthetic design, and to allow flexibility in response to special circumstances, but shall not be used to circumvent the objectives of this Chapter. A planned signing program may be used with regard to land areas that contain a single large-scale "community-style" development that is broken into several

different components of development interconnected by common areas and which is characterized by unique or disjointed topography, environmentally sensitive areas, features of historic significance, or components containing public amenities, such as active or passive communal recreation areas, or lifestyle enhancing amenities.

- A) Procedure: An application for a Planned Signing Program shall be processed by applying for an Amended Area Plan Application in accordance with the procedure set forth in Article V of Chapter 400 of the Municipal Code.
- B) Requirements:
  - 1) The planned signing program shall include and provide for all signs to be used within the boundaries of the development. No sign will be permitted for any area within the development unless such sign has been made a part of the planned signing program.
  - 2) All signage must be alike with regard to design and materials and shall be crafted specifically for the development in which they are used.
  - 3) All signage used shall only display information that identifies or locates an amenity, destination or component within the development.

- 4) No sign shall be located within any right-of-way.
- 5) All signs shall comply with the visibility requirements of the Municipal code pertaining to intersections as set forth in Section 400.260 of the Code.
- 6) All signs shall comply with Article VI "Prohibited Uses" of this Chapter.
- 7) All signs shall comply with the safety and maintenance requirements set forth in Section 410.110 of this Chapter. C) Standards:
  - 1) The planned signing program shall provide for an adequate number of signs in order to identify the commercial components, amenities, recreation areas and other components within the development, assist the public with navigation, create awareness of environmentally sensitive areas, features of historic significance or components containing public amenities, and link the separate components as part of the larger overall "community-style" or "neighborhood-style" development. However, the planned sign program shall not include an over-abundance of signage so as to detract from the aesthetics of the development, cause confusion to motorists, or otherwise violate the objectives of this Chapter.
  - 2) The planned signing program shall provide for sizing as appropriate to accomplish the objectives of the program while keeping the aesthetic character of the development.
  - 3) The planned signing program shall be developed so as to minimize the impact on environmentally sensitive areas.
  - 4) The design and materials used shall be environmentally friendly, shall compliment the aesthetic character of the development, and shall be compatible with the buildings and improvements within the development.
  - 5) Natural colors and design shall be used as thoroughly as possible.
  - 6) All signage shall be designed and placed in a manner that allows it to blend in with the surrounding area.
- D) Effect of Denial: In the event that a planned signing program is denied, the applicant and/or property owners may apply for appropriate sign permits for each individual sign within the development in accordance with the provisions of this Chapter applicable for such signs.

## **ARTICLE IV: APPLICATIONS, FEES, AND PERFORMANCE STANDARDS**

### **SECTION 410.100: GENERAL APPLICATION AND FEE REQUIREMENTS**

- The primary responsibility for securing the necessary permits shall be the property owner(s). However, a duly authorized agent, purchaser, lessee, devisee, or judiciary may be allowed to represent the owner with proper consent. Regardless of whether the owner or their agent applies, all required permits and approvals must be secured prior to any work being initiated.
- A) Application Requirements: All applications for sign permits shall be made in writing on a form supplied by The Board or a designee. All forms are to be completed in their entirety and shall have attached thereto the following information:

- 1) A location map: For all free standing signs, a copy of the approved site plan showing the location of the sign on the subject property. The location of the proposed sign shall be shown by giving the distances of that sign from the property lines and the backs of applicable curbing. For all wall signs, a building elevation showing the location of the proposed wall sign and a site plan verifying that the proposed location is a street frontage.
  - 2) The configuration of the proposed sign listing the height, width, total square footage (including sign area calculations), proposed items of information, method of attachment, method of illumination, sign construction materials and colors.
  - 3) Footing/foundation details (applies to free-standing signs).
  - 4) Seismic and wind load calculations in accordance with the Village's Zoning Ordinance (applies to free-standing signs classified as interchange signs).
- B) Review Procedure: The Board or a designee shall review the submitted application for compliance with the requirements of the subsection above. If the application is determined to be complete, the Board or a designee shall review the application for compliance with the requirements of this Chapter and all other applicable Village codes and requirements, and shall approve, or deny, the permit application based on the submitted information.
- C) Schedule of Fees, Costs and Expenses: The Board of Trustees shall establish a Schedule of Fees, Costs and Expenses for all matters pertaining to the Sign Code. The Schedule of Fees, Costs and Expenses is identified within the Appendix shall be filled with the Village Clerk and posted in the Village Hall. The Schedule shall only be amended by the Board of Trustees and shall not require a recommendation from the Planning and Zoning Commission. The processing fee is applicable regardless of approval of the sign. A permit approved by Board Chair or a designee is not valid until the permit fee has been paid in full.

#### **SECTION 410.110: GENERAL PERFORMANCE REQUIREMENTS**

No sign in any land use shall be installed or erected in any manner so as to create any dangerous, injurious, or otherwise objectionable condition so as to adversely affect the surrounding area or adjoining premises.

- A) Installation: The base or support(s) of any and all permanent free-standing signs shall be securely anchored to a concrete base or footing approved by the Village's Board Chair or a designee. All signs shall be constructed and mounted in accordance with the Village's Building Code.
- B) Inspection: All permanent free-standing signs require a footing inspection to be performed by the Board designee. Prior to the footing inspection, a surveyor's report or letter confirming that the footing layout, as staked, is in the correct location (as approved by the Sign Permit) shall be on file with The Board of Trustees.
- C) Maintenance: All signs, including non-conforming signs, shall be maintained in their original, pristine condition. Any signs which may be, or may hereafter become, rotted, unsafe, or in a state which is not properly maintained shall be repaired or removed by the licensee or owner of the sign, or owner of the property upon which the sign stands upon notice of The Board or a designee.

- D) **Dangerous Signs:** If it is deemed that an existing sign (or a sign currently under construction) is, or becomes, an immediate danger or hazard to the health, safety or general welfare of residents, pedestrians and/or vehicular traffic, Village Staff is hereby empowered to immediately remove the sign and its structure without notice to, and at the expense of, the property and/or sign owner. Village Staff is also hereby empowered to issue a stop-work order upon such a sign currently under construction.

## ARTICLE V: EXEMPT USES

### SECTION 410.120: SIGNS WHICH DO NOT REQUIRE A PERMIT

These signs are permitted in all zoning land uses for the following uses and purposes without the need for a sign permit. Such signs shall not count as part of the maximum permitted sign area, maximum number of signs per lot or building, and other bulk and design regulations. No sign permitted by this Section shall be displayed in a manner that would otherwise cause it to be prohibited. All signs permitted in this Section shall comply with all applicable codes and ordinances in regard to design, illumination, placement, construction, and maintenance:

- A) Address and Nameplates: not exceeding one (1) square foot in area. B) Artwork
- C) Athletic Scoreboards
- D) Campaign Signs: Such signs shall not exceed thirty-two (32) square feet in area and a height of eight (8) feet in residential areas, or twelve feet (12) in commercial areas (if free-standing). Although these signs can be installed at any time, they shall be removed within the first 15 days after the scheduled election, except during specified election years, when the signs may be left in place during the time between the primary and general elections.
- E) Construction Identification Signs: For construction on or development of a lot, one (1) sign per street frontage, not more than forty-eight (48) square feet in area and a maximum of twelve (12) feet in height (if free-standing). Construction signs shall be removed upon issuance of an occupancy permit.
- F) Directional Signs: For each permitted or required parking area, one (1) sign not more than four (4) square feet in area, designating each entrance and/or exit is allowed. In addition, three (3) other on-premise directional signs per lot, a maximum of four (4) square feet each, shall be allowed. No directional sign shall exceed three and one-half (3½) feet in height if an individual free-standing sign rather than a wall sign.
- S) Temporary Non-Business Special Event Signs: For a temporary event of public interest sponsored by an institutional use or a non-profit entity, such as a neighborhood garage sale, fund raiser, church fair, carnival, festival, concert, parade, or similar event.
- 1) On-Site Identification Signs: Two (2) wall, banner, or free-standing signs, not over forty-eight (48) square feet in area for each such sign, and at a height of eight (8) feet in residential areas, or twelve feet (12) in commercial areas, (if free-standing), located upon the site of the event, shall be permitted. Such sign shall not be erected more than fifteen (15) days before the event and shall be removed not more than three (3) days after the event.



- 2) Barkers: A maximum of two (2) Barkers may be active during the day of the event. They may only operate under permission of the owner of the site on which the event occurs, or in a designated public space (common ground, sidewalks, etc), and may not operate in the public right-of-way. Their activities shall not impede vehicular or pedestrian traffic, or constitute a safety hazard. For each Barker on site under the age of 16, there shall be one competent person of legal majority on site to supervise their activities.
- T) Time and Temperature Signs: Time and temperature signs not exceeding twelve (12) square feet in area. Such signs shall comply with all electrical codes. Such signs may be a wall, window, or other permitted sign type.
- U) Window Signs and Displays: Window signs shall not cover more than twenty percent (20%) of the window or a series of contiguous windows. Merchandise, pictures, or models of products incorporated in a window display are not considered signs. Any sign placed on the outside of a window, except for individual letters painted directly onto the window, shall be considered a wall sign.

## ARTICLE VI: PROHIBITED USES

### SECTION 410.130: PROHIBITED USES

Signs other than those specifically permitted under this ordinance or those that are considered exempt are to be considered prohibited by the terms herein. Such signs shall include but not be limited to:

- A) Balloons: Hot and cold air balloon that exceed the twelve (12) foot height limit for free standing signs; smaller balloons with text or graphics on them may be used as specialty displays.
- B) Beacons, Spotlights, and Searchlights
- C) Flashing Signs: Except as exempt holiday decorations and displays.
- D) Moving Signs: Except for electronic message signs, no fluttering, undulating, swinging, rotating, or otherwise moving signs, lights or decorations, shall be allowed.
- E) Non-Durable Signs
- F) Obscene or Indecent Signs: Signs which contain characters, cartoons, statements, words, or pictures of an obscene, indecent, prurient, or immoral character.
- G) Off-Premise Signs: No off-premise advertising signs shall be permitted, except as provided within the rights-of-way of State Highways per applicable Missouri Department of Transportation (MoDOT) regulations, or as otherwise specifically called out in this Chapter.
- H) Projecting Signs
- I) Pylon Signs: Unless used as Interchange Signs.
- J) Right-Of-Way Signs and Signs on Public Property: No sign, unless erected by or required by a government agency to protect the health and safety of the general public (such as

emergency or warning signs), shall be located within or across any public right-of-way, or on any public property or utility pole.

K) Roof Signs

**ARTICLE VIII: VIOLATIONS, PENALTIES, INTERPRETATIONS, AND APPEALS**

**SECTION 410.160: VOIDING OF A SIGN PERMIT**

A permit may be revoked by The Board of Trustees or a designee at any time it appears that there is departure from the plans, specifications, or conditions as required under terms of the permit, that the same was procured by false representation, or that any provisions of this Chapter are being violated.

- A) Notice of such revocation shall be served upon the owner, his/her agent, contractor, or upon any such person employed on the building or structure for which such permit was issued, via a Stop-Work Order, which shall be posted in a prominent location, and thereafter no such construction shall proceed.
- B) A new permit application shall be completed that correctly and completely reflects the departure from the voided permit(s) and/or plans, specifications or conditions. If said application is not returned within ten (10) days (for an installed sign, or immediately for a specialty display) of the date of notification, a summons to the County Court may be issued. A summons may be issued for each subsequent day of non-compliance.
- C) If the sign, as detailed in the revised permit application, does not meet the standards of this Chapter, The Board of Trustees or a designee shall notify the owner or authorized agent of same and shall allow ten (10) days (for an installed sign, or immediately for a specialty display) for the removal of the sign. If the sign is not removed within the time allotted, a summons to the County Court may be issued by Code Enforcement as of the expiration of the grace period, and each subsequent day thereafter, until the violation is abated.
- D) Any sign permit under which no construction work has been commenced within 90 days after the date of issuance of said permit, or under which proposed construction has not been completed within six (6) months of the time of issuance, shall expire by limitation.

## CHAPTER 415- FLOOD HAZARD PREVENTION CODE

### ARTICLE IV: ADMINISTRATION

#### SECTION 415.130: DESIGNATION OF THE LOCAL ADMINISTRATOR

The Board of Trustees or their designee is hereby appointed to administer and implement the provisions of this Chapter, by granting or denying *Floodplain Development Permit* applications in accordance with its provisions.

#### SECTION 415.140: DUTIES AND RESPONSIBILITIES OF THE BOARD OF TRUSTEES

Duties of the Board of Trustees or their designee shall include, but not be limited to:

1. Review all *Floodplain Development Permits* to assure that sites are reasonably safe from flooding and that the permit requirements of the Chapter have been satisfied.
2. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
3. Notify adjacent communities and the Missouri State Emergency Management Agency (SEMA) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse.
5. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved structures.
6. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed.
7. When flood-proofing is utilized for a particular structure, the Board of Trustees or their designee shall obtain certification from a registered professional engineer or architect.
8. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Board of Trustees or their designee shall make the necessary interpretation. The person contesting the location of the boundary shall be given reasonable opportunity to appeal the interpretation as provided in this Article.
9. In order to administer the provisions of Article V where the base flood elevation data has not been provided in accordance with Section 415.070 for criteria for new construction, substantial improvements or other development in Zone "A" where base flood elevations have not been determined, the Board of Trustees or their designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from Federal, State or other sources.

## ARTICLE VIII: VARIANCE PROCEDURE

### SECTION 415.240: VARIANCE PROCEDURES

- A. The Board of Adjustment as established by the Village of Pendleton, Missouri, shall hear and decide appeals and requests for Variances from the requirements of this Chapter.
- B. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Board Chair or his/her designate in the enforcement or administration of this Chapter.
- C. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Circuit Court of Warren County, as provided in Chapter 89.110 of the *Revised Statutes of Missouri*.
- D. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historical Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
- E. In passing upon such application, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other Sections of this Chapter, and:
  - 1. The danger that materials may be swept onto other lands to the injury of others;
  - 2. The danger to life and property due to flooding or erosion damage;
  - 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 4. The importance of the services provided by the proposed facility to the community;
  - 5. The necessity to the facility of a waterfront location, where applicable;
  - 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - 7. The compatibility of the proposed use with existing and anticipated development;
  - 8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
  - 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - 10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - 11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

F. Upon consideration of the factors listed above and the purpose of this Chapter, the Board of Adjustment may attach such conditions to the granting of Variances as it deems necessary to further the purposes of this Chapter.

G. *Conditions for Variances.*

1. Generally, Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half(%) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing Subsections (2--6) below, have been fully considered. As the lot size increases beyond the one-half (%) acre, the technical jurisdiction required for issuing the Variance increases.
2. Variance may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause,
  - b. A determination that failure to grant the Variance would result in exceptional hardship to the applicant, and
  - c. A determination that the granting of a Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
6. A community shall notify the applicant in writing over the signature of a community official that:
  - a. The issuance of a Variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and Such construction below the required freeboard or below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all Variance actions as required by this Section.

## **ARTICLE IX: PENALTIES FOR VIOLATION**

### **SECTION 415.250: PENALTIES FOR VIOLATION**

- A. Violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be

fined not more than one hundred dollars (\$100.00) or up to ninety (90) days of community service, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

B. Nothing herein contained shall prevent the Village of Pendleton from taking such other lawful action as is necessary to prevent or remedy any violation.

## **APPENDIX**

### **Building Permit Fees For Construction And Destruction Of A Structure**

- A. Residential structure: seventeen cents (\$0.17) per square foot, not to exceed one thousand dollars (\$1,000.00).
- B. Residential remodel: nine cents (\$0.09) per square foot; minimum fee of twenty-five dollars (\$25.00).
- C. Unattached garage: seven cents (\$0.07) per square foot; minimum fee of twenty-five dollars (\$25.00).
- D. Commercial structure: four dollars (\$4.00) per one thousand dollars (\$1,000.00) of cost, not to exceed fifteen thousand dollars (\$15,000.00).
- E. All others, such as fences, pools, decks, yard sheds, house moving, demolition: permit fee twenty-five dollars (\$25.00).

### **Inspection Fees**

The fees for inspections shall be as follows:

- 1. Single-family or two-family dwellings: Twenty-five dollars (\$25.00).
- 2. Multi-family dwellings (Apartments/Condominiums): Twenty-five dollars (\$25.00).
- 3. Commercial structures: Fifty dollars (\$50.00) on change of occupancy.
- 4. Industrial structures: Fifty dollars (\$50.00) on change of occupancy.

The inspection fees shall include the initial inspection. All subsequent re-inspections shall be charged fifteen dollars (\$15.00) per re-inspection. There shall be no inspection fee for inspections within one (1) year of a prior inspection at which no violations of the ordinance(s) were found.

### **Fees For Copying Public Records — Limitations**

- A. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:
  - 1. Fees for copying public records, except those records restricted under Section 32.091, RSMo., shall not exceed ten cents (\$0.10) per page for a paper copy not larger than nine (9) inches by fourteen (14) inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body

that result in the lowest amount of charges for search, research and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records.

Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester.

2. Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices and for paper copies larger than nine (9) inches by fourteen (14) inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape or other medium used for the duplication. Fees for maps, blueprints or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual cost of such programming.

B. Payment of such copying fees may be requested prior to the making of copies.



**Water/sewer Rates and fees & Tap fees for Ordinances-**

See attached rates set by Montgomery County Water District and are subject to change.  
Currently as of October 10, 2022

\$19/month for water & \$53/month for sewer.

Tap Fees for Village of Pendleton Sewer plant to be set at \$2250.

Refer to the attached document for Montgomery County Water District's tap fees and fines.

**Nuisance fines for Ordinances.-**

Approved Ordinances without Nuisance fines at this time of October 10, 2022.

Fines to be amended at later date.

Attachment

22673 NW Service Rd  
P O Box 188  
Warrenton, MO. 63383

Phone: 636-456-8227  
Fax: 636-456-8342

## PWSD #1 of Montgomery County

### Application for Service Property Owner

Date of Service \_\_\_\_\_ Account # \_\_\_\_\_  
Name \_\_\_\_\_  
Service Address \_\_\_\_\_  
Mailing Address Same as above or \_\_\_\_\_  
Telephone # \_\_\_\_\_ DL # \_\_\_\_\_ DOB \_\_\_\_\_  
Email address \_\_\_\_\_ Bill delivery US mail \_\_\_\_\_ or Email \_\_\_\_\_  
Signature \_\_\_\_\_

The current water rate schedule is:

First 1,000 gallons	\$19.00 (minimum monthly payment)
Remainder	\$ 8.50 per thousand gallons

Other charges where applicable:

Security Deposit	\$175	(\$200 check, money order, or cash-no cards)
Service Fee	\$ 25	(non-refundable)
3/4" meter tap	\$1,300	
1" meter tap	\$1,500	
1 1/2" meter tap	\$5,000	
2" meter tap	\$5,500	

Additional charges \_\_\_\_\_

Total Amount Due \_\_\_\_\_

Property owners occupying/residing at the above service address, with a history of 4 or less late charges over the immediate first five years, may be refunded \$75 of the \$175 meter deposit at the discretion of District personnel. The \$100 balance of the deposit will remain on the account.

Amount Paid \_\_\_\_\_ Check # \_\_\_\_\_ Date Paid \_\_\_\_\_

~~~~~ Office use only ~~~~~

Route \_\_\_\_\_ Pump \_\_\_\_\_ Sequence # \_\_\_\_\_ Location \_\_\_\_\_

Reading \_\_\_\_\_ Radio Read-Serial # \_\_\_\_\_

Processed \_\_\_\_\_  
Form Rev. 8-2021