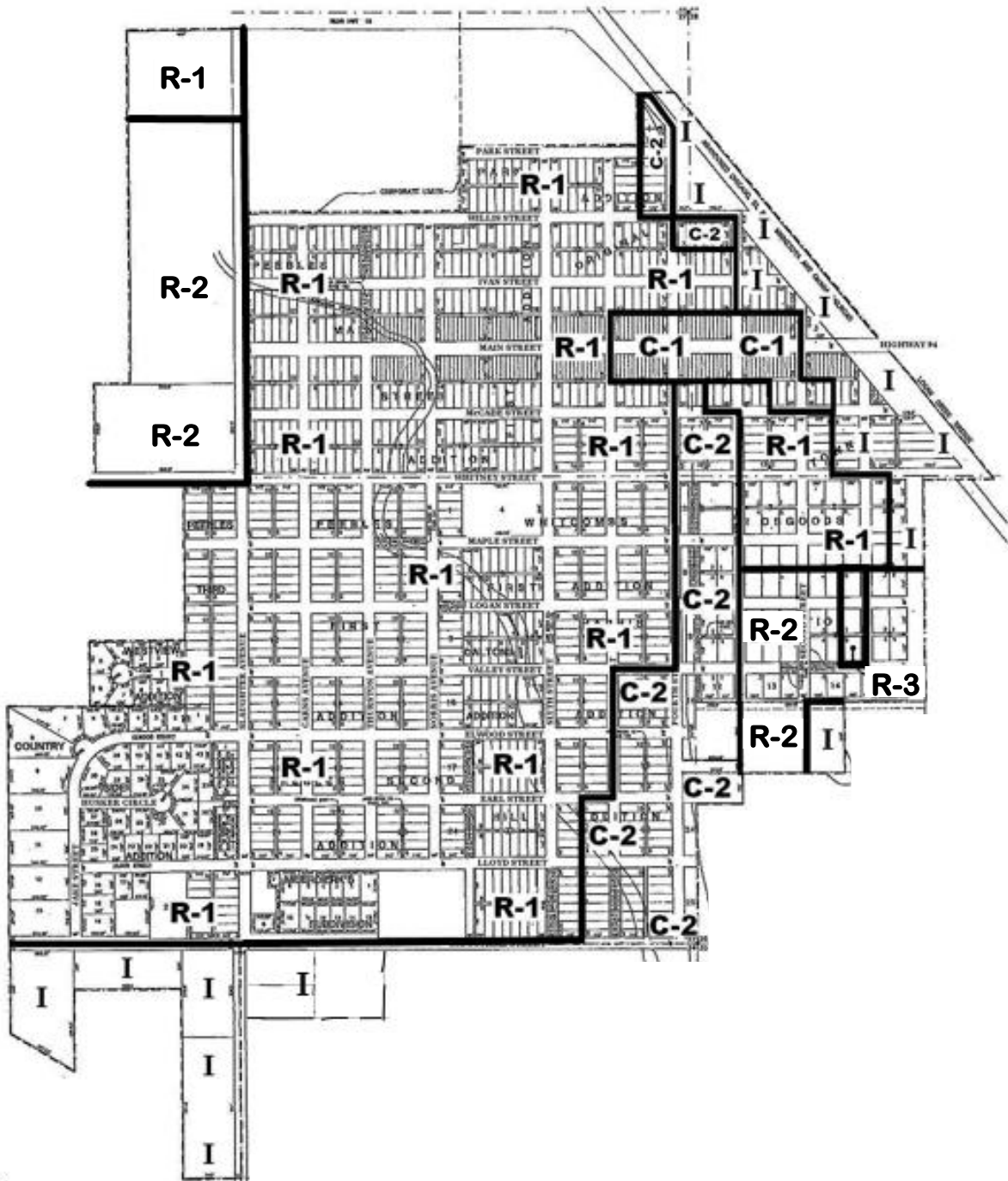


PENDER, NEBRASKA ZONING REGULATIONS.



HANNA:KEELAN ASSOCIATES, P.C.
COMMUNITY PLANNING & RESEARCH

JUNE, 2019

TABLE OF CONTENTS

Article 1 General Provisions 1

1.1 Title..... 1

1.2 Jurisdiction..... 1

1.3 Purpose 1

Article 2 Application of Regulations 2

2.1 General 2

2.2 Zoning Affects Every Building and Use 2

2.3 Yard and Lot Reduction Prohibited 2

2.4 Minimum Requirements 2

2.5 Nonconformities 2

 2.51 Nonconforming Lots of Record..... 2

 2.52 Nonconforming Structures..... 3

 2.53 Nonconforming Uses 3

Article 3 General Definitions 6

3.1 General Provisions 6

 3.11 Tense..... 6

 3.12 Number 6

 3.13 Shall and May 6

 3.14 Headings..... 6

3.2 General Terminology 6

3.3 Definitions 6

Article 4 Establishment and Designation of Districts..... 15

4.1 Planning Commission Recommendations..... 15

4.2 Districts Created..... 15

4.3 Official Zoning Map 15

4.4 Rules for Interpretation of District Boundaries 16

Article 5 Zoning Districts..... 18

5.1 "AGR" Agriculture Residential District 18

5.11 Intent..... 18

5.12 Permitted Principal Uses and Structures..... 18

5.13 Permitted Accessory Uses and Structures..... 18

5.14 Permitted Special Uses..... 19

5.15 Prohibited Uses and Structures 19

5.16 Special Regulations..... 19

5.17 Minimum Lot Requirements 20

TABLE OF CONTENTS - CONTINUED

5.18 Minimum Yard Requirements..... 20
5.19 Maximum Height 20
5.20 Sign Regulations 20
5.2 "R-1" Residential Single Family District..... 21
5.21 Intent 21
5.22 Permitted Principal Uses and Structures..... 21
5.23 Permitted Accessory Uses and Structures 21
5.24 Permitted Special Uses..... 21
5.25 Prohibited Uses and Structures 21
5.26 Height and Area Regulations 22
5.27 Parking Regulations 22
5.28 Fence Regulations 22
5.29 Sign Regulations 22
5.3 "R-2" Residential Single and Multifamily District 23
5.31 Intent 23
5.32 Permitted Principal Uses and Structures..... 23
5.33 Permitted Accessory Uses and Structures 23
5.34 Permitted Special Uses..... 23
5.35 Prohibited Uses and Structures 23
5.36 Height and Area Regulations 24
5.37 Parking Regulations 24
5.38 Fence Regulations 24
5.39 Sign Regulations 24
5.4 "R-3" Residential Single and Multifamily District 25
5.41 Intent 25
5.42 Permitted Principal Uses and Structures..... 25
5.43 Permitted Accessory Uses and Structures 25
5.44 Permitted Special Uses..... 25
5.45 Prohibited Uses and Structures 25
5.46 Height and Area Regulations 26
5.47 Parking Regulations 26
5.48 Fence Regulations 26
5.49 Sign Regulations 26
5.5 "C-1" General Commercial District..... 27
5.51 Intent 27
5.52 Permitted Principal Uses and Structures..... 27
5.53 Permitted Accessory Uses and Structures 28
5.54 Permitted Special Uses..... 28
5.55 Prohibited Uses and Structures 28

TABLE OF CONTENTS - CONTINUED

5.56	Screening Requirements.....	28
5.57	Prohibited Uses	28
5.58	Height Regulations	29
5.59	Fence Regulations.....	29
5.510	Sign Regulations	29
5.6	“C-2” Highway Commercial District.....	30
5.61	Intent.....	30
5.62	Permitted Principal Uses and Structures.....	30
5.63	Permitted Accessory Uses and Structures.....	30
5.64	Permitted Special Uses.....	31
5.65	Screening Requirements.....	31
5.66	Prohibited Uses.....	31
5.67	Height and Areas Regulations	31
5.68	Parking Regulations	31
5.69	Fence Regulations.....	31
5.610	Sign Regulations	31
5.7	“I” Industrial District.....	32
5.71	Intent.....	32
5.72	Permitted Principal Uses and Structures.....	32
5.73	Permitted Accessory Uses and Structures.....	33
5.74	Permitted Special Uses.....	33
5.75	Prohibited Uses and Structures	33
5.76	Height and Areas Regulations	33
5.77	Parking Regulations	33
5.78	Fence Regulations.....	33
5.79	Sign Regulations	33
5.710	Use Limitations.....	33
Article 6	Special Use Permit	34
6.1	General	34
6.2	Procedures	34
6.3	Salvage or Junk Yard	35
6.4	Landfills and Sanitary Landfills.....	36
6.5	Alternative Energy Systems to Supplement Public Utility Service.....	36
6.6	Commercial Wind Energy Conversion Systems	38
6.7	Solar Energy Conversion Systems	44
Article 7	Parking Regulations	51
7.1	General Provisions.....	51
7.2	Off-Street Parking Requirements	52
7.3	Off-Street Loading Requirements	53

TABLE OF CONTENTS - CONTINUED

Article 8 Accessory Uses and Supplemental Regulations 54

8.1 Accessory Building 54

8.2 Home Occupations 54

8.3 Manufactured Homes..... 55

8.4 Yard Regulations..... 55

 8.41 Front Yards..... 55

 8.42 Structural Projections 56

8.5 Exceptions to Height Regulations 56

8.6 Exceptions to Lot Size Requirements 56

8.7 Mobile Home Parks..... 56

8.8 Fence Regulations 59

8.9 Sign Regulations 61

Article 9 Board of Zoning Adjustment 64

9.1 Creation, Membership 64

9.2 Meetings 64

9.3 Interpretations and Variances 64

9.4 Procedures For Requesting A Variance 66

9.5 Appeals From the Board of Zoning Adjustment 66

Article 10 Administrative Provisions, Enforcement and Fees 67

10.1 Enforcement 67

 10.11 Zoning Administrator..... 67

10.2 Building Permits Required..... 68

 10.21 General 68

 10.22 Application for Building Permit 68

 10.23 Approval or Disapproval of Permit..... 68

 10.24 Appeal From Approval or Disapproval..... 68

10.3 Certification of Occupancy Required..... 69

 10.31 General 69

 10.32 Temporary Certificate..... 69

 10.33 Application for Certificate of Occupancy 69

 10.34 Issuance of Certificate of Occupancy 69

10.4 Schedule of Fees..... 69

Article 11 Amendment 70

11.1 General 70

11.2 Submission to Planning Commission..... 70

11.3 Amendment Consideration and Adoption..... 70

11.4 Protest 71

TABLE OF CONTENTS – CONTINUED

Article 12 Complaints, Penalties, Remedies 72

12.1 Complaints Regarding Violations 72

12.2 Penalties 72

12.3 Remedies 72

Article 13 Legal Status Provisions..... 73

13.1 Reparability..... 73

13.2 Purpose of Catch Heads..... 73

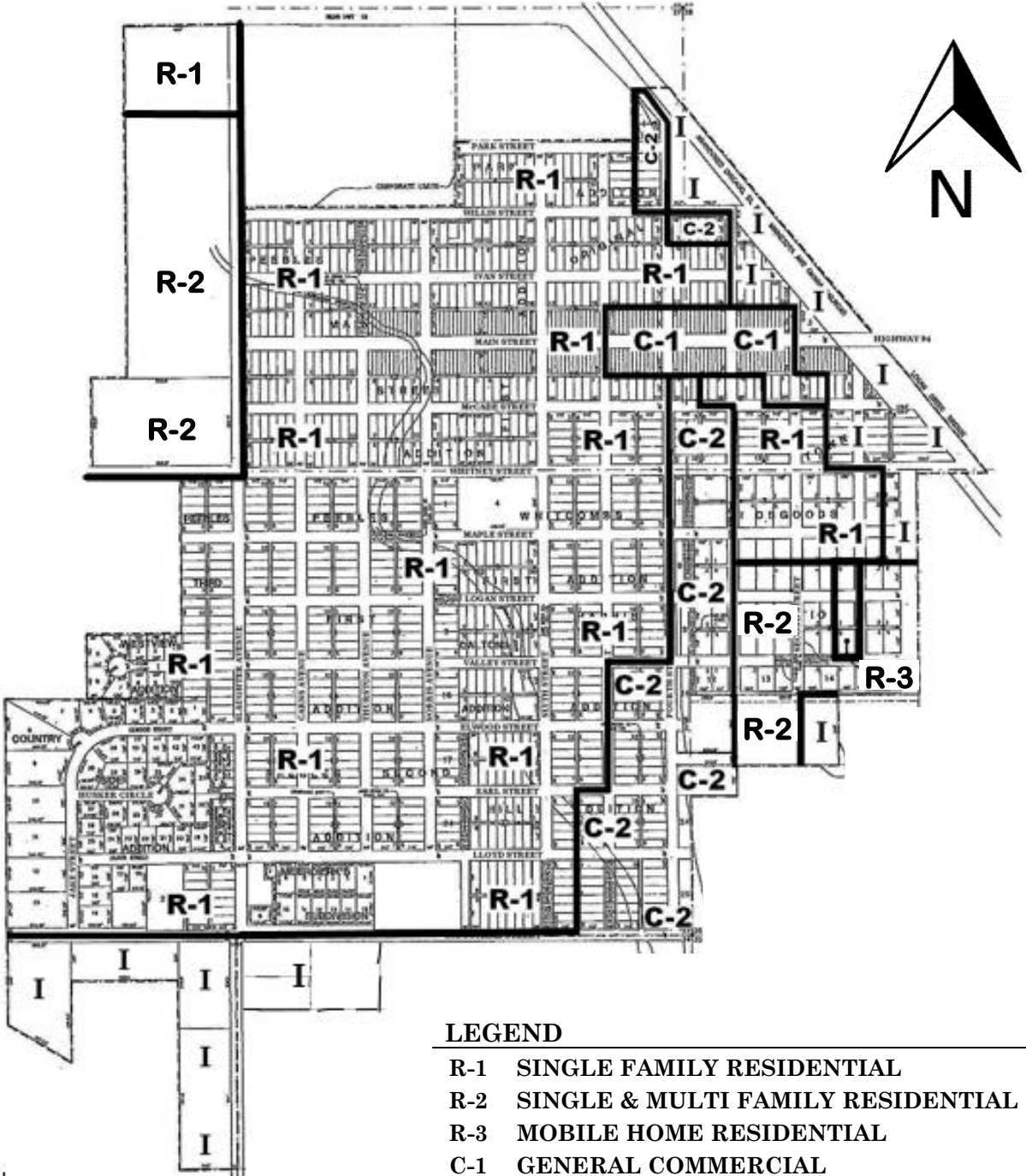
13.3 Repeal of Conflicting Ordinances 73

13.4 Effect Date..... 73

EXISTING ZONING MAP

CORPORATE LIMITS

PENDER, NEBRASKA



LEGEND

- R-1 SINGLE FAMILY RESIDENTIAL
- R-2 SINGLE & MULTI FAMILY RESIDENTIAL
- R-3 MOBILE HOME RESIDENTIAL
- C-1 GENERAL COMMERCIAL
- C-2 HIGHWAY COMMERCIAL
- I INDUSTRIAL

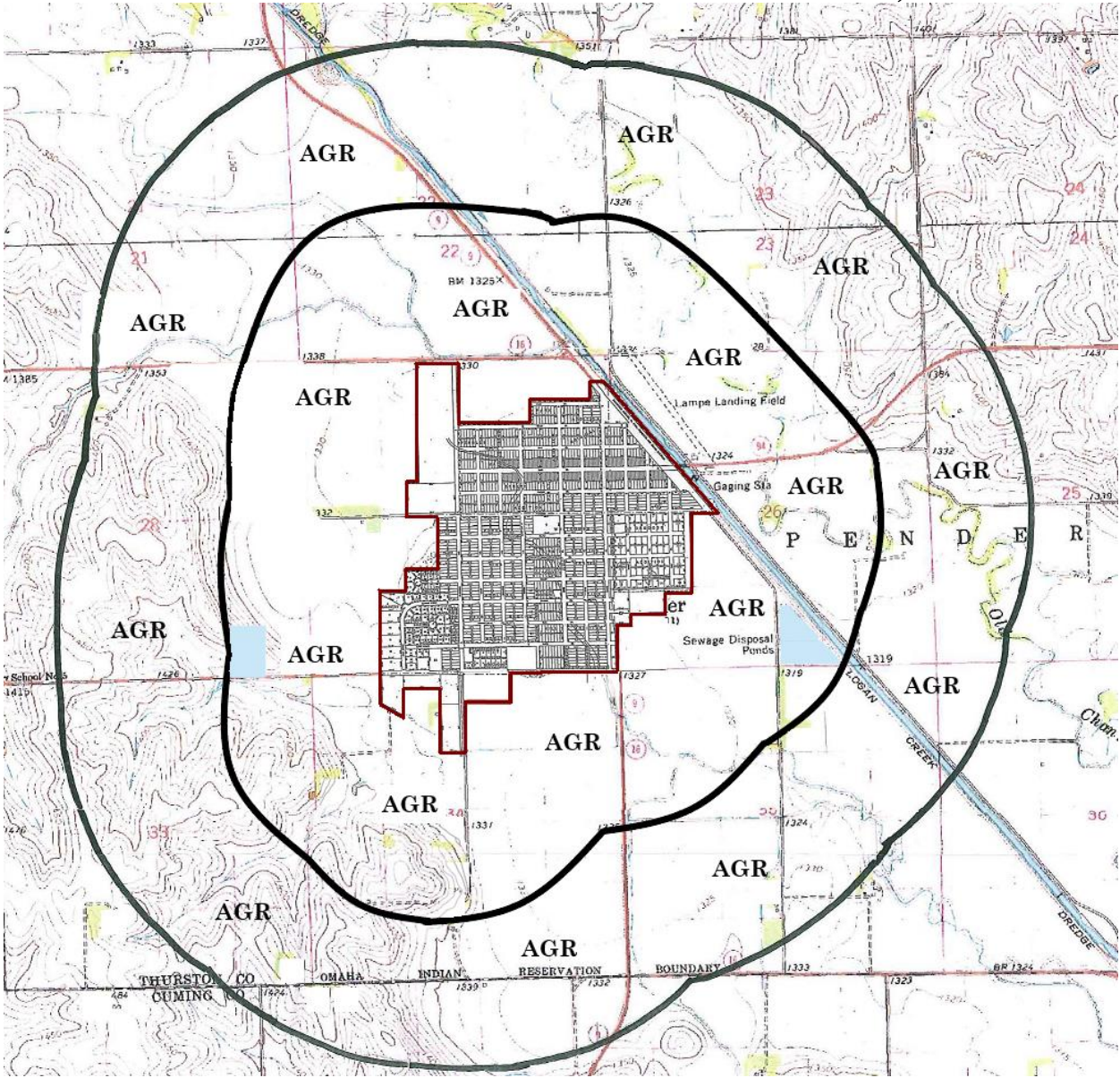
HANNA:KEELAN ASSOCIATES, P.C.
COMMUNITY PLANNING & RESEARCH

* Lincoln, Nebraska * 402.464.5383 *

EXISTING ZONING MAP

PLANNING JURISDICTION

PENDER, NEBRASKA



LEGEND

- AGR AGRICULTURAL RESIDENTIAL
- VILLAGE OF PENDER CORPORATE LIMITS
- ONE-HALF MILE RADIUS
- ONE-MILE PLANNING JURISDICTION

HANNA:KEELAN ASSOCIATES, P.C.
COMMUNITY PLANNING & RESEARCH

* Lincoln, Nebraska * 402.464.5383 *

ARTICLE 1

GENERAL PROVISIONS

1.1 TITLE

These Regulations shall be adopted by Ordinance, and cited as the Zoning Regulations of the Village of Pender, Nebraska.

1.2 JURISDICTION

The provisions of these Regulations shall apply within the Planning Jurisdiction of Pender, Nebraska, as established on the map entitled "The Official Zoning Map of the Village of Pender, Nebraska." The jurisdiction includes the zoning areas within and up to One Mile beyond the Corporate Limits of the Village of Pender, Nebraska.

1.3 PURPOSE

In pursuance of the authority conferred by Sections 19-901 through 19-914 of Nebraska Statutes as amended, this Ordinance is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants in the Village of Pender by regulating and restricting the height, number of stories, and size of buildings and other structures, the size of yards, courts, and other open spaces, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes in accordance with the Pender Comprehensive Plan and the Zoning Maps adopted herewith.

ARTICLE 2

APPLICATION OF REGULATIONS

2.1 GENERAL

The Zoning Regulations set forth by this Ordinance within each District shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

2.2 ZONING AFFECTS EVERY BUILDING AND USE

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or structurally altered except in conformity with all of the Zoning Regulations herein specified for the District in which it is located.

2.3 YARD AND LOT REDUCTION PROHIBITED

No yard or lot existing at the time of passage of this Ordinance shall be reduced by private action in dimension or area below the minimum requirements set herein. Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by these Regulations.

2.4 MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Where applicable, Municipal, State, or Federal standards which are more restrictive than those contained herein, the more restrictive standards shall apply.

2.5 NONCONFORMITIES

Nonconformities; Intent. Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses.

2.51 NONCONFORMING LOTS OF RECORD: The Zoning Administrator may issue a Permit for any nonconforming lot of record (in association with Section 8.6) provided that:

Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited, and

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the Zoning Regulation, and Said lot can meet all required yard regulations for the District in which it is located.

2.52 NONCONFORMING STRUCTURES

Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning District in which it is located, but which is located on a lot which does not comply with the use regulations and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled, or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.

Damage or Destruction: In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 75 percent of its assessed fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning District in which it is located. When a structure is damaged to the extent of 75 percent or less of its assessed fair market value, no repairs or restoration shall be made unless a building permit is obtained within six (6) months, and restoration is actually begun one (1) year after the date of such partial destruction and is diligently pursued to completion.

Moving: No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning District in which it is located after being moved.

2.53 NONCONFORMING USES

Authority to Continue: Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

Ordinary Repair and Maintenance:

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.

2. Nothing in these Regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official in charge of protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.

Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the District in which it is located.

Damage or Destruction: In the event that a nonconforming building or use is damaged to the extent of more than seventy-five (75) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

Moving: No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning District in which it is located after being so moved.

Change in Use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the District than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, (as per Ref. 19-904.01 R.S. Nebraska), such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning District in which such land is located.

Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

ARTICLE 3

GENERAL DEFINITIONS

3.1 GENERAL PROVISIONS

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of these Zoning Regulations.

3.11 TENSE: Words used in the present tense include the future tense.

3.12 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.

3.13 SHALL AND MAY: The word "shall" is mandatory; the word "may" is permissive.

3.14 HEADINGS: In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of these Zoning Regulations and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

3.2 GENERAL TERMINOLOGY

The word "Village" shall mean the Village of Pender Nebraska. The term "Governing Body" shall mean the Village Board of Trustees of Pender, Nebraska. The term "Planning Commission" shall mean the Planning Commission of Pender duly appointed by the governing body of the Village of Pender. The term "he/or his" shall mean "her/or hers."

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

3.3 DEFINITION

For the purpose of the Regulations, certain words and terms used herein are defined as follows;

ACCESSORY USE OF BUILDING: A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio or land mobile towers of less than one hundred (100) feet, and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

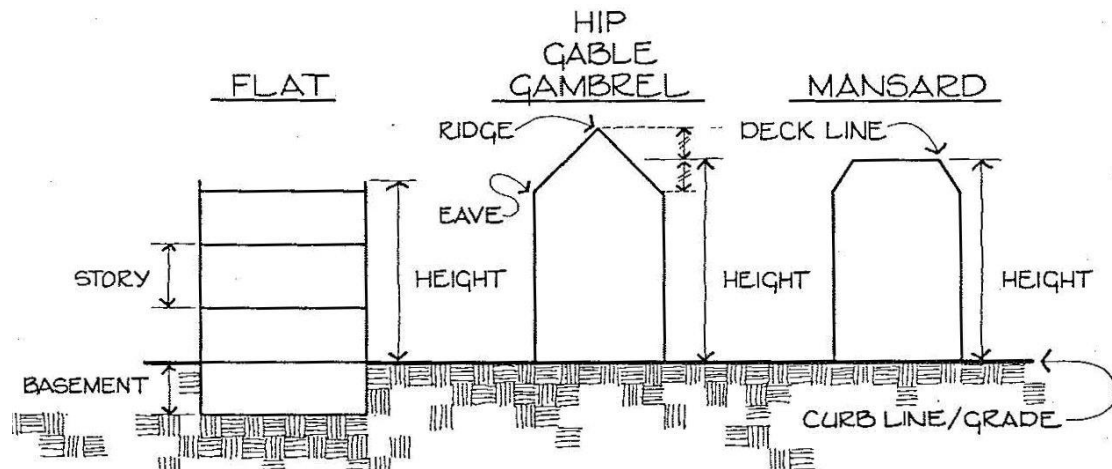
AGRICULTURAL FARM OR OPERATION: A tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least twenty (20) acres and which produces one thousand dollars (\$1,000) or more of farm products each year.

ALLEY: A public or private thoroughfare which affords only a secondary means of access to the property abutting thereon.

BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

BUILDING: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure".

BUILDING HEIGHT: The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

CAMP GROUNDS: Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

CHILD CARE CENTER: A facility which is or should be licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.

CHILD CARE HOME: A private home providing care (for children) for compensation which is or should be licensed by the Nebraska Department of Health and Human Services.

CONDITIONAL USE: A use which is allowed in a zone when specified conditions have been complied with as identified for each District as a conditional use. A conditional use permit is reviewed and issued by the zoning administrator.

DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.

DWELLING, MULTIFAMILY: A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.

DWELLING, SINGLE FAMILY: A dwelling having accommodations for and occupied by one (1) family.

DWELLING, TWO-FAMILY: A residential building containing two (2) dwelling units entirely surrounded by open space on the same lot.

DWELLING UNIT: consists of one or more rooms which are arranged, designed or used as a separate living quarters by a single family or other group of persons living together as a household or a person living alone. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each “dwelling unit.”

EASEMENT: A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

FARM RESIDENCE: Residential dwellings located on a farm, including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

FARMSTEAD: Any building site that includes at least two (2) buildings that have combined assessed valuation for tax purposes of at least \$5,000 as of the date on which these regulations go into effect.

GROUP HOME: means a facility which houses more than five (5) but less than sixteen (16) persons who are unrelated by blood, marriage or adoption. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

HOME OCCUPATION: An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

LIVESTOCK, CONFINEMENT FACILITIES/OPERATIONS: Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days.

LANDFILL: A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day and in conformance with the requirements of the Nebraska Department of Health and Human Service System.

LOT: A parcel of land occupied or intended for occupation by a use permitted in this Ordinance and fronting upon a street or road.

LOT, CORNER: A lot abutting two or more streets or roads at their intersection.

LOT DEPTH: The average horizontal distance between the front and rear lot lines.

LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street or road.

LOT OF RECORD: A lot of which is part of a subdivision recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

LOT WIDTH: The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

MANUFACTURED HOME: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

MOBILE HOME: A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.

MOBILE HOME PARK: Any area of land which two (2) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) ore more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

MODULAR HOME: Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes.

NONCONFORMING LOT OF RECORD: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the approval date of this Ordinance and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the District in which it is located.

NONCONFORMING STRUCTURE: An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning District in which it is located.

NONCONFORMING USE: An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning District in which it is located.

PARKING SPACE, OFF-STREET: An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.

RECYCLING CENTER: A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

RECYCLING COLLECTION POINT: A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

SANITARY LANDFILL: A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health and Human Service System.

SANITARY TRANSFER STATION: A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Health and Human Service System.

SALVAGE OR JUNK YARD: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

SPECIAL USE PERMIT: A written permit issued with authorization of the applicable governing body. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning Districts as stipulated under permitted special uses in each of the District zoning regulations.

STREET: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.

STREET, CENTER LINE: A line midway between street lines.

STREET LINE: A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, street signs, bridges and culverts.

STRUCTURAL ALTERATION: Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

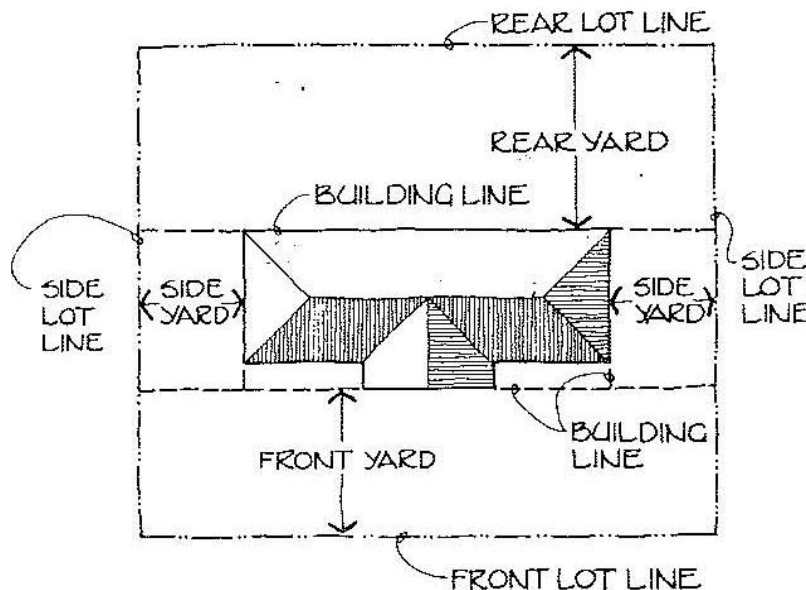
TEMPORARY HOUSING UNITS: Include travel trailers, campers or self contained motor homes not exceeding eight (8) feet in width, nor thirty-two (32) feet in length.

TOWNHOUSE: One of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

VARIANCE: A variance is a relaxation of the terms of the Zoning Regulations, where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

YARD: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the District regulations.

YARD, FRONT: A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

YARD, REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

YARD, REQUIRED: The required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in these regulations.

YARD, SIDE: A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.

ZONING BOARD OF ADJUSTMENT: The legally appointed board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning Regulations and official maps as defined within this Ordinance and in accordance with the laws of the State of Nebraska.

ZONING DISTRICT: The term "Zoning District" means an area delineated on a zoning map for which uniform use regulations are specified.

ZONING MAP: The term "Zoning Map" means a map or maps officially enacted by the governing body as part of this Ordinance showing the boundaries of a zoning District or Districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the Village Clerk as an official record of the Village.

ZONING ADMINISTRATOR: The person or persons authorized and empowered by the governing body to administer the requirements of the Zoning Regulations.

ARTICLE 4

ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 PLANNING COMMISSION RECOMMENDATIONS

It shall be a purpose of the Planning Commission to recommend the boundaries of the various original Districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the governing body shall not hold its public hearings or take action until it has received the final report of the Planning Commission.

4.2 DISTRICTS CREATED

For the purpose of the Zoning Regulations, there are hereby created zoning Districts, as named and described in Article 5 of this Ordinance.

- AGR Agriculture Residential District
- R-1 Residential Single Family District
- R-2 Residential Single and Multifamily District
- R-3 Residential Mobile Home District
- C-1 General Commercial District
- C-2 Highway Commercial District
- I Industrial

4.3 OFFICIAL ZONING MAP

1. The boundaries of the District are shown upon maps, which are made a part hereof by reference, which map(s) are designated as the Village of Pender Zoning District Map, dated _____ and signed by the Chairman of the Board and attested by the Village Clerk and hereinafter referred to as the "Official Zoning Maps."
2. The signed copy of the Zoning Map(s) containing the zoning Districts designated at the time of adoption of this Ordinance shall be maintained in the office of the Village Clerk for the use and benefit of the public.
3. If in accordance with the provisions of these Regulations, changes are made in the District boundaries or other matter portrayed on the Official Zoning Map(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body, with an entry on the Official Zoning Map(s) as follows:

"On (date), by official action of the Village Board of Trustees, the following change was made in the Official Zoning Map(s) (brief description of the nature of the change), which entry shall be signed by the Chairman of the Board and attested by the Village Clerk."

No amendment to these Regulations, which involves matter portrayed on the Official Zoning Map(s), shall become effective until after such change and entry have been made on said map(s).

4. No changes of any nature shall be made in the Official Zoning Map(s) or matter shown thereon except in conformity with the procedures set forth in these Regulations.
5. In the event that the Official Zoning Map(s) become damaged, destroyed, lost or difficult to interpret, the Village Board of Trustees, may, by Ordinance, adopt a new Official Zoning Map(s) which shall supersede the prior Official Zoning Map(s).

The new Official Zoning Map(s) may correct drafting or other errors or omissions in the prior Official Zoning Map(s), but no such correction shall have the effect of amending the original Official Zoning Map(s) or any subsequent amendment thereof.

4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of Districts as shown on the Official Zoning Map(s), the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following Village limits shall be construed as following such Village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.

6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the District boundaries.
7. Where a District boundary line divides a lot which was in single ownership at the time of passage of this Ordinance the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the District line into the remaining portion of the lot.

ARTICLE 5

ZONING DISTRICTS

5.1 AGR - AGRICULTURE RESIDENTIAL DISTRICT

5.11 INTENT: This District is intended for general agricultural purposes within the Planning Jurisdiction of the Village of Pender.

5.12 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Single family dwellings, ranch and farm residences;
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations.
3. Public facilities and utility distribution systems;
4. One additional single family, ranch or farm residence for the purpose of housing relatives or agricultural workers; and
5. Churches, places of worship and cemeteries.

5.13 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8.2; and
3. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation.

5.14 PERMITTED SPECIAL USES: A building or premise may be used for the following purposes in the “AGR” Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Alternative energy systems to supplement public utility service in conformance with Article 8.10 of these Regulations;
2. Sewage disposal and water systems, including agricultural irrigation wells;
3. Public and private uses including parks, playgrounds, golf courses, campgrounds, recreation uses, riding stables, dude ranches, public utilities and utility distribution system;
4. Flood, erosion and sediment control projects;
5. Broadcast towers and stations, including Amateur Radio or land mobile towers of more than 100 feet;
6. Bed and breakfast establishments;
7. Salvage or junk yard in accordance with Section 6.3;
8. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries;
9. Expansion of existing livestock confinement facilities up to a maximum of fifty (50) head of livestock. Livestock not confined for a period of 180 consecutive days or longer shall be considered grazing livestock and not defined as a confinement facility.
10. Rural subdivisions with individual parcels less than three (3) acres in accordance with the Nebraska Department of Environmental Quality - Title 124 and Department of Health and Human Services Regulations and with a shared or “community” drinking water and sanitary sewer system, then the minimum lot area of individual parcels may be reduced to one-half (1/2) acre.
11. Commercial Wind Energy Conversion System in accordance with Article 6.6.

5.15 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the AGR Agricultural Residential District.

5.16 SPECIAL REGULATION: Provisions must be made for disposal of wastes in accordance with local and state regulations.

5.17 MINIMUM LOT REQUIREMENTS:

1. The minimum lot area for AGR uses shall be three (3) acres.

5.18 MINIMUM YARD REQUIREMENTS:

Front Yard: There shall be a minimum front yard of not less than a depth of thirty (30) feet, measured from the existing road way right-of-way line.

Rear Yard: No limitations; unless abutting a residential District then the minimum rear yard shall be fifteen (15) feet.

Side Yard: No limitations; unless abutting a residential District then the minimum side yard shall be ten (10) feet.

5.19 MAXIMUM HEIGHT: No limitation.

5.20 SIGN REGULATIONS: Signs within the AGR Agricultural Residential District shall be in conformance with the provisions of Article 8.10 of this Ordinance.

5.21 UTILITY REQUIREMENTS: Notwithstanding other provisions of this Ordinance, all dwellings hereafter erected, enlarged or reconstructed in a AGR Agricultural District shall conform to the following regulations:

1. No waste absorption field (septic tank, cess pools, etc.) shall be constructed any closer than fifty (50) feet from any adjacent property line.
2. There shall be no waste absorption field located closer than seventy-five (75) feet from any other residential structure.
3. There shall be no waste absorption field located closer than fifty (50) feet from a water well provided; however, where geology and subsurface conditions and topography would indicate that seepage could reach the well supply, a greater distance shall be required.
4. An individual residential waste absorption field shall contain a minimum of ten-thousand (10,000) square feet, exclusive of the area required by structure. The entire tract shall contain not less than three (3) acres.

5.2 R-1 RESIDENTIAL SINGLE FAMILY DISTRICT

5.21 INTENT: This District is intended to provide for residential uses consisting primarily of single family dwelling units and accessory structures by also including the permitted uses set forth in Section 5.22 below.

5.22 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Single family dwellings;
2. Two family dwellings;
3. Manufactured homes which comply with the provisions of Article 8.3;
4. Public and parochial schools;
5. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public utilities and utility distribution systems; and
6. Places of worship such as churches and synagogues.

5.23 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Article 8.2.
2. Accessory uses and structures normally appurtenant to permitted uses and structures.

5.24 PERMITTED SPECIAL USES: A building or premises may be used for the following purpose in the R-1 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 these Regulations;
2. Bed and breakfast homes;
3. Child care homes and Child care centers;
4. Hospitals, Medical clinics and other Medical facilities;
5. Mortuaries;
6. Museum and art galleries;
6. Nursing homes;
7. Public and private golf courses;
8. Retirement homes;
9. Townhouses; and
10. Multifamily dwellings.

5.25 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-1 Residential District.

5.26 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

a) General Requirements:

	<u>Lot Area</u> <u>(Sq. Ft.)</u>	<u>Required</u> <u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Single Family Dwelling	7,000	50'	30'	7'	25'	35'
Two Family Dwelling	3,500 per family	50'	25'	7'	25'	35'
Multifamily Dwelling	2,200 per family	50'	25'	7'	15'	45'
Other Permitted Uses	7,000	50'	25'	7'	25'	35'

- b) Buildings on corner lots shall provide front yard setbacks of twenty-five (25) feet on one street side and fifteen (15) feet on the other front yard and designate remaining yards as one rear and one side yard;
- c) Building and structures shall not exceed two and one half (2 2) stories in height;
- d) The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one-hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

5.27 PARKING REGULATIONS: Parking within the R-1 Residential Zoning District shall be in conformance with the provisions of Article 7 of these Zoning Regulations. In addition, semi trucks, semi trailers and gooseneck trailers shall not be allowed to be parked within the R-1 Residential District.

5.28 FENCE REGULATIONS: Fences within the R-1 Residential District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

5.29 SIGN REGULATIONS: Signs within the R-1 Residential District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

5.3 R-2 RESIDENTIAL SINGLE AND MULTIFAMILY DISTRICT

5.31 INTENT: It is the intent of this District to provide for single and multifamily residential uses.

5.32 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Single family dwellings;
2. Manufactured homes which comply with the provisions of Article 8.3;
3. Two-family dwellings;
4. Multifamily dwellings;
5. Community buildings;
6. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems; and
7. Places of worship such as churches and synagogues.

5.33 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Article 8.2; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures.

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the R-2 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 these Regulations;
2. Bed and breakfast homes;
3. Child care homes and Child care centers;
4. Clubs, fraternities, lodges, and meeting places of a non-commercial nature;
5. Communication and utility buildings and uses;
6. Funeral homes and mortuaries;
7. Hospitals, Medical clinics and other Medical facilities; and
8. Public and/or private golf courses.

5.35 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-2 Residential District.

5.36 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

a) General Requirements

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Single Family Dwelling	6,000	50'	25'	7'	15'	35'
Two Family per Dwelling	3,000 per family	25'	25'	7'	15'	35'
Multifamily Dwelling	2,200 per family	50'	25'	7'	15'	45'
Other Permitted Uses	7,000	50'	25'	7'	15'	35'

- b) Buildings on corner lots with a width of fifty (50) feet or less shall provide a second frontage on the street side of not less than seven (7) feet, provided that the buildable width need not be reduced to less than twenty-eight (28) feet, yards remaining shall be designated side yards each with a minimum depth of five (5) feet;
- c) Buildings on corner lots with a width of fifty (50) feet or greater shall provide a second frontage on the street side of not less than fifteen (15) feet, yards remaining shall be designated side yards with a minimum depth of five (5) feet;
- d) Building and structures shall not exceed three (3) stories in height.

5.37 PARKING REGULATIONS: Parking within the R-2 Residential District shall be in conformance with the provisions of Article 7 of these regulations. In addition, semi trucks, semi trailers and gooseneck trailers shall not be allowed to be parked within the R-2 Residential District.

5.38 FENCE REGULATIONS: Fences within the R-2 Residential District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

5.39 SIGN REGULATIONS: Signs within the R-2 Residential District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

5.4 R-3 RESIDENTIAL MOBILE HOME DISTRICT

5.41 INTENT: It is the intent of this District to provide for mobile homes within mobile home parks and the allowance of all manufactured housing types. Mobile home parks are considered as a residential use and should be located in areas where services and amenities are available.

5.42 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Mobile Homes within Mobile Home Parks in accordance with the provisions of Article 8.7

5.43 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Article 8.2; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures.

5.44 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the R-3 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Community buildings;
2. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems;
3. Alternative energy systems to supplement public utility service in conformance with Article 6.5 these Regulations; and
4. Communication and utility buildings and uses.

5.45 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-3 Residential District.

5.46 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

a) General Requirements

	<u>Lot Area</u> (Sq. Ft.)	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Mobile Home	4,000	45'	15'	7'	10'	35'

5.47 PARKING REGULATIONS: Parking within the R-3 Residential District shall be in conformance with the provisions of Article 7 of these regulations. In addition, semi trucks, semi trailers and gooseneck trailers shall not be allowed to be parked within the R-3 Residential District.

5.48 FENCE REGULATIONS: Fences within the R-3 Residential District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

5.49 SIGN REGULATIONS: Signs within the R-3 Residential District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

5.5 C-1 GENERAL COMMERCIAL DISTRICT

5.51 INTENT: This District is designed to provide for a wide range of retail, office, amusement and service uses normally found in a Central Business District. Highest density and intensity of use are permitted in this District.

5.52 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Apartments on floors other than ground floor;
2. Automobile sales and services;
3. Automotive wash facilities;
4. Bakery;
5. Banks, savings and loan associations, credit unions and finance companies;
6. Barbershops, beauty parlors and shoeshine shops;
7. Business offices;
8. Child care homes and centers;
9. Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses);
10. Convenience store or filling station;
11. Detached banking facilities (ATM);
12. Dry cleaning or laundry establishments;
13. Food service, restaurants and taverns;
14. Food storage lockers;
15. Funeral homes and mortuaries;
16. Garden centers;
17. Motels and hotels;
18. Museums and art galleries;
19. Office buildings;
20. Parking lots and other off-street parking facilities;
21. Personal and professional services;
22. Photography studios;
23. Private schools, including but not limited to business or commercial schools, and dance or music academies,
24. Public and private charitable institutions;
25. Public parks, buildings and grounds;
26. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures, and facilities;
27. Retail store or business;
28. Public utility facilities;
29. Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings;
30. Service stations; and
31. Stores or shops for the sale of goods at retail and/or wholesale.

5.53 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to permitted uses and structures and to uses and structures permitted as special uses.

5.54 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the C-1 Commercial Business District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 these Regulations;
2. Single Family dwellings;
3. Multifamily dwellings;
4. Bed and breakfast guest home;
5. Recycling center; and
6. Mini storage facilities.

5.55 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the C-1 Commercial Business District.

5.56 SCREENING REQUIREMENTS:

1. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot within a residential District shall be conducted wholly within an enclosed building unless screened from the residential District by a sight-obscuring barrier permanently maintained at least six (6) feet in height.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

5.57 PROHIBITED USES:

1. No use shall be permitted and no process, equipment or materials shall be used which are found by the Village to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

5.58 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

a) General Requirements:

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Permitted	3,500	25'	0'	0' or 10 ' when abutting a Residential District	0'	45'
Multifamily Dwelling	2,250 per Family	50'	25'	7' or 7 1/2 ' on corner lots	15'	45'

5.510 FENCE REGULATIONS: Fences within the C-1 General Commercial District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

5.511 SIGN REGULATIONS: Signs within the C-1 General Commercial District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

5.6 C-2 HIGHWAY COMMERCIAL DISTRICT

5.61 INTENT: The C-2 Highway Commercial District is intended for the purpose of servicing highway travelers and providing limited commercial services. Off-street parking is required in order to reduce possible adverse effects on adjacent properties.

5.62 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Automobile sales;
2. Automobile wash facilities;
3. Churches and other religious institutions;
4. Construction sales and services;
5. Commercial operations and businesses, intended for the purpose of servicing travel and recreational users;
6. Commercial recreational facilities (bowling alleys, miniature golf courses and similar uses);
7. Convenience store or filling station;
8. Detached banking facilities (ATM);
9. Electric and telephone substations;
10. Farm implement sales and services;
11. Garden centers and nurseries;
12. Irrigation equipment sales and services;
13. Mini storage facilities;
14. Mobile homes sales;
15. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
16. Restaurants and cafes;
17. Service stations;
18. Single family homes;
19. Stores or shops for sale of goods at retail;
20. Transportation warehousing;
21. Trucks and freight terminals;
22. Utilities, including shops and offices; and
23. Medical clinics.

5.63 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.

5.64 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the C-2 Highway Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these Regulations.

- 1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 these Regulations;
- 2. Private clubs and lodges;
- 3. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
- 4. Radio studios, transmitters and antenna; and
- 5. Recycling centers.

5.65 SCREENING REQUIREMENTS:

- 1. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot within a residential District shall be conducted wholly within an enclosed building unless screened from the residential District by a sight-obscuring barrier permanently maintained at least six (6) feet in height.
- 2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

5.66 PROHIBITED USES:

- 1. All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the C-2 Highway Commercial District.

5.67 HEIGHT AND AREAS REGULATIONS: The maximum height and minimum area regulations shall be as follows:

General Requirements:

	<u>Lot Area</u> <u>(Sq. Ft.)</u>	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Permitted Uses	7,500	50'	25'	7'	20'	35'

5.68 PARKING REGULATIONS: Parking within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 7 of these Regulations.

5.69 FENCE REGULATIONS: Fences within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

5.610 SIGN REGULATIONS: Signs within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

5.7 I INDUSTRIAL DISTRICT

5.71 INTENT: This District is designed to provide for a wide range of industrial and related uses.

5.72 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Agriculture, excluding the expansion of existing or development of commercial livestock facilities/operations;
2. Animal care;
3. Automobile sales and services;
4. Automotive wash facilities;
5. Bottling works;
6. Building material sales and ready-mix concrete plants;
7. Carpenter, cabinet, plumbing or sheet metal shops;
8. Grain storage;
9. Construction sales and services;
10. Dry cleaning and/or laundry plants;
11. Farm implementation sales and services;
12. Farm produce sales;
13. Food service, restaurants and taverns;
14. Freight and truck terminals;
15. Frozen food lockers;
16. Furniture warehouses;
17. Garden centers and nurseries;
18. Groceries, retail and wholesale;
19. Light manufacturing operations, providing that such use is not noxious by reason of vibration or noise beyond the confines of the building, or by the emission of particulate, fumes, gas, odor, or smoke;
20. Machinery sales and storage lots;
21. Mini storage facilities
22. Mobile and modular home sales and manufacturing;
23. Newspaper publishing plants;
24. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools and junior high schools, high schools; private non-profit schools, churches, parsonages, and other religious institutions; parks and playgrounds;
25. Public utility and public service uses;
26. Transportation warehousing;
27. Warehouse or storage houses;
28. Wholesale sales and services; and
29. Any similar uses that are determined by the Village Board of Trustees after referral to and recommendation by the Planning Commission to be of an industrial use similar to the above listed uses.

5.73 PERMITTED ACCESSORY USES: Accessory uses and structures normally appurtenant to permitted uses and structures.

5.74 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the I Industrial District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Alternative energy systems to supplement public utility service in conformance with Article 8.10 of these Regulations;
2. Junk and salvage yard (in conformance with Article 6.3);
3. Recycling center;
4. Ethanol and/or alcohol plants; and
5. Landfills and Sanitary Landfills (in conformance with Article 6.3).

5.75 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the I Industrial District.

5.76 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

a) General Requirements:

	<u>Lot Area</u> <u>(Sq. Ft.)</u>	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Permitted Uses	10,000	50'	35'	0', 10' when abutting Residential District	45'	35'

5.77 PARKING REGULATIONS: Parking within the I-1 Industrial District shall be in conformance with the provisions of Article 7 of these Regulations.

5.78 FENCE REGULATIONS: Fences within the I-1 Industrial District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

5.79 SIGN REGULATIONS: Signs within the I-1 Industrial District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

5.710 USE LIMITATIONS: All operations, activities and storage shall be conducted entirely inside of a building, or buildings, unless the nearest point of such operation or activity is more than two-hundred (200) feet from the boundary of any other zoning District other than an I District and except that storage may be maintained outside the building and side yards or rear yards of such storage area is separated from public streets and other property by screening of not less than six (6) feet in height. If a lot in an Industrial District adjoins a residential District, screening shall be provided at the lot lines sufficient to protect, on a year-round basis, the privacy of adjoining residential uses.

ARTICLE 6

SPECIAL USE PERMIT

6.1 GENERAL

The Village Board of Trustees may authorize by special permit after public hearing, any of the following buildings or uses designated in these Zoning Regulations as permitted special uses.

6.2 PROCEDURES

Such application shall be in writing, filed at the office of the Village Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the governing body. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the Village Board of Trustees, within thirty (30) days. Upon hearing, the Village Board of Trustees may approve or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the Village Board of Trustees in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the Village, one time at least ten (10) days prior to such hearing. (Ref. 19-904 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing.

Except as otherwise provided herein, no special use permit shall be granted by the Village Board of Trustees, without an affirmative vote of a majority of all members of the Village Board of Trustees and unless the proposed use is found to:

1. Be compatible with and similar to the use permitted in the District, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and

5. Be compatible with the stated intended use of the District, and
6. Not change the character of the District, and
7. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, there from, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds of all members of the Village Board of Trustees.

6.3 SALVAGE OR JUNK YARD

Salvage or junk yard operations and related facilities shall only be allowed by special permit in the AGR and I Zoning Districts under the following conditions:

1. Located on a tract of land at least one-fourth (1/4) mile from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the Village Board of Trustees for the protection of the general health and welfare.

In making any decision granting a special use permit, the Village Board of Trustees shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

6.4 LANDFILLS AND SANITARY LANDFILLS

Private landfill operations shall only be allowed by special permit in the AGR Agriculture District upon prior approval of the Nebraska Department of Health and Human Services System and with conformance to the following conditions:

1. Located on a tract of land at least three hundred (300) feet from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within an area completely surrounded on all sides by a fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all material within the yard and no material shall protrude above the fence.
3. No material shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the Village Board of Trustees for the protection of the general health and welfare.
5. Special use permits granted under this section shall be subject to annual review and renewal by the Village Board of Trustees.

In making any decision granting a special use permit, the Village Board of Trustees shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

6.5 ALTERNATIVE ENERGY SYSTEMS TO SUPPLEMENT PUBLIC

UTILITY SERVICE: The following provisions are to be utilized in conjunction with Nebraska State Statutes “Laws 2009, LB436, § 1. Effective Date: August 30, 2009,” commonly known as “Net Metering.” Alternative energy sources are limited to methane, wind, solar, biomass, hydropower resources, or geothermal. One or multiple alternative energy sources may be used by a resident to supplement their household’s reliance on the local or regional electricity provider.

1. **Application Requirements for a Alternative Energy Systems.**
 - A. A survey map at an appropriate scale identifying: site boundary; adjacent public right-of-way; existing structures; proposed alternative energy system and accessory structures; adjacent ownership and existing residences; any overhead utility lines.

- B. A report from a licensed engineer containing:
 - 1. Small wind energy system specifications including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed); documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location; certification that the small wind energy system complies with all applicable state construction and electrical codes and the National Electrical Code.
 - 2. All components of any alternate energy system shall be located within the lot setbacks, and maximum height limits of the District in which the property is located. If sufficient land area is available, the height of a small wind energy system may exceed the maximum height limit of the District it is located when the diameter of a circle equal to twice the height of the tower fits within the width and length of a parcel, or multiple adjacent parcels under same ownership.

2. General Site and Design Standards.

- A. Located on a legal lot(s) or parcel(s) of record in the Village of Pender, identifiable on the Village Plat Map or within the Pender Planning Jurisdiction.
- B. Setback from property lines, public rights-of-way, and access easements shall be at least height of the tower of a small wind energy system. All other Alternative Energy Systems shall meet the height and setback requirements of the Zoning District in which there located.
- C. Turbines and towers shall be of tubular design and must be painted or coated in a non-reflective white, grey, or other neutral color and shall not used to display advertising.
- D. Small wind energy systems shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
- E. All electrical wires associated with a alternative energy system other than the wires necessary to connect the generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.
- F. The maximum distance between the ground and the tip of the rotor blade of a small wind energy system, shall be thirty (30) feet.

- G. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
- H. The owner of any alternative energy system shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by the energy system.
- I. Construction access must be re-graded and re-vegetated to minimize environmental impacts.
- J. Alternative Energy System applications must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse or dismantlement of the facility at the owner's expense.

6.6 Commercial Wind Energy Conversion Systems

In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Pender, Nebraska, finds these regulations are necessary in order to ensure that all commercial wind energy conversion systems (CWECS) are appropriately designed, sited, and installed. (See #6. below for Definitions)

1. Application Requirements

The applicant for a conditional use permit for construction of a CWECS shall file an application with the Zoning Administrator. The application shall include the name(s) of the project applicant(s), the name of the project owner(s), and the legal description and address for the project. The application shall also include the following documents:

- A. Survey map illustrating the following:
 - 1. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation;
 - 2. Location and elevation of all components of the proposed CWECS;
 - 3. Location and dimensions of all existing structures and uses on property within three hundred (300) feet of the system;
 - 4. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or offsite of the proposed CWECS;
 - 5. Location of any overhead utility lines on the property;
 - 6. Location of all known communications towers within two (2) miles of the proposed CWECS;

7. Access roads;
 8. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state, county or local parks, recognized historic or heritage sites, identified wildlife preserves, or habitat areas to a distance of 2640 feet (one-half mile).
- B. Applicant shall identify potential effects in terms of constraints or benefits the wind energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed, and the effects on the following activities shall also be addressed:
1. Existing or proposed tourist or recreation activities;
 2. Residential activities;
 3. Industrial activities;
 4. Agricultural activities;
 5. Commercial activities
- C. Soil erosion, sediment control, and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:
- A. Grading;
 - B. Construction and drainage of access roads and turbine pads;
 - C. Design features to control dust;
 - D. Design features to maintain downstream water quality;
 - E. Re-vegetation to ensure slope stability;
 - F. Restoring the site after temporary project activities;
 - G. Disposal or storage of excavated materials;
 - H. Protecting exposed soil;
 - I. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
 - J. Maintenance of erosion controls throughout the life of the project.
- D. Applicant shall provide information regarding flora and fauna of the proposed project area including:
1. Officially listed threatened or endangered species;
 2. Critical habitat and habitat conditions;
 3. An avian study based on the US Fish and Wildlife Services “Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines”

- E. Standard drawings of the structural components of the CWECS, including structures, tower, base, and footings.
- F. Certification by a registered engineer that:
 - 1. There is a substantial need for the proposed use or CWECS, one hundred (100) kW or greater;
 - 2. All applicable local, state, and federal building, structural and electrical codes have been followed;
 - 3. The site is feasible for a CWECS; the CWECS can be successfully operated in the climate conditions found in Thurston County;
 - 4. The rotor and over speed control have been designed for the proposed use on the proposed site;
 - 5. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour; and
 - 6. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.

2. General Site and Design Standards

- A. CWECS shall be located on a parcel of at least ten (10) acres in size.
- B. CWECS shall be designed and placed in such a manner as to minimize to the greatest extent feasible, adverse visual and noise impacts on adjacent areas. This shall include documentation of:
 - 1. Noise levels conforming to the International Electromechanical Commission (IEC) Standard 61400-11 part 11; and
 - 2. Projections of the “shadow flicker” on any existing structures located off the property on which the CWECS will be constructed and the extent and duration of the shadow flicker on these existing structures.
- C. CWECS shall maintain a minimum setback distance from any property lines of two (2) times the combined height of the tower and blade.
- D. CWECS shall maintain a minimum setback distance from any public road or highway of at least two (2) times the combined height of the tower and blade.
- E. In no case shall a CWECS be located within any required setback or in any front yard area.
- F. If an aggregated project, setbacks from multiple entities shall be one and one-tenth (1.1) times the height of the total system.

- G. Structures for wind turbines shall be self-supporting tubular towers painted a neutral color such as white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.
- H. Colors and surface treatment of the CWECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site.
- I. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as reflections, shadow flicker, and blade glint affecting residences within or immediately adjacent to the project area.
- J. Appropriate landscaping shall be provided to screen accessory structures from roads and adjacent residences
- K. CWECS shall be equipped with air traffic warning lights or other marking lights only if so required by the Federal Aviation Administration and in which event, such light should be positioned or shielded to avoid visual impact on neighboring properties, and shall be a white flashing light from daylight till twilight and a steady red light night time.
- L. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

3. Construction and Operations

- A. All county roads to be used for the purpose of transporting CWECS, substation parts, cement or equipment for construction, operation, or maintenance of the CWECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction
- B. The CWECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation, or maintenance of the CWECS
- C. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.

4. Safety Measures

- A. Each CWECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

- B. The Planning Commission shall determine the height, color, and type of fencing for the CWECS installation. CWECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted at the base of the tower, electrical equipment, and entrances. The sign shall contain the following information:
 - 1. Warning – high voltage
 - 2. Manufacturer’s name
 - 3. Operator’s name
 - 4. Emergency phone number
 - 5. Emergency shutdown procedures

- C. Each CWECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.

- D. Any CWECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked, protective fence at least six (6) feet high shall enclose the tower.

- E. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.

- F. The CWECS operator shall maintain a current insurance policy which will cover installation, operation, and any possible damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CWECS shall be warranted against any system failures reasonably expected in severe weather operation conditions

5. Discontinuation and Decommissioning.

- A. CWECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Thurston County Zoning Administrator outlining the steps and schedule for returning the CWECS to service. All CWECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use.

- B. Each CWECS shall have a decommissioning plan outlining the anticipated means and costs of removing CWECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party, such as a profession engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning. The plan shall include documentation showing financial capability to carry out the decommissioning and restoration requirements. Applicant shall submit an escrow account/surety bond/insurance policy in an amount approved by the Planning Commission as reasonably necessary to restore the site to its pre-wind energy facility topography and topsoil quality. The purpose of this account/bond/policy is to assure removal of all improvements subject to the Conditional Use Permit.

- C. At the end of the wind energy facility's useful life, the site shall be restored in accordance with the requirements of this condition within eighteen (18) months.

6. Definitions

- A. **Aggregated Project** – Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

- B. **Commercial Wind Energy Conversion System (CWECS)** – A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers.

- C. **Fall Zone** – The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.

- D. **Feeder Line** – Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of the interconnection shall be the substation serving the CWECS.

- E. **Height, total system** – The height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.

- F. **Height, tower** – The height above grade of the fixed portion of the tower, excluding the generation unit and attached blades and rotors.

- G. **Meteorological Tower** – For the purposes of wind energy conversion systems, meteorological towers are those which are erected primarily to measure wind speed and direction plus other data relevant to locating a CWECS. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Transportation or other similar applications to monitor weather conditions.
- H. **Shadow flicker** – Strobe effect that occurs when sun is horizontal to rotor blades, which causes repetitive intermittent shadows that can affect people on near by properties.
- I. **Small Wind Energy Conversion System (SWECS)** – A wind energy conversion system which has a **rated capacity of up to one hundred (100) kilowatts** and which is incidental and subordinate to another use on the same parcel. A system is considered a small wind energy system only if it supplies electrical power for on site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on site use may be sold back to the utility company. *(LB 436 limits SWECS to 25 kilowatts or less – scheduled to be reviewed next session)*
- J. **Tower** – The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.
- K. **Wind Energy Conversion System (WECS)** – An aggregation of parts including the base, tower, generator, rotor, blades, supports, and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g. wind charger, windmill, or wind turbine.
- L. **Wind Turbine Generator** – The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

6.7 Solar Energy Conversion Systems

This ordinance promotes the accommodation of on-site solar energy conversion systems in the Village of Pender, Nebraska, with the intent to reduce energy consumption, regulate necessary equipment and promote adequate access to sunlight. This ordinance also addresses utility-scale solar energy conversion systems, or “solar farms”, intended for the sale of electricity to utilities, industries, and/or businesses. Solar energy conversion systems, excluding solar farms, shall be permitted in all zoning districts as a permitted accessory (special) use.

1. **Definitions**

- A. **Battery Back-Up:** A battery system that stores electrical energy from a solar energy conversion system for use in the future.
- B. **Combiner or Junction Box:** Combines the electrical flows from multiple strings of solar panels into a single-source output circuit.
- C. **Electricity Generation** - The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).
- D. **Ground-Mount System** - A solar energy system that is attached to an anchor in the ground and wired to connect to the meter of a home or building.
- E. **Kilowatt (kW)** - Equal to 1,000 Watts; a measure of the use of electrical power.
- F. **Kilowatt-hour (kWh)** - A unit of energy equivalent to one kilowatt (1 kW) of power expended for 1 hour of time.
- G. **Megawatt (MW)** - Equal to 1,000 Kilowatts; a measure of the use of electrical power.
- H. **Megawatt-hour (MWh)** - A unit of energy equivalent to one Megawatt (1 MW) of power expended for one hour of time.
- I. **Net Metering:** A billing arrangement that allows customers with grid-connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.
- J. **Photovoltaic (PV) System:** An energy producing system that utilizes semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight.
- K. **Pole-Mount Systems:** A solar energy system that is directly installed on specialized pole-attached systems, anchored to a concrete foundation in the ground, and wired underground to the meter.
- L. **PV-Direct Systems:** A Solar Energy Conversion System designed to only provide electricity during sunlight.
- M. **Roof-Mount System** - A solar energy system consisting of solar panels installed directly on the roof of a primary or accessory structure.

- N. **Solar Access:** The ability to receive sunlight across property lines without obstruction from another's property.
 - O. **Solar Array:** Multiple solar panels combined together to create one system.
 - P. **Solar Collector:** A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation and transfer of electricity.
 - Q. **Solar Energy Conversion System:** A system capable of collecting and converting solar radiation into heat or mechanical or electrical energy which is then transferred to a point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation, or mechanical energy generation.
 - R. **Solar Farm:** An area of land designated use for the sole purpose of deploying photovoltaic power and generating electric energy.
 - S. **Solar Panel/Module:** A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).
 - T. **Tilt:** The angle of the solar panels and/or solar collector.
 - U. **Watts (W)** - A measure of the use of electrical power (Watts) = voltage (volts) X current (Amps).
2. **Personal Scale Solar Energy Conversion System Requirements**
- A. A solar energy system shall provide power, solely, for the principal use and/or accessory use of the property on which the solar energy system is located.
 - B. The installation and construction of a *roof-mount solar energy system* shall be subject to the following development and design standards:
 - 1. A roof or building mounted solar energy system may be mounted on a principal or accessory building.
 - 2. Any height limitations of the zoning district within shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
 - 3. Placement of solar collectors on flat roofs shall be allowed, provided that panels do not extend horizontally past the roofline.

- C. The installation and construction of solar energy conversion systems shall be subject to the following development and design standards:
1. The height of the solar collector and any mounts shall not exceed 10 feet when oriented at maximum tilt.
 2. The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
 3. The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
 4. All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located in proper accordance with local building/electrical code.
 5. The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
 6. For all roof-mounted systems other than a flat roof, the elevation must show the tilt of the solar collector and the slope of the finished roof surface on which it is mounted.
 7. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.
- D. All electrical equipment associated with the operation of solar energy conversion systems shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- E. Solar panel placement should be prioritized to minimize or negate any glare onto nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar system.
- F. A solar energy system shall not be constructed until a building/zoning permit has been approved and issued.
- G. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

3. Solar Farms

- A.** The height of the solar collector and any mounts within an established solar farm shall not exceed 20 feet when oriented at maximum tilt.
- B.** Solar farms with panels located at least one hundred fifty (150) feet from an adjacent public road right-of-way, or adjacent property line, shall not require screening.
- C.** Solar farms with panels located less than one hundred fifty (150) feet from an adjacent public road right-of-way, or adjacent property line, must provide landscaping and/or trees to visually obscure the facility from the public road.
- D. Solar Farm Application Requirements.**
 - 1. A site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines and location of the driveway(s). No portion of the system area may encroach into the required setbacks.
 - 2. Horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the property and its relationship to adjacent roads or highways.
 - 3. If applicable, the applicant must apply and receive from the Nebraska Department of Transportation (NDOT) authorization for a private driveway or access easement from a State or Federal Highway, or submit documentation from NDOT that the existing site access is acceptable for the required use prior to final project approval.
- E. Installation and Design.**
 - 1. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).
 - 2. All solar farms shall meet all requirements of the Nebraska State Fire Marshal and Electrical Division.
 - 3. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the building for a roof-mounted system or on the property for a ground-mounted system, including the property lines.

4. Safety and Inspections

- A. The design of the solar energy system shall be in conformance with the Nebraska State Fire Marshal and Electrical Division requirements for inspection and licensing. A building permit reviewed by Village of Pender staff/Planning & Zoning Committee shall be obtained for a solar energy system.
- B. The solar energy system shall comply with all applicable regulations of the Village of Pender, so as to ensure the structural integrity of such solar energy system.
- C. Prior to operation, electrical connections must be inspected by an appropriate electrical inspection person or agency, as determined by Village of Pender staff.
- D. Any connection to the public utility grid must be approved by the local public utility.
- E. If solar storage batteries are included as part of the solar collector system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of the Village of Pender, Nebraska, and any other applicable laws and regulations relating to hazardous waste disposal.
- F. Unless otherwise specified, the property owner of record will be presumed to be the responsible party for owning and maintaining the solar energy system.

5. Decommissioning and Abandonment

- A. The developer/property owner shall submit a decommissioning plan, which shall include at a minimum:
 - 1. The anticipated life of the project,
 - 2. The estimated decommissioning costs and source(s) of financing for removing all above ground facilities and underground improvements to a depth of three (3) feet, net of salvage value, in current dollars,
 - 3. The method or process of ensuring that decommissioning will be properly and timely completed. In considering an acceptable assurance, the County may accept as sufficient decommissioning, the obligations contained in contracts between the wind project owner and the applicable landowners and/or project purchasers.

4. The anticipated manner in which the project will be decommissioned, and
5. The time period in which the decommissioning shall be completed.

B. A ground or pole-mounted solar energy system is considered to be abandoned or defective if it has not been in operation for a period of twelve (12) months. If abandoned, the solar energy system shall be repaired by the owner to meet federal, state, and local safety standards, or be removed by the owner within the time period designated by the Village of Pender Building Code Official. If the owner fails to remove or repair the defective or abandoned solar energy system, the Village of Pender may pursue a legal action to have the system removed at the owner's expense.

6. Appeals

A. If the owner of a solar energy system is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the established procedures of the Village of Pender Zoning Regulations.

ARTICLE 7

PARKING REGULATIONS

7.1 GENERAL PROVISIONS

1. All buildings and structures erected and all uses of land in all Districts, with the exception of the C-1 Commercial District, established after the effective date of adopting these Zoning Regulations, by Ordinance, shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by these Regulations shall be located on the same lots as the use it serves, provided, that no parking space can be reasonable provided on the same lot, such space shall be provided on any of-street lot a substantial portion of which is within five hundred (500) feet of such use.
3. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces. Each required off-street parking space shall open directly upon an aisle or driveway which provides direct access to a street or alley or shall itself be directly accessible to such street or alley.
5. For the purpose of computing the number of parking spaces in a given area, the formula of two hundred (200) square feet per parking space shall be required. Standing areas, aisles for maneuvering and entrance and exit roadways shall not be computed as parking space and shall be provided, when necessary, in addition to required parking spaces in order to provide for appropriate access.
6. Any lighting used to illuminate off-street parking or loading areas shall be directed away from residential properties in such a way as not to interfere with such residential use.
7. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met, shall accompany an application for a building certificate. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

7.2 OFF-STREET PARKING REQUIREMENTS

At the time of construction, or enlargement of more than fifty (50) percent of an existing structure or building or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
1. Residential	
Single family, two-family dwelling	2 per dwelling unit
Apartments	
Efficiency and one-bedroom	1 per dwelling unit
Two-bedrooms	1 per dwelling unit
Three or more bedrooms	2 per dwelling unit
2. Mobile Trailer Park	2 per trailer unit
3. Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4. Hospitals, nursing homes, rest homes, or similar uses	1 for every 2 patient beds and 1 for each staff and employee on the largest shift
5. Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 for every 4 seats
6. Bowling Alley	2 for each alley
7. Retail sales department stores, restaurants, taverns, grocery stores, etc.	1 per 200 square feet of floor area as determined by exterior wall dimensions
8. Professional office establishments	1 per 500 square feet of floor area as determined by exterior wall dimensions
9. Manufacturing, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

7.3 OFF-STREET LOADING REQUIREMENTS

At the time of construction, alteration or enlargement of any structure or building except residences and farms having an aggregate gross floor area of five hundred (500) square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

<u>Number</u>	<u>Loading Area</u>	<u>Gross Floor Area</u>
1. One	500 square feet	For every 5,000 to 20,000 square feet
2. One	500 square feet	For every 20,000 square feet or fraction thereof

ARTICLE 8

ACCESSORY USES AND SUPPLEMENTAL REGULATIONS

8.1 ACCESSORY BUILDING

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Any accessory building shall have a minimum side yard setback of five (5) feet on interior lots and fifteen (15) on corner lots, provided it is located between the rear property line and the rear building line of the principle building. No accessory building shall be located between the front building line of the principle building and the front property line. No accessory building shall be located closer than five (5) feet from the rear property line or within ten (10) feet of any other building on adjacent properties, and no accessory building shall be located within any easement or right-of-way along the rear property line. All garage entrances must have a minimum fifteen (15) feet long drive when garage opening is perpendicular to the access alley or twenty (20) feet perpendicular to the access street. Attached garages are considered part of principal building.

8.2 HOME OCCUPATIONS

An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

The following conditions and restrictions shall apply to such customary home occupations:

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his, or her, private residence.
- b. Signs and displays shall be limited to one (1) non-illuminated sign not exceeding six (6) square feet in area.

- c. No equipment or machinery shall be used in such activities that create excessive noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

8.3 MANUFACTURED HOMES: All manufactured homes located outside mobile home parks shall meet the following standards:

- 8.31 The home shall have no less than nine hundred (900) square feet of floor area.
- 8.32 The home shall have no less than an eighteen (18) foot exterior width.
- 8.33 The roof shall be pitched with a minimum vertical rise of two and one-half (2 2) inches for each twelve (12) inches of horizontal run.
- 8.34 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction.
- 8.35 The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- 8.36 The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
- 8.37 Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
- 8.38 The home must meet building code requirements adopted by the Village.

8.4 YARD REGULATIONS:

8.41 **FRONT YARDS:** The front yards heretofore established shall be adjusted in the following cases:

Where forty (40) percent or more of the frontage on one side of a street between two intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty (40) percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.

8.42 STRUCTURAL PROJECTIONS: The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to five (5) feet in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

8.5 EXCEPTIONS TO HEIGHT REGULATIONS: The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

8.6 EXCEPTION TO LOT SIZE REQUIREMENTS: If, at the time of passage of this article, a lot or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the District in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the District subject to the other requirements of the District.

8.7 MOBILE HOME PARKS: Mobile Home Parks shall only be allowed in the R-3 Zoning District under the following conditions:

1. Individual mobile home lots shall have an area of not less than four thousand (4,000) square feet per single wide mobile home and six thousand (6,000) square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed six (6).
2. Mobile homes shall be situated on individual lots so there will be a minimum of fifteen (15) feet between mobile homes and that each mobile home will be set back at least fifteen (15) feet from the nearest service road. Mobile homes parked end-to-end shall have an end-to-end clearance of not less than ten (10) feet. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. The required area for each mobile home space shall not include area required for access or service roads, service buildings, recreation areas, office, and other similar mobile home park needs.

3. The mobile home park shall have direct access to a public street or highway by a right-of-way at least fifty (50) feet in width and a minimum length of one hundred (100) feet to permit the easy entrance and exit from the mobile home park. Service roads shall be provided to each mobile home space. Each service road shall provide for continuous forward movement, shall connect with a street or highway, and shall a minimum clear width of twenty (20) feet paved with a suitable dustless material.
4. Walks and Lighting. Walkways not less than four (4) feet wide shall be provided from mobile home spaces to the service buildings. All walkways within the park shall be hard surfaced and lighted at night with a minimum illumination of twenty-five (25) watt lamps spaced at intervals of not more than one hundred (100) feet.
5. Off-Street Parking. Two off-street parking spaces for each mobile home space shall be provided at each mobile home space or in group parking. Each off-street parking space shall be at least three hundred (300) square feet.
6. The area of the mobile home stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the super-structure against uplift, sliding, rotation, or overturning.

The mobile home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super-structure. The mobile home or trailer stand may be provided by means of a solid concrete footer block (16" x 16" x 4" Minimum) placed on solid uniform soil with at least two (2) standard concrete blocks with cells placed vertically beside each other on the footer block. A solid four (4) inches concrete cap covering the two (2) concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such clocking shall be provided along the full length of the mobile home or trailer unit, spaced not more than ten (10) feet apart, and not more than five (5) feet from the ends of the unit.

7. The mobile home or trailer stand shall be provided with anchors and the tie downs such as cast-in-lace concrete "dead men", eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile home or trailer such that the tie-downs are designated to resist the action of frost in the same manner as the foundation system.

8. The skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for junk or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection to the utility raisers if they are located within the skirted area.

Permit the Creation of Mobile Home Parks in Which the Individual Mobile Home Lots Are Available For Sale. Wherever a mobile home park is permitted by this Ordinance to be created through the granting of conditional uses, or otherwise, said mobile home park may be designed to permit the sale of the individual mobile home lots within said park. A proposed mobile home park in which the individual mobile home lots will be offered for sale must meet all of the following requirements:

1. The individual mobile home lots shall, for the District within which such mobile home park is located, meet the minimum lot requirements, minimum yard requirements, maximum lot coverage, and maximum height requirements of such Districts.

2. Each such mobile home lot shall be individually serviced with all utilities and shall be individually metered for all utilities and treated in all respects by the Village as a separate user of utilities.

3. The developer of such mobile home park shall be required to secure a preliminary and final plat as per the subdivision process outlined in the Village of Pender Subdivision Regulations.

4. At the time of an application for a special use permit, or at the time of the application for subdivision in a mobile home park where the lots are to be offered for sale, the developer shall submit all legal documents necessary for the creation of an association having the purpose of maintaining, controlling, and covering all expenses, taxes and costs incurred on common areas within the mobile home park. Such association shall require that all property owners within the mobile home park be members thereof and pledge the lots owned within the mobile home park as security for the association performing such obligations. Covenants shall be placed on the property by the developer and owners thereof so as to ensure this obligation. These documents shall be submitted by the proper officials to the Village Board of Trustees for its approval and no subdivision permit or special use permit may be issued without the approval of these documents by the Village Board of Trustees.

8.8 FENCE REGULATIONS: Fences, Walls and Hedges: Notwithstanding other provisions of this Ordinance, fences, walls and hedges may be permitted in any required yard, provided that no fence, wall or hedge along the sides or front edge of any front yard shall be over three and one half (3 1/2) feet in height. Additionally, on a corner lot in a Residential District, a sight triangle shall be provided such that nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one half (2 2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of their intersection. The following regulations shall apply to the construction of fences.

1. No solid fence shall be constructed closer to the street than the property line. No fence shall be closer than two (2) feet to the sidewalk.
2. No fence erected in a required front yard shall materially obstruct public view. Permitted types of fences shall include split rail, chain link, or other similar material. No component of a front yard fence shall exceed three and one half (3 2) feet in height, nor shall any structural member exceed thirty-six (36) inches in cross-sectional area.
3. No fence shall be constructed which will constitute a traffic hazard as identified in the site triangle of a corner lot (See paragraph above at Section 8.8).
4. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.

5. No fence within Residential Districts, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet, except for the provisions of item number A10", below.
6. All fences shall conform to the construction standards of the building code and other applicable Ordinances and resolutions.
7. In commercial and industrial Districts, maximum height of fences shall be eight (8) feet. When industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator at his direction, may allow greater heights.
8. All fences constructed in the Village of Pender shall comply with the provision of this section and obtain a building permit.
9. Good side of fence shall face to the outside of the property.
10. All outdoor swimming pools shall be enclosed by a fence or wall at least six (6) feet, but not more than eight (8) feet in height with a gate or gates which can be securely locked.

8.9 SIGN REGULATIONS: The following regulations shall govern the location, area and type of signs permitted within the Village:

A. Intent and Applicability:

1. The following regulations shall govern the locations, areas heights and types of signs permitted within the zoning jurisdiction of this Ordinance.
2. All signs hereafter constructed, erected, printed or otherwise established, moved, altered or changed shall comply with these regulations.
3. After the effective date of this Ordinance, no sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a sign permit. A sign permit shall be legally issued only when in compliance with these sign regulations.
4. No accessory sign, advertising display or structure, poster or device shall be erected, moved, enlarged, maintained or reconstructed except as expressly permitted by this Article; provided, however, that such State, County and municipal signs and traffic signs as are installed for public purposes are exempt from these requirements.
5. Nonconforming signs existing at the time of enactment of this Ordinance may be repaired or maintained, but may not be other wise established, moved, altered, or changed except in compliance with the provisions of this Ordinance.
6. Temporary signs or banners on or over public property may be authorized by the Village Board of Trustees for a period not to exceed ten days.
7. Signs attached to a building and projecting over a street, alley, or other public space shall project no more than ten (10) feet and be no closer than two (2) feet to a plumb-line from curb-line; clearance below such signs shall be a minimum of nine (9) feet.
8. No Sign except for those of incidental sales of a non-commercial basis shall be constructed, erected, remodeled, relocated, or expanded, until a sign permit for such sign has been obtained authorized and signed by the Zoning Administrator excluding general maintenance. Such requirement shall pertain to both permanent and temporary signs. A fee for application for a sign permit for signs shall be paid to the Village to handle processing costs. In addition, information pertinent to the sign characteristics and dimensions must be presented to the Zoning Administrator sufficient to determine compliance with the Ordinance.

B. On and Off-Site Signs on Interstate or Federal Aid Primary Highways

The erection or maintenance of any advertising sign, display or device which is visible to the traveled way of the National System of Interstate and Defense Highways, and the system of federal-aid primary roads of the State of Nebraska as defined by the Nebraska Department of Roads, is hereby prohibited unless in compliance with the regulations et forth in Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways, as amended, adopted and published by the Nebraska Department of Roads. As of July, 1976, Primary Highways within Pender's zoning jurisdiction are Highways 1 and 50.

C. Prohibited Signs

Signs shall not be erected or maintained in such a manner as to obscure, or otherwise physically interfere with an official traffic sign, signal or device, or in such a manner as to obstruct or interfere with a driver's view of approaching, merging, or intersecting traffic. This shall also mean pedestrian traffic on sidewalks. All road signs shall be maintained in a neat and presentable condition.

D. District Regulations

1. Agriculture Residential District (AGR)

- a. No regulations apply other than those outlined herein.

2. Residential Districts (R-1, R-2 and R-3)

- a. Signs permitted in the Residential Districts shall be erected and maintained at least fifteen (15) feet from the street or road line.
- b. One sign not illuminated, less than six (6) square feet in area for each dwelling. A maximum of two (2) signs are permissible for multifamily apartment buildings, whether attached to the apartment building or mounted on the ground, at a maximum size of twelve (12) square feet for each sign.
- c. Any temporary sign, not illuminated, less than six (6) square feet in area, advertising the sale, lease or rental of the property.

3. General Commercial District (C-1)

- a. Illuminated, or non-illuminated signs identifying the character or the establishment. No one (1) sign shall exceed fifty (50) square feet in area.

- 4. Highway Commercial District (C-2)
 - a. Illuminated, or non-illuminated signs identifying the character of the establishment. No one (1) sign shall exceed one-hundred (100) square feet in area.

- 5. Industrial District (I)
 - a. In an I District, identification and advertising signs accessory to the allowed use are permitted except that each sign shall be limited to one hundred (100) square feet in area.

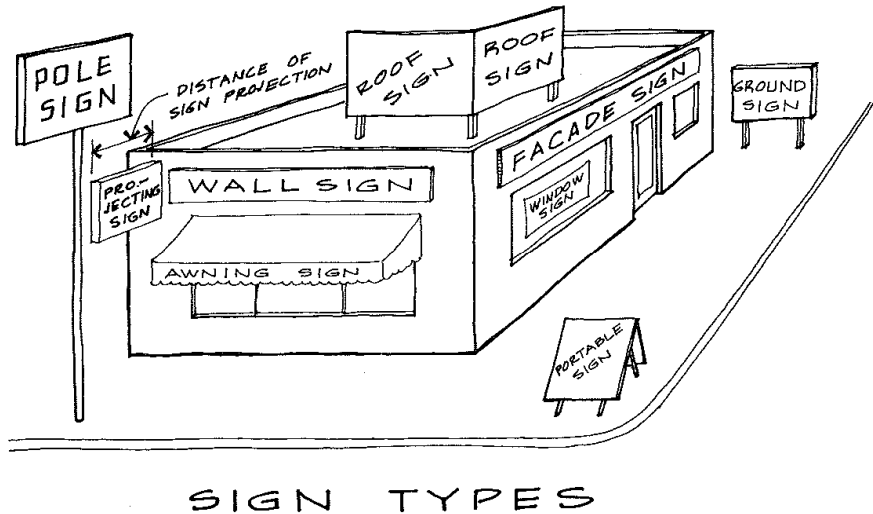
E. Political Signs

- 1. Political signs are not authorized in any zoning District except for a period of thirty (30) days before a National, State, Village or local governmental subdivision election to which they apply, and such signs must be removed within a period of five (5) days after such election.

- 2. No political signs shall be permitted on the public streets, parks, alleys, or other public areas.

F. Discontinuation of Use

In the event the use or need of a sign shall cease, the sign shall be removed promptly and the area restored to a condition free from refuse and rubbish. After thirty (30) days notice and failure to do so, the Village shall remove the sign and assess the charges to the owner.



Source: The Illustrated Book of Development Definitions, (Maskowitz, Harvey and Carl Lindbloom, 1995).

ARTICLE 9

BOARD OF ZONING ADJUSTMENT

9.1 CREATION, MEMBERSHIP

The Village Board of Zoning Adjustment is hereby created and shall be known as the Village Board of Zoning Adjustment. The members of said board shall be appointed by the Village Board of Trustees. The legislative body of a village may provide by Ordinance that it shall constitute a board of adjustment. (Ref. 19-911 R.S. Neb.)

One (1) member only of said board shall be appointed from membership of the Planning Commission and the loss of membership on the planning commission by such member shall also result in the immediate loss of membership on the Village Board of Zoning Adjustment.

Said board shall consist of five (5) regular members, plus one additional member designated as an alternate who shall attend and serve only when one (1) of the regular members is unable to attend for any reason, each to be appointed for a term of three (3) years and removable for cause by the Village Board of Trustees upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms become vacant.

9.2 MEETINGS

Meetings of the Board of Zoning Adjustment shall be held at the call of the Chairman of the Board and at such times as the Board may determine. The Board 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 Village Clerk and shall be a public record.

9.3 INTERPRETATIONS AND VARIANCES

9.31 The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 19-910 R.S. Neb.):

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or planning commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;

2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section 19-910, and sections 19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these Zoning Regulations, but no such variance shall be authorized unless the Board finds that:
 - a. The strict application of the regulation would produce undue hardship;
 - b. Such hardship is not shared generally by other properties in the same zoning District and the same vicinity;
 - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the District will not be changed by the granting of the variance; and
 - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

9.32 No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonable and practicable the formulation of a general regulation to be adopted as an amendment to the Zoning Regulations.

9.33 In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as shall be proper, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board 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 any such regulation or to effect any variation in such regulation.

9.4 PROCEDURES FOR REQUESTING A VARIANCE

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any official or department. The appeal filed in writing shall define the appeal being requested and the grounds therefore. The officer from whom the appeal is taken shall forthwith transmit to the Board of Zoning Adjustment all the paper constituting the record upon which the action appealed from was taken.

9.42 The Chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time and place.

9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the Village, may seek review of such decision by the District court for the Village in the manner provided by the laws of the State and particularly by Ref. 19-912 R.S. Nebraska.

ARTICLE 10

**ADMINISTRATIVE PROVISIONS, ENFORCEMENT
AND FEES**

10.1 ENFORCEMENT

10.11 ZONING ADMINISTRATOR: This Ordinance shall be enforced and administered by a zoning administrator who shall be appointed by the Village Board of Trustees and who may be provided with the assistance of such other persons as the Village Board of Trustees may direct in order to carry out the following duties and responsibilities:

1. Approve and issue all building permits and occupancy certificates when compliance is made with this Ordinance.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Ordinance.
3. Receive, file and forward to the Board of Zoning Adjustment the records in all appeals for variances.
4. Maintain permanent and current records of the Zoning Regulations including but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
5. Prepare and have available in book, pamphlet or map for each year.
 - a. The compiled text of the Zoning Regulations and amendments thereto, including all amendments adopted through the preceding December 31; and
 - b. A zoning map or maps, showing the zoning Districts, divisions and classifications in effect on the preceding December 31.
6. Whenever the Zoning Administrator shall find that any of the provisions of this Ordinance have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this Ordinance to insure compliance with, or to prevent violation of, its provisions.

10.2 BUILDING PERMITS REQUIRED

10.21 GENERAL: No building or other structure shall be erected, moved, added to, or structurally altered without a building permit first having been issued by the zoning administrator. No building permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this Ordinance and with all other applicable codes, regulations and laws of the Village of Pender and with all orders, and variances lawfully issued by the Board of Adjustment. A building permit shall not be required for agricultural (nonresidential) buildings or structures in the AGR Agricultural Districts or for improvements which have a value of one thousand dollars (\$1,000) or less. If the work for which a permit has been issued shall not have begun within six (6) months of the date thereof, or if the construction shall be discontinued for a period of six (6) months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit.

10.22 APPLICATION FOR BUILDING PERMIT: All applications for a building permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the zoning administrator or the proper enforcement of this Ordinance.

10.23 APPROVAL OR DISAPPROVAL OF PERMIT: The zoning administrator shall examine all applications for building permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the zoning administrator shall promptly issue the building permit and shall affix his/her signature to the permit and the plans and mark the plans "Approved." Upon disapproval of the application, the zoning administrator shall refuse to issue the permit and shall state in writing on the plans the reasons for disapproval, affix his/her signature and mark the plans "Disapproved."

10.24 APPEAL FROM APPROVAL OR DISAPPROVAL: An appeal from approval or disapproval of any application shall be made to the Board of Zoning Adjustment in writing within ten (10) days after the determination of the zoning administrator has been filed.

10.3 CERTIFICATION OF OCCUPANCY REQUIRED

10.31 GENERAL: No building, structure or land shall be used or occupied, in whole or in part, nor shall any change made in the use or type of occupancy of an existing building or structure requiring a building permit, nor shall any change be made in the use of land, except to any use which is primarily agricultural, unless a certificate of occupancy shall be issued by the zoning administrator in accordance with this Ordinance.

10.32 TEMPORARY CERTIFICATE: Upon request, the zoning administrator may issue a partial certificate of occupancy for a period not to exceed ninety (90) days, for a building or structure or part thereof, before the entire work covered by the building permit shall have been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.

10.33 APPLICATION FOR CERTIFICATE OF OCCUPANCY: All applications for certificate of occupancy shall be made by the owner or his/her agent and shall be accompanied by an affidavit of the owner, registered architect, licensed professional engineer, or superintendent of construction who shall state that he has examined the approved plans of the structure, that said structure has been erected in accordance with the approved plans and that it complies with this Ordinance and all local code and resolutions/Ordinances governing building construction. The application and affidavit shall be filed with the zoning administrator.

10.34 ISSUANCE OF CERTIFICATE OF OCCUPANCY: Before issuing a certificate of occupancy, the zoning administrator shall examine all buildings, structures or sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish, or change the use or occupancy. The zoning administrator shall maintain a record of all examinations and inspections, together with a record of findings of violations of the law.

10.35 A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect so long as such building or land is used as authorized in the certificate of occupancy.

10.4 SCHEDULE OF FEES

10.41 The schedule of fees shall be established for these Regulations, by the Village Board of Trustees. The schedule of fees shall be posted in the office of the zoning administrator and may be altered or amended only by the Village Board of Trustees. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE 11

AMENDMENT

11.1 GENERAL

The Village Board of Trustees may from time to time supplement, change or generally revise the boundaries or regulations contained in this Ordinance. A proposal for such amendment may be initiated by the Village Board of Trustees, Planning Commission or upon application of the owner of the property affected. A filing fee established by the Village Board of Trustees is required for each application to be considered by the Planning Commission.

11.2 SUBMISSION TO PLANNING COMMISSION

All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any District.

If such proposed amendment is not a general revision of an existing provision of this Ordinance, and will affect specific property, it shall be designated by legal description and general street location and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

11.3 AMENDMENT CONSIDERATION AND ADOPTION

The procedure for the consideration and adoption of any such proposed amendments, to the Zoning Regulations, shall be in like manner as that required for the consideration and adoption of the Ordinance except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half (2) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Village Board of Trustees, if it approves such recommendation, may either adopt such recommendation by Ordinance or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the Village Board of Trustees may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning commission which the Village Board of Trustees disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any District, the Ordinance shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the Ordinance incorporating the same and reincorporate such map as amended.

11.4 PROTEST

Regardless of whether or not the Village Board of Trustees approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the Village Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet there from, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the Village Board of Trustees.

ARTICLE 12

COMPLAINTS, PENALTIES, REMEDIES

12.1 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of these Zoning Regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the zoning administrator. He/she shall record properly such complaint, immediately investigate, and take action thereon as provided by these Regulations.

12.2 PENALTIES

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a misdemeanor. Each and every day that such violation continues after notification shall constitute a separate offense.

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

12.3 REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of these regulations the appropriate authorities of the Village may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, 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.

ARTICLE 13

LEGAL STATUS PROVISIONS

13.1 SEPARABILITY

Should any article, section or provisions of these Regulations be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

13.2 PURPOSE OF CATCH HEADS

The catch heads (titles) appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of these Regulations.

13.3 REPEAL OF CONFLICTING ORDINANCES

All other Ordinances and Regulations in conflict with these are hereby repealed to the extent necessary to give these Regulations full force and effect.

13.4 EFFECTIVE DATE

These Ordinance for these Zoning Regulations shall take effect and be in force from and after its passage and publication according to law.