

Topic: Energy Efficiency & Conservation
Resource Type: Regulations
State: Missouri
Jurisdiction Type: Municipal
Municipality: Town of New Pattonsburg
Year (*adopted, written, etc.*): 1995
Community Type – applicable to: Suburban; Rural
Title: Town of New Pattonsburg Declaration of Community Responsibilities, Covenants, and Restrictions
Document Last Updated in Database: March 2, 2016

Abstract

NOTE: This ordinance was *not* adopted by the Town of New Pattonsburg

This ordinance would have done many things including lay out specific energy conservation requirements, however it was not adopted, and so has not yet been tested in practice.

Resource

New Pattonsburg Declaration of Community Responsibilities, Covenants And Restrictions
1995

Pattonsburg, a community of 400 in Missouri, was one of the victims of the Great Flood of 1993 in the Midwest. In July 1993, the community was hit not once, but twice, by record flooding. In 1994, the U.S. Department of Energy and the Federal Emergency Management Agency sponsored a "design team" of national experts to help the village plan a new community outside the floodplain. The team held four intensive meetings with the villagers over four months, helping them create a new town plan. One of the team members -- attorney Dan Sloan -- created a proposed local ordinance to codify the sustainable development options the community wanted. Later, the Pattonsburg village board formalized its commitment to sustainable redevelopment by passing a "Charter for Sustainability". Both documents are reproduced here.

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INTRODUCTION

In 1993, the Town of Pattonsburg was severely damaged by flooding. Working with Federal and State Agencies, the Town's leaders and many of its citizens decided to create a new town, out of reach of the flood waters. Moreover, they determined that this town should encourage, and in some instances require, the use of energy efficient designs and sustainable construction techniques within its limits.

Consequently, Declarant has purchased certain real estate in Davies County, Missouri, which is more particularly described in *Exhibit A* attached hereto ("New Pattonsburg") upon which it intends to create a new town. In order to provide for the preservation and enhancement of property values, the encouragement of sustainable construction and energy efficient design and the orderly development of New Pattonsburg, Declarant desires to subject New Pattonsburg, together with any future additions thereto, to the covenants, restrictions, liens and charges set forth in this document, all of which are for the benefit of the New Pattonsburg community.

DECLARATION

Consequently, Declarant hereby declares that New Pattonsburg (and such additions to New Pattonsburg as are made in accordance with this document) is, and shall be, held, transferred and occupied subject to the provisions of this document.

ARTICLE I: DEFINITIONS

Section 1.1 Definitions. Capitalized terms used in this document shall have the meanings indicated below unless otherwise required by the context.

Additional Area shall mean the real estate within a one-mile radius of New Pattonsburg.

ARC shall mean the Architectural Review Committee.

Architectural Standards shall mean the duly elected Board of Aldermen of New Pattonsburg or any successor governing body of the town.

Board of Aldermen shall mean the duly elected Board of Aldermen of New Pattonsburg or any successor governing body of the town.

Certificate of Use shall have the meaning set forth in Section 4.4.

Citizen shall mean every person or entity who owns or leases real property within New Pattonsburg.

Community shall have the meaning set forth in Section 3.1.

Community Area(s) shall mean the areas of New Pattonsburg that are designated Community Areas on the Site Plan, in any Supplemental Declaration, in any amendment to this Declaration or in any other instrument executed and recorded by the Declarant and required by law or intended by the Declarant to be devoted to the common use and enjoyment of some or all of the Community, together with all improvements thereon.

County shall mean Davies County, Missouri.

Declarant shall mean [], a Missouri [], and its successors as developers of New Pattonsburg to whom [] has assigned its right hereunder by recorded instruments.

Declaration shall mean this instrument.

Design Code shall mean the design standards described in Section 4.2 for the construction or alteration of buildings and other improvements on Lots.

Lot shall mean each individual lot shown on the Site Plan or any portion thereof, or each contiguous group of such lots, with respect to which a separate Certificate of Use has been issued.

Members shall mean (i) every Citizen and (ii) the Declarant.

New Pattonsburg shall mean that certain real estate in Davies County, Missouri which is more particularly described in *Exhibit A* attached hereto.

Nonresidential Unit shall mean each portion of a building constructed on a Lot that is separately occupied or is designed for separate occupancy by a person or entity other than for residential purposes.

Owner shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers but excluding those having such interest merely as security for the performance of an obligation.

Site Plan shall mean the plan dated as of [], 1994 and marked "Site Plan for New Pattonsburg," a copy of which is attached hereto as *Exhibit B*, as it may be amended or supplemented from time to time.

Supplemental Declaration shall mean each supplement made by Declarant to this Declaration pursuant to Section 2.7.

Section 1.2. *Interpretation*. For the purpose of construing this Declaration, unless the context indicates otherwise, words in the singular number shall be deemed to include words in the plural number and vice versa, and words in one gender shall be deemed to include words in all other genders. The table of contents, titles to articles and section headings are for convenience only and neither limit nor amplify the provisions of this Declaration. The words "shall" or "will" are always mandatory and not directory. The term "or" is not exclusive when used in this Declaration. The words "include" and "including" and words of similar import when used in this Declaration are not limiting and shall be construed to be followed by the words "without limitation" whether or not they are in fact followed by such words. All references to exhibits shall be deemed references to exhibits which are attached to this Declaration as a part hereof. All references to documents shall be deemed references to such documents as they may be amended or supplemented from time to time.

ARTICLE
ADDITIONS TO THE PROPERTY; CONDUCT OF BUSINESS

II

Section 2.1. *Additional Area.* Besides New Pattonsburg, Declarant contemplates the possible extension from time to time of this Declaration to other real estate now owned or hereafter acquired by Declarant or otherwise made subject to this Declaration and located within the Additional Area. However, Declarant shall not be obligated to bring all or any part of the Additional Area which it now owns or hereafter acquires within the scheme of development established by this Declaration, and no negative reciprocal easement shall arise out of this Declaration so as to benefit or bind any portion of the Additional Area until such portion of the Additional Area is expressly subjected to the provisions of this Declaration in accordance with Section 2.2 below and then such portion of the Additional Area shall be subject to any additions, deletions and modifications as are made pursuant to Section 2.2.

Section 2.2. *Right to Subject Additional Area to Declaration.* Declarant reserves the right, at its discretion, at such time as it shall determine on or before five (5) years from the date hereof, to subject the Additional Area, or such portions thereof as Declarant shall determine, together with improvements thereon and easements, rights and appurtenances thereunto belonging or appertaining, to the provisions of this Declaration in whole or in part. Any portion of the Additional Area which is not, on or before five (5) years from the date hereof, subjected to the provisions of this Declaration in whole or in part pursuant to this Section 2.2 and thereby constituted a part of "New Pattonsburg" shall cease to be "Additional Area." Each of the additions authorized pursuant to this Section 2.2 shall be made by Declarant's executing and recording an appropriate instrument describing the portion(s) of the Additional Area subjected to this Declaration, which instrument shall also be executed by the holder of any deed of trust, mortgage or other consensual lien on such property for the purposes of subordinating such deed of trust, mortgage or other consensual lien to this Declaration. If any portion of the Additional Area to be subjected to this Declaration is not owned by Declarant, the owner(s) thereof shall also execute such instrument. Each such instrument may contain such additions, deletions and modifications to the provisions of this Declaration as may be desired by Declarant. However, no negative reciprocal easement shall arise out of any additions, deletions or modifications to this Declaration made in the instruments subjecting the Additional Area to this Declaration except as to the real estate expressly subject to such additions, deletions and modifications.

Section 2.3. *Power Not Exhausted by One Exercise, Etc.* No exercise of the power granted Declarant hereunder as to any portion of the Additional Area shall be deemed to be an exhaustion of such power as to other portion(s) of the Additional Area not so subjected to the provisions hereof or as to other portions of New Pattonsburg. The discretionary right of Declarant to subject the Additional Area to the provisions of this Declaration is not subject to the approval of other Owners.

Section 2.4. *Development of Additional Area.* The portions of the Additional Area subjected to the provisions of this Declaration may contain additional Community Areas and facilities to be owned and/or maintained by the Community.

Section 2.5. *Assessments and Voting Rights in Additional Areas.* The citizens owning or occupying Lots in the portion(s) of the Additional Area subjected to the provisions of this Declaration shall be required to pay the same assessments and shall be entitled to the same

voting rights in the Community as other Members owning or occupying of Lots previously subjected to this Declaration.

Section 2.6. *Termination.* This Declaration shall cease, having no further benefit nor burden, at 12:00 midnight on the last day of the five (5) year period commencing on the date set forth on the cover page hereof. In no event shall it be extended, nor shall this Section 2.6 be amended except by a two-thirds majority vote of the Citizens.

Section 2.7. *Amendment and Supplements.* An Amendment or Supplement to this Declaration may only be made if (i) such Amendment or Supplement is proposed by the Declarant and (ii) fifty percent (50%) (or more if required by the particular section of this Declaration being amended) of the votes cast in response to a mailed ballot approve such Amendment or Supplement.

Section 2.8. *Conduct of Business.* The Board of Aldermen shall conduct the business of administering these covenants and restrictions. They shall serve terms matching their terms as board members and the rules of their meetings shall be the same as the rules of the Board meetings, subject to any particular provisions of this Declaration requiring votes by Members or other special procedures.

ARTICLE
MEMBERSHIP AND VOTING RIGHTS IN THE COMMUNITY

III

Section 3.1. *Members.* The Members of the Community shall consist of (i) every Citizen and (ii) the Declarant. Membership shall not be separated from the ownership or tenancy of a Lot. Declarant shall be considered the only owner of the Community Areas. Upon the closing of the sale of a Lot, the membership of the selling Owner shall cease and the purchasing Owner shall become a Citizen and Member. Upon the termination of any lease pursuant to which a tenant occupies a unit, such tenant shall cease to be a Citizen and cease to be a Member.

Section 3.2. *Voting Rights of Members.* The Members of the Community shall be entitled to cast the following votes:

(a) *Citizens.* Each Citizen shall have one vote for each Lot owned or leased by the Citizen. (Multiple tenants and co-owners may vote in fractions; both the owner and the tenant of a property shall have a vote.)

(b) *Declarant.* The Declarant shall have vote for each Lot owned by the Declarant and one vote for the Community Areas.

ARTICLE
ARCHITECTURAL AND LAND USE CONTROL

IV

Section 4.1. *Development and Use of the Property.* In order to assure a harmonious, well-balanced community, high quality architectural and landscape design and important environmental benefits, New Pattonsburg shall be developed in a coordinated fashion in accordance with the Site Plan. All buildings and other improvements shall be constructed in accordance with the Site Plan, the Design Code and the Architectural Standards and other architectural guidelines provided in or contemplated by this Declaration, and all buildings shall be constructed and used in accordance with Certificates of Use issued therefor.

Section 4.2. *Design Code, Architectural Standards and Building Code.* New Pattonsburg shall be developed in accordance with the Design Code attached as *Exhibit C* (the "Design Code"), and all new buildings shall conform to the architectural standards attached as *Exhibit D* (the "Architectural Standards"). Additionally, all new construction shall be in accordance with the BOCA National Building Code (1993) (the "Building Code"). To the extent required by law, all construction shall conform to the Americans With Disabilities Act of 1990, Pub. L. 101-336, July 26, 1990,. 104 Stat. 327 (42 U.S.C. §§ 12101 *et seq*)

Section 4.3. *Architectural Review Committee.* The Architectural Review Committee ("ARC") is hereby established for the purpose of reviewing proposed construction and, as appropriate, issuing Certificates of Use. ARC shall be composed of not less than three (3) persons, initially appointed by Declarant, and thereafter appointed or reappointed annually by the Board of Aldermen. ARC shall meet not less than once every two weeks (unless the Chairman determines ARC has no business before it).

Section 4.4 *Certificate of Use.* Before any new building or other structure is constructed, located, materially altered or enlarged on any Lot within New Pattonsburg the plans (the "Plans") for such building or structure (including any fence, animal pen, exterior lighting, sign, garage or storage shed) shall be submitted to ARC. The Plans shall be reviewed by ARC to determine whether they conform to the requirements of this Declaration, the Design Code, the Architectural Standards, the Building Code and the Environmental Code. If such Plans comply in all material ways, then ARC shall issue a Certificate of Use. Such Certificate of Use shall be valid for one year from its issuance. Plans shall be submitted in triplicate to facilitate prompt review and shall include (unless waived by ARC): (i) a site plan showing the size, location and configuration of all proposed and existing improvements, including driveways and landscaped areas, and all setback lines, buffer areas or other features required by this Declaration, (ii) as to improvements to be initially constructed on a Lot, landscaping, grading and drainage plans showing the trees to be removed and to be retained, the final grading, the shrubs, plants and ground cover to be installed and the anticipated drainage patterns and control devices, (iii) building plans complying with the Building Code and (iv) architectural plans showing exterior elevations, construction materials and, for commercial buildings, colors of exterior features.

Section 4.5 *Approval of Plans and Commercial Architectural Review.* ARC shall review all non-commercial structure Plans solely to determine their conformance with this Declaration and the codes and standards described herein. In addition to such review, Plans for commercial structures shall be reviewed to determine whether the structures are consistent with existing structures and the character of their surroundings, and by their design, location and appearance will contribute to the assembly of a commercial district having a character consistent with the main streets of Missouri towns. ARC may exercise its sole discretion as to requiring compliance with or waiving any of the standards required by this Declaration (provided such standards are not required by the Federal or state laws or regulations). The refusal to grant or the grant of any such waiver may be appealed to the Board of Aldermen by any Citizen, provided that such appeal is filed with the Board within thirty (30) days of notice of the ARC of decision. Notice to the applicant shall be deemed to be given two (2) days after the decision has been posted in the mail to the applicant; notice to all other Citizens shall be deemed to occur upon the decision being placed at a location identified for such decisions to be maintained. If ARC does not approve or disapprove, or approve subject to conditions, any Plans six (6) days after it receives the same in compliance with this Article

such Plans shall be deemed approved so long as they comply with the codes described in this Declaration. Any approval of Plans by ARC shall be in writing and (i) shall be accompanied by a copy of the plans initialed by ARC and (ii) shall note any standards set forth in this Declaration that have been waived.

Section 4.6. *No Structures to be Constructed Without Approval.* No improvement shall be constructed, erected, installed or maintained on any Lot, nor shall any Improvement be altered or enlarged in a manner that alters the exterior appearance (including paint color of commercial buildings) of the improvement or of the Lot on which it is situated, unless the plans therefor have been approved, all improvements shall be constructed, erected, installed, maintained, altered, enlarged, demolished or removed strictly in accordance with the approved Plans. Upon commencing the construction, erection, installation, alteration, enlargement, demolition or removal of an improvement, all of the work related thereto shall be carried on with reasonable diligence and dispatch and in accordance with the construction schedule approved by ARC.

Section 4.7. *Limitation of Liability.* The approval by ARC of any Plans the issuance of a Certificate of Use, and any requirement by ARC that the Plans be modified, shall not constitute a warranty or representation by ARC of the adequacy, technical sufficiency or safety of the improvements described in such Plans, as the same may be modified, and ARC shall have no liability whatsoever for the failure of the Plans or the improvements to comply with this Declaration, the applicable building codes, laws and ordinances or to comply with sound engineering, architectural or construction practices. In addition, in no event shall ARC have any liability whatsoever to an Owner, a contractor or any other party for any costs or damages (consequential or otherwise) that may be incurred or suffered on account of ARC's approval, disapproval or conditional approval of any Plans.

ARTICLE
ENVIRONMENTAL STANDARDS

V

Section 5.1. *Energy Efficiency.* All new construction of buildings to be occupied for residential, commercial or other purposes shall meet the energy efficiency standards set forth in *Exhibit E* hereto. Where feasible and practical all Citizens shall undertake to adopt the practices described as "Recommended Procedures" in *Exhibit E*; provided, however, that the adoption of such practices, though highly recommended as contributing to energy efficiency, economic prosperity and environmental balance, are voluntary.

Section 5.2. *Other Environmental Sustainability Standards.* All new construction of buildings to be occupied for residential commercial or other purposes shall meet the sustainability standards set forth in *Exhibit F* hereto. Where feasible and practical all Citizens shall undertake to adopt the practices described as "Recommended Procedures" in *Exhibit F*; provided, however, that the adoption of such practices, though highly recommended as contributing to environmental sustainability and economic prosperity, are voluntary.

ARTICLE
GENERAL USE RESTRICTIONS

VI

Section 6.1. *Compliance with Use Standards.* The Lots shall be used only for the purposes permitted by the Use Standards attached hereto as *Exhibit G*, and the respective Certificates of Use issued for the Lots.

Section 6.2. *Quiet Enjoyment.* No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done which may become a nuisance or annoyance to other Citizens.

Section 6.3. *Appearance.* All Lots and the improvements thereon shall at all times be maintained in a good, clean and attractive condition, order and state of repair consistent with a high quality development.

Section 6.4. *Dumping on Community Areas.* No Citizen shall dump or otherwise dispose of or place trash, garbage, debris or any unsightly or offensive materials on the Community Areas, nor shall any Citizen permit any member of his family or any of his guests, tenants, licensees or agents to do so.

Section 6.5. *Completion of Building.* Each building to be constructed on a Lot shall be completed as to the exterior thereof within one year after the construction thereof is commenced, subject only to extensions granted by ARC and delays caused by strikes, acts of God and other causes beyond the Owner's or the builder's reasonable control.

Section 6.6. *Construction Trailers, Etc.* No boat, trailer, bus, camper, recreational vehicle, utility trailer, commercial vehicle (other than automobiles, light weight vans and pickup trucks, and similar vehicles which are used for personal as well as commercial purposes) or oversized vehicle shall be parked or maintained on any street or Community Area or on any Lot except in areas designated therefor by the Board of Aldermen and except as otherwise may be expressly permitted by the Board of Aldermen. Such consent shall be for no more than one year, provided that such consent can be renewed annually. If the Board of Aldermen permit any such vehicle may be kept within a garage or an enclosed or screened area such that the vehicle shall not be visible from any street or other Member Lots without additional approval. The Plans for the enclosed or screened area shall be submitted to ARC for its approval. Notwithstanding the foregoing, a boat, boat trailer or boat on a trailer may be placed in the rear yard of a Lot without being kept in an enclosed or screened area if it does not exceed four (4) feet in height above ground level.

Section 6.8. *Animals.* No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any building except for household pets that do not constitute an annoyance to other Citizens. No dog or cat shall be allowed to remain unloosed at anytime except when fenced or kept in a pen or within a building.

Section 6.9. *Clothes Lines.* No clothes lines or other clothes drying apparatus shall be installed or placed outside of any building on a Lot, nor shall any clothes or other wash be placed or allowed to remain outside of any building, except in an area or manner that is adequately screened from view of other Lots.

Section 6.10. *Trees; Excavation.* No trees measuring six inches or more in diameter at a point two feet above ground level may be removed from any Lot without the prior approval of ARC. In addition, the topography of a Lot shall not be altered by removal, excavation, fill or any other means without the prior approval of ARC.

Section 6.11. *Underground Utility Lines.* All utility lines, wires and pipes located on any Lot shall be buried underground to the extent feasible.

Section 6.12. *Trash Receptacles and Collection.* All trash cans and other trash receptacles shall be kept within an enclosed or screened area so as not to be visible from any street or other Lots.

Section 6.13. *Alterations in Community Areas.* Without the prior approval of the board of Aldermen, no vegetation, landscaping, structure, or other improvement in a Community Area or a street right of way adjacent to a Lot shall be removed, constructed, enlarged, demolished or altered unless the same was specifically included in the Plans for the Owner's Lot approved by ARC.

Section 6.14 *Use of Lots for Sales.* The exterior of Lots, whether otherwise devoted to residential or nonresidential uses, sidewalks on which Lots front, public rights of way and Community Areas may not be used for the display of items offered for sale to the public, for serving or selling material quantities of food or beverage items or for any other commercial purpose unless specifically approved in advance by the Board of Alderman or by a representative delegated by the Board of Aldermen for such purpose; provided, however, that not more than once every six months a yard or garage sale may be held on a Lot.

Continue:

ARTICLE VII

GENERAL PROVISIONS

Section 7.1. Enforcement

Section 7.2. Severability

Section 7.3. Covenants Running with the Property; Term of Declaration

Section 7.4. Notices

Section 7.5. Assignment of Declarant's Rights

Section 7.6. Successors and Assigns

EXHIBIT D

Architectural Standards

EXHIBIT E

Energy Standards

EXHIBIT F

Sustainability Standards

New Pattonsburg, Missouri Solar Codes & Ordinances Summer 1996

ARTICLE

XIV

SPECIAL PROVISIONS

14-101 **Purpose:** Special provisions are set forth in this article which deals specifically with unusual or extraordinary circumstances which may, from time to time, come before the municipal planning commission. The special provisions of this article will provide a means by which unusual requests, of a nature specified herein, may be considered and acted upon.

14-102 **Subdivision Provisions; Land Suitability:** No land shall be subdivided within the City of Pattonsburg if the parcel or parcels of land proposed for development are deemed unsuitable for a proposed use because of flooding potential, inadequate water supply or sewage disposal facilities, known mining subsidence areas from past mining activities, or any

other conditions likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

14-103 Mineral Exploration and Commercial Mining: Within the corporate limit of the City of Pattonsburg, regardless of zone district, all commercial-scale mineral exploration and mining activities shall be subject to the granting of a conditional use permit prior to the commencing of such work. The permit shall specify the nature of the proposed work, its duration, and the safeguards to be employed in protecting the general public from any excavations left as a result of mineral exploration or commercial mining.

14-104 Solar Access Provision: The use of solar energy collectors for the purpose of providing energy for heating and/or cooling is a permitted use within all zone districts, whether as a part of a structure or incidental to a group of structures in the nearby vicinity. Use of solar energy collectors is subject to the restraints imposed by the present development pattern and topography found inside the city limits of Pattonsburg plus the zoning, height, and where a strict provision of the zoning ordinance may prohibit adequate solar access, the developer may apply for a conditional use permit from the city by filing said application with the planning commission. The Planning Commission shall weigh the following factors in its evaluation:

(A) Different levels of solar access available and restrictiveness of ordinance with regard to height, bulk, setback, and related provisions.

(B) Local energy costs, topography, and aesthetics of the specific area or land tract proposed for solar access use.

(C) Characteristics of shading due to building and trees in determination of necessary solar access plane.

(D) Identification of possible conflicts with solar access, including architectural or historic preservation requirements, steep slopes, low and moderate income housing restrictions, and individual landowner preferences.

14-105 Solar Access Requirements: When a solar energy collection system is installed on a lot, accessory structures or vegetation on an abutting lot shall not be located so as to block the solar collectors access to solar energy. The portion of a solar collector that is protected is the portion which:

(A) Is located so as not to be shaded between the hours of 10:00 a.m. and 3:00 p.m. by a hypothetical 12-foot obstruction located on the lot line; and,

(B) Has an area not greater than one-half of the heated floor area of the structure, or the largest of the structures, to be served.

14-106 Solar Access Exemptions: Section 10-104 (above) does not apply to structures or vegetation existing in an abutting lot at the time of installation of the solar energy collection system, or the effective date of this ordinance, whichever is later. Said subsection controls any structure erected on, or vegetation planted in, abutting lots after the installation of the solar energy collection system.

14-107 Solar Energy System Installed; Recording Procedures: A statement that a solar energy collection system is installed in a lot shall be filed and recorded with the Zoning Administrator or City Clerk, and that the date of installation of said system shall be the date of recordation.

14-108 Unconventional and Earth Sheltered Housing Encouraged: It is recognized that innovative housing designs appear from time to time that encourage energy conservation, create welcome diversity in the community, and which will appeal to home builders and

buyers. It is the intent of this ordinance, through the provisions of the Special Use Permit and variance procedures contained herein, to recognize and encourage creative, efficient, and well-designed housing of innovative varieties. Each sheltered housing as one example of newer trends in housing construction, shall generally adhere to the following provisions, based on the issuance by the Board of Aldermen of a Conditional Use Permit and granting of any applicable variances from the strict design provisions of the ordinance.

(A) Densities or lot areas and lot widths for earth sheltered housing units shall conform to those established residential zone districts R-1 and R-2.

(B) Earth sheltered housing units may be attached, semi-detached or attached, and shall be permitted in residential districts only.

(C) Each room of primary living area shall be provided with exterior windows, subject to the following conditions:

(1) No window facing or within 45 degrees parallel to a side or rear property line shall be constructed within 20 feet of that line.

(2) No window facing the front property line shall be built within the normally established front yard setback area, except for kitchens and utility areas, which may be located within not less than one-half of the established set-back distance.

(3) Every living room or bedroom shall have a glassed area of not less than 10 percent of the floor area, and give direct visual access to natural light and open space.

(D) An outdoor space of not less than 500 square feet shall be provided immediately outside of the walls of the dwelling subject to the following conditions:

(1) The average grade of elevation of this space shall be no more than two feet apart from the floor level of surrounding rooms, or of the rooms having access to it.

(2) The minimum horizontal dimensions of the outdoor area shall not be less than 20 feet.

(3) The average height of the walls surrounding this space shall not exceed 10 feet.

(4) Where floor area of an earth sheltered dwelling is less than 1,500 square feet, minimum outdoor area may be reduced to 300 square feet, with a minimum outdoor dimension of 15 feet.

(5) Granting of a conditional use permit and any appropriate variances shall be contingent upon planning commission review of a suitable building plan, and general sketch indicating lot orientation and related requirements.

14-109 Wind Energy Conversion Systems: This section provides basic design criteria intended to encourage the responsible use of wind energy conversion systems (WECS) consistent with the public safety. These devices shall be defined as any system intended or constructed for the purpose of converting wind power to energy, regardless of whether or not the system is experimental or a commercial operation. These devices include windmills, wind power turbines, and wind chargers.

(A) Conditional Use Permit Required for WECS.

Installation of a WECS is subject to review by the City Planning Commission, pursuant to sections 201 and 210 of the Public Utilities Regulatory Act of 1978, or laws amendatory thereto. Installation of a WECS within the City of Pattonsburg is subject to the granting of a conditional use permit.

(B) Design criteria for WECS.

(1) Height: The height of any WECS tower shall not exceed the height requirement or ceiling for the zone district within which the location of the tower is proposed.

(2) Setback: The WECS tower shall be setback 1.5 times the height of the tower in all zone districts.

(3) Fencing: A six (6) foot fence with a locking portal is required around any WECS tower to prevent potential climbing hazards.

(4) Braking Device: All WECS devices shall have braking systems when winds reach speeds in excess of 40 miles per hour.

(5) Guidelines: All WECS towers shall have appropriate stabilizing guidelines.

EXHIBIT E

ENERGY STANDARDS

I. Standards for Residential Buildings

[View Table](#)

Notes:

General

- R-19 in crawlspace underside of floor and rim joist area
- Vapor retards over bare soil for slab-on grade and for crawl space
- Air Ducts—R-7 on supply and return air ducts in unconditioned space
- Water Pipes—insulate hot and cold water pipes in conditioned space for minimum of first 6 feet
- Minimum .50 CFM exhaust fans in bathrooms
- Minimum 100 CFM exhaust fans in kitchen
- Automatic setback thermostats for gas heat
- Seal all duct joints (supply and return) with duct mastic such as RCD #6, Hardcast or Aqua-Fas

Windows

- Double glazed windows with low-E coating
- Solid core insulated doors
- Caulk, weatherstrip and seal around window and doorframes
- Minimize doors and windows on the north wall

Air Sealing

- Air barrier house wrap, caulk and seal at top and bottom edges and seams
- Seal all penetrations through thermal building envelope (such as electrical, plumbing and vent penetrations or chimneys with caulk or foam
- Seal drywall to framing members or exterior walls and ceiling or use a "vapor barrier" on all walls and ceiling between conditioned and unconditioned space
- Airtight electrical boxes on exterior walls
- Install sill sealer under sillplate
- Caulk sole plate and top and bottom edge of rim joist
- Average air change .35 to .5 per hour, but not less than 15 cfm per person

II. Standards for Small Commercial Buildings (60' x 160')

A. Lighting:

Total interior lighting connected load	1 W/ft ²
Controls:	
Switching	450 ft ² /switch
Motion sensor (office)	50% of office area
Exterior Lighting	
Lighting Type load (KW):	
Fluorescent	.088
Incandescent	.224
HID	<u>1.047</u>
	1.36

Schedule (except for security lights) sunset - midnight

B. Auxiliary Systems and Equipment

Office Equipment Power Density	.47 W/ft ²
Refrigeration Equipment Electric Load	.06 W/ft ²
Cooking Equipment	
Electric Load	.035 W/ft ²
Gas	.059 Btu/h/ft ²

C. Building Envelope

Exterior Wall Construction	
Ceiling height	9 ft.
U-value (R-value)	.08
Window to wall ratio	17% (on each wall)

Window U-value (including frame)	.41
Shading Coefficient	.46
Roof Construction	
Type	bar jst/mtl deck
Slope	"flat"
U-value (R-value)	.05
Absorption	.65
Overhang	.5
Floor Construction	
Type	grade
U-value (R-value)	U-value (R-value)

D. HVAC Systems

System sizing	
CFM/ft ²	1.20
CFM/ft ² fresh air	.14
Fan W/cfm	.27
System setpoints	
Heating	72°F
Heating (unoccupied hours)	55°F
Cooling	75°F
75°F	Off
System type:	roof top, all air, 1 unit/tenant up to 5 tenants
Heating System	
Gas furnace efficiency (< 225,000 Btu/h AFUE)	.81
• < =65,000 Btu/h (split system/single package)	8.0/7.8
• >65,000, < =135,000Btu/h (steady state COP)	3.4
Cooling System Efficiency	
• < = 65,000 Btu/h (SEER-seasonal value)	12 (10.8 EER)

Ventilation & Infiltration	
cfm/person	20
ft ² /person	143
Infiltration, cfm/ft ² of gross wall	.038

E. Domestic Hot Water

Type	
Electric resistance (EF)	.88
Gas (EF)	.54
Load gas/person/day	1
Pipe length	25 ft.
Pipe insulation	none
Circulating pump	no

F. Energy Management Systems

Zone control
Heat pump supplemental heat control
Automatic shutdown controls
Zone isolation
Economizer controls

III. Site Planning Requirements for All Buildings

- A. All buildings (other than zero lot line) and landscaping must be designed and located so as not to interfere with the reasonable use of adjoining properties for solar applications. Evergreens should not be planted closer than twenty feet (20') from side lot lines adjoining a building lot.
- B. All residential lots must have trees planted to maximize summer cooling.

IV. Recommended Procedures

- A. Citizens should use energy efficient equipment wherever reasonably practical, including energy efficient motors, processes, lighting, and daylighting, passive solar, solar water heaters, geothermal, biomass, load management, photovoltaics, district heating and cogeneration.
- B. Citizens should use and participate in state and federal energy programs including Green Lights, Nice³ KP, Exemplary Buildings, Motor Challenge, PT1 Green Buildings, Rebuild America, SECP, Energy Star Buildings, SBA Pollution Control Loans, SBA EERE Loans and ISTEAs Enhancement Funds as well as such other similar programs as may exist from time to time.
- C. Citizens should orient both new construction and relocated buildings to maximize the solar benefits that they or future generations may obtain.

D. In relocating existing residences to and placing manufactured homes in New Pattonsburg, citizens should: (i) have an energy audit and analysis conducted to identify practical energy conservation measures, (ii) replace heating and cooling equipment and appliances with energy efficient devices, (iii) construct on foundations designed to increase energy efficiency and (iv) weatherize the dwellings.

E. In constructing new homes in New Pattonsburg, citizens should (i) make maximum use of daylighting, (ii) use roof colors that decrease cooling needs, (iii) landscape to maximize solar and wind benefits and (iv) use energy efficient lighting throughout the house.

F. Citizens should use vines and trellises to shade outdoor cooling units and the southern exposure of buildings.