

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Pendleton _____

ADOPTED BY RESOLUTION 171-20 (OCTOBER 12, 2020)

Local Law No. 04 _____ of the year 20 20 _____

A local law REPEAL LOCAL LAW NO.02-2007
(Insert Title)

Be it enacted by the Town Board _____ of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Pendleton _____ as follows:

The sole purpose of Local Law No. 04-2020 is to provide Local Law Authority to repeal Local Law No. 02-2007: Stormwater Management, in its entirety.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 04 of 2020 of the ~~(County)(City)(Town)(Village)~~ of Pendleton was duly passed by the Town Board on October 12 2020, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the _____ and was deemed duly adopted on _____ 20 , in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)(Town)(Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(repassed after disapproval)~~ by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ 1 above.

Deborah K. Maurer
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 10/22/20

(Seal)



Adopted October 26, 2020 by Town of Pendleton Resolution 182-20

Repeal Article XIV Stormwater Management along with Section 247-86 thru Section 247-91 in their entirety.

Article XIV Stormwater Management

[Added 10-2-2007 by L.L. No. 2-2007]

§ 247-86 **Findings; purpose.**

A. Findings. It is hereby determined that:

- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- (2) This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- (3) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- (4) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing streambank erosion and sedimentation;
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- (6) Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- (8) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;
- (9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

B. Purpose. The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this

jurisdiction and to address the findings of fact in § 247-86A of this article. This article seeks to meet those purposes by achieving the following objectives:

- (1) Meet the requirements of minimum measures 4 and 5 of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, or as amended or revised;
- (2) Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities, Permit No. GP-02-01, or as amended or revised;
- (3) Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (4) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- (5) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- (6) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 247-87 Applicability; exemptions; requirements.

A. Applicability. This article shall be applicable to all land development activities.

B. Exemptions. The following activities shall be exempt from review under this article:

- (1) Agriculture, except that the construction of new structures associated with unlimited agriculture and the operation of a dude ranch or similar operation shall not be exempt from review under this article;
- (2) Silvicultural activity, except that landing areas and log haul roads are subject to this article;
- (3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility;
- (4) Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer;
- (5) Any part of a subdivision if a plat for the subdivision has been approved by the Town of Pendleton on or before the effective date of this article;
- (6) Land development activities for which a building permit has been approved on or before the effective

date of this article;

- (7) Cemetery graves;
 - (8) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;
 - (9) Emergency activity immediately necessary to protect life, property or natural resources;
 - (10) Activities of an individual engaging in home gardening by growing flowers, vegetables or other plants primarily for use by that person and his or her family;
 - (11) Landscaping and horticultural activities in connection with an existing structure.
- C. Conflict. Where the conditions imposed by any provisions of this article are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- D. All land development activities subject to review and approval by the Building Inspector, Town Highway Superintendent, Code Enforcement Officer, Planning Board, or Town Board of the Town of Pendleton under floodplain development permit, public improvement permit, mobile home park development, subdivision, drainage or site plan regulations shall be reviewed subject to the standards contained in this article. The applicant shall submit a SWPPP prepared in accordance with the standards contained in this article to the SMO, who shall forward the SWPPP, together with his or her written recommendation to approve, approve with modifications, or disapprove the SWPPP, to such agency, committee, employee or board of the Town of Pendleton which may be reviewing any application for approval of a land development activity requiring submission of a SWPPP. Approval shall only be given if the SWPPP meets the requirements of this article. In making a recommendation to approve with modifications or disapprove the SWPPP, the SMO shall state the reasons for the decision in writing. In order to be approved, an applicant shall revise a SWPPP that has been approved with modifications or disapproved in accordance with the recommendations of the SMO and shall submit the revised SWPPP to the SMO for review.
- E. For all land development activities not subject to review by the Building Inspector, Town Highway Superintendent, Code Enforcement Officer, Planning Board, or Town Board of the Town of Pendleton as stated in § 247-87B of this article, the applicant or developer shall be required to submit a SWPPP prepared in accordance with the standards contained in this article to the SMO. The SMO shall approve, conditionally approve, or disapprove the SWPPP. Approval shall only be given if the SWPPP meets the requirements of this article. In conditionally approving or disapproving the SWPPP, the SMO shall state the reasons for the decision in writing. In order to be approved, an applicant shall revise a conditionally approved or disapproved SWPPP in accordance with the recommendations of the SMO and shall submit the revised SWPPP to the SMO for review.

§ 247-88 Stormwater pollution prevention plans.

- A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed until the SMO or such agency, committee, employee, or board of the Town of

Pendleton which may be reviewing any application for approval of a land development activity requiring submission of a SWPPP has received a SWPPP prepared in accordance with the specifications in this article.

B. Contents of stormwater pollution prevention plans.

- (1) All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (a) Background information about the scope of the project, including the location, type and size of the project.
 - (b) Site map/construction drawing(s) for the project, including a general location map. The site map should be at a scale of no smaller than one inch to 100 feet. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the land development activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
 - (c) Description of the soil(s) present at the site;
 - (d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the Erosion Control Manual, not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
 - (e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (f) Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill-prevention and response;
 - (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project closeout;
 - (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (j) Temporary practices that will be converted to permanent control measures;
 - (k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

- (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (m) Name(s) of the receiving water(s);
 - (n) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - (p) Any existing data that describes the stormwater runoff at the site.
- (2) Land development activities meeting Condition A, B or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in § **247-88B(3)** of this article, as applicable:
- (a) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (b) Condition B: stormwater runoff from land development activities disturbing five or more acres.
 - (c) Condition C: stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.
- (3) SWPPP requirements for Conditions A, B or C:
- (a) All information in § **247-88B(1)** of this article;
 - (b) Description of each postconstruction stormwater management practice;
 - (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;
 - (d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
 - (e) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;
 - (f) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
 - (g) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;

- (h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
 - (i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 247-91 of this article; and
- (4) The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this article.
- C. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- D. Contractor certification.
- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
 - (2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
 - (3) The certification statement(s) shall be included with and become part of the SWPPP for the land development activity.
- E. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 247-89 Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

- A. Technical standards. For the purpose of this section, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this section:
 - (1) The Design Manual; and
 - (2) The Erosion Control Manual.
- B. Equivalence to technical standards. Where stormwater management practices are not in accordance with

technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in § **247-89A** of this article.

- C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 247-90 **Maintenance, inspection and repair of stormwater facilities.**

A. Maintenance and inspection during construction.

- (1) The applicant or developer of the land development activity or his or her representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
- (2) For land development activities meeting Condition A, B or C in § **247-88B(2)** of the this article, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.

B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Pendleton to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this section. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Pendleton.

C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance also includes, as a minimum, the following:

- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.
- (2) Written procedures for operation and maintenance and training new maintenance personnel.
- (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § **247-89** of this article.
- (4) Maintenance agreements. The Town of Pendleton shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Appendix B of this chapter, entitled "Sample Stormwater Control Facility Maintenance Agreement." The Town of Pendleton, in lieu of a

maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 247-91 **Administration and enforcement.**

A. Construction inspection.

(1) Erosion and sediment control inspection.

(a) The SMO may require such inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the SWPPP as approved. To obtain inspections, the applicant shall notify the SMO at least 48 hours before any of the following, as required by the SMO:

- [1] Start of construction;
- [2] Installation of sediment and erosion control measures;
- [3] Completion of site clearing;
- [4] Completion of rough grading;
- [5] Completion of final grading;
- [6] Close of the construction season;
- [7] Completion of final landscaping; or
- [8] Successful establishment of landscaping in public areas.

(b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the SMO.

(2) Stormwater management practice inspections. The SMO is responsible for conducting inspections of SMPs. All applicants are required to submit as-built plans for any SMPs located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(3) Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or

pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

- (4) Submission of reports. The SMO may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.
- (5) Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Pendleton the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in § 247-91A(3) of this article.

B. Performance guarantee.

- (1) Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Pendleton in its approval of the SWPPP, the Town of Pendleton may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Pendleton as the beneficiary. The security shall be in an amount to be determined by the Town of Pendleton based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Pendleton, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to Town of Pendleton. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- (2) Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Pendleton with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Pendleton may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
- (3) Recordkeeping. The Town of Pendleton may require entities subject to this article to maintain records demonstrating compliance with this article.

C. Enforcement and penalties.

- (1) Notice of violation. When the Town of Pendleton determines that a land development activity is not being carried out in accordance with the requirements of this article, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
 - (a) The name and address of the landowner, developer or applicant;
 - (b) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to bring the land development activity into compliance with this article and a time schedule for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
 - (f) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.
- (2) Stop-work orders. The Town of Pendleton may issue a stop-work order for violations of this article. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of Pendleton confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.
- (3) Violations. Any land development activity that is commenced or is conducted contrary to this article may be restrained by injunction or otherwise abated in a manner provided by law.
- (4) Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- (5) Withholding of certificate of occupancy. If any building or land development activity is installed or

conducted in violation of this article, the SMO may prevent the occupancy of said building or land.

- (6) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Pendleton may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- D. Fees for services. The Town of Pendleton may require any person undertaking land development activities regulated by this article to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Pendleton or performed by a third party for the Town of Pendleton. The fee shall be set by the Town Board by resolution.

REPEALED