

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

**AMEND SECTION 247-4 DEFINITIONS TO CHANGE TERM SPECIAL EXCEPTION AND SPECIAL EXCEPTION PERMIT TO SPECIAL USE AND SPECIAL USE PERMIT AS FOLLOWS:**

**§ 247-4 Definitions.**

Certain words and terms used in this chapter are defined as follows:

**ACCESSORY STRUCTURE**

An accessory structure is subordinate to and serves a principal residence. It contributes to the comfort, convenience and/or necessities of the occupants of the principal residence.

**[Added 2-4-2003]**

**ACCESSORY USE**

The use of land that is subordinate, incidental to, and customarily found in connection with the principal use allowed on a lot by the Zoning Law. A garage is incidental to the principal use of a lot as a single-family residence and is customarily found on a single-family parcel.

**[Added 6-7-2005]**

**AGRICULTURE, LIMITED**

The production of crops, plants, vines and/or trees.

**AGRICULTURE, UNLIMITED**

The production of crops, plants, vines and/or trees or the keeping, grazing or feeding of livestock for animal products (including serums), animal increase or value increase. The raising of hogs as the main or principal occupation shall be prohibited.

**AIRPORT**

A piece of land that is maintained for the horizontal or vertical landing and take off of aircraft used for receiving and discharging passengers and/or cargo that usually has facilities for the shelter, supply and repair of aircraft.

**AIRSTRIP**

A runway without normal airport facilities.

**ALTERATION**

As applied to a building or structure, a change or rearrangement of the structural parts or of the exit facilities or an enlargement (whether by extending on a side or increasing in height) or moving from one location or position to another. The term "alter" in its various modes and tenses or its particular form refers to the making of an alteration.

**ANTENNA**

A device used to collect or transmit telecommunications or radio signals. Examples are panels, microwave dishes and single pole known as whips.

**[Added 2-18-1997]**

**APARTMENT HOUSE**

A building arranged, intended or designed to be occupied by three or more families living independently of each other.

**APPLICANT**

A property owner or agent of a property owner who has filed an application for a land development activity.

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

**BASEMENT**

A portion of a structure partly underground but having at least part of its height above the average level of the adjoining ground. A "basement" shall be counted as a story for the purposes of height measurement and floor area if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet.

**BILLBOARD**

See "sign, advertising."

**BUFFER ZONE**

Green space designed to protect owners of property from the offensive use of adjoining property, especially when the zoning changes between the two. No structures, pavement, storage or business activity is allowed in this area.

[Added 8-24-1994]

**BUILDING**

Any structure occupied or intended for supporting or sheltering any occupancy.

[Amended 6-7-2005]

**BUILDING AREA**

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

**BUILDING DEBRIS**

Any unusable leftover material from constructed, demolished, wrecked or burnt-out structures. Also all unused or broken concrete, stone or similar material.

[Added 8-24-1994]

**BUILDING HEIGHT**

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard-type roofs and to the mean height between eaves and ridge for gable-, hip- and gambrel-type roofs.

**BUILDING LINE**

A line formed by the intersection of a horizontal plane of the average grade level and a vertical plane

that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the "building line."

### **BUILDING PERMIT**

A permit issued by the Zoning Officer of the Town of Pendleton in accordance with § 247-71 of this chapter.

### **BUILDING SETBACK LINE**

A line parallel to the street line at a distance as regulated by the front yard requirements in this chapter.

### **CAMPING OR TRAVEL TRAILER PARK**

A parcel of land designed, intended or used for the parking, pitching, erection or maintenance of more than one travel trailer, tent, cabin or any temporary recreation shelter.

### **CAMPING TRAILER**

A vehicular, portable structure (whether towed or self-propelled) used as a temporary dwelling for traveling, recreation or seasonal use.

### **CAMPSITE**

A parcel of land (with or without structures) designed, intended or used for one temporary shelter or a seasonal residence.

### **CELLULAR TELECOMMUNICATIONS FACILITY**

Consists of the equipment and structures involved in receiving telecommunication or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based or satellite telephone facility.

[Added 2-18-1997]

### **CHANNEL**

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

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

### **CLEARING**

Any activity that removes the vegetative surface cover.

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

### **CLUB**

An organization catering exclusively to members and their guests (including premises and buildings for recreational or athletic purposes) which is not conducted primarily for monetary gain.

### **CODE ENFORCEMENT OFFICER**

The person or persons, as appointed by the Town Board, pursuant to the provisions of the Town Law, charged with the responsibility and authority to execute all Town ordinances.

**[Added 8-24-1994]**

**COLOCATED ANTENNAS**

Telecommunications facilities which utilize existing towers or structures for all or partial antenna height requirements.

**[Added 2-18-1997]**

**COMMERCIAL DISTRICTS**

Those districts mentioned in this chapter where retail sales establishments are permitted by right.

**DECORATIVE/ORNAMENTAL PONDS**

A body of water retained by a liner upon one parcel of land and used only for decoration or property enhancement.

**[Added 7-6-1999]**

**DEDICATION**

The deliberate appropriation of property by its owner for general public use.

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

**DEPARTMENT**

The New York State Department of Environmental Conservation.

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

**DESIGN MANUAL**

The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation), most recent version or its successor, including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

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

**DEVELOPER**

A person who undertakes land development activities.

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

**DOG KENNEL**

A lot, with or without a structure, used for the harboring of more than three dogs that are more than six months old.

**DUMP**

A lot or land (or part thereof) used for the disposal, by abandonment, dumping, burial, burning or any other means (and for whatever purpose), of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

**DWELLING UNIT**

One or more rooms providing living facilities (including equipment and provision for cooking) and

sanitary facilities for a single household of one or more persons living as a family and having not more than two people who are sheltered and/or fed for profit.

**[Amended 8-24-1994]**

### **EATING AND DRINKING ESTABLISHMENT**

A place where food and/or beverages are prepared and/or sold for consumption on the premises or for takeout, including restaurants, tearooms, cafeterias, bars, taverns and lunchrooms.

### **EROSION CONTROL MANUAL**

The New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004), most current version or its successor, commonly known as the "Blue Book."

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

### **ESSENTIAL SERVICES**

The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of gas, electrical, steam, water, sewage and communication systems and facilities. Railroad trackage and facilities and bus shelters shall also be considered as providing an "essential service."

### **EXCAVATION**

Any man-made depression one foot or more below the surrounding grade, excluding drainage ditches.

### **FACTORY-MANUFACTURED HOME**

Any manufactured home approved by the State Fire Prevention and Building Code Council and listed as an approved modular home by this Council. These structures may be constructed as single-family residences.

**[Added 8-24-1994]**

### **FALL ZONE**

The radius around a tower within which all portions of the tower and antenna(s) would fall in the event of a structural failure.

**[Added 2-18-1997]**

### **FAMILY**

One or more persons related by birth, marriage or other domestic bond occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

### **FARM**

An area of land containing at least seven acres which is used for the commercial growing of the usual farm products, such as vegetables, fruit and/or grain, and for the packing or storage of the products produced on the premises, as well as for the raising of the usual farm animals, such as horses, cattle and sheep (but excluding the raising of fur-bearing animals, riding academies, livery or boarding stables, dog kennels or the commercial raising of swine and/or poultry).

**[Amended 2-4-2003]**

**FENCE**

An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected for the enclosure of land and/or dividing one piece of land from another.

**FLOOD or FLOODING**

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other inland areas of water or abnormally rising lake waters resulting from severe storms or hurricanes.

**FLOOD HAZARD BOUNDARY MAP**

The official map received from the Federal Insurance Administration.

**FLOODPLAIN**

A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation or any area subject to the unusual and rapid accumulation of runoff of surface waters from any source.

**FLOODPROOFING**

Any combination of structural or nonstructural additions, changes, alterations or adjustments to properties or structures which reduce or eliminate flood damage to land, water and sanitary facilities, structures and contents of buildings.

**FLOOD PROTECTION ELEVATION**

The level and elevation above which a particular use will be considered safe from flooding. (Such levels or elevations shall be based and updated from the one-hundred-year flood elevation).

**[Amended 8-24-1994]**

**FLOODWAY**

The designated area on the Flood Hazard Boundary Map of a floodplain required to carry and discharge floodwaters of a given magnitude.

**FLOODWAY FRINGE AREA**

The designated area on the Flood Hazard Boundary Map of a floodplain adjacent to the floodway and within the one-hundred-year special flood hazard area.

**GARAGE, PRIVATE**

An accessory enclosed space, either attached or detached from the principal building, for the storage of one or more motor vehicles, provided that no business, occupation, service or other gain is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises. Only one garage is allowed per building lot in a residential district.

**[Amended 8-24-1994]**

**GARAGE, PUBLIC**

Any garage not a private garage which is used for the storage, repair, painting, rental, servicing or supplying of gasoline or oil to motor vehicles.

### **GARAGE SALE**

Shall include all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," "flea market sale" or any similar casual sale of personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

### **GOVERNING BODY**

The Town Board of the Town of Pendleton.

### **GRADING**

Excavation or fill of material, including the resulting conditions thereof.

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

### **HIGHWAY ACCESS POINT**

The distance between any vehicular entrance or exit to the street.

### **HOME OCCUPATION**

An occupation, profession, activity or use that is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**[Amended 8-24-1994; 9-3-2002]**

### **HOSPITAL**

Unless otherwise specified, the term "hospital" shall be deemed to include a sanitarium, sanitorium, preventorium, clinic, rest home, nursing home, convalescent home and any other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

"Hospitals" are required to obtain and renew annually an operating permit issued by the Town Board.

**[Amended 8-24-1994]**

### **HOSPITAL, ANIMAL**

An establishment for the medical and/or surgical care of sick or injured animals.

### **IMPERVIOUS COVER**

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

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

### **INDUSTRIAL DISTRICT**

Those districts mentioned in this chapter where industrial uses are permitted by right.

### **INDUSTRIAL STORMWATER PERMIT**

A State Pollutant Discharge Elimination System (SPDES) permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges

or specifies on-site pollution control strategies.

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

### **INFILTRATION**

The process of percolating stormwater into the subsoil.

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

### **JUNKYARD**

A lot, land or structure (or part thereof) used for the recycling, collection, exchange, storage, packing, disassembly and/or sale of waste, scrap metal, paper, lumber, rags or similar materials, including storage of more than one unregistered, uninsured or uninspected motor vehicle.

**[Amended 8-24-1994]**

### **JURISDICTIONAL WETLAND**

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

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

### **LAND DEVELOPMENT ACTIVITY**

Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale disturbing one acre or more in the aggregate, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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

### **LANDOWNER**

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

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

### **LOADING AND LOADING SPACE, OFF-STREET**

An open, hard-surfaced area of land, other than a street or public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers to avoid undue interference with public streets and alleys. Such space shall not be less than 14 feet in width, 60 feet in length and 15 feet in height, exclusive of access aisles and maneuvering space.

### **LOT**

A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use and the customary accessories and open spaces belonging to the same.

### **LOT AREA**



The net area contained within lot lines.

### **LOT, CORNER**

A parcel of land at the junction of and fronting on two or more intersecting streets.

### **LOT COVERAGE**

That percentage of the lot area which is devoted to building area. District regulations refer to the maximum percentage of the lot area devoted to building area.

### **LOT DEPTH**

The shortest distance from the street line to the rear line, measured at right angle to the street line.

### **LOT LINE**

Any line dividing one lot from another.

### **LOT OF RECORD**

Any lot which individually or as a part of a subdivision has been officially recorded in the office of the Clerk of Niagara County.

### **LOT WIDTH MEASUREMENT**

Lot width is measured from side lot line to side lot line following the street line and in addition is measured using the shortest distance from side lot line to side lot line at the minimum front yard setback line.

**[Amended 8-24-1994; 4-4-2006]**

### **MAINTENANCE AGREEMENT**

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

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

### **MINING**

The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts ~~thereof~~thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use; exclusive of manufacturing processes at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

**[Added 11-8-2000]**

### **MOBILE HOME**

Excluding camping trailers, any piece of mobile equipment designed or constructed to be towed, pulled by a motor vehicle or self-propelled (regardless of whether the wheels are attached or unattached or a

permanent or ~~semipermanent~~semi permanent foundation is constructed underneath or any structure of a permanent or ~~semipermanent~~semi permanent nature is attached thereto). No "mobile home" shall be located within the town, except in a designated mobile home park.

**[Amended 8-24-1994]**

### **MOBILE HOME PARK**

A tract of land used or intended to be used for the parking of two or more mobile homes, together with the necessary improvements and facilities on the land.

### **MOTOR HOME**

See "camping trailer."

### **MOTOR VEHICLE SERVICE STATION**

Any use of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and/or including facilities for lubricating, washing or otherwise servicing motor vehicles (but not including the painting thereof by any means, body and fender work or the dismantling or replacing of engines).

### **MUNICIPALITY**

The Town of Pendleton.

### **NONCONFORMING USE**

A lawful building, structure or use of land existing at the time of enactment of this chapter which does not conform to the regulations of the district in which it is situated.

**[Amended 8-24-1994]**

### **NONPOINT SOURCE POLLUTION**

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

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

### **OBSTRUCTION**

Any wall, dam, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, bridge, building, wire, fence, stockpile, refuse, fill or structure in, along, across or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water (either by itself or by catching or collecting debris carried by such water) or that is placed where the flow of water might carry the same downstream to the damage of life or property.

### **OFFICE**

A place which is used to conduct a business or profession and is occupied by a physician, surgeon, dentist, lawyer or person providing similar services or in whose office the functions of consulting, recordkeeping and clerical work are performed.

## **OPEN SPACE**

Common or public or private greens, parks or recreation areas, including playgrounds, woodland conservation areas, walkways, trails, stream crossing and drainage control areas, golf courses, swimming pools, tennis courts, ice-skating rinks and other similar recreational uses, but which may not include any such uses or activities which produce noise, glare, odor, air pollution, fire hazards or other safety hazards, smoke or fumes or any use or activity which is operated for a profit or that would be detrimental to existing or prospective development of the neighborhood.

## **PARKING SPACE**

A required off-street parking space shall be an area of not less than 170 square feet nor less than 8 1/2 feet wide by 20 feet long (exclusive of access drives or aisles, ramps, columns or office and work areas) accessible from streets or alleys, to be used for the storage or parking of passenger automobiles or commercial vehicles under 1 1/2 tons' capacity. Aisles between vehicular parking spaces shall not be less than 12 feet in width when serving automobiles parked at a forty-five-degree angle in one direction nor less than 25 feet in width when serving automobiles parked perpendicular to the aisles and accommodating two-way traffic. Handicapped parking shall be provided according to the guidelines of New York State laws.

**[Amended 8-24-1994; 6-4-1996 by L.L. No. 1-1996]**

## **PHASING**

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

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

## **PLANNING BOARD**

Unless otherwise designated, the Planning Board of the Town of Pendleton.

## **POLLUTANT OF CONCERN**

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

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

## **POND**

An excavation for the owner's use on a single parcel of land.

**[Added 8-24-1994]**

## **PROJECT**

Land development activity.

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

## **PUBLIC**

Owned, operated or controlled by a governmental agency (federal, state, county or local), including a corporation created by law for the performance of certain specialized governmental functions, a public

school district or service district.

### **QUARRY, SANDPIT OR GRAVEL PIT**

A lot or land or part thereof used for the purpose of extracting stone, sand or gravel for sale as an industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

[Amended 8-24-1994]

### **RECHARGE**

The replenishment of underground water reserves.

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

### **RECREATIONAL VEHICLES**

Shall include campers, motor homes and boats, as well as other similar vehicles.

### **RESIDENCE, MULTIFAMILY**

A building used or designed for three or four dwelling units, including apartment houses, townhouses and condominiums.

[Amended 8-24-1994]

### **RESIDENCE, SINGLE-FAMILY DETACHED**

A detached building designed to contain one dwelling unit.

### **RESIDENCE, TWO-FAMILY**

A detached building containing two dwelling units separated by a fire separation.

[Amended 8-24-1994]

### **RESIDENTIAL DISTRICTS**

Those districts mentioned in this chapter where single-family detached, two-family and/or multifamily residences are permitted by right.

### **SANITARY LANDFILL**

A method of disposing of garbage and refuse by spreading, covering and compacting with earth. This is not allowed in town.

[Amended 8-24-1994]

### **SECTION**

Unless otherwise noted, section and section numbers shall refer to this chapter.

### **SEDIMENT CONTROL**

Measures that prevent eroded sediment from leaving the site.

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

### **SEMIPUBLIC**

Places of worship, institutions for the aged and children, child-care facilities, nonprofit colleges, hospitals, libraries, cemeteries and institutions of a philanthropic nature and also open space.

**[Amended 8-24-1994]**

### **SENSITIVE AREAS**

Coldwater fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, or habitats for threatened, endangered or special concern species.

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

### **SETBACK**

The distance from the edge of the right-of-way to the part of the structure nearest to the edge of the right-of-way, measured by right angles to the edge of the right-of-way, not including cornices or entrance steps.

**[Amended 8-24-1994]**

### **SIGN**

Any structure or device for visual communication that is used for the purpose of attracting the attention of the public. A "sign" includes any portion of a structure or device attached to a structure upon which is painted or represented or displayed any letter, word, model, banner, flag, pennant, insignia, decoration or representation used to communicate a message to (or attract the attention of) the public. The word "sign" does not include the flag, pennant or insignia of any nation, state, city or other political unit.

### **SIGN, ADVERTISING**

A sign which offers services or goods produced or available somewhere other than on the lot on which the sign is located. The words "advertising sign" include the word "billboard." Neither directional, warning nor other signs posted by public officials in the course of their public duty shall be construed as "advertising signs."

### **SIGN AREA**

The area defined by the outermost portion of the frame, support or edge of a sign (including roof, enhancement, etc.). Where there is not a geometric frame or edge of a sign, the "sign area" shall be defined by a projected, enclosed four-sided (straight sides) geometric shape which most closely outlines the sign. Only one face of a sign shall be used in measuring the "sign area."

### **SIGN, BUSINESS**

A sign for a permitted use conducted on the premises which shall identify the written name and/or the type of business and/or any trademark of an article for sale or rent on the premises and/or communicate the type of service or articles offered on the premises.

### **SIGN ERECTION**

To build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign, including the painting of exterior wall signs.

### **SIGN, NAMEPLATE**

Any sign attached directly to the wall of a building occupied by the person to whom such sign indicates

the name, occupation and/or address of the occupant. A nameplate shall not exceed two square feet in area.

### **SIGN, TEMPORARY**

A sign which offers a premises for sale, rent or development or announces special events or calls attention to new construction or alteration. Signs advertising sale items are not to be considered as "temporary signs."

### **SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01**

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

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

### **SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02**

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

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

### ~~**SPECIAL EXCEPTION**~~

~~A special exception deals with special permission granted only by the Town Board to occupy land for specific purposes under special and specific conditions when such use is not permitted by right.~~

### **SPECIAL FLOOD HAZARD AREA**

The maximum area designated on the Flood Hazard Boundary Map of the floodplain that, on the average, is likely to be flooded once every 100 years.

### ~~**SPECIAL PERMIT**~~

~~As required is granted by the Town Board.~~

SPECIAL USE/SPECIAL USE PERMIT - A Special Use deals with a Special Use Permit granted by the Town Board or Planning Board in conjunction with the utilization of land or buildings for special purposes under specified conditions when such use is not allowed by right. Special Use and Special Use Permit will replace the term Special Exception and Special Exception Permit.

[Added 8-24-1994]

### **STABILIZATION**

The use of practices that prevent exposed soil from eroding.

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

### **STABLE, PRIVATE**

An accessory building in which a horse or horses are kept for private use and not for hire, remuneration or sale.

**STABLE, PUBLIC**

A building in which horses are kept for remuneration, hire, sale or other gain.

**STOP-WORK ORDER**

An order issued which requires that all construction activity on a site be stopped.

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

**STORMWATER**

Rainwater, surface runoff, snowmelt and drainage.

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

**STORMWATER HOTSPOT**

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

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

**STORMWATER MANAGEMENT**

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

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

**STORMWATER MANAGEMENT AREA**

For use during excessive rainfall or water runoff conditions to prevent property damage. Constructed under subdivision or site plan review regulations.

[Added 7-6-1999]

**STORMWATER MANAGEMENT FACILITY**

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

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

**STORMWATER MANAGEMENT OFFICER (SMO)**

An individual designated by the Town Board to accept and review stormwater pollution prevention plans (SWPPPs), forward the plans to such agency, committee, employee, or board of the Town of Pendleton which may be reviewing any application for a construction activity requiring submission of a SWPPP, and inspect stormwater management practices. The Town Board shall appoint such individual to act as the SMO by resolution annually.

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

**STORMWATER MANAGEMENT PRACTICES (SMPs)**

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

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

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

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

**STORMWATER RUNOFF**

Flow on the surface of the ground resulting from precipitation.

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

**STORY**

That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between any floor and the ceiling next above it.

**STORY, HALF**

A story under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor of such story.

**STREET**

A public way which affords the principal means of access to abutting properties.

**[Amended 8-24-1994]**

**STREET LINE**

The common line joining a street right-of-way to any lot.

**[Amended 8-24-1994]**

**STRUCTURE**

That which is built or constructed or a portion thereof.

**[Amended 6-7-2005]**

**SUBDIVISION**

The process of creating more than one parcel from any recognized parcel of property in Pendleton. All "subdivisions" must be approved by the Planning Board.

**[Added 8-24-1994]**

**SURFACE WATERS OF THE STATE OF NEW YORK**

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water



which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

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

### **TELECOMMUNICATIONS EQUIPMENT BUILDING**

The building in which the electronic receiving and relay equipment for a telecommunications facility is housed.

[Added 2-18-1997]

### **TOWER**

A structure that is intended to support equipment used to transmit and/or receive telecommunications signals. Examples of such structures include monopoles and lattice construction steel structures.

[Added 2-18-1997]

### **TOWN BOARD**

The Town Board of the Town of Pendleton.

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

### **TOWN ENGINEER**

Either a consulting or a full-time engineer, New York State licensed as a professional engineer, as appointed by the Town Board.

[Added 8-24-1994]

### **TOWNHOUSE**

A dwelling unit designed to be occupied as a residence for one family which is in a group of three or more attached dwellings, placed side by side, separated by party walls, each containing one or two stories and each having separate front and rear or side and rear or front and side entrances from the outside.

### **TRACT**

A large piece of land under single ownership and developed, or to be developed, as a single entity for two or more units of use.

### **USE**

Any purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

### **VARIANCE**

Permissive waivers from the terms of this chapter granted by the Board of Appeals (that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship) designed such that the spirit of this chapter shall be observed and substantial justice done.

### **WATERCOURSE**

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

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

**WATERWAY**

A channel that directs surface runoff to a watercourse or to the public storm drain.

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

**YARD, FRONT**

An open unoccupied space on the same lot with the main building between the front line of the building and the front line of the lot and extending the full width of the lot.

**YARD, REAR**

An open unoccupied space on the same lot with the main building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

**YARD, SIDE**

An open unoccupied space on the same lot with the main building between the main building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

**ZONING BOARD OF APPEALS or BOARD OF APPEALS**

The Zoning Board of Appeals of the Town of Pendleton.

**ZONING MAP**

The map or maps incorporated into this chapter as a part thereof designating zoning districts, the originals of which are on file with the Town Clerk.

**[Amended 8-24-1994]**

## Article V Special Exceptions

### § 247-16 General provisions. [Amended 8-24-1994]

The special exception uses for which conformance with additional standards is required shall be deemed to be permitted uses in their respective districts if they satisfy the special requirements and standards set forth in this Article as well as all the other regular requirements of this chapter. All special exception uses are hereby declared to possess characteristics of such a unique and special form that each specific use shall be considered as an individual case. The Town Board shall not grant any special exception permit without receiving a recommendation from the Planning Board.

### § 247-17 Interpretation of permitted uses.

When a use is not specifically listed as a use by right or a use by special exception within any zoning district, it shall be assumed to be a prohibited use unless it is determined in a written decision by the Town Board that said use is similar to permitted uses and not inherently a nuisance, menace or danger to the health, safety or welfare of the residents of the Town of Pendleton.

### § 247-18 Required plan.

A plan for the proposed development of a site for a special exception shall be submitted with an application for a special exception permit, and such a plan shall show the location of all buildings, lots, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that the Town Board deems necessary.

### § 247-19 Standards.

- A. The location and size of the special exception use, the nature and intensity of the operations involved and the size and the location of the site with respect to the existing or future streets giving access to it shall be in harmony with the orderly development of the zoning district.
- B. The location, nature and height of buildings, walls and fences shall not discourage the appropriate development and use of adjacent land and buildings nor impair the value of such adjacent land or buildings.
- C. Operations in connection with any special exception use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or light than would be associated with the operations of any permitted use in the zoning district.

### § 247-20 Conditions.

In granting the special exception permits, the Town Board may attach such conditions and safeguards as it deems appropriate under this chapter.

### § 247-21 Expiration.

A special exception permit shall be deemed to authorize only one particular use. The special exception permit is revocable for violation of the terms under which it was granted. The permit shall expire if the special exception use shall cease for more than six months for any reason.

### § 247-22 Existing violations.

No permit shall be issued for a special exception use for a property where there is an existing violation of this chapter. (See Article VIII, Nonconforming Uses and Structures).

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

ADOPT ARTICLE V OF CHAPTER 247 SPECIAL USE/SPECIAL USE PERMITS ALONG WITH SECTION 247-16 SPECIAL USE IN ITS ENTIRETY AS FOLLOWS:

Article V  
**Special Use/Special Use Permits**

**§ 247-16 Special Use**

A. General provisions.

The Special Uses for which conformance with additional standards is required shall be deemed to be permitted uses in their respective districts if they satisfy the special requirements and standards set forth in this Article as well as all the other requirements and restrictions set forth for each Special Use. All Special Uses are hereby declared to possess characteristics of such a unique and special form that each specific use shall be considered as an individual case. Special Use Permits may be issued by the Planning Board on a Special Use as specified in pertinent Town Zoning Code sections.

B. Interpretation of permitted uses.

When a use is not specifically listed as a Use by Right or allowable by Special Use within any zoning district, it shall be assumed to be a prohibited use unless it is determined in a written decision by the Town Building Inspector/Code Enforcement Officer/Ordinance Enforcement Office that said use is similar to permitted uses and not inherently a nuisance, menace or danger to the health, safety or welfare of the residents of the Town of Pendleton.

C. Required Site Plan Review.

(1) All Special Use Permit Applications shall be subject to Planning Board Site Plan Review per Section 247-54.

(a) Environmental Review (SEQR) is required.

(b) Public Hearing is required.

(1) 400 feet notification

(2) A Special Use Permit issued by the Planning Board is required upon approval of the Site Plan and is subject to an annual review by the Planning Board. Planning Board Review will be undertaken to insure that all above listed provisions are being adhered to. The Planning Board will have discretion to revoke the Special Use Permit due to noncompliance and establish a time frame to correct the violation(s).

D. General Standards.

- 1) The location and size of the Special Use, the nature and intensity of the operations involved and the size and the location of the site with respect to the existing or future streets giving access to it shall be in harmony with the orderly development of the zoning district.
- 2) The location, nature and height of buildings, walls and fences shall not discourage the appropriate development and use of adjacent land and buildings nor impair the value of such adjacent land or buildings.

- 3) Operations in connection with any special exception use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or light than would be associated with the operations of any permitted use in the zoning district.

E. Conditions.

In granting the Special Use Permits, the Planning Board may attach such conditions and safeguards as it deems appropriate under this chapter. Issuance of Special Use Permit shall be deemed to authorize only one particular use. The Special Use Permit is revocable for violation of the terms under which it was granted. The Special Use Permit shall expire if the Special Use shall cease for more than six months for any reason.

F. Existing violations.

No Special Use Permit shall be issued for a Special Use for a property where there is an existing violation of this chapter. (See Article VIII, Nonconforming Uses and Structures).

Sections 247-17 thru 247-21 Reserved

# Chapter 122

## Drainage

**[HISTORY: Adopted by the Town Board of the Town of Pendleton 10-6-1981. Amendments noted where applicable.]**

### GENERAL REFERENCES

Excavations and topsoil removal — See Ch. 129.

Sewers and water — See Ch. 209.

Streets and sidewalks — See Ch. 217.

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### § 122-1 Prohibited acts.

It shall be unlawful for any person, firm, entity or corporation without a permit issued by the Town of Pendleton to:

- A. Place, deposit or permit to be placed or deposited any debris, fill, sand, stone or other solid materials of any kind or nature or construction of any kind into or across any stream, ditch, culvert, pipe, watercourse or other drainage system.
- B. Construct and/or place any ditch, pipe, culvert or artificial watercourse of any kind or nature which shall collect and direct the flow of natural surface waters or drainage or increase in intensity or quantity the flow of surface waters or drainage from paved surfaces, structures, roads or improvements directly into any stream, ditch, culvert, pipe or watercourse or other drainage system.
- C. Fill, obstruct, dam, divert or otherwise change or alter the natural or artificial flow of waters or drainage or the intensity or quantity of flows through any stream, ditch, pipe, culvert, watercourse or other improvement of drainage system.
- D. Construct, erect or replace bridges and culverts on all watercourse ditches, streams or sluices which affect adjoining properties.
- E. Do any construction, soil movement and/or regrading where alteration of the natural drainage pattern results.

### § 122-2 Exceptions.

The above restrictions shall not apply to work or construction done under a permit issued by the State of New York or County of Niagara.

### § 122-3 Plans to be submitted.

**[Amended 10-2-2007 by L.L. No. 2-2007]**

All applicants for a permit to do any of the acts set forth above shall present plans to the Town of Pendleton Highway Superintendent, which plans shall be inclusive of, but not limited to, a description of the existing

and subsequent drainage patterns together with a description of the affected adjoining properties. Such plans shall be accompanied by a stormwater pollution prevention plan (SWPPP), if required for the proposed land development activity under Article **XIV** of Chapter **247**, Zoning, of the Town Code, together with the written recommendation of the Stormwater Management Officer to approve, approve with modifications, or disapprove the SWPPP pursuant to § **247-88B** of the Town Code.

§ 122-4 **Effect of permit issuance.**

**[Amended 10-2-2007 by L.L. No. 2-2007]**

The issuance of a permit by the Town shall not obligate the town to any costs in connection with the work performed under the permit and shall not obligate the Town to maintain any such improvements.

§ 122-5 **Duties of Highway Superintendent.**

**[Amended 10-2-2007 by L.L. No. 2-2007]**

In the exercise of his discretion to grant or deny any permit, the Town Highway Superintendent shall give consideration to the effect such proposed construction may have on the drainage, health, beauty, preservation of natural resources and control of pollution and welfare of the Town of Pendleton and shall deny any such permit where in his judgment he determines such proposed construction is detrimental to the drainage, health, beauty, preservation of natural resources and control of pollution and welfare in the Town of Pendleton. If the plans submitted pursuant to § **122-3** above were accompanied by a SWPPP, the Town Highway Superintendent shall deny the permit if such SWPPP and plans do not comply with the requirements of Article **XIV** of Chapter **247**, Zoning, of the Town Code. Furthermore, the Highway Superintendent shall limit the installation of bridges and culverts along Town highways to a length not to exceed 40 feet, in the interest of ensuring adequate road drainage maintenance.

§ 122-6 **Enforcement; penalties for offenses.**

- A. Any person, firm entity or corporation found to be violating any provisions of this chapter shall be served with a written notice at the direction of the Town Board stating the nature of the violation and providing for a thirty-day time limit for the satisfactory correction thereof. The offender shall, within the period stated in such notice, correct or remove all violations.
- B. Any person, firm, entity or corporation who or which shall continue any violation beyond the time limit provided for in Subsection **A** above shall be guilty of a violation and, upon conviction thereof, be fined in an amount not exceeding \$250 or imprisoned for a term not exceeding 15 days, or both, for each violation. Each week in which such violation shall continue shall be deemed a separate offense.  
**[Amended 6-4-1996 by L.L. No. 1-1996]**
- C. In the event that any person, firm, entity or corporation shall continue any violation beyond the time limit provided for in Subsection **A** above, the Town Board may direct the Town Attorney to apply to the Supreme Court for any order directing that the violation be corrected or removed and that all costs and expenses incurred by the Town of Pendleton in connection with the proceedings, including the actual cost of correction or removal, shall be assessed against the offenders.
- D. Any person, firm, entity or corporation violating any of the provisions of this chapter shall become liable to the town for any expense or loss or damage occasioned by the town by reason of such violation.

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

ADOPT NEW SECTION 247-86 IN ITS ENTIRETY

## **§247-86 Drainage**

### **Definitions:**

#### **MINOR DRAINAGE IMPACT**

Proposed action will not significantly alter existing drainage patterns; redirecting stormwater runoff to adjacent properties or Town's drainage system is not anticipated to have an adverse impact. (i.e.: positive e drainage from the improvement to the public drainage system is provided; surface runoff will not pool on adjacent properties).

#### **MAJOR DRAINAGE IMPACT**

Proposed action will significantly alter drainage patterns, potentially result in an adverse impact existing public drainage collection and conveyance, or result in a potential significant impact to adjacent properties.

#### **A. Prohibited acts.**

It shall be unlawful for any person, firm, entity or corporation without a Drainage Permit issued by the Town Building Inspector/Code Enforcement Officer to:

- (1) Place, deposit or permit to be placed or deposited any debris, fill, sand, stone or other solid materials of any kind or nature or construction of any kind into or across any stream, ditch, culvert, pipe, watercourse or other drainage system.
- (2) Construct and/or place any ditch, pipe, culvert or artificial watercourse of any kind or nature which shall collect and direct the flow of natural surface waters or drainage or increase in intensity or quantity the flow of surface waters or drainage from paved surfaces, structures, roads or improvements directly into any stream, ditch, culvert, pipe or watercourse or other drainage system.
- (3) Fill, obstruct, dam, divert or otherwise change or alter the natural or artificial flow of waters or drainage or the intensity or quantity of flows through any stream, ditch, pipe, culvert, watercourse or other improvement of drainage system.
- (4) Construct, erect or replace bridges and culverts on all watercourse ditches, streams or sluices which affect adjoining properties.
- (5) Do any construction, soil movement and/or regrading where alteration of the natural drainage pattern results.

#### **B. Exceptions.**

The above restrictions shall not apply to work or construction done under a permit issued by the State of New York or County of Niagara.

#### **C. Application and Plans to be submitted.**



All applicants for a Drainage Permit to do any of the acts set forth above shall present plans to the Town Building Inspector/Code Enforcement Officer, which plans shall be inclusive of, but not limited to, a description of the existing and subsequent drainage patterns together with a description of the affected adjoining properties. Such plans shall be accompanied by a Stormwater Pollution Prevention Plan (SWPPP), if required for the proposed land development activity under Article XIII of Chapter 247, Zoning, of the Town Code, together with the written recommendation of the Stormwater Management Officer to approve, approve with modifications, or disapprove the SWPPP pursuant to § 247-85C(3) of the Town Code. After review of the complete Drainage Permit Application package the Town Building Inspector/Code Enforcement Officer will make a determination if the Application reflects a minor or major drainage impact.

- (1) If minor, the Town Building Inspector/Code Enforcement Officer will have the responsibility of handling the Drainage Permit Application process.
- (2) If major, the Town Building Inspector/Code Enforcement Officer will forward the Drainage Permit Package to the Town Planning Board for Site Plan Review in accordance with Section 247-54 of the Town Code.
  - (a) State Environmental Review (SEQR) required.
  - (b) Public Hearing requires 400-foot notification.

The Town Building Inspector/Code Enforcement Officer or Planning Board (if Site Plan Review is warranted) may solicit the help and or expertise of the Town Highway Superintendent to aid in the Drainage Permit Application process and or for post construction inspection.

#### D. Effect of permit issuance.

The issuance of a Drainage Permit by the Town shall not obligate the town to any costs in connection with the work performed under the permit and shall not obligate the Town to maintain any such improvements.

#### E. Duties of Town Building Inspector/Code Enforcement Officer and Highway Superintendent.

In the exercise of his/her discretion to grant or deny the Drainage Permit, the Town Building Inspector/Code Enforcement Officer in conjunction with the Town Highway Superintendent when warranted shall give consideration to the effect such proposed construction may have on the drainage, health, beauty, preservation of natural resources and control of pollution and welfare of the Town of Pendleton and shall deny any such Drainage Permit where in his judgment he determines such proposed construction is detrimental to the drainage, health, beauty, preservation of natural resources and control of pollution and welfare in the Town of Pendleton. If the plans submitted pursuant to § 247-86C above were accompanied by a SWPPP, the Town Highway Superintendent shall deny the Drainage Permit if such SWPPP and plans do not comply with the requirements of Article XIII of Chapter 247, Zoning, of the Town Code. Furthermore, the Town Building Inspector/Code Enforcement Officer and/or the Highway Superintendent shall limit the installation of bridges and culverts along Town highways to a length not to exceed 40 feet, in the interest of ensuring adequate road drainage maintenance.

F. Enforcement; penalties for offenses.

(1) Any person, firm entity or corporation found to be violating any provisions of this chapter shall be served with a written notice at the direction of the Town Building Inspector/Code Enforcement Officer stating the nature of the violation and providing for a thirty-day time limit for the satisfactory correction thereof. The offender shall, within the period stated in such notice, correct or remove all violations.

(2) Any person, firm, entity or corporation who or which shall continue any violation beyond the time limit provided for in Subsection A above shall be guilty of a violation and, upon conviction thereof, be fined in an amount not exceeding \$2,500 or imprisoned for a term not exceeding 15 days, or both, for each violation. Each week in which such violation shall continue shall be deemed a separate offense.

(3) In the event that any person, firm, entity or corporation shall continue any violation beyond the time limit provided for in Subsection A above, the Town Board may direct the Town Attorney to apply to the Supreme Court for any order directing that the violation be corrected or removed and that all costs and expenses incurred by the Town of Pendleton in connection with the proceedings, including the actual cost of correction or removal, shall be assessed against the offenders.

(4) Any person, firm, entity or corporation violating any of the provisions of this chapter shall become liable to the town for any expense or loss or damage occasioned by the town by reason of such violation.

G. Fees

See Chapter 131 for appropriate fees.

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

ADOPT NEW ARTICLE XIV EXCAVATION & FILL AND PROPERTY MAINTENANCE AS WELL AS ADOPTION OF SECTION 247- 87 EXCAVATION AND FILL IN THEIR ENTIRETY.

Chapter 247  
Article XIV  
**EXCAVATION & FILL and PROPERTY MAINTENANCE**

GENERAL REFERENCES

Ponds – See Ch. 247-46

Subdivision of Land - See Ch. 220

**§ 247-87 Excavation and Fill**

A. Findings. It is hereby determined that:

(1) Excavation and/or fill activities creates pits, holes or hollows in the earth, leaving it in a hazardous or dangerous state, or causes soil erosion, which deletes the land of its natural vegetative cover and supply of organic materials, and renders such land unproductive and unsuitable for agricultural purposes or undesirable for building homes.

(2) Excavation and/or fill activities can be controlled and their impacts minimized through the regulation of these activities.

B. Purpose. The purpose of this article is to establish the management of excavation and/or fill activities within the Town boundaries and to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction. This section seeks to meet those purposes by achieving the following objectives:

(1) The orderly operation of all excavations and/or fill activities and related soil disturbances;

(2) The restoration of affected lands;

(3) The retention of taxable value of property;

(4) The retention of natural beauty and aesthetic values in the affected areas;

(5) The preservation of the quality of life for residents;

(6) The retention of topsoil with the Town of Pendleton.

C. Definitions:

(1) Applicant: That person making application for a permit and who is responsible for fulfilling the requirements for the restoration plan and all rules and regulations promulgated hereunder. If the applicant is other than the property owner, written proof must be presented showing authorization from the property owner the applicant.

(2) Excavation: A cavity, hole, or pit on land formed by digging, for the purpose of extracting clay, stone, gravel, sand, or other natural materials or the topsoil therefrom.

(3) Fill: The placement of natural materials on any land surface.

(4) Mining: The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use; exclusive of manufacturing processes at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

(5) Topsoil: Surface earth, including the organic layer in which most plants have their roots.

D. Prohibited acts:

(1) The following are prohibited acts and are not to be considered a Use by Right or allowable by Special Use in any Zoning District within the Town of Pendleton.

a) Place, deposit or permit to be placed or deposited any debris, fill, sand, stone or other solid materials of any kind or nature or construction of any kind into or across any stream, ditch, culvert, pipe, watercourse or other drainage system which result in an adverse impact.

b) Do any construction, soil movement and/or regrading where alteration of the natural drainage patterns which result in an adverse impact.

c) Conduct excavation as defined in Section 247-87C(4) of this Ordinance for purposes of Mining.

E. Exceptions: The following operations and uses are hereby accepted from the application of this Ordinance:

(1) Excavations or removal of stone, gravel, clay, sand, shale or other natural materials, subsoil or topsoil incident to highway, sidewalk, or driveway construction to the extent that said material are removed solely from the bed of said, highway, sidewalk or driveway.

(2) Excavations or removal of stone, gravel, clay, sand or other natural materials, subsoil or topsoil from one part of the same premises incident to the construction of a building or other improvement of land or incident to landscaping. The moving in excess of one hundred (100) yards or more of such materials will be subject to approval by the Building Inspector/Code Enforcement Officer.

(3) Removal of excess stone, gravel, clay, sand or other natural materials, subsoil or topsoil from the area of a subdivision granted final approval by the Planning Board of the Town of Pendleton, provided any such removal is in accordance with the plans and specifications approved by said Planning Board. (See Chapter 220 Subdivision of Land).

- (4) Excavations or removal of stone, gravel, clay, sand or other natural materials, subsoil or topsoil incident to the construction and/or repair of privately owned water, sanitary or storm sewer systems.
- (5) The above restrictions shall not apply to work or construction done under a permit issued by the State of New York or County of Niagara.

F. Application: All applicants for a permit to do any of the acts set forth above shall present plans to the Town of Pendleton Building Inspector/Code Enforcement Officer which plans shall be inclusive of, but not limited to, the following:

- (1) Application form
- (2) A narrative description of the proposed excavation and/or fill activities including a restoration plan for the disturbed area. For fill activities, the source of the natural material must be identified
- (3) A duly acknowledges notarized consent in writing of the owner of the premises, including his address.
- (4) Certificate from the receiver of taxes of the Town and the County Treasurer showing payment of all taxes or assessments to date against the property described in the application.
- (5) A certified estimate, prepared by a professional engineer or land surveyor licensed in the state, showing the total number of cubic yards of materials to be generally regraded, excavated, removed from or brought to the property during each of the described stages or the proposed operation and time schedule.
- (6) A drawing at a scale of one hundred (100) feet to an inch or larger on a sheet not larger than thirty-six (36) by forty-eight (48) inches prepared by a professional engineer or land surveyor licensed in the state showing the following information:
  - a) The location and survey data of the premises where it is proposed to generally regrade, excavate, remove, or fill earth products.
  - b) All streets adjoining and within two hundred (200) feet of the premises.
  - c) All existing buildings or structures on the premises or within two hundred (200) feet of the premises.
  - d) Existing and proposed elevations at each described stage in the proposed operation for the premises and all land within two hundred (200) feet of its boundaries, shown on a horizontal grid system with a fifty-foot interval, and also on a cross section derived from that grid system. Additional elevations shall be shown at each break in the grades and along the center line of all adjoining streets.
  - e) Present and proposed surface water drainage and natural drainage features.
  - f) A key map at the scale of six hundred (600) feet to one (1) inch indicating the relationship to the highway pattern, school and town boundaries and zoning districts.
- (7) A certification by a duly licensed professional engineer or land surveyor in the state that the existing grades and elevations are based on an actual field survey.
- (8) Any project, including excavation and/or fill activities, which will disturb greater than one (1) acre of surface area, shall comply with the regulations under Article XIII Stormwater Management Regulations of Chapter 247, Zoning, of the Town Code

and requires the preparation of a SWPPP as defined in that article and section. If coverage under the NYS SPDES permit program and preparation of a SWPPP is required, then application for site plan review and approval by the Planning Board is required.

(9) The Building Inspector/Code Enforcement Officer may require additional data or waive any requirements in appropriate cases.

a) After receipt and review of the complete Application package, the Town Building Inspector/Code Enforcement Officer will make a determination if the Application reflects a minor or major impact.

i. If determined as minor the Town Building Inspector/Code Enforcement Officer will have the responsibility of handling the Application process.

ii. If determined major the Town Building Inspector/Code Enforcement Officer will forward the Application Package to the Town Planning Board for Site Plan Review in accordance with Section 247-54 of the Town Code:

i. State Environmental Review (SEQR) required

ii. Public Hearing Requires 400-foot notification

b) The Town Building Inspector/Code Enforcement Office or Planning Board (if Site Plan Review is warranted) may solicit the help and or expertise of the Town Highway Superintendent to aid in the process and or for post construction inspection.)

G. Application: See chapter 131 Miscellaneous Excavation and grading appropriate fees.

H. Effect of permit issuance: The issuance of a permit by the Town shall not obligate the town to any costs in connection with the work performed under the permit and shall not obligate the Town to maintain any such improvements.

I. Duties of Building Inspector/Code Enforcement Officer: In the exercise of his discretion to grant or deny any permit, the Town Building Inspector/ Code Enforcement Officer shall give consideration to the effect such proposed construction may have on the drainage, health, beauty, preservation of natural resources and control of pollution and welfare of the Town of Pendleton and shall deny any such permit where in his judgment he determines such proposed construction is detrimental to the drainage, health, beauty, preservation of natural resources and control of pollution and welfare in the Town of Pendleton. If the plans submitted pursuant to §247-87F above were accompanied by a SWPPP, the Town Building Inspector/ Code Enforcement Officer shall deny the permit if such SWPPP and plans do not comply with the requirements of Article

J. Expiration, Renewal: Excavation and/or fill permits, other than those for topsoil stripping and removal only, shall expire by limitation one (1) year from the date of issuance unless extended by the Town Board.

(1) Permits for topsoil stripping and removal only shall expire by limitation sixty (60) days from the issuance unless extended by the Town Board.

(2) The renewal of an expired permit for topsoil stripping and removal without change in the extent of the work may be approved by the Town Board.

(3) The renewal of expired permit for other excavation and/or fill projects without change in the extent of the work may be approved by the Town Board with the payment of a permit fee (same as original Application Fee) as described in Section 247-87L Fees).

(4) The renewal of any permit, which extends the project scope of the work, shall be processed as a new application.

K. Enforcement; penalties for offenses:

(1) Any person, firm entity or corporation found to be violating any provisions of this chapter shall be served with a written notice at the direction of the Town Building Inspector/Code Enforcement Officer stating the nature of the violation and providing for a thirty-day time limit for the satisfactory correction thereof. The offender shall, within the period stated in such notice, correct or remove all violations.

(2) Any person, firm, entity or corporation who or which shall continue any violation beyond the time limit provided for in Subsection A above shall be guilty of a violation and, upon conviction thereof, be fined in an amount not exceeding \$2500 or imprisoned for a term not exceeding 15 days, or both, for each violation. Each week in which such violation shall continue shall be deemed a separate offense.

(3) In the event that any person, firm, entity or corporation shall continue any violation beyond the time limit provided for in Subsection A above, the Town Board may direct the Town Attorney to apply to the Supreme Court for any order directing that the violation be corrected or removed and that all costs and expenses incurred by the Town of Pendleton in connection with the proceedings, including the actual cost of correction or removal, shall be assessed against the offenders.

(4) Any person, firm, entity or corporation violating any of the provisions of this chapter shall become liable to the town for any expense or loss or damage occasioned by the town by reason of such violation.

L. Fees:

See Chapter 131 Miscellaneous Excavation and grading for application fee

See Chapter 131 Planning Board Site Plan Review Fees if Site Plan required

See Chapter 131 SWPPP Fee if more than an acre disturbance

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

REPEAL SECTION 247-42 EXCAVATIONS IN ITS ENTIRETY.

§ 247-42 **Excavations.**

**[Amended 8-24-1994; 11-8-2000]**

Before any excavation for a pond, pool, basin or similar project (excluding the construction of a wall, building or part thereof) is commenced, the owner or lessee of the premises or agent of either shall obtain a written permit and for that purpose shall file with the Code Enforcement Officer of the Town of Pendleton an application for a permit containing a detailed statement of the proposed work. Such statement and plan shall show the exact condition of the premises before and after the proposed excavation. No such excavation shall be permitted in a front yard, and all side and rear setbacks shall be observed.

REPEALED



Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

REPEAL SECTION 247-43 GRAVEL AND SAND OPERATIONS IN ITS ENTIRETY.

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§ 247-43 **Gravel and sand operations.**

**[Added 8-24-1994; amended 11-8-2000]**

No gravel or sand operations shall be permitted unless such operations adhere to the following regulations:

- A. No excavation or stockpiling of materials shall be located within 150 feet of any public road or property line, unless a permit is granted by the Town Board for the improvement of the property.
- B. No power-activated sorting machinery or equipment shall be located with 600 feet of any occupied dwelling, and all such machinery shall be equipped with satisfactory dust-elimination devices.
- C. All excavation slopes shall be adequately fenced as determined by the Code Enforcement Officer.

REPEALED

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

REPEAL SECTION 247-44 TOPSOIL AND OVERBURDEN IN ITS ENTIRETY.

§ 247-44 **Topsoil and overburden.**  
[Amended 8-24-1994; 11-8-2000]

A person, firm or corporation shall not strip, excavate or otherwise remove topsoil for use other than on the premises, except as allowed under Chapter **220**, Subdivision of Land.

REPEALED

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

REPEAL SECTION 247-45 ROAD DEBRIS IN ITS ENTIRETY.

§ 247-45 **Road debris.**

Any person, officer or contractor causing dirt, stone or other material to be tracked, dumped or otherwise deposited on a public road or right-of-way within the Town of Pendleton shall remove the same at the end of each work day or upon termination of work for any one day.

REPEALED

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

**ADOPT NEW SECTION 247-92 PROPERTY MAINTENANCE & SAFETY – RESIDENTIAL CONSTRUCTION IN ITS ENTIRETY.**

**Section 247-92 Property Maintenances & Safety –Residential Construction**

**A. Findings and determination**

- (1) The Town Board of the Town of Pendleton hereby finds that it is very much aware of the importance and impact the construction of new Homes and improvement of existing Homes have on the orderly growth of the Town. The Town Board is also aware that proper maintenance and safety along with consideration to nearby property owners are an important part of all new residential construction.
- (2) The Town Board hereby determines that in order to ensure that the Town grows with minimal impacts to the existing neighborhood, it is necessary to monitor all residential construction requiring a Building Permit to be sure that the owner is performing proper property maintenance and adhering to standard safety practices so that the construction site does not become a public nuisance.

**B. Required upon making Building Permit Application**

- (1) Tentative Time Schedule for completion of Residential Building Construction along with related Residential Construction as follows:
  - a) Installation of a traditional Driveway (Concrete, Blacktop, Stone).
    - i. Installation of a traditional driveway will be completed within a reasonable time after procurement of a Building permit and or Curb Cut Permit. Weather as a factor will be taken into consideration.
  - b) Grading and seeding of lot in accordance with an approved drainage plan.
    - i. Grading and Seeding will be done within a reasonable time after completion of digging and pouring the foundation. Weather as a factor will be taken into consideration.
  - c) Home, garage and/or accessory structure completion.
    - i. Owner has an obligation to commence and complete construction in a reasonable time frame in order to minimize adverse impacts on the neighborhood.
- (2) All Residential Building Permit Application also require the submittal of a Drainage Plan subject to the approval of the Building Inspector/Code Enforcement Officer. Also see Drainage Section/Sections in the Town Code.

**C. Maintenance and Safety**

- (1) This ordinance applies to all residential buildings and land under construction or demolition. Buildings will include Single Family, Duplex and Multifamily along with Garages and Accessory Structures.
- (2) Grass, weeds or other plant growth must be cut on a regular basis.
  - a) Also see Property Maintenance Section/Sections in the Town Code.
- (3) Steps, walks and driveways must be maintained for safe passage and access.

(4) Accumulations of garbage, trash and construction debris must be controlled and disposed of. Care must be taken to assure that such accumulations are not unsightly and must be removed/disposed of expeditiously.

**D. Inspection and report.**

(1) Whenever it shall appear that the provisions of this chapter are violated, the Building Inspector/Code Enforcement Officer is authorized to make an inspection of the property involved and prepare a written report of the conditions found. If at the discretion of the Building Inspector/Code Enforcement Officer abuse of the submitted Tentative Time Schedule is determined the original Building Permit can be found to be void and a new Building Permit required. The fee for the New Building Permit can be up to ten times the fee charged on the original Building Permit based on the severity of the abuse.

**E. Notice of violation.**

(1) If conditions existing on the inspected property violate the provisions of this chapter, the Building Inspector/Code Enforcement Officer is authorized to serve or cause to be served a written notice of such violation, either personally or by certified mail, upon the owner or owner's agent as well as upon the lessee or occupant of said premises. Failure to serve either an owner or an occupant or lessee shall not prevent enforcement against any party served.

(2) Said written notice shall contain substantially the following: the name of the owner, lessee or occupant of the premises, if known; the address or location of the premises; the identification of the premises as the same appears on the current assessment roll; a statement of the conditions on the property deemed upon inspection to be in violation of this chapter; a demand that the solid waste, rubbish, or debris, weeds or vegetation determined to be in violation of this chapter be removed from the property on or before five days after the service or mailing of such notice; and a statement that a failure or refusal to comply with the provisions of this chapter and the notice given pursuant thereto within the time specified may result in the Building Inspector/Code Enforcement Officer, or any authorized officer, agent or employee of the Town, to enter the property and remove such motor vehicle, solid waste, rubbish or debris, weeds or vegetation, and cause the same to be disposed of or otherwise destroyed. The Town department, officer or designee performing such work shall keep an accurate and itemized account of the expenses incurred for all labor, equipment and materials furnished plus any other incidental costs. All bills shall reflect work completed on property, plus a charge of 20% to cover the costs and disbursements and administrative handling.

(3) The water billing clerk, upon receiving the invoice/invoices described in Subsection B above regarding a property, shall be responsible to charge the unpaid bill to the most current water bill for that property. In the event that collection is not made within 30 days, the water billing clerk shall forward the unpaid account to the Town Assessor, who shall charge the cost of such expenditure against the owner or owners of said property on the next regular tax bill.

(4) The Building Inspector/Code Enforcement Officer or any authorized Town employee shall have the right, at reasonable times, upon notification, to enter upon

lands within the Town for the purpose of inspection to determine compliance with this section. The right of inspection herein granted shall apply to the exterior of the buildings and grounds only.

F. Emergency actions.

(1) Nothing in this chapter shall prohibit a municipality from entering onto private property to remove any solid waste, rubbish or debris, weeds or vegetation whenever an imminent threat to the life or safety of persons does exist. Municipal authority pursuant to this section may only be exercised where there is an immediate necessity to protect life and safety. Any municipal action taken pursuant to this section must be reasonably calculated to alleviate or prevent the crisis condition.

(2) A property owner shall be given notice and an opportunity to be heard prior to any costs and expenses incurred pursuant to this section being placed on the property's tax bill.

G. Penalties for offenses; enforcement.

(1) See Property Maintenance Section/Sections in the Town Code for Penalties. Also see Section 247-89(4) above.

H. Conflicts with other laws.

When the provisions of this chapter conflict with the provisions of any other local law or ordinance of the Town of Pendleton, the provisions of this chapter shall prevail.

Adopted September 28, 2020 by Town of Pendleton Resolution 153-20

**AMENDMENT TO 247-12 LIGHT INDUSTRIAL DISTRICT - ADOPT NEW 247-12 M SMALL RETAIL BUSINESS/BUSINESSES IN CONJUNCTION WITH SMALL CONTRACTOR SHOP**

**§ 247-12 CO1 District: Light Commercial.  
[Amended 8-24-1994]**

- A. No new single- or two-family/duplex residential construction shall be allowed in any commercial districts. **[Amended 2-23-2015]**
- B. New construction and any modification, alteration or addition to an existing structure shall be subject to site plan review by the Planning Board before any building permit is issued.
- C. Uses permitted by right:
  - (1) Farms, limited agriculture and unlimited agriculture. **[Added 6-3-2008]**
  - (2) Antique and art shops.
  - (3) Baker, confectionery and ice cream shops, including the baking and processing of food products when prepared for retail use on premises only.
  - (4) Banks and financial institutions.
  - (5) Beverage stores, including the sale of beer and liquor.
  - (6) Catalog stores.
  - (7) Clubs, lodges or meeting halls.
  - (8) Drug stores.
  - (9) Eating and drinking establishments.
  - (10) Florist shops.
  - (11) Gift and novelty stores.
  - (12) Hardware, paint, glass and wallpaper stores.
  - (13) Laundries, laundrettes and cleaning and pressing establishments.
  - (14) Mortuaries and funeral parlors.
  - (15) Motor vehicle service stations in accordance with § **247-50** of this chapter.
  - (16) Multifamily dwellings. **[Added 2-23-2015]**
  - (17) Newsstands.

- (18) Nurseries, greenhouses and garden supplies.
  - (19) Offices.
  - (20) Off-street parking.
  - (21) Pet stores.
  - (22) Personal services.
  - (23) Photography studios.
  - (24) Rental stores.
  - (25) Repair services of household items.
  - (26) Retail sales and service establishments not more objectionable by reason of noise, fumes, vibration or lights than any permitted use listed above.
  - (27) Schools or places of instruction for music, dancing, reading, languages, elocution and similar subjects.
  - (28) Stores selling convenience goods, including food products, hardware, newspapers, magazines, drugs, variety items, apparel, beer and liquor.
  - (29) Essential services.
  - (30) Accessory uses.
  - (31) Semipublic and public uses. **[Added 5-3-2011]**
- D. Minimum lot area: 50,000 square feet.
  - E. Minimum lot width: 200 feet.
  - F. Maximum lot coverage by buildings: 45%.
  - G. Minimum front yard setback:
    - (1) Thirty feet if no parking lot is in front of the building.
    - (2) Fifty feet if a parking lot is in front of the building.
  - H. Minimum side yard setback:
    - (1) Twenty feet adjacent to nonresidential zones.
    - (2) One hundred feet adjacent to any residential zone or use.
  - I. Minimum rear yard setback: 50 feet.



- J. Maximum building height: 35 feet.
- K. Multifamily dwellings (consisting of three or more dwelling units) shall be subject to the following restrictions: **[Added 2-23-2015]**
- (1) Minimum lot width: 200 feet.
  - (2) Minimum lot square footage: 50,000 square feet.
  - (3) Maximum lot coverage by buildings, includes garages: 35%.
  - (4) Minimum side yard setbacks:
    - (a) Adjacent to nonresidential zones: 20 feet.
    - (b) When a lot in a commercial district abuts to a residential district: 50 feet. A greenbelt (open space) shall serve as a buffer.
  - (5) Minimum front yard setback: 60 feet.
  - (6) Minimum rear yard setback: 50 feet.
  - (7) Maximum height: 35 feet.
  - (8) Minimum floor area per dwelling unit:
    - (a) One-bedroom unit: 675 square feet.
    - (b) Two-bedroom unit: 850 square feet.
    - (c) Three-bedroom unit 1,000 square feet.
    - (d) When any units are more than 3 bedrooms, the minimum square footage shall be determined at the Planning Board's discretion.
    - (e) No more than 20% of the total units within a multifamily dwelling development shall be three-bedroom units.
    - (f) All stairways to the second floor shall be located inside the building.
  - (9) Maximum building length: 75 feet. The wall for a structure or parallel walls of adjacent structures shall not continue in the same place for a length of more than 25 feet without an offset of at least 4 feet.
  - (10) Minimum space between buildings: 25 feet.
  - (11) Building grouping or cluster and access. Each group or cluster shall have access to a public or private road. If there are more than 12 dwelling units, direct access must be provided to a public road. Within a group or cluster, each dwelling unit is accessible by means of a private road or driveway. Standards of

this road shall meet Planning Board specifications. If there are more than 50 dwelling units, the Planning Board may require additional access to a public road.

- (12) Sanitary sewer systems.
  - (a) No private sanitary sewer systems allowed.
  - (b) If public sewers, the developer shall complete a downstream sewer capacity analysis.
- (13) Planted buffer strip between parking area or accessway and the adjoining property.
- (14) No asphalt to the property line:
  - (a) Side line: 10 feet.
  - (b) Rear yard: 20 feet.
- (15) Storage area: 200 cubic feet for each dwelling unit.
- (16) Every building shall be provided with garbage and refuse storage and collection areas enclosed and screened from view and away from the front of the buildings.
- (17) Every structure shall have a minimum setback of 15 feet from all interior roads, driveways and parking areas. The entire area of a multifamily development not improved for driveways, parking areas or covered by buildings or walkways shall be landscaped and properly maintained at all times.
- (18) Parking.
  - (a) Parking areas shall be subject to site plan review.
  - (b) No driveways along the property line.
  - (c) Minimum parking spaces: three parking spaces per unit.
- (19) Cellar occupancy prohibited.
- (20) All multifamily dwelling projects shall be subject to Planning Board review.

L. Also see Article **VI**, General Regulations, and Article **VII**, Supplemental Regulations.

#### M. Permitted by Special Use

##### Small Retail Business/Businesses in Conjunction with Small Contractor Shop

(1) Subject to all of the following listed requirements and restrictions:

- a) All general setback, area, height, width and depth restrictions found in Section 247-12 applies.
- b) Small Retail Businesses must constitute a minimum of 2,500 square feet of the floor space of the Primary Building of the total Small Business.
- c) Retail Space must be in front of Primary Building and separated from the Contractor Shop with a permanent wall.

- d) If the Contractor Shop has a retail business related to the Contractor Shop, all or part of the required 2,500 square feet of retail space can be utilized by that retail business.
- e) Restroom Facility must be made available for Retail Shop Owner and or Employee use.
- f) Retail Space must be aggressively advertised/promoted by use of traditional methods such as Signs, Media and Internet.
- g) No outside storage of inventory, equipment or other materials used in conjunction with the Small Contractor Shop.
- h) No outdoor overnight parking of Small Contractor Shop Vehicles and or Equipment.
- i) Adequate paved parking in front of the Small Retail Shop/Shops must be provided for Small Retail Shop employees and customers.
- j) Adequate paved parking must be provided for Small Contractor Shop employees and customers.
- k) Site Plan Review is required per Section 245-54 of the Town Zoning Code
  - i. Environmental Review (SEQR) is required per Section 247-54 of the Town Zoning Code.
  - ii. Public Hearing is required per Section 247-54 of the Town Zoning Code.
  - 400' notification
- l) A Special Use Permit issued by the Planning Board is required upon approval of the Site Plan and is subject to an annual review and renewal by the Planning Board. Planning Board Review will be undertaken to insure that all above listed provisions are being adhered to. The Planning Board will have discretion to revoke the Special Use Permit due to noncompliance and establish a time frame to correct the violation/violations.

**AMEND SECTION 247-10E TO INCLUDE THE NEW SECTION 247-10E (1) "DRIVEWAY MINIMUM SETBACK"**

**§ 247-10 R1 District: Low-Density Residential.  
[Amended 12-1-1992]**

A. Uses permitted by right:

- (1) Farms, limited agriculture and unlimited agriculture (excluding public stables).
- (2) Home occupations as permitted by § **247-39**.
- (3) Single-family detached residences limited to one residence per building lot (excluding mobile homes and mobile home parks).
- (4) Private stables in conjunction with principle residences subject to the following restrictions:
  - (a) No stable shall be less than 250 feet from the street line and less than 100 feet from the side and rear lot lines.
  - (b) No storage of manure or odor-producing substance shall be permitted within 250 feet from the street line and 100 feet from the side and rear lot lines.
  - (c) See also restrictions in § **247-40**, Livestock and livestock buildings and § **247-41**, Domestic animals and livestock.
- (5) Accessory structure in conjunction with a principal residence as permitted by § **247-34**. [**Amended 2-4-2003**]
- (6) Outdoor recreational uses, including tennis courts, parks, golf courses and rod and gun clubs. See Article **VI** for special requirements.

B. Uses permitted by special exception:

- (1) Public uses.
- (2) Semipublic uses.
- (3) Clubs, lodges and meeting halls.

C. Minimum lot area: [**Amended 8-24-1993; 8-2-2005; 4-4-2006**]

- (1) Single-family with sewers: 31,250 square feet with a minimum width of 125 feet and a minimum depth of 250 feet.
- (2) Single-family without sewers: One acre with a minimum width of 125 feet and a minimum depth of 250 feet.

- (3) Wetlands, wetland buffer areas, ponds (both retention and detention) and easement areas are excluded in calculating minimum square foot, lot width and lot depth requirements.
- (4) Lot width measurement: 125 feet measured from side lot line to side lot line following the street line and 125 feet measured using the shortest distance from side lot line to side lot line at the minimum front yard setback line.
- D. Minimum and maximum front yard setbacks: **[Amended 2-4-2003; 7-5-2005]**
  - (1) Minimum front yard setback of 75 feet for main structures, 100 feet for detached garages. See § **247-34** for accessory structures.
  - (2) Exception for minimum front yard setback. Where the front setbacks have been previously established by existing structures, the required minimum front yard setback shall be determined by averaging the front setback for all principal structures located within 400 feet from either side of the property.
  - (3) Maximum front yard setback of 250 feet for main structures.
- E. Minimum side yard setback: 15 feet for dwelling and garages. See § **247-34** for accessory structures. **[Amended 2-4-2003]**

(1) Driveway Minimum Side Yard Setback.

a) A minimum side yard setback of five feet (5') is required for all driveways. The minimum side yard setback for driveways is measured from the edge of the driveway to the nearest property line.

b) The intent of the minimum driveway setback is as follows:

i. To allow for orderly snow removal and maintenances of driveway without impacting adjacent property.

ii. "Sharing" a driveway with an adjacent property owner will no longer be an option.

c) A drawing depicting the location, width and distance to nearest property line must be presented to the Town Building Inspector/Code Enforcement Office prior to issuance of a Curb Cut Permit and or a Building Permit.

- F. Minimum rear yard setback: 50 feet for main structure; 15 feet for detached garage. See § **247-34** for accessory structures. **[Amended 2-4-2003]**
- G. Maximum height restrictions:
  - (1) Dwellings: 35 feet.
  - (2) Detached garages: 20 feet (not to exceed height of primary structure).
  - (3) See § **247-34** for accessory structures. **[Amended 2-4-2003]**
- H. Minimum size of primary dwellings: **[Amended 8-24-1993]**
  - (1) One-story dwelling: 1,000 square feet living area.

- (2) One-and-one-half-story dwelling: 1,000 square feet living area.
- (3) Two-story dwelling: 1,200 square feet living area.
- I. Maximum size of detached or attached garage shall be no more than 50% of the floor area of the primary structure, not to exceed 1,200 square feet. Only one garage is allowed per building lot. **[Amended 2-4-2003]**
- J. Structures used in customary farming. **[Amended 2-4-2003; 6-4-1996 by L.L. No. 1-1996; 6-3-2008]**
- (1) Customary farm and/or agricultural buildings on lots (parcels) of seven acres and over may be allowed for customary farming and/or agriculture use.
- K. Also see Article **VI**, General Regulations, and Article **VII**, Supplemental Regulations.
- L. Commercial vehicles, other than pickup trucks, weighing in excess of 10,000 pounds GVW shall not be parked on a less than 1 1/2 acre residentially zoned lot. **[Added 8-21-2001; amended 12-2-2003]**

**AMEND SECTION 247-11E TO INCLUDE THE NEW SECTION 247-11E(1) "DRIVEWAY MINIMUM SETBACK**

**§ 247-11 R2 District: Medium-Density Residential.  
[Amended 12-1-1992]**

A. Uses permitted by right:

- (1) Home occupations as permitted by § **247-39**.
- (2) Single-family detached residences or one two-family residence on one building lot (excluding mobile homes and mobile home parks).
- (3) Farms, limited agriculture and unlimited agriculture (excluding public stables).
- (4) Private stables in conjunction with principal residences subject to the following restrictions:
  - (a) No stable shall be less than 250 feet from the street line and less than 100 feet from the side and rear lot lines.
  - (b) No storage of manure or odor-producing substance shall be permitted within 250 feet of the street line and 100 feet from the side and rear lot lines.
  - (c) See also restrictions in § **247-41**, Domestic animals and livestock.
- (5) Accessory structure in conjunction with a principal residence as permitted by § **247-34**. **[Amended 2-4-2003]**
- (6) Outdoor recreational uses, including tennis courts, parks, golf courses and rod and gun clubs. See Article **VI** for special requirements.

B. Uses permitted by special exception:

- (1) Public uses.
- (2) Semipublic uses.
- (3) Clubs, lodges and meeting halls.
- (4) Two-family and multiple-family dwellings (see Subsection **K** for requirements).

C. Minimum lot area: **[Amended 8-24-1993; 8-2-2005; 4-4-2006]**

- (1) Single-family with sewer: 25,000 square feet with a minimum width of 100 feet and minimum depth of 250 feet.
- (2) Single-family without sewer: one acre with a minimum width of 100 feet and minimum depth of 250 feet.

- (3) Two-family/duplex with sewer: 50,000 square feet with a minimum width of 200 feet and minimum depth of 250 feet.
- (4) Two-family/duplex without sewer: two acres with a minimum width of 200 feet and a minimum depth of 250 feet.
- (5) Wetlands, wetland buffer areas, ponds (both retention and detention) and easement areas are excluded in calculating minimum square foot, lot width and lot depth requirements.
- (6) Lot width measurement: 100 feet measured from side lot line to side lot line following the street line and 100 feet measured using the shortest distance from side lot line to side lot line at the minimum front yard setback line.

D. Minimum and maximum front yard setbacks: **[Amended 2-4-2003; 7-5-2005]**

- (1) Minimum front yard setback of 60 feet for main structures, 100 feet for detached garages. See § 247-34 for accessory structures.
- (2) Exception for minimum front yard setback. Where the front setbacks have been previously established by existing structures, the required minimum front yard setback shall be determined by averaging the front setback for all principal structures located within 400 feet from either side of the property.
- (3) Maximum front yard setback of 250 feet for main structures.

E. Minimum side yard setback: 15 feet for dwelling and garages. See § 247-34 for accessory structures. **[Amended 2-4-2003]**

(1) Driveway Minimum Side Yard Setback.

a) A minimum side yard setback of five feet (5') is required for all driveways. The minimum side yard setback for driveways is measured from the edge of the driveway to the nearest property line.

b) The intent of the minimum driveway setback is as follows:

i. To allow for orderly snow removal and maintenances of driveway without impacting adjacent property.

ii. "Sharing" a driveway with an adjacent property owner will no longer be an option.

c) A drawing depicting the location, width and distance to nearest property line must be presented to the Town Building Inspector/Code Enforcement Office prior to issuance of a Curb Cut Permit and or a Building Permit.

F. Minimum rear yard setback: 50 feet for primary structure; 15 feet for detached garage. See § 247-34 for accessory structures. **[Amended 2-4-2003]**

G. Maximum height:

- (1) Dwelling: 35 feet.
- (2) Detached garage: 20 feet but not to exceed the height of the primary structure. **[Amended 2-4-2003]**



(3) See § **247-34** for accessory structures. [**Added 2-4-2003**]

H. Minimum size of primary dwellings: [**Amended 8-24-1993**]

(1) One-story dwellings: 1,000 square feet living area.

(2) One-and-one-half story dwellings: 1,000 square feet living area.

(3) Two-story dwellings: 1,200 square feet living area.

(4) Two-family/duplex: 1,000 square feet living area per unit.

I. Maximum size of detached or attached garages shall be no more than 50% of the floor area of the primary structure, not to exceed 1,200 square feet. Only one garage is allowed per building lot. [**Amended 2-4-2003**]

J. Structures used in customary farming. [**Amended 2-4-2003; 6-3-2008**]

(1) Customary farm and/or agricultural buildings on lots (parcels) of seven acres and over may be allowed for customary farming and/or agriculture use.

K. Multiple-family dwellings (consisting of three- or four-family dwelling units) shall be subject to the following restrictions: [**Amended 8-24-1993; 6-4-1996 by L.L. No. 1-1996; 9-3-1996**]

(1) Maximum four dwelling units per structure.

(2) Minimum (of record or planning) lot area for a three-dwelling-unit multifamily building: 75,000 square feet immediately contiguous to footprint of structure with a minimum width of 300 feet and a minimum depth of 250 feet if the lot of record or planning lot is served by public sewers. If not served by public sewers, a minimum of three acres is required. (NOTE: Wetlands are excluded in calculating minimum square foot requirements.)

(3) Minimum (of record or planning) lot area for a four-dwelling-unit multifamily building: 100,000 square feet immediately contiguous to footprint of structure with a minimum width of 400 feet and a minimum depth of 250 feet if the lot of record or planning lot is served by public sewers. If not served by public sewers, a minimum of four acres is required. (NOTE: Wetlands are excluded in calculating minimum square foot requirements per dwelling unit.)

(4) Of record or planning lot width is measured perpendicular to the side lot line of recorded or planning lot at the street/road and/or driveway line except for cul-de-sac layouts which shall meet the minimum width requirements at the building line.

(5) Minimum front yard setback for all buildings and/or structures, with the exception of accessory structures, is 60 feet as measured to the front lot line of the recorded or planning lot.

(6) Minimum side yard setback for all buildings/structures is 30 feet as measured to the side lot lines of the recorded or planning lot.

- (7) Minimum rear yard setback for all buildings/structures, except accessory structures, is 50 feet as measured to the rear line of the recorded or planning lot.
  - (8) Maximum recorded or planning lot coverage with buildings and/or structures is 15% of recorded or planning lot area.
  - (9) Maximum building height: 35 feet.
  - (10) Minimum floor area per dwelling unit: 900 square feet, excluding garages, accessory structures and porches.
  - (11) Minimum of four parking spaces per dwelling unit, including allotted spaces in a garage.
  - (12) Maximum garage size: establish via site review.
  - (13) Accessory structures.
    - (a) One accessory structure may be allowed per dwelling unit subject to site review. (Intent, i.e.: If association takes care of grounds, none required. If dwelling units are such an exceptional size that a large garage area could be provided and still blend in, none required. The square foot area allowed per accessory structure could be accumulated to allow for a community storage/clubhouse structure.) The following setbacks are recommended for accessory-type structures:
      - [1] Front yard: 100 feet.
      - [2] Side yard: 30 feet.
      - [3] Back yard: 30 feet.
    - (b) Size shall be determined by site review (maximum 600 square feet).
  - (14) Handicapped access shall meet New York State Uniform Fire Prevention and Building Code standards.
  - (15) All utilities and roadways (dedicated and private) shall meet Town standards as provided in the Code of the Town of Pendleton, Chapter **220**, Subdivision of Land, Article **V**.
  - (16) Multiple-family dwelling proposals shall be treated as subdivisions relative to the property, structures and/or buildings subject to site review, both of which are to be reviewed by the Planning Board of the Town of Pendleton. Property proposed for said dwellings are subject to review under the provisions of the Code of the Town of Pendleton, Chapter **220**, Subdivision of Land.
  - (17) Upon completion of final plat review by the Planning Board, a recommendation will be forwarded to the Town Board for consideration in granting or denying a special exception permit which is required prior to the issuance of a building permit.
- L. Also see Article **VI**, General Regulations, and Article **VII**, Supplemental Regulations. [**Added 8-24-1994**]

M. Commercial vehicles, other than pickup trucks, weighing in excess of 10,000 pounds GVW shall not be parked on a less than 1 1/2 acre residentially zoned lot. [**Added 8-21-2001; amended 12-2003**]