

TOWN OF PENDLETON

Local Law No. __ of 2023

A Local Law to Amend the Code of the Town of Pendleton

Be it hereby enacted by the Town Board of the Town of Pendleton as follows:

Section 1: Section 247-73(C) of the Code of the Town of Pendleton (“Code”) is hereby AMENDED to read in its entirety as follows:

Code Enforcement Officer/Building Inspector and inspectors.

- (1) The office of Code Enforcement Officer/Building Inspector is hereby created. The Code Enforcement Officer/Building Inspector shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this Chapter and shall have the following powers and duties:
 - (a) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
 - (b) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and to include in such permits and certificates terms and conditions as the Code Enforcement Officer/Building Inspector may determine to be appropriate;
 - (c) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this section;
 - (d) To issue stop-work orders;
 - (e) To review and investigate complaints;
 - (f) To issue compliance orders pursuant to § 247-73(O)(1) of this chapter;
 - (g) To maintain records;
 - (h) To collect fees as set by the Town Board;
 - (i) To pursue administrative enforcement actions and proceedings;
 - (j) In consultation with the Town Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this section, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this section; and
 - (k) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer/Building Inspector by this section.
- (2) The Code Enforcement Officer/Building Inspector shall be appointed by the Town Board. The Code Enforcement Officer/Building Inspector shall possess background experience

related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and any other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer/Building Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

- (3) In the event that the Code Enforcement Officer/Building Inspector is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer/Building Inspector. The Acting Code Enforcement Officer/Building Inspector shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer/Building Inspector by this section.
- (4) One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer/Building Inspector and to assist the Code Enforcement Officer/Building Inspector in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer/Building Inspector by this section. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and any other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- (5) The Code Enforcement Officer/Building Inspector may contract directly with an individual or business entity to perform “building safety inspector enforcement activities” or “code enforcement official enforcement activities” (as those terms are defined in 19 NYCRR Part 1208) on behalf of the Code Enforcement Officer/Building Inspector, subject to the following conditions:
 - (a) Where the Town contracts directly with an individual or a business entity to perform any building safety inspector enforcement activities on behalf of the Town, the Town shall satisfy itself that each individual performing such contracted-for building safety inspector enforcement activities has qualifications comparable to those of a person who has met the requirements of 19 NYCRR Part 1208 applicable to building safety inspectors.
 - (b) Where the Town contracts directly with an individual or a business entity to perform any code enforcement official enforcement activities on behalf of the Town, the Town shall satisfy itself that each individual performing such contracted-for code enforcement official enforcement activities has qualifications comparable to those of a person who has met the requirements of 19 NYCRR Part 1208 applicable to code enforcement officials.
 - (c) No agreement shall be made by which building permits, certificates of occupancy, temporary certificates of occupancy, certificates of compliance, orders, appearance tickets, or other similar documents related to administration and enforcement of the

Uniform Code, Energy Code, and/or this Chapter are issued by other than public officers of the Town.

- (d) “Special inspections” (as defined in the Uniform Code), including but not limited to, electrical inspections, elevator inspections, welding inspections, and smoke control system inspections are not considered to be building safety inspector enforcement activities or code enforcement official enforcement activities. Accordingly, a special inspector performing a special inspection is not performing a building safety inspector enforcement activity or a code enforcement official enforcement activity and is not required to have qualifications comparable to those of a person who has met the requirements of 19 NYCRR Part 1208. However, the Town shall not accept or rely upon a special inspection unless the person performing such special inspection:

[1] Is a qualified person employed or retained by an agency that has been approved by the Town; and

[2] Has been approved by the Town as having the competence necessary to inspect a particular type of construction requiring such special inspection.

- (6) The compensation for the Code Enforcement Officer/Building Inspector and inspectors shall be fixed from time to time by the Town Board.

Section 2: Section 247-73(D)(2) of the Code is hereby AMENDED to read in its entirety as follows:

Exemptions. No building permit shall be required for work in any of the following categories:

- (a) Construction or installation of one-story detached structures associated with single-family detached, two-family, or multifamily residences which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 50 square feet;
- (b) Installation of swings and other playground equipment associated with a single-family detached, two-family, or multifamily residence;
- (c) Installation of swimming pools associated with a single-family detached, two-family, or multifamily residence where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- (d) Construction of retaining walls, unless such walls support a surcharge or impound Class I, II, or IIIA liquids;
- (e) Construction of temporary motion picture, television and theater stage sets and scenery;
- (f) Installation of window awnings supported by an exterior wall of a single-family detached, two-family, or multifamily residence;
- (g) Installation of partitions or movable cases less than five feet nine inches in height;
- (h) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (i) Installation of listed portable electrical, plumbing, heating, ventilation, or cooling equipment or appliances;
- (j) Replacement of any equipment, provided that the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (k) repairs, provided that the work does not have an impact on fire and life safety, such as:
 - [1] any part of the structural system;
 - [2] the required means of egress; or
 - [3] the fire protection system or the removal from service of any part of the fire protection system for any period of time.

Section 3: Section 247-73(D)(4) of the Code is hereby AMENDED to read in its entirety as follows:

Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer/Building Inspector. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer/Building Inspector deems sufficient to permit a determination by him or her that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (a) A description of the proposed work;
- (b) The Tax Map number and the street address of the premises where the work is to be performed;
- (c) A site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site; distances from lot lines; the established street grades and the proposed finished grades; and, as applicable, flood hazard areas, floodways, and design flood elevations;
- (d) The occupancy classification of any affected building or structure;
- (e) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (f) At least two sets of construction documents (drawings and/or specifications) which:
 - [1] Define the scope of the proposed work;
 - [2] Are prepared by a New York State registered architect or licensed and registered professional engineer where so required by the Education Law and 19 NYCRR Part 1203;
 - [3] Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - [4] Show the location, construction, size, and character of all portions of the means of egress;
 - [5] Show a representation of the building thermal envelope;
 - [6] Provide structural information including but not limited to braced wall designs; the size, section, and relative locations of structural members; design loads; and other pertinent structural information;
 - [7] Show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;
 - [8] Include a written statement that the proposed work will comply with the Uniform Code and the Energy Code; and
 - [9] Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

- (g) Any other information and documentation that the Code Enforcement Officer/Building Inspector may deem necessary to allow for a determination that the proposed work conforms to the Uniform Code, the Energy Code, and this chapter.

Section 4: Section 247-73(E) of the Code is hereby AMENDED to read in its entirety as follows:

Construction inspections.

- (1) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer/Building Inspector or by an inspector authorized by the Code Enforcement Officer/Building Inspector. The permit holder shall notify the Code Enforcement Officer/Building Inspector when any element of work described in Subsection E(2) of this section is ready for inspection. Inspections conducted pursuant to this section shall be done either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the elements of the construction process conform with the applicable requirements of the Code. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed.

- (2) Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
 - (a) Work site, prior to the issuance of a building permit;
 - (b) Footing and foundation;
 - (c) Preparation for concrete slab;
 - (d) Framing;
 - (e) Building systems, including underground and rough-in;
 - (f) Fire-resistant construction;
 - (g) Fire-resistant penetrations;
 - (h) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (i) Compliance with the Energy Code, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, high-performance lighting, and controls;
 - (j) Installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
 - (k) A final inspection after all work authorized by the building permit has been completed.

Section 5: Section 247-73(G)(2) of the Code is hereby AMENDED to read in its entirety as follows:

Issuance of certificate of occupancy/certificate of compliance.

The Code Enforcement Officer/Building Inspector shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of this Chapter, the Uniform Code, and the Energy Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or sub-classification to another complies with all applicable provisions of the this Chapter, the Uniform Code, and the Energy Code. The Code Enforcement Officer/Building Inspector or an inspector authorized by the Code Enforcement Officer/Building Inspector shall inspect the building, structure, or work prior to the issuance of a certificate of occupancy/certificate of compliance.

- (a) In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer/Building Inspector, at the expense of the applicant for the certificate of occupancy/certificate of compliance, shall be provided to the Code Enforcement Officer/Building Inspector prior to issuance of the certificate of occupancy/certificate of compliance who shall determine whether such document(s) adequately demonstrate compliance with the applicable provisions of this Chapter, the Uniform Code, and the Energy Code:
 - (1) Where applicable, a written statement of structural observations and/or a final report of special inspections required by any applicable provisions of the Uniform Code, the information in which shall be determined by the Code Enforcement Officer/Building Inspector to adequately demonstrate compliance with the applicable provision of the Uniform Code;
 - (2) Where applicable, flood hazard certifications required by any applicable provisions of the Uniform Code, the information in which shall be determined by the Code Enforcement Officer/Building Inspector to adequately demonstrate compliance with the applicable provision of the Uniform Code;
 - (3) Where applicable, a written statement of the results of tests performed to show compliance with the Energy Code, the information in which shall be determined by the Code Enforcement Officer/Building Inspector to adequately demonstrate compliance with the applicable provision of the Energy Code; and
 - (4) Where applicable, verification of the affixation of the appropriate seals, insignias, and manufacturers' data plates as required for factory manufactured buildings and/or manufactured homes.

Section 6: Section 247-73(I) of the Code is hereby AMENDED to read in its entirety as follows:

Unsafe buildings and structures. Unsafe structures and equipment and conditions of imminent danger in the Town shall be identified and addressed in accordance with the procedures established by § 247-35 of this chapter, as now in effect or as hereafter amended from time to time.

Section 7: Section 247-73(J) of the Code is hereby AMENDED to read in its entirety as follows:

Operating permits.

(1) Definitions. As used in this section, the following terms shall have the meanings indicated:

- (a) **PARKING GARAGE:** Any building or structure, or part thereof, in which any structural level, or part thereof is used for parking or storage of motor vehicles, excluding:
 - [1] buildings in which the only level used for parking or storage of motor vehicles is entirely supported on soil or engineered fill, and not supported on structural framing;
 - [2] an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
 - [3] a townhouse unit with attached parking exclusively for such unit.

(2) Operating permit required. Operating permits shall be required for conducting the activities or using the categories of buildings listed below, which shall be obtained prior to commencing such activity or operation:

- (a) Manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in applicable Maximum Allowable Quantity tables in the Fire Code of New York State (“FCNYS”) and incorporated by reference in 19 NYCRR § 1225.1;
- (b) Energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.
- (c) Buildings containing one or more assembly areas;
- (d) Outdoor events where the planned attendance exceeds 1,000 persons;
- (e) Facilities that store, handle or use hazardous production materials;
- (f) Parking garages;
- (g) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board;
- (h) Other processes or activities or for operating any type of building, structure, or facility, as determined by resolution adopted by the Town Board; and
- (i) Buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS listed and described in section 1203.3 (g)(1)(ii) as follows:

- [1] Chapter 22, “Combustible Dust-Producing Operations.” Facilities where the operation produces combustible dust;
- [2] Chapter 24, “Flammable Finishes.” Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
- [3] Chapter 25, “Fruit and Crop Ripening.” Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
- [4] Chapter 26, “Fumigation and Insecticidal Fogging.” Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;
- [5] Chapter 31, “Tents, Temporary Special Event Structures, and Other Membrane Structures.”
- [6] Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;
- [7] Chapter 32, “High-Piled Combustible Storage.” High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;
- [8] Chapter 34, “Tire Rebuilding and Tire Storage.” Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;
- [9] Chapter 35, “Welding and Other Hot Work.” Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;
- [10] Chapter 40, “Sugarhouse Alternative Activity Provisions.” Conducting an alternative activity at a sugarhouse;
- [11] Chapter 56, “Explosives and Fireworks.” Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;
- [12] Section 307, “Open Burning, Recreational Fires and Portable Outdoor Fireplaces.” Conducting open burning, not including recreational fires and portable outdoor fireplaces;
- [13] Section 308, “Open Flames.” Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
- [14] Section 319, “Mobile Food Preparation Vehicles.” Operating a mobile food preparation vehicle.

(3) Applications for operating permits. Any person who proposes to undertake the types of activities or operate the types of buildings listed above in subsection (J)(2), [and not otherwise exempted], shall obtain an operating permit prior to commencing such activity

or operation. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer/Building Inspector. Such application shall include such information as the Code Enforcement Officer/Building Inspector deems sufficient to permit a determination by him or her that quantities, materials, and activities conform to the requirements of the Uniform Code. To verify conformance, tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer/Building Inspector, at the expense of the applicant.

- (4) Inspections. The Code Enforcement Officer/Building Inspector or an inspector authorized by the Code Enforcement Officer/Building Inspector shall inspect the subject premises prior to the issuance of an operating permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer/Building Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer/Building Inspector that the premises conform with the applicable requirements of the Uniform Code and this Chapter. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fails to comply with either or both of the Uniform Code and this Chapter, including a citation to the specific provision or provisions that have not been met.
- (5) Multiple activities. In any circumstance in which more than one activity listed in Subsection J(2) above is to be conducted at a location, the Code Enforcement Officer/Building Inspector may require a separate operating permit for each such activity, or the Code Enforcement Officer/Building Inspector may, in his or her discretion, issue a single operating permit to apply to all such activities.
- (6) Duration of operating permits. Operating permits shall be issued for a specific period of time. The effective period of each operating permit shall be specified therein. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer/Building Inspector, payment of the applicable fee, and approval of such application by the Code Enforcement Officer/Building Inspector. The duration of an operating permit shall not exceed:
 - (a) 180 days for tents, special event structures, and other membrane structures;
 - (b) 60 days for alternative activities at a sugarhouse;
 - (c) three years for the activities, structures, and operations identified in subsection (J)(2)(h), above; and
 - (d) one year for all other activities, structures, and operations identified in subsection (J)(2), above.

- (7) Revocation or suspension of operating permits. If the Code Enforcement Officer/Building Inspector determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code or this Chapter, such operating permit shall be revoked or suspended.
- (8) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 247-73P of this Chapter (Fees) must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit

Section 8: Section 247-73(K) of the Code is hereby AMENDED to read in its entirety as follows:

Fire safety and property maintenance inspections.

- (1) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer/Building Inspector or an inspector designated by the Code Enforcement Officer/Building Inspector either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the premises conform with the applicable requirements of the Uniform Code and this Chapter. Should a remote inspection not afford the Code Enforcement Officer/Building Inspector sufficient information to make a determination, an in-person inspection shall be performed. Such inspections shall be completed at the following intervals:
 - (a) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months;
 - (b) Fire safety and property maintenance inspections of public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining or recreational facilities shall be performed at least once every 12 months; and
 - (c) Fire safety and property maintenance inspections of all multifamily residences not included in this Subsection K(1), and all nonresidential buildings, structures, uses, and occupancies not included in this Subsection K(1), shall be performed at least once every 36 months.
- (2) The Code Enforcement Officer/Building Inspector or an inspector designated by the Code Enforcement Officer/Building Inspector shall, after each inspection, note the premises as satisfactory, or the owner and operator shall be notified as to the manner in which the premises fails to comply with the Uniform Code, including a citation to the specific provision or provisions of the Uniform Code or this Chapter that have not been met.
- (3) Nothing in this Section 247-73(K) shall require or be construed to require regular, periodic inspections of (A) owner-occupied single-family detached and two-family residences, or (B) agricultural buildings used directly and solely for agricultural purposes, provided, however, that this shall not be a limitation on inspections conducted at the invitation of the owner or occupant, or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.

- (4) Inspections permitted. In addition to the inspections required by Subsection K(1) above, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer/Building Inspector or an inspector designated by the Code Enforcement Officer/Building Inspector at any time upon:
- (a) The request of the owner of the property to be inspected or an authorized agent of such owner;
 - (b) Receipt by the Code Enforcement Officer/Building Inspector of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
 - (c) Receipt by the Code Enforcement Officer/Building Inspector of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this Subsection K(2) shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.
- (5) In the case of a building referred to in subsection (K)(1)(b), the Code Enforcement Officer/Building Inspector may accept an inspection performed by the New York State Office of Fire Prevention and Control (OFPC) or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of an inspection performed by the Code Enforcement Officer/Building Inspector or an individual or entity contracted by the Code Enforcement Officer/Building Inspector, provided that:
- (a) The Code Enforcement Officer/Building Inspector is satisfied that the individual performing such inspection satisfies the requirements set forth in section 1203.2 (e)(1) or 1203.2 (e)(2);
 - (b) The Code Enforcement Officer/Building Inspector is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;
 - (c) Such inspections are performed no less frequently than once a year;
 - (d) A true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer/Building Inspector; and
 - (e) Upon receipt of each such report, the Code Enforcement Officer/Building Inspector takes the appropriate action prescribed by subsection (K)(2), above, or verifies the authorized entity performing the inspection has taken the appropriate action consistent with subsection (K)(2), above.

(6) OFPC inspections. Nothing in this § 247-73K or in any other provision of this Chapter shall supersede, limit, or impair the powers, duties, and responsibilities of OFPC and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary:

- (a) The Code Enforcement Officer/Building Inspector shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly as required in this § 247-73K if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every 12 months;
- (b) The Code Enforcement Officer/Building Inspector shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory as required in this this § 247-73K if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every 12 months;
- (c) The Code Enforcement Officer/Building Inspector shall not perform fire safety and property maintenance inspections of a multifamily residence not included in this § 247-73K if OFPC performs fire safety and property maintenance inspections of such multifamily residence at intervals not exceeding the interval specified in Subsection K(1)(c) above; and
- (d) The Code Enforcement Officer/Building Inspector shall not perform fire safety and property maintenance inspections of a nonresidential building, structure, use, or occupancy not included this § 247-73K if OFPC performs fire safety and property maintenance inspections of such nonresidential building, structure, use, or occupancy at intervals not exceeding the interval specified in Subsection K(1)(c) above.

(7) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 247-73P of this Chapter (Fees) must be paid prior to or at the time each inspection is performed pursuant to this section. This Subsection K(7) shall not apply to inspections performed by OFPC.

Section 9: Section 247-73(R) is hereby ADDED to the Code and shall read in its entirety as follows:

Climatic and Geographic Design Criteria.

[To discuss with Town Engineer/CEO]

Section 10: Section 247-73(O) of the Code is hereby AMENDED to read in its entirety as follows:

- (1) Enforcement; penalties for offenses. The Town is authorized to enforce the Uniform Code, Energy Code, and this Chapter, in the following ways, including but not limited to:
 - (a) Compliance orders.
 - (1) The Code Enforcement Officer/Building Inspector is authorized to order, in writing, the remedying of any condition or activity found to exist in, on, or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this Chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer/Building Inspector shall issue a compliance order. The compliance order shall:
 - a. Be in writing;
 - b. Be dated and signed by the Code Enforcement Officer/Building Inspector;
 - c. Specify the condition or activity that violates the Uniform Code, the Energy Code, or this Chapter;
 - d. Specify the provision or provisions of the Uniform Code, the Energy Code, or this section Chapter by the specified condition or activity;
 - e. Specify the period of time which the Code Enforcement Officer/Building Inspector deems to be reasonably necessary for achieving compliance, which in any case shall not be less than 30 days;
 - f. Direct that compliance be achieved within the specified period of time; and
 - g. State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.
 - (2) The Code Enforcement Officer/Building Inspector shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. A compliance order shall be served personally or by certified or registered mail within five (5) days of the date of the compliance order. For the purposes of this section: (1) if an order to remedy is served personally by any authorized means that requires more than one action by the person effecting service (such as service by “delivery and mail” similar to that authorized by CPLR 308(2)), the compliance order shall be deemed to be served on the date on which the last required action is taken; and (2) an order to remedy served by certified or registered mail shall be deemed to be served on the date it is mailed.
 - (3) The Code Enforcement Officer/Building Inspector shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting

in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

- (4) The compliance order shall state that the person or entity served with such compliance order shall: Begin to remedy the violations described in the compliance order to remedy immediately, or within some other specified period of time which may be less than 30 days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within 30 days of the date of such order to remedy; and/or to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by the Code Enforcement Officer/Building Inspector or by any other applicable statute, regulation, rule, local law or ordinance, and which the Enforcement Officer/Building Inspector may deem appropriate, during the period while such violations are being remedied.
- (b) Issuing notices of violation. The Code Enforcement Officer/Building Inspector and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code or this Chapter.
- (c) Issuing appearance tickets. The Code Enforcement Officer/Building Inspector and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code or this Chapter.
- (d) Issuing stop work orders.
- (e) Revoking or suspending building permits, operating permits, and/or certificates of occupancy/certificates of compliance pursuant to the procedures established in Chapter or pursuant to any other applicable statute, regulation, rule, local law or ordinance.
- (f) Commencing and prosecuting an appropriate action or proceeding to impose such criminal and/or civil sanctions as may be provided in any applicable statute, regulation, rule, local law or ordinance.
- (g) Condemning and/or placarding a building in accordance with the applicable provisions of the Uniform Code.
- (h) Taking any action authorized by the procedures for identifying and addressing unsafe structures and equipment as established in this Chapter or by any other applicable statute, regulation, rule, local law or ordinance.
- (i) Issuing orders to remedy violations of the Energy Code pursuant to subdivision (1) of section 11-108 of the Energy Law.

- (j) Civil actions. The civil penalties provided by this Subsection O(1)(j) shall be recoverable in an action instituted in the name of the Town.
- (1) Commencing and prosecuting an appropriate action or proceeding pursuant to that part of subdivision 2 of section 382 of the Executive Law that provides that any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the “construction” (as defined in subdivision 4 of section 372 of the Executive Law) of any building who shall knowingly violate any of the applicable provisions of the Uniform Code or any lawful order of a city, village, town, county, state agency or the Secretary of State made thereunder regarding standards for construction maintenance, or fire protection equipment and systems, shall be subject to a fine of not more than \$1,000 per day of violation, or imprisonment not exceeding one year, or both for the first 180 days, and for the following 180 days shall be punishable by a fine of no less than \$25 and not more than \$1,000 per day of violation or imprisonment not exceeding one year, or both and thereafter shall be punishable by a fine of no less than \$50 and not more than \$1,000 per day of violation or imprisonment not exceeding one year, or both.
 - (2) Commencing and prosecuting an appropriate action or proceeding pursuant to subdivision 3 of section 382 of the Executive Law which seeks, in a case where the construction or use of a building is in violation of any provision of the Uniform Code or any lawful order obtained thereunder, an order from a Justice of the Supreme Court, New York City civil court, a city court, district court, or county court directing the removal of the building or an abatement of the condition in violation of such provisions.
 - (3) Commencing and prosecuting an appropriate action or proceeding pursuant to subdivision 4 of section 382 of the Executive Law that provides that where a building has been altered in violation of any provision of the Uniform Code or any lawful order obtained thereunder, and such alteration impedes a person’s egress from such building during a fire or other emergency evacuation, the owner of such building who has knowledge of such alteration or should have had knowledge of such alteration shall be subject to a civil penalty of up to \$7,500.
 - (4) In addition to those penalties prescribed by state law, any person who violates any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer/Building Inspector pursuant to any provision of this Chapter, shall be liable for a civil penalty of not more than \$250 for each day or part thereof during which such violation continues.

- (k) Injunctive relief. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this Chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer/Building Inspector pursuant to any provision of this Chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any stop-work order, compliance order, or other order obtained under the Uniform Code, the Energy Code or this Chapter, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this Subsection O(1)(k) shall be commenced without the appropriate authorization from the Town Board.

Section 11: Repealer. All local laws and ordinances, or parts of such local laws or ordinances, inconsistent with the provisions contained in the Town Code adopted by this Local Law are hereby repealed as of the adoption and filing of this Local Law as set forth in Section 11; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of Pendleton which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

Section 12: Conflict. In the event of a conflict between this Local Law and any other Local Law of the Town, the provisions of this Local Law shall supersede and govern.

Section 13. Severability Clause. If any part of this Local Law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law. The Town Board of the Town of Pendleton hereby declares that it would have passed this Local Law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses, or phrases may be declared unconstitutional or invalid.

Section 14: Effective Date. This Local Law shall be effective immediately upon filing with the New York Secretary of State pursuant to the Municipal Home Rule Law.