

## 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.

#### § 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.