Chapter 210

ZONING

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[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor in 1926. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Zoning Appeals — See Ch. 55.
Building construction — See Ch. 74.
Environmental quality review — See Ch. 100.
Fences — See Ch. 105.
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ARTICLE I
Scope; Enforcement

§ 210-1. Objectives and scope.

In order to achieve the purposes hereinafter set forth, this chapter defines and establishes the rights, duties and limitations attendant upon the uses of lands and buildings in the Village, and prescribes procedures to be followed in the observance thereof. It shall be read and construed in combination with and not in lieu of all other pertinent and related laws and ordinances affecting the Village and the uses of lands and buildings therein, except that if there be a clear conflict between any provision of this chapter and that of any other ordinance of the Village, the provisions of this chapter shall control.

§ 210-2. Short title.

This chapter shall be known and may be cited as the "Zoning Ordinance."

§ 210-3. Purpose and interpretation.

A. It is the intent of the Village and the purpose of the Zoning Chapter:

(1) To guide its future growth and development in accordance with a plan of land use and population density that represents the most beneficial and convenient relationships among the residential, nonresidential and public areas within the Village, considering the suitability of each area for such uses as indicated by existing conditions, trends in population and mode of living, and future requirements within the Village and in relationship to areas outside thereof.

(2) To protect the character and the social and economic stability of all parts of the Village; to encourage the orderly and beneficial development of all parts of the Village, and to protect and conserve the value of land and buildings appropriate to the various districts established by this chapter.

(3) To promote the most beneficial relationship between the uses of land and building uses in relationship to the traffic capacity of the having particular regard for the potential amount and intensity of such land and buildings uses in relationship to the traffic capacity of the street system so as to avoid, minimize and reduce congestion in the streets; and to promote safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the Village.

(4) To provide adequate light, air and privacy; to secure safety from fire and other danger and to prevent overcrowding of the land and undue congestion of population.

(5) To enhance the appearance of the Village as a whole and in its parts.

(6) To bring about the gradual conformity of the uses of land and buildings throughout the Village to the chapter set forth herein, and to minimize conflicts among the uses of land and building.

(7) To provide a guide for public action in the orderly and efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the Village.

(8) To protect the open space environmental character of the Village and to provide for the continuation of existing recreational and open space uses in an efficient and economic manner.

(9) To enhance the commercial character of the commercial and business areas; to preserve and upgrade the commercial buildings considered architecturally unique; to encourage a variety of compatible land uses which can be integrated into the existing Pelham Manor business community; to assure that new commercial construction is compatible with existing development; to provide local employment opportunities; to make productive use of existing commercial and industrial facilities; to encourage pedestrian activity in commercial areas; to broaden commercial opportunities; to stabilize existing businesses; to ensure that adequate

buffers are provided between commercial and residential development; to help meet the needs of the community for business uses; to improve parking and traffic conditions; and to improve business area aesthetics. **[Added 9-25-2000 by L.L. No. 4-2000]**

B. The Zoning Chapter shall be further interpreted as follows:

(1) Minimum requirements: in their interpretation and application, the provisions of this chapter shall be held to be minimum requirements for the promotion of the health, safety, morals, convenience and general welfare.

(2) Provisions controlling: where this chapter imposes greater restrictions upon the use of buildings or land, or upon the height of buildings, or requires larger yards or other open spaces than are imposed or required by existing provisions of law or ordinance or by other rules, regulations or permits adopted or issued at any time, the provisions of this chapter shall control.

ARTICLE II
Enforcement

§ 210-4. Inspector of Buildings.

This chapter shall be enforced by the Inspector of Buildings appointed by the Board of Trustees. His duties and powers in the administration of this chapter shall be as provided in the building code, subject to such special provisions as may be prescribed by this chapter and by the Board of Trustees.

§ 210-5. Permits; certificates of occupancy. [Amended 9-25-2000 by L.L. No. 4-2000]

A. It shall not be lawful to construct, alter or enlarge a building or structure without first obtaining a permit from the Inspector of Buildings.

B. It shall not be lawful to make any alteration or alterations to a nonresidential building or structure that may cause a substantial change in the appearance of the building or structure without first obtaining a permit from the Inspector of Buildings.

C. It shall not be lawful to make any change in an existing use or occupancy of any building or land without first obtaining a certificate of occupancy from the Inspector of Buildings.

D. A building permit or demolition permit shall not be valid for more than 12 months from the date of issue unless substantial work thereunder has been actually commenced and is being duly prosecuted.

§ 210-6. Subdivision of land.

Where a lot is formed from part of a lot then already improved, the separation must be effected in such manner as not to impair any of the provisions of this chapter, whether related to the then existing improvement or to any proposed new improvement.

§ 210-7. Certificate of occupancy.

A. No certificate of occupancy shall be issued by the Inspector of Buildings for a building or structure unless the provisions of this chapter with respect to such building or structure have been complied with. Such certificate shall show what use or occupancy, if any, of the uncovered portions of the lot is included.

B. No such certificate shall be issued until a plot diagram showing accurately the size and exact location of all buildings and other structures, including subsurface structures, both new and previously existing that are to remain, shall have been filed. Such diagram shall be prepared and attested by a person holding a license as a land surveyor of the State of New York, in such form as required by the Inspector of Buildings. It shall be retained permanently in the files of the Village, or until replaced by a new plot diagram, similarly prepared, if and when alterations or new improvements are made.

C. No unimproved land shall be used or occupied for purposes of trade or industry of any kind, nor for the storage or parking of vehicles, nor for the storage of building or other materials unless a certificate of occupancy permitting such use or occupancy has been issued by the Inspector of Buildings.

D. The issuance of a certificate of occupancy by the Inspector of Buildings shall be presumptive evidence, with respect to the matters covered thereby, that the provisions of this chapter have been complied with.

§ 210-8. Penalties for offenses. [Amended 5-14-1979 by L.L. No. 1-1979; 2-10-1986 by L.L. 1-1986]

A. Any owner, lessee, contractor, agent or other person who uses or maintains, or causes to be used or maintained any building or premises or any part thereof in the Village for any purpose other than the uses permitted therefor in this chapter or who erects, enlarges, alters or maintains, or who causes to be erected, enlarged, altered or maintained, any building or any part thereof in the Village, except in conformity with the provisions of this chapter, or who uses or maintains, or causes to be used or maintained any building or any part thereof in the Village which has been erected, enlarged or altered other than in conformity with the provisions of this chapter, or who otherwise violates, or otherwise causes to be violated, any provision of this chapter, including without limitation any agent or any owner, lessee or other person who brings about or attempts to bring about a sale or lease of any building or any part thereof in the Village knowing that such a building or part thereof, or the proposed use thereof, is not in conformity with the provisions of this chapter shall thereby be guilty of a violation and, on conviction, shall be subject to penalties as follows:

(1) For conviction of a first offense, punishable by a fine not exceeding $350 or imprisonment not exceeding six months or both.

(2) For conviction of a second offense committed within five years of the first offense, punishable by a fine not less than $350 and not more than $700 or imprisonment not exceeding six months, or both.

(3) For conviction of a third or subsequent offense, all of which were committed within five years of the first offense, punishable by a fine not less than $700 and not more than $1,000 or imprisonment not exceeding six months, or both.

B. Violations of this chapter shall be deemed misdemeanors for purposes of conferring jurisdiction on courts and judicial officers, and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate, additional violation.

C. Any said violation of this chapter may also be enjoined pursuant to law.

D. The remedies provided for herein shall be cumulative and shall be in addition to any other remedies provided by law and may be pursued against each and every person responsible for any violation of this chapter.

ARTICLE III
Board of Appeals

§ 210-9. Appointment.

Pursuant to the Village Law, a Board of Appeals is hereby established. Such Board shall consist of five members, to be appointed by the Board of Trustees. Each member shall be appointed for a term of three years.

§ 210-10. Jurisdiction.

The Board of Appeals, in addition to the powers and duties prescribed in the Village Law, shall have power, in appropriate cases, after public notice and hearing and subject to such conditions and safeguards as may be specified in each case, to grant variances and to make special exceptions to the terms of this chapter in harmony with its general purpose and intent, as follows.

A. Permit the extension of a conforming use into a more restricted district when the boundary line divides a lot in a single ownership at the time of the passage of this chapter, but in no case for a distance greater than 30 feet.

B. Determine, in doubtful cases, whether a given use or occupancy is or is not intended to be included among those enumerated for a district.

C. Grant a permit wherever it is provided in this chapter or the building code that the approval of the Board of Appeals is required.

D. Grant a permit for a swimming pool as an accessory structure to a principal building used for single-family residence purposes for the exclusive use of the occupant of the said principal building and his family and nonpaying guests, upon a determination that such use is consistent with the public health, safety, morals and general welfare of the community, after taking into consideration the location and size of the plot, the site, the plans and detailed building plans of such swimming pool and any accessory buildings, showing dimensions, design, elevation, location and uses of all structures, drainage,

sewerage and sanitary facilities, fences, screening, planting and such other information, including the manner of operation, use and maintenance of such swimming pool as may be required by the Board of Appeals. Any permit granted by the Board of Appeals for such use may prescribe reasonable rules and regulations for the operation, maintenance and use of such swimming pool and accessory structures consistent with the public health, safety, morals and general welfare of the community.

E. Variances. **[Amended 2-10-2003 by L.L. No. 1-2003]**

(1) Use variances. The Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.

(a) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under the zoning regulations for the particular district where the property is located:

[1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

[2] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

[3] The requested use variance, if granted, will not alter the essential character of the neighborhood; and

[4] The alleged hardship has not been self-created.

(b) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(2) Area variances.

(a) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances as defined herein.

(b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider: whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; whether the benefit sought by the applicant can be achieved by some method, feasible for

the applicant to pursue, other than an area variance; whether the requested area variance is substantial; whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

F. No adjustment or variance shall be granted by the Board of Appeals nor shall any hearing be held which will affect existing zoning restrictions on any property where the lot lines of such property lie within 500 feet of the boundary line of the Village and any adjacent municipality unless the Clerk of the Village shall have notified the Clerk of the municipality lying within this prescribed area at least 10 days before the date of the public hearing concerning the nature of the adjustment or variance requested.

(1) Any agency of the adjacent municipality so notified may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the date of the public hearing. The advisory opinion so received shall be entered in the minutes of the public hearing.

G. In granting any adjustment or special permit, the Board of Appeals shall prescribe any conditions or safeguards applying thereto that may be necessary or desirable to ensure that the spirit of the chapter shall be observed.

§ 210-11. Rules.

The Board of Appeals may adopt, repeal or amend, from time to time, rules and regulations governing its procedure and the transaction of its business.

ARTICLE IV
Amendments

§ 210-12. Hearings.

The Board of Trustees may from time to time on its own motion or on petition amend, supplement or repeal the regulations, restrictions and boundaries herein established, but no such amendment, supplement or repeal shall become effective until after a public hearing in relation thereto shall have been held and all parties in interest and citizens shall have had an opportunity to be heard. Whenever the owners of 50% or more of the frontage in any proposed new district shall present to the Board of Trustees a petition duly signed and acknowledged requesting an amendment of this chapter, it shall be the duty of the Board of Trustees to hold a public hearing thereon and cause notice to be given as required.

§ 210-13. Intercommunity zoning.

An amendment of this chapter which will modify or change existing zoning restrictions for any parcel of property where the lot lines of such property lie within 500 feet of the boundary line of the Village and any adjacent municipality shall require that the Clerk of the Village shall notify the Clerk of the adjacent municipality lying within this prescribed area at least 10

days before the date of the public hearing concerning the nature of any proposed amendment to this chapter. Any agency of the adjacent municipality so notified may submit an advisory opinion on said amendment prior to the date of the public hearing.

§ 210-14. Notice. [Amended 2-10-2003 by L.L. No. 1-2003]

At least 10 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Village. Such notice shall state the general nature of the proposed amendment.

ARTICLE V
Definitions

§ 210-15. Definitions; word use.

A. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular.

B. For the purposes of this chapter the following terms shall have the meanings indicated in this section:

ACCESSORY BUILDING — A building, other than a special accessory building, not exceeding one story or 15 feet in height (such as a private garage, private tool house, children's playhouse or a noncommercial greenhouse) which is subordinate and accessory to a principal building on the same lot and which is used for purposes customarily incidental to those of the principal building.

ALTERATION — A change or rearrangement in its structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one position to another; the term "alter" in its various moods and tenses and its participial forms, refers to the making of an alteration.

ANTENNA — A device used to transmit and/or receive radio or electromagnetic waves, including but not limited to directional antennas, such as panels and microwave dishes and omnidirectional antennas, such as whip antennas. **[Added 2-23-1998 by L.L. No. 1-1998]**

APARTMENT HOUSE — See "multifamily house."

AUTOMOBILE SERVICE STATION — A building or lot or part thereof having pumps and storage tanks and appurtenant facilities for the retail sale or dispensing of gasoline or other motor fuels, oils and accessories for the use of motor vehicles, and the rendering of services such as lubrication, washing and minor repairs with hand tools, and where service station and motor vehicle marking or garage facilities are clearly incidental to such principal filling station uses.

AUTOMOTIVE SERVICES — The cleaning and servicing of motor vehicles; the retail sale of motor fuels, supplying goods and services generally required in the operation and

maintenance of motor vehicles, including the sale of petroleum products, the sale and servicing of tires, batteries, automotive accessories and replacement items; and the performance of routine automotive maintenance and repairs. **[Added 9-25-2000 by L.L. No. 4-2000]**

BAR — A business establishment engaged primarily in the retail sale of alcoholic beverages, such as beer, wine and liquor, to patrons seated at a table or a counter served by an employee of the establishment for consumption on the premises. **[Added 9-25-2000 by L.L. No. 4-2000]**

BASEMENT — A story the floor of which is not less than two feet below grade and the ceiling of which is not more than 18 inches above original grade. **[Amended 2-10-2003 by L.L. No. 1-2003]**

BREW PUB — A restaurant together with the on-site brewing of beer, ale or similar alcoholic beverages incidental thereto. **[Added 9-25-2000 by L.L. No. 4-2000]**

BUILDING — Includes structure and shall be construed as though followed by the words "or part thereof."

BUILDING COVERAGE — The sum of the area of coverage or footprint of all buildings and structures on the site. **[Added 9-25-2000 by L.L. No. 4-2000]**

CELLAR — A story the ceiling of which is entirely below grade or less than 18 inches above original grade. **[Amended 2-10-2003 by L.L. No. 1-2003]**

COLLOCATION — With respect to the location of a wireless communication facility, means the installation or placement of two or more such facilities on one structure. **[Added 11-9-1998 by L.L. No. 2-1998]**

CONVENIENCE STORE — A business establishment engaged primarily in the retail sale of prepackaged food products, household items, newspapers and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet. **[Added 9-25-2000 by L.L. No. 4-2000]**

DELICATESSEN — A business establishment engaged primarily in the retail sale of prepared food and beverages for off-site consumption and in which tables, chairs or counters for the consumption of food on the premises are not provided. **[Added 9-25-2000 by L.L. No. 4-2000]**

DEVELOPMENT COVERAGE — **[Added 6-25-2000 by L.L. No. 2-2000; amended 9-25-2000 by L.L. No. 4-2000; 11-13-2000 by L.L. No. 5-2000]**

(1) With respect to property in a residential zoning district, the sum of the area of coverage or footprint of the building, structures, paved areas and other improved surfaces on a site, including areas covered with gravel, crushed stone and other materials used to support vehicles, and architectural landscape features such as, but not limited to, pools, ponds, fountains, patios, decks and gazebos; or

(2) With respect to a property in a business zoning district, the sum of the area of coverage or footprint of the building, structures, paved areas and other improved surfaces on a site, including areas covered with gravel, crushed stone and other

materials used to support vehicles, but not including architectural landscape features such as pools, ponds, fountains, patios, decks and gazebos.

DISPLAY SIGN — A structure that is arranged, intended, designed or used as an advertisement, announcement or direction; including sign, billboard and advertising devices of every kind.

DWELLING — A building occupied exclusively as the residence of a single family, not excluding a private garage within or attached to the building for the exclusive use of such family.

EXTERIOR SECURITY ENCLOSURE — Any roll-up, accordion, scissor lath, steel grille, security shutter or other type of security doors or gates, of whatever material, intended to provide a layer of enclosure directly on the exterior of the building in addition to any exterior wall or window. **[Added 9-25-2000 by L.L. No. 4-2000]**

FAMILY — Any number of individuals each related to the other by blood, lawful marriage or legal adoption, living together as a single household and doing their cooking on the premises; provided, however, that two persons shall not be deemed to be related to each other solely by reason of their having married siblings. A family includes children living with a family in an agency boardinghouse as defined in Subdivision 16 of § 371 of the Social Services Law or any successor statute. **[Amended 5-24-1976 by Local Law No. 6-1976]**

GARAGE — A building, shed or enclosure, or part thereof, in which a motor vehicle containing volatile inflammable fuel in its tanks is stored, housed or kept.

GRADE — The mean elevation of the established street level opposite those walls that are located on, or generally parallel with and within 15 feet of street lines; or, when the walls of the building are more than 15 feet from street lines, the mean elevation of the ground adjoining the building on all sides.

HALF-STORY — A story between a floor and a pitch roof or hip roof.

HEALTH CLUB — A membership club or business designed and used for body conditioning, exercise and rehabilitation, including activities such as aerobic and related class exercises, practice, training and education in sports, with competitions that are accessory and incidental to such training and education in sports and containing equipment such as weight lifting machines, free weights, whirlpools, saunas, steam rooms, showers, locker facilities and, as an accessory use, a health food bar, but not including pool halls, billiard parlors, bowling alleys or any use of archery equipment, guns, weaponry or similar equipment that may be used to simulate combat, including equipment that has the capacity to propel a projectile or emit a light and/or laser. Any health club shall limit its hours of operation to the hours of 6:00 a.m. to 11:00 p.m. **[Added 9-25-2000 by L.L. No. 4-2000; amended 10-27-2003 by L.L. No. 3-2003]**

HEIGHT — The vertical distance from grade to the highest point of the building.

HEREAFTER — After the time that this chapter has become effective; or, in the case of an amendment or addition to this chapter, after the time that such amendment or addition has become effective.

HERETOFORE — Before the time that this chapter has become effective, or, in the case of an amendment or addition to this chapter, before the time that such amendment or addition has become effective.

HOME OCCUPATION — Any business, professional, artistic or educational activity conducted within a dwelling unit by any of the residents of such dwelling unit, directed toward the generation of a fee or other income (whether or not such use is carried on for profit), which use is clearly subordinate to the use of the dwelling unit for dwelling purposes and does not change the character thereof and otherwise complies with the provisions of § 210-21L. **[Added 1-22-2007 by L.L. No. 1-2007]**

HOTEL — A building or any part thereof, other than a boardinghouse or furnished rooming house or motel, containing rooms offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms and recreational facilities. **[Added 9-25-2000 by L.L. No. 4-2000]**

INFEASIBLE — With respect to the nature or location of a wireless communication facility, means that a possible site cannot satisfy the technical requirements of the applicant's system because the site is not in a suitable location, or the applicant has not been able, after reasonable efforts, to secure the right to use such site from its owner, or any existing structure on the site is not at a suitable height and cannot be modified at a reasonable cost to reach the necessary height, and if the site is in a suitable location, and the applicant has been able to secure the right to its use and an existing structure is at a suitable height or can be modified at a reasonable cost to reach the necessary height, the proposed wireless communication facility would: **[Added 2-23-1998 by L.L. No. 1-1998]**

(1) Exceed the structural capacity of the structure on which it could otherwise be located and the structure cannot be reinforced, modified or replaced at a reasonable cost to accommodate the proposed facility or a modified facility which serves the applicant's purpose;

(2) Cause interference materially impacting the usability of any existing or approved wireless communication facility at such site and the interference cannot be prevented at a reasonable cost; or

(3) Be impracticable by reason of other technological factors which cannot be eliminated at a reasonable cost by modification of the site or proposed facility.

LOADING SPACE — Any off-street space available for the loading or unloading of goods, not less than 15 feet wide, 40 feet long and 15 feet high (if covered in any manner), and having direct usable access to a street, except that where one such loading space has been provided, any additional loading space lying alongside, contiguous to, and not separated from such first loading space, need not be wider than 12 feet.

LODGING HOUSE — A dwelling in which persons other than domestic servants employed therein are housed and provided with sleeping accommodations for a fee or other consideration.

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 LINE — A property line bounding a lot as defined herein.

MAJOR ROAD — Any federal, state or county road. **[Added 9-25-2000 by L.L. No. 4-2000]**

MEMBERSHIP CLUB — An organization operating for members and their guests, for recreational, social or athletic purposes and land and buildings used for such purposes, which organization, land or buildings are not conducted or designed primarily for gain, and provided that no merchandising or commercial activities are conducted except as required generally for the membership and purposes of such club.

MULTIFAMILY HOUSE — A building occupied exclusively as the home or residence of families living independently of each other, of which two or more are doing cooking within their apartments.

NIER — Non-ionizing electromagnetic radiation. **[Added 2-23-1998 by L.L. No. 1-1998]**

NIGHTCLUB — A business establishment that serves food or beverages and provides live or mechanical music or theatrical entertainment or permits dancing. The term "nightclub" shall include cabarets, dance halls, discotheques or other, similar establishments. **[Added 9-25-2000 by L.L. No. 4-2000]**

OCCUPIED — Construed as though followed by the words "or intended, arranged or designed to be occupied."

OWNER — Includes his duly authorized agent or attorney, a purchaser, devisee, fiduciary and a person having a vested or contingent interest in the property in question.

PARKING SPACE — An off-street space available for the parking of one motor vehicle on a transient basis and having a width of nine feet, and an area of not less than 180 square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street, but not requiring the backing of any vehicle across a sidewalk or into the street right-of-way.

PERSON — Includes corporation, copartnership as well as an individual.

PERSONAL SERVICE STORE — A business establishment engaged primarily in providing services generally to individuals, such as a dry cleaner, tailor shop, beauty salon, barbershop, shoe repair, portrait photographic studio and other such similar uses. **[Added 9-25-2000 by L.L. No. 4-2000]**

PETROLEUM BULK STORAGE FACILITY — A facility for the storage of petroleum products in bulk, consisting of three or more tanks each having a capacity of 5,000 barrels or more. **[Added 9-25-2000 by L.L. No. 4-2000]**

PREFERRED — With respect to the nature and location of a wireless communication facility, means a facility which is preferable in accordance with the following order of

preference: **[Added 2-23-1998 by L.L. No. 1-1998; amended 3-23-2009 by L.L. No. 1-2009; 1-11-2010 by L.L. No. 1-2010]**

(1) A wireless communication installation in a business district.

(2) A wireless communication monopole or tower in a business district.

(3) A wireless communication installation in a recreational district at a location not less than 250 yards from the nearest dwelling or multifamily house.

(4) A wireless communication monopole or tower in a recreational district at a location not less than 250 yards from the nearest dwelling or multifamily house.

(5) A wireless communication installation on property not located in a zoning district at a location not less than 250 yards from the nearest dwelling or multifamily house.

(6) A wireless communication monopole or tower on property not located in a zoning district at a location not less than 250 yards from the nearest dwelling or multifamily house.

(7) A wireless communication installation in a retail district.

(8) A wireless communication monopole or tower in a retail district.

(9) A wireless communication installation in a recreational district at a location less than 250 yards from the nearest dwelling or multifamily house.

(10) A wireless communication monopole or tower in a recreational district at a location less than 250 yards from the nearest dwelling or multifamily house.

(11) A wireless communication installation on property not located in a zoning district at a location less than 250 yards from the nearest dwelling or multifamily house.

(12) A wireless communication monopole or tower on property not located in a zoning district at a location less than 250 yards from the nearest dwelling or multifamily house.

(13) A wireless communication installation in a railroad district.

(14) A wireless communication monopole or tower in a railroad district.

(15) A wireless communication installation in a multifamily district.

(16) A wireless communication monopole or tower in a multifamily district.

(17) A wireless communication installation in a residence district.

(18) A wireless communication monopole or tower in a residence district.

PRIVATE GARAGE — A garage for not more than three noncommercial motor vehicles, as part of or accessory to a dwelling, on the same lot; to be used for the garaging of private, noncommercial vehicles.

the meals are served to patrons seated at tables in a comfortable dining atmosphere. Food is delivered on nondisposable plates or similar service ware. Although food may be available for consumption off premises, such sales are not the principal business of the restaurant. **[Added 4-27-2015 by L.L. No. 1-2015**

SATELLITE EARTH STATION — A dish antenna or similar device designed to receive electromagnetic or microwave signals from satellites or earth sources. **[Added 9-24-1984 by L.L. 1-1984]**

SINGLE-FAMILY DWELLING — A building which is occupied exclusively as the home or residence of a single family, not excluding a private garage on the property within or attached to the building for the exclusive use of the family. A building which contains more than one kitchen and which houses or is occupied by an individual who is not: **[Amended 10-22-1973]**

PUBLIC GARAGE — A garage not included in the term "private garage."

REGIONAL SHOPPING CENTER — A retail establishment having a gross floor area of 100,000 square feet or more, or a group of retail and service establishments having an aggregate floor area of 100,000 square feet or more, planned, developed, owned and/or managed as a unit related in location, size and type of shops, usually providing for general merchandise, apparel, furniture and home furnishings in full depth and variety, as well as personal service stores, and self-storage, provided the amount of floor area devoted to self-storage shall not exceed 30% of the total floor area of the shopping center. **[Amended 9-25-2000 by L.L. No. 4-2000; 8-14-2006 by L.L. No. 2-2006]**

RESTAURANT — A business establishment engaged primarily in the sale of ready-to-consume foods. A "restaurant" is a carry-out restaurant, a coffee shop restaurant, a drive-in restaurant, a fast-casual restaurant, a fast-food restaurant or a full-service restaurant. **[Added 9-25-2000 by L.L. No. 4-2000; amended 4-27-2015 by L.L. No. 1-2015]**

RESTAURANT, CARRY-OUT — A fast-food restaurant in which the majority of sales are made to customers not in motor vehicles for consumption off the premises. **[Added 9-25-2000 by L.L. No. 4-2000; amended 4-27-2015 by L.L. No. 1-2015]**

RESTAURANT, COFFEE SHOP — A restaurant where hot and cold beverages and light meals, including coffee and typical breakfast items, are prepared for on-site or off-site consumption and made available by means of counter service. The food may be selected from a standardized menu visible behind the counter where the order is placed. Although table service may not be provided, the restaurant provides a comfortable dining atmosphere with tables for patrons. **[Added 4-27-2015 by L.L. No. 1-2015]**

RESTAURANT, DRIVE-IN — A fast-food restaurant in which the majority of sales are made to customers in motor vehicles for consumption off the premises. **[Added 9-25-2000 by L.L. No. 4-2000; amended 4-27-2015 by L.L. No. 1-2015]**

RESTAURANT, FAST-CASUAL — A restaurant serving food for casual dining or take-out, where food is primarily prepared to order. The food may be selected from a standardized menu visible behind the counter where the order is placed. Although table service may not be provided, the restaurant provides a comfortable dining atmosphere with tables for patrons. Food is delivered on nondisposable plates or similar service ware. **[Added 4-27-2015 by L.L. No. 1-2015**

RESTAURANT, FAST-FOOD — A restaurant where the majority of the sales are made at a drive-in or stand-up counter for take-out or quick eating and table service is not provided. The food is selected from a standardized menu visible from behind the counter where the order is placed. The food is previously processed or quickly prepared so that it is immediately available to the customer for take-out or take-away and is delivered in prepackaged or other containerized manner using disposable plates, cups and utensils. **[Added 9-25-2000 by L.L. No. 4-2000; amended 4-27-2015 by L.L. No. 1-2015]**

RESTAURANT, FULL-SERVICE — A restaurant preparing and serving food to order. The food is selected from a full menu by patrons seated at a table or counter, served by a waiter or waitress. Although table service does not have to be provided, the majority of

(1) An owner of the building;

(2) A lessee of the building, provided that no part of such building is occupied by the owner;

(3) A spouse or minor child of such owner or such lessee;

(4) A chauffeur, servant nurse or other renderer of recognized health care employed full-time on the premises and persons related to a person so employed by blood, lawful marriage or legal adoption;

shall be presumed not to be a single-family dwelling, but such presumption may be rebutted by clear and convincing evidence.

SPECIAL ACCESSORY BUILDING — A building not exceeding one story or 15 feet in height (such as a private tool house, children's playhouse or a noncommercial greenhouse) having more than 100 square feet which is subordinate and accessory to a principal building on the same lot and which is used for purposes customarily incidental to those of the principal building; a private garage is not a special accessory building.

SPORTING STRUCTURE — A sports court, basketball court, tennis court, platform tennis court, racquetball court, skating rink or other surface or structure used for any athletic activity. **[Added 2-10-2003 by L.L. No. 1-2003]**

STORY — That part of a building comprised between a floor and the floor or roof next above, and includes basement and cellar.

STREET LINE — A lot line dividing a lot from the street; where the property line is in the center of the street the "lot line" shall be deemed to be a line 25 feet distant from the center of the street.

STUDIO — A facility for the design and/or production of audio, video, movie, computer graphics, costumes or other related products for sale or distribution, including post-production offices, editing laboratories, lighting specialists and acoustical engineering services. **[Added 9-25-2000 by L.L. No. 4-2000]**

TOWER — Any ground or roof mounted pole, spire, structure or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts, built for the purpose of mounting an antenna, meteorological device or similar apparatus above grade. **[Added 2-23-1998 by L.L. No. 1-1998]**

USED — Shall be construed as though followed by the words "or intended, arranged or designed to be used."

WIRELESS COMMUNICATION FACILITY — Any equipment used in connection with the provision of wireless communication services to transmit and/or receive frequencies, including but not limited to antenna(s), accessory telecommunications equipment and supporting masts. **[Added 2-23-1998 by L.L. No. 1-1998]**

WIRELESS COMMUNICATION INSTALLATION — Any equipment used in connection with the provision of wireless communication services to transmit and/or receive frequencies, including but not limited to antenna(s), accessory telecommunications equipment and supporting masts, but excluding wireless communication towers and wireless communication monopoles. **[Added 2-23-1998 by L.L. No. 1-1998]**

WIRELESS COMMUNICATION MONOPOLE — Any monopole on which a wireless communication installation is located in connection with the provision of wireless communication services. **[Added 2-23-1998 by L.L. No. 1-1998]**

WIRELESS COMMUNICATION PROVIDER — A provider of wireless communication services. **[Added 2-23-1998 by L.L. No. 1-1998]**

WIRELESS COMMUNICATION SERVICES — Wireless communication services commonly referred to as commercial mobile services, unlicensed wireless services, common carrier wireless exchange access services, "cellular telephone service" and "personal communication services," which services are regulated by the Federal Communications Commission in accordance with the Communications Act of 1934 [47 U.S.C. §§ 151-613 (1996)] and Section 704 of the Federal Telecommunications Act, as they may hereafter from time to time be amended. **[Added 2-23-1998 by L.L. No. 1-1998]**

WIRELESS COMMUNICATION TOWER — Any freestanding tower on which a wireless communication installation is located in connection with the provision of wireless communication services. **[Added 2-23-1998 by L.L. No. 1-1998]**

YARD — An open space on a lot extending along a lot line.

ARTICLE VI
Districts
[Amended 10-14-1974 by L.L. No. 2-1974; 9-25-2000 by L.L. No. 4-2000; 3-23-2009 by L.L. No. 1-2009; 1-11-2010 by L.L. No. 1-2010]

§ 210-16. Classes.

For the purposes of this chapter, the Village of Pelham Manor is hereby divided into classes of districts as follows:

Residence AAA Districts
Recreational R Districts
Residence AA Districts
Residence A Districts
Residence B Districts
Multifamily Districts
Retail Districts
Business 1 District

Business 2 District
Railroad District

§ 210-17. Zoning Map.

The boundaries of the zoning districts in the Village of Pelham Manor are hereby established as shown on the Zoning Map of the Village of Pelham Manor dated October 2008, which accompanies this chapter and which, with all explanatory matters thereon, is hereby adopted and made a part of this chapter. [1] The map, indicating the latest amendments, shall be kept up-to-date in the office of the Village Clerk for the use and benefit of the public. A copy of the map shall be kept in the office of the Inspector of Buildings.

ARTICLE VII
General Restrictions

§ 210-18. New buildings and uses.

No building or structure shall hereafter be erected, and no existing building or structure shall hereafter be enlarged or otherwise structurally altered, to be used or occupied for any purpose other than a use permitted in the district in which the building or land is located.

§ 210-19. Existing buildings and uses. [Amended 9-25-2000 by L.L. No. 4-2000]

A. Except as otherwise provided in this section and in § 210-20 below, the lawful use of land or buildings existing at the time of the adoption of this chapter may be continued although such use does not conform to regulations specified by this chapter for the district in which such land or buildings is located. Except as otherwise provided in this section and in § 210-20 below, the lawful use of land or buildings at the time of the adoption of any amendment to this chapter which is not consistent with such amendment may be continued although such use does not conform to the regulations specified by this chapter for the district in which such land or buildings is located, as so amended. Said uses shall be deemed nonconforming uses. The lawful use of a building heretofore authorized by a building permit lawfully issued prior to the adoption of this chapter or the adoption of the amendment to this chapter which made the use nonconforming, and the construction of which, at the time of the adoption of this chapter or the amendment thereto that made the use nonconforming, was actually begun and diligently prosecuted, may be continued, although such use does not conform with the provisions of this chapter.

B. Where no building is involved, nonconforming use of the land may be continued; provided, however, that no such nonconforming use shall be enlarged or increased or shall be extended to occupy a greater area of land than was occupied by such use at the time it became nonconforming, nor shall any such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of the provisions of this chapter that made

1. **Editor's Note: The Zoning Map is located at the end of this chapter.**

it nonconforming; provided, further, that if such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than 30 days or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this chapter. No nonconforming use of land shall be changed to another nonconforming use.

C. A building or structure, the use of which does not conform to the use regulations of the district in which it is situated, shall not be enlarged or extended unless such building or structure, including such enlargement or extension, is made to conform to all regulations, including use, for the district in which it is situated. Such nonconforming buildings shall not be structurally altered unless such alterations are required by law; provided, however, that such maintenance and repair work as is required to keep a nonconforming building or structure in sound condition may be permitted; and provided further that any such nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of adoption of this chapter. If any nonconforming use of the building ceases for a continuous period of more than one year, or if the building in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, then any future use of such building shall be in conformity with the regulations specified by this chapter for the district in which such building is located. If any building in or on which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building thereon shall be in conformity with the regulations specified by this chapter for the district in which this building or land is located.

D. Except as otherwise provided in this section and in § 210-20 below, the lawful use of land or buildings at the time of any amendment to this chapter for which, by reason of such amendment, a special permit is required may be continued without the issuance of a special permit; provided, however, that except upon the issuance of a special permit no such use shall be enlarged, increased or extended to occupy a greater area of land than was occupied by such use at the time of the adoption of the provision of this chapter requiring a special permit for such use; and no such use shall be moved in whole or in part to any other portion of the lot or parcel of land occupied by such use at the time of the adoption of the provisions of this chapter requiring a special permit for such use. If any use for which a special permit is required ceases for any reason for any continuous period of more than 30 days or is changed to another use, no future use of the land for any use for which a special permit is required under this chapter shall be permitted except upon the issuance of a special permit.

E. In the event that premises consisting of a club, not operated for profit churches, other places of worship and their accessory buildings, constituting a nonconforming use desire to be extended or rebuilt or a new building to be constructed so as to properly further the aims and purposes of said club, churches, other places of worship and their accessory buildings, such extension, rebuilding or construction of a new building may be permitted for such nonconforming use by the Board of Trustees, provided that a special permit is obtained from the Board of Trustees in each specific case after a public hearing and notice and, further, that the Board of Trustees finds that such use promotes the general

health, safety, morals and welfare of the community and is in accordance with the general purposes and intent of this chapter.

F. In the event that the owner of any premises being used for residential purposes constituting a nonconforming use desires to alter any existing structure or construct any new structures, such alteration or construction shall take place only pursuant to Subsection C or D of this section or pursuant to, and solely to the extent provided by, a special permit authorizing such alteration or construction that is granted by the Board of Trustees after a public hearing and notice in accordance with the following provisions:

(1) Such a special permit shall not be granted except pursuant to findings by the Board of Trustees that each of the following five conditions has been met:

(a) The alteration or construction is related to residential property and will cause a substantial reduction in the total number of residential units on the property comprising the nonconforming use (it being expected that a reduction of more than 30% in the number of residential units is a minimum threshold for a finding of such substantial reduction).

(b) The structure(s), once completed, will be substantially more in conformity with structures in the surrounding neighborhood than was the nonconforming use prior to issuance of the special permit, and the structure(s) will have a maximum height of no more than 2 1/2 stories.

(c) The total number of residential units on such nonconforming property after such alteration or construction will not exceed one unit for every 10,000 square feet of the total nonconforming lot.

(d) The alteration or construction will be accomplished in exact conformity with the proposal set forth in a site plan that has been duly submitted to the Planning Board for recommendation, and that has been approved by the Board of Trustees.

(e) Granting such a permit will promote the general health, safety and morals of the community and is in accordance with the general purposes and intent of this chapter.

(2) Any alteration to or construction of a structure as to which a special permit has been granted pursuant to this subsection shall not change the status of the property as a nonconforming use. Construction of any structure as to which a special permit is granted pursuant to this subsection which is not authorized by such special permit and any structural alteration to such a structure not authorized either by such special permit or by variance issued by the Board of Appeals shall cause the nonconforming use to lapse.

(3) The erection of independent structures on a nonconforming lot shall not be the basis for subdivision of that lot unless all lots existing after such a subdivision are in conformity with the regulations specified by this chapter for the district in which the land and buildings are located.

G. Any building or structure which is nonconforming as to any required yard setback may not be expanded into any such existing nonconforming setback either horizontally or vertically. **[Added 2-10-2003 by L.L. No. 1-2003]**

§ 210-20. Elimination of nonconforming uses in business districts. [Amended 11-9-1992 by L.L. No. 4-1992; 9-25-2000 by L.L. No. 4-2000]

A. Except as provided in Subsection B of this section, all nonconforming uses in the business districts shall cease and be discontinued in accordance with the following schedule: **[Amended 10-27-2003 by L.L. No. 3-2003]**

(1) Where no building or structure is employed in connection with the nonconforming use, on or before the date of the adoption of this zoning text amendment;

(2) Where the use exists by virtue of a lease entered into prior to January 1, 2010, the earlier of the end of the current term of such lease, without regard to any right to renew set forth therein, or five years from the date of the adoption of this zoning text amendment; **[Amended 1-11-2010 by L.L. No. 1-2010]**

(3) Where the use consists of a petroleum bulk storage facility, on or before September 30, 2020;

(4) In all other situations, upon discontinuance of the current use or occupancy but no later than on or before five years from the date of the adoption of this zoning text amendment.

B. Continuation of use.

(1) The Board of Appeals may permit any nonconforming use in the business districts to continue for a limited period of time beyond that provided for in Subsection A of this section, provided that:

(a) An application is made by the owner of such establishment to the Board of Appeals at least 120 days prior to the date on which the use is required to cease and be discontinued.

(b) The Board of Appeals shall find, in connection with such use, that:

[1] The applicant has made, prior to the use becoming nonconforming, substantial financial expenditures related to the nonconforming use; and

[2] The applicant has not recovered substantially all of the financial expenditures related to the nonconforming use; and

[3] The period for which such establishment is permitted to continue is the minimum period sufficient for the applicant to recover substantially all of the financial expenditures incurred related to the nonconforming use.

(2) For purposes of this subsection, the term "financial expenditures" shall mean the capital outlay made by the applicant to establish the nonconforming use, exclusive

of the fair market value of the building in which such nonconforming use is located and exclusive of any improvements unrelated to the nonconforming use.

§ 210-21. Prohibitions.

Except as hereinafter specifically provided, the following prohibitions shall apply throughout the Village of Pelham Manor:

A. No driveway or entrance road to land or to a building in a multifamily or retail district, for the convenience of occupants, or for service or delivery, shall lead from or be connected with a street or highway located in a Residence AAA, AA, A or Residence B District.

B. No building or structure shall be erected, nor shall any building or land be used as an airport or for the landing, takeoff or storage of any type of aircraft, or for any similar purpose; nor shall any building or structure be erected or land used for the storage, sale, manufacture or commercial development of airplanes, seaplanes, dirigibles, flying machines or similar devices.

C. No building or structure shall be erected, maintained or operated as a hotel, tourist camp, motel, lodging house or trailer camp; nor shall any land be used, maintained or operated for such purpose or for the storage in the open of trucks or trailers where a fee or remuneration of any kind for such use is made, solicited or expected.

D. No building or structure shall be hereafter erected or altered nor shall any land be used as or for an amusement park, ball park, motordrome, automobile race track, horse race track, dog race track, drive-in motion-picture theater, or as a golf driving range, Tom Thumb course or miniature golf course, or as a restaurant which offers car hop or curb service. No junk, waste, discarded or salvaged materials, except soil, gravel, rock or other natural material deposited for the purpose of regrading or landscaping the land on which it is deposited shall be dumped or deposited in any district within a distance of 100 feet from any street, water body, stream or property line; nor elsewhere except after obtaining a permit therefor from the Building Inspector, subject to such regulations as the Village Board of Trustees may prescribe, and further subject to any applicable regulations of the Westchester County Department of Health, and on the requirement that such dumping or deposit will not be objectionable by reason of dust, fumes, smoke or odor, or be otherwise detrimental to the public health or safety, and will not interfere with drainage to the extent of being injurious to adjacent land or buildings.

E. No building or structure shall be hereafter erected, altered or used, nor shall any land be used, for carrying on a clinic, hospital, sanitarium, nursing home, asylum, institution for the care of invalids or mental defectives or for conducting an X-ray or other laboratory.

F. No building shall hereafter be erected, altered or used, nor shall any land be used, for the manufacture, storage, sale, refining, rendering, distilling or mixing of ammonia, chlorine, asphalt, bleaching powder, celluloid, bones, fat, fertilizer, glue, size, gelatin, garbage, offal, refuse, lamp black, oil, turpentine, petroleum, printing inks, hides, skins (tanning or curing), soap, rubber, acids, vitriol tallow, grease, lard, tar or tar roofing, gun powder, explosives or highly hazardous (with respect to fire) material.

G. No building shall hereafter be erected, altered or used, nor shall any land be used as a power station; boiler manufactory; foundry; steam laundry; salvage depot; saw mill; planing mill; distillery; brewery; slaughterhouse; stock yard; adult entertainment establishment, except on any lot which is located more than 2,000 feet from any lot on which is located a church, community center, funeral home, school, day-care center, hospital, alcoholism center, drug treatment center, counseling or psychiatric treatment facility, public park or parkland, or more than 2,000 feet from any school bus stop; or piggery. **[Amended 11-9-1998 by L.L. No. 4-1998]**

H. The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall nor to prohibit any fence or wall, provided that in any residence district no fence or wall shall exceed four feet in any front yard or six feet in any rear yard or side yard to the rear of the required front yard setback, measured in all cases above the finished grade.

I. On a corner lot in any residence district no fence, wall, hedge or other structure or planting more than four feet in height above the curb level, except a tree whose lowest branch is not less than seven feet above such curb level, shall be erected, placed or maintained within the triangular area formed by the intersecting street line and a straight line joining said street lines at points which are 15 feet distant from the point of intersection, measured along the street line.

J. In a Residence AAA, AA, A, B and Multifamily Districts no building shall hereafter be erected, altered or used nor shall any land be used for the keeping of barnyard fowl, farm animals, horses or pigeons.

K. No barbed wire, razor wire or similar fence or a fence in which barbed wire, razor wire or similar material is used, or any exterior security enclosure, shall hereafter be installed in the Village of Pelham Manor. Security enclosures may be installed within the exterior wall of the premises, provided that each such security enclosure: **[Added 9-25-2000 by L.L. No. 4-2000]**

(1) Is located, in the judgment of the Inspector of Buildings, at a sufficient distance from any transparent exterior wall or door of the premises so as not to create a deleterious visual or aesthetic impact upon the surrounding area;

(2) Does not substantially diminish the passage of light from the exterior to the interior of the premises; and

(3) Is installed in such a manner as to provide ready access to the locking mechanism of the security enclosure from an exterior door in the event of an emergency.

L. No business, professional, artistic or educational activity may be conducted within a dwelling unit, whether or not such use is carried on for profit, except a home occupation that meets the following conditions and requirements: **[Added 1-22-2007 by L.L. No. 1-2007]**

(1) A home occupation shall not have employees, students, customers or other persons who visit the premises for any business purpose;

(2) There shall be no warehousing, manufacturing, assembly or shipping of parts, nor any sale, merchandising, trade or barter to or with persons who come to the premises;

(3) There shall be no display of goods, supplies or advertising of any nature visible to the exterior of the dwelling, nor any sign, display, lettering or logo identifying the premises as anything other than a residence;

(4) There shall be no storage of goods or supplies to be utilized or shipped to any other location, and the only supplies that may be maintained at the premises are office supplies necessary to operate the home occupation at the premises;

(5) There shall be no parking of any commercial vehicle, vehicle for hire nor any passenger vehicle containing any lettering, sign, display or logo identifying any business or occupation, other than private passenger license plates issued by the State of New York Commissioner of Motor Vehicles;

(6) No person shall be employed or otherwise engaged on the premises in the conduct of the home occupation who does not reside in the dwelling unit;

(7) No more than a total of 300 square feet or 20% of the square footage of the dwelling unit, whichever is less, shall be used for the home occupation;

(8) The only equipment used on the premises shall be typical office equipment such as computers, copy machines and facsimile machines, and no noise, smells, fumes or vibrations may be perceptible outside of the dwelling unit;

(9) No preparation of food for sale may be carried on at the premises;

(10) No activity may be conducted at that premises that produces waste, trash or refuse in excess of that normally produced by a dwelling of similar size and number of bedrooms;

(11) No deliveries to the premises or shipments from the premises shall be permitted other than those of a nature and frequency which is similar to normal residential package delivery by shippers similar to Federal Express, DHL and UPS;

(12) The home occupation must be registered with the Village on a form prepared by the Village Manager, which shall provide for the name of the residents engaged in the home occupation, the name of the home occupation, the address, telephone number and nature of the home occupation being conducted and such other information as the Village Manager deems appropriate to ensure compliance with the provisions of these provisions.

(13) Notwithstanding the foregoing, in the B District, medical doctors' and/or dentists' offices shall continue to be permitted as currently regulated, and nothing contained in this section shall limit such uses.

§ 210-22. Unsafe and damaged buildings.

A. No building or structure which has been damaged structurally by fire or other causes to the extent of more than 50% of its value, exclusive of foundations, shall be repaired or rebuilt, or thereafter occupied except in conformity with the provisions of this chapter or in accordance with a special permit issued under § 210-20E of this article that specifically provides for such rebuilding. **[Amended 11-9-1992 by L.L. No. 4-1992]**

B. Nothing in this chapter, however, shall prevent the strengthening or restoring to a safe condition of any wall declared unsafe by the Inspector of Buildings.

§ 210-23. Off-street parking.

A. It is the intention of this chapter that all structures and land uses be provided with a sufficient amount of off-street automobile parking to meet the need of persons employed at or making use of such structures and land uses. No permit for the erection or substantial alteration of a structure or for the development of a land use shall be issued unless such parking facilities are to be provided in accordance with the appropriate requirements set forth below and approved by the Building Inspector.

B. Structures and land uses in existence at the time of the adoption of this chapter shall not be subject to the requirements set forth below, provided that any parking facilities now existing to serve such structures or uses shall not in the future be reduced below such requirements. Required parking facilities for such uses or structures as well as for an enlargement or extension shall, however, be provided as a condition for the issuance of any building permit or for the amendment of any building permit for such enlargement or extension in the future. In a church or other place of worship, additional parking facilities will not be required if any alteration, enlargement or extension does not increase the area of assembly.

C. Unless the Planning Board determines otherwise based upon the particular characteristics of a proposed use, off-street automobile parking facilities shall be provided as follows: **[Amended 9-25-2000 by L.L. No. 4-2000; 10-27-2003 by L.L. No. 3-2003]**

Use	Parking Requirement
One-family dwelling	1 parking space
Multifamily dwelling	1.5 parking spaces
Banks and financial uses	1 per 300 square feet of gross floor area
Building supply stores	1 per 500 square feet of gross floor area
Convenience stores/food and beverage store supermarkets	1 per 200 square feet of gross floor area
Eating and drinking establishments/fast food restaurants	1 per 150 square feet of gross floor area
Garden centers	1 per 400 square feet of gross floor area plus 1 per 1,000 square feet of outdoor storage/sales area

Use	Parking Requirement
Hotels	0.75 per room plus parking calculated separately for other accessory uses
Medical and dental offices	1 per 200 square feet of gross floor area
Personal service establishments/ health clubs and gymnasiums	1 per 200 square feet of gross floor area
Public entertainment or amusement, when capacity can not be measured in terms of seats	1 parking space for each 400 square feet of floor space devoted to patron usage
Offices	1 per 300 square feet of gross floor area
Restaurants	1 per 3 seats or 1 per 100 square feet of gross floor area, whichever is greater
Retail or service business	1 per 250 square feet of gross floor area, except furniture stores: 1 per 500 square feet of gross floor area
Retail craft uses	1 per 300 square feet of gross floor area
Theaters, movie theaters, auditoriums and other places of public assembly	1 per 4 seats, except multiscreen movie theaters: 1 per 3 seats
Veterinary offices or hospitals	1 per 200 square feet of gross floor area
Wholesale price clubs and big-box retail	1 per 300 square feet of gross floor area
Planned/regional shopping centers	1 per 200 square feet of gross floor area
Gas station, automobile supply and service store	1 per 400 square feet of gross floor area plus 3 per service bay
Building supply yards	1 per 400 square feet of gross floor area plus 1 per 1,000 square feet of outdoor storage/sales area
Light industrial uses	1 per 400 square feet of gross floor area
Manufacturing and utilities	1 per 300 square feet of gross floor area
Miniwarehouse or self-storage warehouses	4, plus 1 per 2,500 square feet of gross floor area
Warehousing and storage of nonhazardous and noncombustible material	1 per 3,000 square feet of gross floor area
Distribution and wholesaling	1 per 300 square feet of gross floor area
Business or professional office building or use	1 per 200 square feet of gross floor area
Church, other places of worship	1 parking space for each 3 seats
Other uses	Such number as the Board of Trustees shall determine is reasonable and appropriate after considering the particular use

D. Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Board of Appeals, which shall consider all factors entering into the parking needs of such use.

E. The required off-street parking facilities for structures and land uses which are hereafter developed shall be provided on the same lot or premises with such structure or land use; except that off-street parking space required for structure and uses on two adjoining lots may be provided in a single common facility in one or both of such lots in accordance with an agreement between the owners of such adjoining lots, such agreement to be filed with the Building Inspector; and except that the Board of Appeals may permit all or part of the required spaces to be located on any lot within 500 feet of the building, except in a residence district, if the Board determines that it is impractical to provide time required parking on the same lot with the building.

F. In any Residence AAA, AA, A and B District, no unenclosed off-street parking area shall be developed within 25 feet of a front lot line or shall be developed within five feet of a side or rear lot line. In any Residence AAA, AA, A, B or Multifamily Districts no commercial vehicle of any kind or description shall be garaged in or upon said premises nor shall any such vehicle be parked in the driveway or elsewhere in or upon said premises.

G. The plans for any new building or any replacement or reconstruction of an existing building when submitted to the Building Inspector for a building permit shall show specifically the location and size of the off-street parking facilities required to comply with this chapter, and the means of access to such space from the public streets or highways; and except for one-family dwellings, the plan for traffic access, traffic circulation, location and general layout of the parking facility shall be approved by the Village Engineer with regard to safety to traffic on the street, safety to pedestrians on public sidewalks and safety and adequacy of access to cars and pedestrians using the parking facility, before a building permit shall be issued.

H. Required off-street parking facilities may be enclosed in a structure or may be open, provided that all required parking facilities shall be graded, surfaced, drained and suitably maintained to the satisfaction of the Building Inspector to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways. In appropriate situations, the Building Inspector may require suitable markings to indicate individual parking spaces, maneuvering area, entrances and exits.

I. Required off-street parking facilities shall be maintained as long as the use or structure exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times to those persons who are employed at or make use of such structures and land uses except where dedicated to and accepted by the Village as public parking areas.

J. Off-street parking areas shall comply with the following standards: **[Added 9-25-2000 by L.L. No. 4-2000]**

(1) The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine feet by 18 feet. **[Amended 10-27-2003 by L.L. No. 3-2003]**

(2) Access to parking facilities shall be designed in such a way that no vehicle exiting the space will back out into or otherwise obstruct the free flow of traffic.

(3) There shall be adequate provision for ingress and egress to all parking spaces to ensure ease of mobility, ample clearance and safety of vehicles and pedestrians.

(4) In developments where vehicles may be expected to wait, including, but not limited to drive-through restaurants, banks and parking facilities, six stacking spaces shall be provided per drive-up window. A bypass lane shall also be provided.

(5) Wheel stops shall be provided in all parking facilities without curbing. The vehicle side of the wheel stop shall be no more than 12 inches from the end of the parking space.

(6) Parking facilities shall contain appropriate plant material to minimize noise, glare and other nuisances associated with automobile parking. Not less than 10% of each parking area shall be landscaped.

(7) Each parking bay shall be separated from other parking bays by landscaped medians. Not more than 20 continuous parking spaces shall be allowed in a row of parking without separation by a landscaped median. A landscaped median at least 10 feet wide shall be provided at each end of a parking bay. All landscaped medians shall contain appropriate plant material.

§ 210-24. Minimum floor space.

No dwelling or house shall be constructed in any district with a total gross floor area of less than 1,200 square feet, not including attics which are not designed to be used for residence purposes, basements and unenclosed porches. No apartment or multiple-dwelling structure shall be constructed in any district with an average gross floor area of less than 750 square feet for each dwelling unit included therein, exclusive of basements, garages, unenclosed porches and attics which are not intended to be used for residence purposes.

§ 210-25. Off-street loading. [Amended 9-25-2000 by L.L. No. 4-2000; 10-27-2003 by L.L. No. 3-2003]

Off-street loading and unloading facilities shall be provided on the same site as the use to be served and shall comply with the following standards:

A. One berth for the first 5,000 to 10,000 square feet of floor area or major portion thereof used for business purposes, and two berths for up to 20,000 square feet, one additional berth for each additional 20,000 square feet of floor area or major portion thereof used for business purposes.

§ 210-26. Site development plans. [Amended 9-25-2000 by L.L. No. 4-2000]

A. Site development plan required. In all cases except single-family residences, no building permit shall be issued and no building or use shall be established or continued except in conformity with a site development plan approved by the Board of Trustees, and no certificate of occupancy shall be issued until all of the requirements of this section, including those required by the Board of Trustees under the provisions of this section, have been met. Continued conformance with such a plan shall be a condition of the approval of each such site development plan and of any certificate of occupancy.

B. Application for site development plan approval. An application for site development plan approval by the Board of Trustees shall be made to the Inspector of Buildings in accordance with the following procedure:

(1) Prior to the submission of a formal site plan application, the applicant shall request that the Inspector of Buildings conduct a presubmission conference with respect to the proposed site plan. The request for such review shall be accompanied by the fee therefor as established by the Board of Trustees. The purpose of the presubmission conference shall be to discuss the proposed site plan and the procedures and requirements of this section so that any subsequent steps may be taken with a clear understanding of the requirements relating to the development of the site.

(2) Within six months following the presubmission conference, and at least 15 days prior to the Board of Trustees' meeting at which the plan is initially submitted to the Board of Trustees for review, 10 copies of the site plan and any related information, including a letter of application, shall be submitted to the Inspector of Buildings. The fifteen-day requirement may be reduced to a minimum of 10 days at the discretion of the Board of Trustees, provided that such reduction will not preclude a thorough review of the site plan by appropriate Village officials prior to its presentation at the Board of Trustees' meeting at which approval is requested. Subsequent submissions, data and material as deemed necessary and so requested by the Board of Trustees shall be submitted to the Inspector of Buildings at least seven days prior to the meeting at which such data or material will be reviewed, unless otherwise directed by the Board of Trustees.

(3) The site plan shall be signed and sealed by the registered architect or professional engineer responsible for its preparation. Unless specifically modified by the Board of Trustees, the site plan shall be prepared at a scale of one inch equals 30 feet. The site plan shall include the elements hereinafter set forth and any other or further information required by the Inspector of Buildings in the presubmission conference and by the Board of Trustees thereafter, all of which information, in total, shall constitute the site plan.

(a) Legal data.

[1] The section, block and lot number of the property, taken from the latest tax records.

[2] The name and address of the owner of record and the applicant, if not the same.

[3] The name and address of the person, firm or organization preparing the plan.

[4] The date, North arrow, graphic scale and latest revision date.

[5] A survey of the site, prepared and certified to the property owner by a surveyor licensed in the State of New York. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.

[6] A vicinity map identifying the location of the site in context to the surrounding area and locating any municipal boundary within 500 feet of the site.

[7] The location, names and existing widths of adjacent streets and curblines.

[8] The locations and owners of all adjoining lands, as shown on the latest tax records.

[9] The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjacent to the property.

[10] An abstract of title, setting forth any existing easements, deed restrictions or covenants applying to the property.

[11] Existing zoning district boundaries.

(b) Natural features.

[1] Existing contours with intervals of two feet or less, referred to a datum satisfactory to the Village Engineer.

[2] The location of existing watercourses, wetlands, wooded areas, rock outcrops, areas of slope in excess of 20%, trees with a diameter of eight inches or more, measured three feet above the base of the trunk, and other significant environmental features.

(c) Existing structures and utilities, both aboveground and underground.

[1] The location of uses and outlines of structures, drawn to scale, on and within 50 feet of the site.

[2] Paved areas, sidewalks and vehicular accessways between the site and public streets.

[3] Locations, dimensions, grades and flow directions of existing sewers, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.

[4] Other existing development, including fences, landscaping and screening.

(d) Proposed development.

[1] The location of proposed buildings or structural improvements.

[2] The location and design of all uses not requiring structures, including off-street parking and loading areas.

[3] The location, direction, illumination and time of use for any proposed outdoor lighting or public address systems.

[4] The location and plans for any freestanding signs.

[5] The location and arrangement of proposed means of pedestrian and vehicular access, including curbs, sidewalks, driveways or other paved areas, and profiles indicating grading and cross sections showing the width of roadways and the location and width of sidewalks and curbs.

[6] Any proposed screening and other landscaping, including types and locations of proposed street trees, on a landscape plan prepared by a licensed architect or landscape architect.

[7] The location of all proposed waterlines, valves and hydrants, the location of storm sewers and drainage facilities and the location of all sewer lines and appurtenances or the location of alternate means of water supply and sewage disposal and treatment.

[8] An outline of any proposed easements, deed restrictions or covenants.

[9] A quantitative summary of proposed site plan features, including the gross lot area, net lot area, site development coverage, building coverage and building gross floor area.

[10] Any contemplated public improvements on adjoining properties.

[11] Any proposed new grades, indicating clearly how such grades will meet existing grades.

[12] Architectural details of the proposed development, including exterior elevations, roof plans clearly indicating all proposed rooftop equipment, building materials information and samples of the same and any pertinent architectural renderings or other information that the applicant wishes to submit in support of the proposal.

(e) If the site plan encompasses a large tract with several principal buildings, the applicant may submit a staging plan for the development of the entire tract, or the Board of Trustees may require an overall plan for said tract in accordance with existing zoning controls, assuming the first-stage use encompasses the entire tract. Such a plan shall indicate an overall illustrated design for the entire site, plus detailed information for the first stage or

stages. The Board of Trustees shall review the stage presented in accordance with the provisions of this section and also with reference to the overall development planned for the site.

(f) The submission shall also include a completed site plan application checklist, copies of which are available from the Inspector of Buildings.

(g) Upon a finding by the Board of Trustees that, due to special conditions peculiar to a site, certain of the information normally required as part of the site plan is inappropriate or unnecessary or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Board of Trustees may vary or waive the requirement for such information, provided that such waiver will not have a detrimental effect on the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the site plan submission, Official Map, Village Comprehensive Plan or this chapter.

(4) Applications for amendments to an approved site plan shall be made and acted upon in the same manner as the procedure set forth above. The Board of Trustees may refuse to consider an application for a new site plan or amendment to an approved site plan if the Inspector of Buildings determines that the site is not in compliance with its current approved site plan by reason of the failure of the applicant or property owner to satisfy any of the conditions imposed upon the approval of such site plan.

(5) The Inspector of Buildings shall review each proposed site plan or amended site plan for compliance with the Village Code and shall present the site plan or amended site plan to the Board of Trustees only after he is satisfied that it does so comply with the Village Code. The application shall be deemed submitted to the Board of Trustees upon its presentation to the Board of Trustees by the Inspector of Buildings at a regular meeting. In the event that the Village Code is amended during the pendency of the application in any respect which may apply to the proposed site plan or amended site plan, the Board of Trustees shall suspend its review of the application and take no action with respect thereto until the Inspector of Buildings has reviewed the site plan or amended site plan for compliance with the Village Code, as amended. If the Inspector of Buildings determines that the site plan does not comply with the Village Code as amended, the Inspector of Buildings shall so report to the Board of Trustees, which shall thereupon deny the application for approval of the site plan or amended site plan.

(6) Review of the application shall be coordinated with the requirements of the New York State Environmental Quality Review Act (SEQRA) and the review of any other application for a permit that may be required pursuant to state or local law. The Board of Trustees may refer the application to the Planning Board for the purpose of conducting a detailed review of the application and making a recommendation to the Board of Trustees with respect to any action to be taken. When the Board of Trustees deems it to be appropriate to do so, the Fire Department shall be requested to review a site plan for fire access and safety considerations.

(7) Superseding Subdivision 2 of § 7-725[1] of the Village Law insofar as it imposes a limitation upon the time within which the Board of Trustees must decide upon an application for site plan approval and anything to the contrary contained therein notwithstanding, the Board of Trustees shall decide upon an application for approval of a site plan within six months of its submission or any public hearing held thereon, whichever shall be later, and shall not be required to decide sooner.

(8) In order to ensure that the cost to the Village of any engineering, planning, legal or other expert consultations required in connection with the review of any application for approval of a site plan or amendment to an approved site plan shall be borne by the applicant, the applicant shall, upon the submission of an application pursuant to this section, deposit with the Treasurer of the Village of Pelham Manor a sum in the amount established by the Board of Trustees. The Board of Trustees shall not consider any application for which a deposit is required under this section until the Treasurer has certified that the required deposit has been made. The sum deposited shall be held by the Treasurer in a separate trust and agency account for the benefit of the applicant and will be disbursed by the Treasurer for the payment of such engineering, planning, legal or other expert consultations as are required by the Board of Trustees or Village Manager for the review of the application for approval of the site plan or amendment to an approved site plan or other application related thereto, in accordance with the usual requirements of the Village for the payment of bills. In the event that, prior to the completion of the review of the application, the sum deposited is depleted, the applicant shall deposit an additional amount as established by the Board of Trustees. Review of the application shall be suspended until the applicant makes the additional required deposit. After the final action of the Board of Trustees with respect to the application and upon payment of all of the fees for the reviews contemplated herein, the balance remaining in the trust and agency account shall be returned to the applicant. The requirements of this section shall be strictly enforced by the Board of Trustees and the Inspector of Buildings, and no building permit or certificate of occupancy shall be granted until all of the fees required to be paid pursuant to this section have been paid.

C. Standards for site development plan approval. In considering and acting upon site plans, the Board of Trustees shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the proposed development, if any, and of the immediate area in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the extent possible, further the expressed purposes of this chapter and the accomplishment of the following objectives in particular:

(1) Pedestrian and vehicular access and safety: that all proposed accessways are adequate but not excessive in number, width, grade, alignment and visibility; are not located too near to street corners or other places of public assembly; and satisfy other similar safety considerations.

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1. **Editor's Note: Village Law § 7-725 was repealed L. 1992, c. 694, § 3, effective July 1, 1993, and is now covered by Village Law § 7-725-a.**

(2) Traffic circulation: that the interior traffic circulation system is adequate to provide safe access to all buildings on the site and to all required off-street parking and loading areas.

(3) Landscaping and screening: that all areas where landscaping is required are reasonably screened at all seasons of the year, particularly from the view of adjacent residential lots and streets.

(4) Drainage and utilities: that all facilities for water, sanitary sewer, storm drainage and other utility services are adequately designed and that the site drainage system affords the best practical solution to on-site and off-site drainage problems.

(5) Character and appearance: that the site layout of the proposed use, buildings, structures, signs and lighting shall be in general harmony with the character and appearance of the surrounding area and that of the Village as a whole.

(6) Environmental preservation: that the proposed development or use is designed so as to minimize any adverse environmental effects; that all water bodies, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, significant geological features and other areas of scenic or ecological value are preserved to the extent possible; that soil erosion is prevented to the extent possible; and that flood hazards are minimized.

(7) Fire protection: that all proposed structures, equipment and materials and the design of all sites are readily accessible for fire protection.

§ 210-26.1. Approval of special permits. [Added 9-25-2000 by L.L. No. 4-2000]

A. Where a special permit is required for any particular use, no building permit shall be issued and no building or use shall be established or continued except in conformity with a special permit approved by the Board of Trustees, and no certificate of occupancy shall be issued until all of the requirements of this section, including those required by the Board of Trustees under the provisions of this section, have been met. Continued conformance with such a plan shall be a condition of the approval of such plan and of any certificate of occupancy.

B. Prior to the submission of a formal application for a special permit, the applicant shall request that the Inspector of Buildings conduct a presubmission conference with respect to the proposed special permit. The request for such review shall be accompanied by the fee therefor as established by the Board of Trustees. The purpose of the presubmission conference shall be to discuss the proposed special permit and the procedures and requirements of this section so that any subsequent steps may be taken with a clear understanding of the requirements relating to the proposal.

C. On application and after public notice given at least 15 days before a public hearing, the Board of Trustees may authorize the issuance by the Inspector of Buildings of a permit for any of the uses for which a special permit is required by this zoning law. In approving special permits, the Board of Trustees shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general. The

Board of Trustees may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the extent possible, further the expressed intent of this chapter; and be of such location, size and character that, in general, the proposed development will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated; not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties; and be so designed that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with the neighboring uses or conflict with the normal traffic of the area.

D. Each application for a special permit shall be accompanied by a proposed plan showing the size and location of the lot and the location of all existing and proposed buildings and facilities, including access drives, parking areas, all streets within 200 feet of the site and all municipal boundaries within 500 feet of the site.

E. Each application for a special permit shall be accompanied by a fee as established by the Board of Trustees. In addition thereto, and in order to ensure that the cost to the Village of any engineering, planning, legal or other expert consultations required in connection with the review of any application for a special permit shall be borne by the applicant, the applicant shall, upon the submission of an application pursuant to this section, deposit with the Treasurer of the Village of Pelham Manor a sum in the amount established by the Board of Trustees. The Board of Trustees shall not consider any application for which a deposit is required under this section until the Treasurer has certified that the required deposit has been made. The sum deposited shall be held by the Treasurer in a separate trust and agency account for the benefit of the applicant and will be disbursed by the Treasurer for the payment of such engineering, planning, legal or other expert consultations as are required by the Board of Trustees or Village Manager for the review of the application for a special permit or other application related thereto, in accordance with the usual requirements of the Village for the payment of bills. In the event that, prior to the completion of the review of the application, the sum deposited is depleted, the applicant shall deposit an additional amount as established by the Board of Trustees. Review of the application shall be suspended until the applicant makes the additional required deposit. After the final action of the Board of Trustees with respect to the application, and upon payment of all of the fees for the reviews contemplated herein, the balance remaining in the trust and agency account shall be returned to the applicant. The requirements of this section shall be strictly enforced by the Board of Trustees and the Inspector of Buildings, and no building permit or certificate of occupancy shall be granted until all of the fees required to be paid pursuant to this section have been paid.

F. In cases where a parcel of land for which a special permit has been requested is located within 500 feet of the boundary of another municipality, the Village Manager shall transmit a copy of the official notice of hearing to the Municipal Clerk of the affected municipality. Said notice shall also be submitted to the Westchester County Planning Board when so required by the Westchester County Administrative Code.

G. The Board of Trustees may review any previously granted special permit for compliance with conditions imposed. Such review shall follow public notice given 15 days before a public hearing held thereon. Notice of such hearing shall be given to the owner of the

property by certified mail, return receipt requested, not less than 15 days before the public hearing held thereon. The special permit may be revoked following the hearing upon a written determination by the Board of Trustees that specific, identified conditions upon which the special permit was granted have not been or are no longer being satisfied. The Board of Trustees shall set forth in its determination the reasonable time within which satisfaction of the conditions is required. If the applicant satisfies the conditions within the specified time period, the Board of Trustees shall reinstate the special permit. If the applicant fails to satisfy the conditions within the specified time period, the Inspector of Buildings shall revoke the certificate of occupancy for the premises.

§ 210-27. Wireless communication facilities. [Added 2-23-1998 by L.L. No. 1-1998]

Wireless communication facilities shall be permitted pursuant to a special permit issued by the Board of Trustees in accordance with the provisions of this section.

A. Application. An application for a special permit for a wireless communication facility pursuant to this section shall contain the following:

(1) The name and address of the owner of the proposed wireless communication facility and the name and address of the owner of the property on which such facility is proposed to be located.

(2) The name and address of a natural person who resides or has a place of business within 50 miles of the Village of Pelham Manor who shall be designated the managing agent in control of and responsible for the maintenance of the wireless communication facility and who shall be designated as the person upon whom process may be served as agent of the applicant. **[Amended 11-9-1998 by L.L. No. 2-1998]**

(3) A full environmental assessment form (EAF), Part 1, and the visual EAF addendum (Appendix A and Appendix B, 6 NYCRR Part 617.20), including graphic information in the form of photographs or computer generated images with the wireless communications facility superimposed, that portrays the visual impact of the facility from various vantage points.

(4) If the applicant is not the owner of the property on which the wireless communication facility is proposed to be located, a copy of the signed lease or other agreement pursuant to which the applicant is entitled to utilize such property for such facility.

(5) A report signed by a licensed professional engineer with expertise in wireless communication facilities, containing the following:

(a) A description of the proposed wireless communication facility and all related fixtures, structures, appurtenances and apparatus, including, but not limited to, the number, type, design, make, model and manufacturer of the proposed antennas.

(b) The frequency, modulation and class of service of the facility.

(c) The transmission and maximum effective radiated power of the facility.

(d) The direction of maximum lobes and associated radiation of the facility.

(e) Certification, together with the data and calculations on which such certification is based, of the maximum amount of NIER and any other regulated frequency or emission which will be emitted from the proposed wireless communication facility upon its installation and that the facility will comply with the standard for public exposure to NIER established by the Institute of Electrical and Electronics Engineers/American National Standards Institute (1992 ANSI/IEEE C95.1), as same may hereinafter be revised, or, if a regulation establishing standards for NIER or any other regulated frequency or emission has been or is hereafter promulgated by the Federal Communications Commission in accordance therewith.

(f) Certification, together with the data and calculations on which such certification is based, that the proposed antenna array will not cause interference with existing communication devices.

(6) A report signed by a licensed professional engineer qualified to certify the structural soundness of the installation, containing the following:

(a) With respect to a wireless communication installation, certification, together with the data and calculations on which such certification is based, that the building or structure on which the proposed wireless communication facility is to be mounted is capable of supporting the proposed facility, and that the proposed method of affixing the proposed facility to the building or structure is structurally sound.

(b) With respect to a wireless communication monopole or wireless communication tower:

[1] A description of the monopole or tower, including the number of antennas it can accommodate and the precise point at which the antennas shall be mounted.

[2] Certification that the monopole or tower is capable of supporting the proposed installation and of sustaining wind pressure and overturning moment in accordance with New York State Uniform Fire Prevention and Building Code.

[3] Documentation of the additional capacity for future shared use of the monopole or tower.

(7) A statement of anticipated on-site service needs, including frequency of service visits and types of vehicles used for service.

(8) A landscape plan delineating the existing trees to be preserved, the location and dimensions of proposed planting areas, the size, type and number of trees and shrubs to be planted and any other buffers, screening or fences, including elevations of fences and descriptions of materials to be used.

(9) A map depicting and listing all existing sites containing wireless communications facilities in the Village and in adjoining municipalities used by or known to the operator, owner or applicant.

(10) Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the proposed wireless communication facility.

(11) A letter of intent committing the applicant and the applicant's successors in interest to negotiate in good faith for shared use of the proposed tower by other wireless communication services providers in the future, in accordance with Subsection E(3) of this section.

(12) An affidavit stating that the applicant has provided a copy of the application to each municipality which adjoins the Village not less than 20 days prior to the date on which the application will first be heard by the Board of Trustees.

(13) The fee established by the Board of Trustees.

B. Procedure. Before acting upon an application for a special permit in accordance with this section, the Board of Trustees shall:

(1) Establish the amount of the deposit to cover the cost of reviewing the application, as provided in Subsection F of this section.

(2) Commission and consider the report prepared by a qualified expert selected by the Board of Trustees at the cost of the applicant to review the technical and engineering aspects of the application.

(3) Comply with the requirements of the New York State Environmental Quality Review Act.

(4) Render a decision within a reasonable period after it has received all of the information required by this section.

(5) If the Board of Trustees decides to deny the application, render its decision in writing, setting forth the reasons therefor.

C. Determination. The Board of Trustees shall grant a special permit for a wireless communication facility pursuant to this section only upon finding that:

(1) The applicant is duly authorized to provide wireless communication services by the FCC and is required thereby to provide such services in the area in which the Village is located.

(2) The facility is necessary to meet the current or expected demands for the wireless communications services provided by the applicant.

(3) The proposed wireless communication facility is necessary to provide service to locations which cannot be served with existing wireless communication facilities within and outside of the Village or from less obtrusive locations within or outside of the Village.

(4) The proposed facility conforms with applicable regulations promulgated by the Federal Communications Commission.

(5) The proposed facility is so sited as to minimize its visibility from surrounding public streets and adjacent properties.

(6) The proposed facility is the least obtrusive type of wireless communication facility technologically capable of meeting the current or expected demands for the wireless communication services provided by the applicant.

(7) The design and finish of the proposed facility minimize its visual impact.

(8) The proposed facility is designed, and will be constructed, maintained and operated in a manner that minimizes noise and traffic to surrounding areas, ensures the security of the facility, and is inaccessible to the public by fencing or other means not inconsistent with this Code.

(9) The application is for the collocation of the proposed facility with an existing or approved wireless communication facility, or the applicant has made a reasonable effort to collocate the proposed facility with existing or approved wireless communication installations, but such collocation is infeasible as defined in § 210-15 of this chapter and the applicant has made a reasonable effort to collocate the proposed facility with existing or approved wireless communication towers and wireless communication monopoles, but such collocation is infeasible as defined in § 210-15 of this chapter. **[Amended 11-9-1998 by L.L. No. 2-1998]**

(10) The applicant has made a reasonable effort to establish a preferred facility, as defined in § 210-15 of this chapter, but all such facilities are infeasible; provided, however, that the order of preference may be deviated from if the Board of Trustees, in its sole and absolute discretion, determines that there is a compelling reason for doing so.

(11) The proposed facility complies with all dimensional requirements, including the lot and building limitations set forth in this chapter, for the district in which it is located except that:

(a) The height of such facility, as measured to its highest point, may exceed the maximum otherwise applicable to buildings or structures in the zoning district in which it is located, but only to the following extent:

[1] In the case of a wireless communication facility attached to an existing structure, by not more than 10 feet above the highest point of the building or structure on which it is located.

[2] In the case of a wireless communication tower or monopole, by not more than the minimum height necessary to accomplish the purposes to be served by such installation or 100 feet above grade, whichever shall be less.

(b) The facility shall meet the following setback regulations:

[1] A wireless communication tower or monopole shall be located no closer than 125 feet from a dwelling or multifamily house.

[2] An antenna array attached to the side of an existing structure may extend up to five feet horizontally from the side of the structure, provided that the antenna array does not encroach upon an adjoining parcel.

(12) The proposed facility will otherwise comply with the standards set forth in Subsection D below.

D. Standards. Every wireless communication facility shall comply with the following standards:

(1) A wireless communication tower shall not be permitted unless the applicant demonstrates that a wireless communication monopole is incapable of providing the structural support necessary for the proposed facility.

(2) A wireless communication tower shall be self-supporting without the use of wires, cables, beams or other means and shall utilize an open framework configuration without permanent platforms or structures that serve to increase off-site visibility, exclusive of antennas.

(3) A wireless communication facility which is attached to a structure shall be of colors that match, and cause the facility to blend with, the exterior of the structure to which it is attached.

(4) A wireless communication monopole or wireless communication tower shall be of a neutral dark color that is harmonious with, and that blends with, the surrounding natural features, buildings and structures.

(5) Every wireless communication monopole or tower shall be designed and constructed, structurally, electrically, and in all respects, to:

(a) Accommodate both the applicant's antennas and comparable antennas for at least one additional user.

(b) Allow for future rearrangement of antennas.

(c) To accept antennas mounted at varying heights.

(6) No accessory structure shall be permitted other than an equipment facility housing equipment which is required to be located at the site of the wireless communication facility, which such equipment facility shall be located completely below grade, unless such location is impracticable, in which case the equipment facility shall be located within an existing building or structure, unless such location is impracticable, in which case the equipment facility shall be located partially below grade, unless such location is impracticable, in which case the equipment facility may be located at grade. An equipment facility which is not located within an existing building or structure shall be treated in an architectural manner compatible with the buildings and structures in the vicinity using materials,

colors and textures designed to blend with the surrounding natural features, buildings and structures.

(7) The area surrounding the wireless communication facility shall be maintained in its existing state if sufficient to provide a natural vegetative buffer or it shall be landscaped and maintained with paving, evergreen trees, evergreen shrubs and ground cover consistent with the surrounding community character and preserving, to the maximum extent possible, the natural vegetation.

(8) When a fence is required to secure a wireless communications facility, the outside of such fencing shall be landscaped with evergreen trees, evergreen shrubs or climbing evergreen material on the fencing.

(9) Signal lights or illumination of the wireless communication facility shall be prohibited unless required by the Federal Communication Commission, Federal Aviation Administration or other governmental entity having jurisdiction.

(10) No sign shall be placed on a wireless communication facility unless required by applicable laws or regulations.

(11) Adequate emergency and service access to the site shall be provided by existing public or private roads, if possible, or by a new road if necessary, and sufficient parking shall be available to satisfy the anticipated demands of vehicles necessary to service the facility.

(12) Uses ancillary to the wireless communications facility, other than the equipment required on-site to effectuate the purposes of the wireless communication facility are prohibited.

E. Terms and conditions. Each special permit granted pursuant to this section shall be subject to such terms and conditions as the Board of Trustees shall establish with relation to the specifics of the application, which shall include the following:

(1) The special permit shall be limited to the applicant, and neither the special permit nor any of the rights thereunder may be assigned or transferred without the prior approval of the Board of Trustees.

(2) The permit shall be subject to review every 10 years to determine whether by reason of technological change or otherwise the special permit is no longer necessary and should be modified or terminated.

(3) The wireless communication service provider shall:

(a) Respond in a timely and comprehensive manner to a request for information from a potential applicant seeking to collocate on the facility.

(b) Negotiate in good faith with each such potential applicant for shared use of the facility.

(c) Allow shared use of the facility if such applicant agrees in writing to reasonable terms therefor, including a reasonable charge.

(d) Make no more than a reasonable charge for shared use, based on generally accepted accounting principles, which such charge may include, but is not necessarily limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the facility to accommodate a shared user.

(4) Prior to the commencement of construction, the applicant shall submit a bond acceptable in form to the Village Attorney and in an amount established by the Village Manager sufficient to ensure the safe and timely removal of the wireless telecommunications facility in case of abandonment, which such bond shall be renewed by the applicant annually thereafter.

(5) The wireless communication service provider shall, by its qualified professional engineer and/or health physicist, certify on an annual basis that there has been no modification or change in the facility which will affect the maximum amount of NIER and any other regulated frequency or emission which will be emitted from the proposed wireless communication facility.

(6) The wireless communication services provider shall certify on an annual basis the continuing compliance with the requirement set forth in § 210-27A(5)(e) hereof of compliance with the FCC standards for public exposure to NIER and any other regulated frequency or emission which will be emitted from the proposed wireless communication facility. If new, more restrictive standards are hereafter adopted, the wireless communication facility shall be made to comply therewith. The cost to the Village of verifying compliance shall be borne by the wireless communication services provider.

(7) If the wireless communication service provider determines at any time during the operation of the wireless communications facility that the emissions of NIER and any other regulated emission from the wireless communication facility are not in compliance with standards established by the Federal Communication Commission, the wireless communication service provider shall immediately notify the Village Manager.

(8) The wireless communication services provider shall maintain all licenses and permits required for the operation of the facility and shall provide to the Village evidence of each such renewal or extension thereof when granted.

(9) A wireless telecommunications facility which is not operated for the provision of wireless communication services for a continuous period of 12 months or more may be deemed to be abandoned by the Village. Upon receipt of notice of a determination of abandonment from the Village, the wireless communication service provider shall remove the wireless communication facility within 90 days.

(10) If the wireless communication provider files with the FCC a notice of intent to cease operations, a copy of such notice shall be provided to the Village within 30 days of the filing such notice, and the wireless communication facility shall be removed within 90 days of the filing such notice.

(11) If a wireless communication service provider has failed to remove a nonoperating wireless communication facility within the time prescribed by this section, the Village may remove such facility and at the expense of the wireless communication service provider and may obtain reimbursement for the costs it has incurred thereby from the wireless communication service provider directly or under the terms and conditions of the bond required pursuant to this section.

F. Review costs. The cost to the Village of reviewing an application for a special permit pursuant to this subsection and the cost of any subsequent or continuing review required by this subsection or the terms of any permit granted hereunder, shall be borne by the applicant. Upon the initial review by the Board of Trustees of an application for a special permit pursuant to this section, the Village Manager shall determine and report to the Board of Trustees an estimate of the cost to the Village of the review of the application, including the cost of the expert report required by Subsection B(2) of this section. The Board of Trustees shall consider the estimate reported by the Village Manager and shall require the applicant to deposit with the Village Treasurer an amount sufficient to satisfy such cost. The application shall not be considered further until the applicant has deposited the required amount with the Village Treasurer. The Village Treasurer shall maintain such amount in an interest-bearing account for the benefit of the applicant to be used to satisfy any obligation which the Board of Trustees shall determine the applicant to have for the cost of reviewing the application. Upon the Board's determination of such obligation, the Village Treasurer is authorized to transfer to the general fund of the Village any amount necessary to satisfy such obligation. To the extent that there are funds remaining in such account after the satisfaction of such obligation, such funds shall be returned to the applicant. In the event that the funds deposited with the Village Treasurer are insufficient to satisfy the applicant's obligation hereunder, the applicant shall deposit such additional sums as in the judgment of the Village Manager shall be sufficient to satisfy the applicant's anticipated future obligations. In rendering its decision with respect to the application, or upon the sooner withdrawal of the application, the Board of Trustees shall cause to be determined and shall set forth the cost to the Village of the review of the application. Such cost as determined by the Board of Trustees shall be paid to the Village Treasurer by the applicant prior to the issuance of any permit pursuant to this subsection. The Board of Trustees shall similarly determine any cost incurred by the Village subsequent to the issuance of a permit, which such cost shall be paid by the applicant within 30 days of the determination of the Board of Trustees. Any cost not so paid shall be collected in the manner provided by law.

G. Effect on existing wireless communication facilities. Wireless communication facilities in existence and use on the effective date of this section which do not conform to or comply with this section may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this section. Any such wireless communication facility which is hereafter damaged or destroyed due to any reason or cause other than the intentional act of its owner may be repaired and restored to its former use, location and physical dimensions without complying with this section, unless the cost of such repair or restoration would exceed 10% of the cost of a new facility of like kind and quality constructed in compliance with this section, in which case the damaged or destroyed facility may not be repaired or restored except in full compliance with this section.

§ 210-27.1. Development coverage in residential districts. [Added 2-10-2003 by L.L. No. 1-2003]

A. A lot of less than 10,000 square feet shall have a maximum development coverage of 45%.

B. A lot of 10,000 square feet but less than 15,000 square feet shall have a maximum development coverage of 40%.

C. A lot of 15,000 square feet but less than 20,000 square feet shall have a maximum development coverage of 35%.

D. A lot of 20,000 square feet or greater shall have a maximum development coverage of 30%.

E. In instances where no more than 40 square feet of additional coverage is proposed, the owner of a residential parcel need not provide a certified survey demonstrating compliance with the lot coverage requirements of the Zoning Ordinance, provided the records of the Village do not disclose that the permitted lot coverage for the parcel in question will be exceeded by the addition of the proposed additional coverage.

§ 210-27.2. Setbacks in residential districts. [Added 2-10-2003 by L.L. No. 1-2003]

A. A lot of less than 20,000 square feet shall have the principal building, sporting structures, not accessory to a driveway, and swimming pools set back no less than 10 feet from each side lot line.

B. A lot of 20,000 square feet or more shall have the principal building, sporting structures, not accessory to a driveway, and swimming pools set back no less than 15 feet from each side lot line.

§ 210-27.3. Special permits. [Added 2-10-2003 by L.L. No. 1-2003]

In the event of an application to build a residence on a vacant lot, to rebuild a residence on a lot where 50% or more of the existing residence has been removed or destroyed or to build an addition of 500 square feet or more to an existing residence, the applicant shall be required to obtain a special permit from the Board of Appeals, subject to the following criteria:

A. The Board of Appeals must make a finding that there is a complementary relationship established between building height and setback, especially side yard setbacks to reduce any adverse impacts of a large house overshadowing a neighboring smaller house.

B. When a structure is located on a parcel which exceeds the elevation of any adjoining parcel by seven feet or more (as measured from the top of the basement or cellar of the structure located on the applicant's property to the adjoining property line) such a height difference shall require that the house be set back an additional five feet from each side yard for each story above the first floor of the structure, it being intended that a story shall have a wall height of no more than ten feet between the floor and the ceiling.

§ 210-27.4. Elevation or grade. [Added 2-10-2003 by L.L. No. 1-2003]

Depositing fill on any site which results in a change in the grade of any portion of the site by two feet or greater shall require a permit from the Village Manager or his/her designee. No such permit shall be issued until an application, on a form approved by the Village Manager, shall be submitted which shall demonstrate the need for the change in grade accompanied by a topographic survey showing existing and proposed grades at two-foot intervals and a plan signed by a licensed engineer or architect demonstrating that the change in grade shall not cause an increase in runoff onto streets or adjacent properties. In the event the Village Manager or his/her designee denies the permit, the applicant shall have the right, within 30 days of the filing of the denial in the Village Clerk's office, to seek review of the denial before the Board of Appeals.

ARTICLE VIII
Certificate of Occupancy

§ 210-28. When required.

No building hereafter erected and no building hereafter altered shall be occupied in whole or in part until a certificate of occupancy shall have been issued by the Inspector of Buildings, provided that temporary permission to occupy part of such buildings may be issued by the Inspector of Buildings, if, in his opinion, such temporary occupancy or use would not in any way jeopardize life, health or property.

§ 210-29. Contents of certificate.

The certificate of occupancy shall state the compliance with approved plans and specifications, the purpose for which the building may be used in its several parts, the maximum permissible live loads on the several floors, the number of persons that may be accommodated in the several stores in case such numbers are limited by any provisions of this chapter, or any other statute, and other special stipulations of the permit, if any. The Inspector of Buildings shall establish rules and regulations requiring written applications and such other requirements for the issuance of a certificate of occupancy as he may deem necessary. A certificate of occupancy may be temporary or for a term or permanent, but subject to cancellation for cause.

§ 210-30. Change of occupancy or use.

No change of occupancy or use shall be made in any building or part thereof now existing or hereafter erected or altered or with respect to any land unless a certificate of occupancy is issued by the Inspector of Buildings certifying that such building or land and the use thereof conforms to the provisions of this chapter and other statutes and regulations affecting such changed occupancy or use.

ARTICLE IX
Residence AAA Districts

§ 210-31. Permitted uses.

In a Residence AAA District no building or lot shall be used or occupied for any purpose other than as follows:

A. A single-family detached dwelling used exclusively for residential purposes and no part of which may be used for the office of a professional person or any other employment, vocation or home occupation.

B. Accessory buildings and special accessory buildings customarily incidental to the uses herein specifically permitted in said district and located on the same lot. Not more than one garage and not more than one greenhouse shall be erected on a lot then only in connection with the use or occupancy of dwelling located on the same lot.

C. Living accommodations for a chauffeur, servant, nurse or other renderer of recognized health care employed full-time on the premises and persons related to a person so employed by blood, lawful marriage or legal adoption.

D. A church or other place of worship, a church school or parochial school; nonresidential uses on church property that are endorsed by the church, are not primarily commercial in nature and have the purpose of providing charitable, educational, cultural or civic benefits; or a public school under the Jurisdiction of Free School District #1, Town of Pelham. **[Amended 9-13-1993 by L.L. No. 2-1993]**

E. A parking lot as an accessory to a permitted use.

F. Swimming pools.

(1) A swimming pool as an accessory structure to a principal building used for single-family residence purposes, for the exclusive use of the occupant of the said principal building and his family and nonpaying guests, provided that such use is determined by the Board of Appeals to be consistent with the public health, safety, morals and general welfare of the community and further provided that the construction and operation of the swimming pool meets the following conditions:

(a) The outside edge of said swimming pool is not nearer the street line than any existing point of the building or nearer than 10 feet to any side line or rear line. For each foot or fraction thereof in height above grade, the outside edge of said swimming pool shall be set back an additional two feet from any side or rear lot line. **[Amended 9-24-1984 by L.L. No. 1-1984]**

(b) A fence or wall not less than four feet in height be erected and maintained not more than 20 feet distant at any one point from the outside edge of the swimming pool. The fence to have a gate which must be locked when the pool is not in use.

(c) Any lights illuminating such swimming pool be so erected and maintained as to eliminate direct rays and minimize reflected rays of light on adjoining premises.

(d) All filter pumps or other mechanical devices be so located and constructed as not to interfere with the peace, comfort and repose of the occupant of any adjoining building or residence.

(e) Said swimming pool shall not be used, illuminated or operated between the hours of 11:00 p.m. and 6:00 a.m.

(f) Landscaping shall be provided to adequately screen the pool and its operation from view from the public street and from the principal building setback lines of abutting properties. Said landscaping shall be of a type, size and amount to provide effective year-round screening and may include structures as permitted and regulated by this chapter. To assist in determining the adequacy and appropriateness of said landscaping:

[1] The applicant shall submit a plan of the proposed pool and its landscaping, showing, at least: the type, size, location and proximity to all adjacent residences of such pool and landscaping; the topography and existing vegetation of the site; and additional information as needed to show intended compliance with all conditions of Subsection F(1)(a) through (e) above and with this Subsection F(1)(f).

[2] The landscaping elements of said plan shall be prepared by an arborist, horticulturist, landscape architect or other person considered by the Board of Appeals to be competent and knowledgeable about the particular growing environment and circumstances under study.

[3] The Board of Appeals shall review said plan, including, if it deems it appropriate, inspection of the site to ensure the adequacy of the plan and compliance with all requirements and conditions of this section.

[4] The Board of Appeals may require additional screening where it determines such to be in the interest of privacy, control of noise and glare, safety and general welfare of the neighborhood. The Board may require modifications to the plan, or may establish additional conditions to ensure the adequacy of screening and continued maintenance and vitality of the man-made and planted elements. Such additional conditions may include, but shall not be limited to, additional pool setback beyond the minimum requirement in Subsection F(1)(a) above.

[5] Adequacy of screening shall be defined as the substantial blocking of view of the pool and its operation, to a height of at least six feet above the height of the pool water level when in normal usage, when viewed from the public street or principal building setback line on abutting properties. **[Amended 9-24-1984 by L.L. No. 1-1984]**

(2) The provisions of this section shall become effective as they affect swimming pools as may be in existence on the effective date of this section, six months after effective date thereof.

G. Signs permitted by Chapter 173, Signs.

H. The use of a residential building may not be changed to a nonresidential use unless the building or structure conforms to all the requirements of the nonresidential use.

I. A municipal building or use.

J. A satellite earth station as an accessory structure to a principal providing for the exclusive use of the occupant of such principal building, provided that such use is determined by the Board of Appeals to be consistent with the public health, safety, morals and general welfare of the community and further provided that the construction and operation of the satellite earth station meets the following conditions:

(1) A freestanding satellite earth station shall be located only to the rear of the principal building or structure on a lot and, notwithstanding other provisions in this chapter to the contrary, shall not be located any nearer any property line than permitted for a principal building in the district in which it is located.

(2) A satellite earth station with a dish diameter of similar dimension of greater than four feet shall only be permitted as a special permit use.

(3) Freestanding satellite earth stations shall not exceed 15 feet in height. Dish antennas located on buildings shall not extend more than 10 feet above the highest point of the roof.

(4) The location and design of a satellite earth station shall reduce to a minimum the visual impact, the nuisance and distractive influence on surrounding properties or streets through the use of structures, architectural features, earth berms, screening and/or landscaping that harmonize with the elements and characteristics of the property. The materials used in the construction of the antenna shall not be unnecessarily bright, shiny, garish or reflective. **[Amended 9-24-1984 by L.L. No. 1-1984]**

§ 210-32. Density.

A. No lot hereafter used for residential purposes shall contain an area of less than 20,000 square feet and no lot hereafter used for nonresidential purposes shall contain an area of less than 40,000 square feet; provided that a dwelling may be erected or maintained on any lot separately owned at the time of passage of this chapter, and provided further that all the other provisions of this chapter are observed; and provided further that a dwelling may be erected or maintained on any lot affected by the provisions of the Village of Pelham Manor's Local Law No. 2 of the year 1974 which does not meet the additional minimum requirements created by said Local Law No. 2 if each of the following conditions are met: **[Amended 10-14-1974 by L.L. No. 2-1974]**

(1) Such lot was owned of record on the effective date of the Village of Pelham Manor's Local Law No. 1 of the year 1974 (July 19, 1974) and the owner of record thereof on said date did not own of record adjoining property enabling such owner to comply with all of the requirements of this chapter;

(2) Such lot did comply with all the requirements of this chapter in effect prior to said date; and

(3) All the other provisions of this chapter are observed.

B. No building shall be erected on or moved to a lot having a frontage of less than 125 feet on any street on which the lot abuts.

C. No nonresidential building shall be erected, altered, enlarged or moved on a lot to occupy, together with other buildings on the lot, more than 20% of the area of the lot.

§ 210-33. Setbacks.

A. No building shall hereafter be erected, altered, enlarged or moved on a lot nearer to a street line than the building nearest the street line heretofore lawfully erected on an adjoining lot on the same street, but not nearer than 40 feet.

B. The following features may extend into any front, side or rear yard not to exceed the distances specified:

(1) Cornices, canopies, eaves, gutters, leaders or any similar features: 36 inches.

(2) Stoop, consisting of a raised entrance platform with steps leading up to it with its floor level no higher than that of the entrance to the building: four feet.

(3) A railing no higher than three feet may be placed around such stoop.

(4) Steps. No limit.

(5) A chimney: 24 inches.

(6) Belt courses, window sills and other similar ornamental features: six inches.

§ 210-34. Yards.

Each lot shall have side and rear yards and no building shall hereafter be erected, altered, enlarged or moved on lot so as to be nearer to a lot line than the following distances:

A. (Reserved)[2]

B. On a corner lot, one side yard shall be not less than 15 feet, the other side yard not less than 25 feet.

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2. **Editor's Note: Former Subsection A, regarding side yards, was repealed 2-10-2003 by L.L. No. 1-2003. See now § 210-27.2.**

C. Rear yards: not less than 25 feet. However, detached accessory buildings may be erected, altered, enlarged or moved, as long as no part shall be nearer than two feet to a side or rear lot line. Required front yard setbacks shall be observed.

§ 210-35. Separation.

Detached buildings, including accessory buildings on the same lot shall be separated from one another by a free and open air space of not less than 10 feet.

§ 210-36. Height. [Amended 6-26-2000 by L.L. No. 2-2000]

No building shall hereafter be erected, enlarged or altered to exceed 2 1/2 stories or 35 feet, whichever is less, above a basement or cellar in height. This height limitation shall not apply to steeples of places of worship if such steeples do not exceed 150 square feet in area.[3]

ARTICLE X
Recreational R Districts

§ 210-37. Permitted uses.

In a Recreational R District no building or lot shall be used or occupied for any purpose other than as follows:

A. Recreational and open space uses and all uses as permitted and regulated in a Residence AAA District, including principal and accessory uses, but excluding single-family residences.

B. Membership clubs as defined in this chapter.

ARTICLE XI
Residence AA Districts

§ 210-38. Permitted uses.

In a Residence AA District no building or lot shall be used or occupied for any purpose other than a use permitted in a Residence AAA District.

§ 210-39. Density.

A. No lot hereafter used for residential purposes shall contain an area of less than 15,000 square feet and no lot hereafter used for nonresidential purposes shall contain an area of less than 40,000 square feet; provided that a dwelling may be erected or maintained on any lot separately owned at the time of passage of this chapter, and provided further that all the other provisions of this chapter are observed.

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3. **Editor's Note: Former Section 40, Subsection 7, Coverage, which immediately followed this section, added 6-26-2000 by L.L. No. 2-2000, was repealed 2-10-2003 by L.L. No. 1-2003.**

B. No building shall hereafter be erected on or moved to a lot having a frontage of less than 100 feet on any street on which the lot abuts.

C. No nonresidential building shall be erected, altered, enlarged or moved on a lot to occupy, together with other buildings on the lot, more than 20% of the area of the lot.

§ 210-40. Setbacks.

A. No building shall hereafter be erected, altered, enlarged or moved on a lot nearer to a street line than the building nearest the street line heretofore lawfully erected on an adjoining lot on the same street, but not nearer than 35 feet.

B. The following features may extend into any front, side or rear yard not to exceed the distances specified:

(1) Cornices, canopies, eaves, gutters, leaders or any similar features: 36 inches.

(2) Stoop, consisting of a raised entrance platform with steps leading up to it with its floor level no higher than that of the entrance to the building: four feet. A railing no higher than three feet may be placed around such stoop.

(3) Steps: no limit.

(4) A chimney: 24 inches.

(5) Belt courses, window sills and other similar ornamental features: six inches.

§ 210-41. Yards.

Each lot shall have side and rear yards and no building shall hereafter be erected, altered, enlarged or moved on a lot so as to be nearer to a lot line than the following distances:

A. (Reserved)[4]

B. On a corner lot, one side yard shall be not less than 10 feet, the other side yard not less than 25 feet.

C. Rear yards: not less than 25 feet. However, detached accessory buildings which do not exceed one story nor 15 feet in height may be erected, altered, enlarged or moved, as long as no part shall be nearer than two feet to a side or rear lot line. Required front yard setbacks shall be observed.

§ 210-42. Separation.

Detached buildings, including accessory buildings on the same lot shall be separated from one another by a free and open air space of not less than 10 feet.

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4. **Editor's Note: Former Subsection A, regarding side yards, was repealed 2-10-2003 by L.L. No. 1-2003. See now § 210-27.2.**

§ 210-43. Height. [Amended 6-26-2000 by L.L. No. 2-2000]

No building shall hereafter be erected, enlarged or altered to exceed 2 1/2 stories or 35 feet, whichever is less, above a basement or cellar in height. This height limitation shall not apply to steeples of places of worship if such steeples do not exceed 150 square feet in area.[5]

ARTICLE XII
Residence A Districts

§ 210-44. Permitted uses.

In a Residence A District no building or lot shall be used or occupied for any purpose other than as follows:

A. A use permitted in the Residence AA District.

B. A municipal building or use.

§ 210-45. Density.

A. No lot hereafter used for residential purposes shall contain an area of less than 10,000 square feet and no lot hereafter used for nonresidential purposes shall contain an area of less than 40,000 square feet, provided that a dwelling may be erected or maintained on any lot separately owned at the time of passage of this chapter, and provided further that all the other provisions of this chapter are observed.

B. No building shall hereafter be erected on or moved to a lot having a frontage of less than 75 feet on any street on which the lot abuts.

C. No nonresidential building shall be erected, altered, enlarged or moved on a lot to occupy, together with other buildings on the lot, more than 20% of the area of the lot.

§ 210-46. Setbacks.

A. No building shall hereafter be erected, altered, enlarged or moved on a lot nearer to a street line than the building nearest the street line lawfully erected on an adjoining lot on the same street, but no nearer than 35 feet.

B. The following features may extend into any front, side or rear yard not to exceed the distances specified:

(1) Cornices, canopies, eaves, gutters, leaders or any similar features: 36 inches.

(2) Stoop, consisting of a raised entrance platform with steps leading up to it with its floor level no higher than that of the entrance to the building: four feet. A railing no higher than three feet may be placed around such stoop.

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5. **Editor's Note: Former Section 41, Subsection 7, Coverage, which immediately followed this section, added 6-26-2000 by L.L. No. 2-2000, was repealed 2-10-2003 by L.L. No. 1-2003.**

(3) Steps: no limit.

(4) A chimney: 24 inches.

(5) Belt courses, window sills and other similar ornamental features: six inches.

§ 210-47. Yards.

Each lot shall have side and rear yards and no building shall hereafter be erected, altered, enlarged or moved on a lot so as to be nearer to a lot line than the following distances:

A. (Reserved)[6]

B. On a corner lot, one side yard shall be not less than 10 feet, the other sidle yard not less than 25 feet.

C. Rear yards: not less than 25 feet. However, detached accessory buildings which do not exceed one story nor 15 feet in height may be erected, altered, enlarged or moved, as long as no part shall be nearer than two feet to a side or rear lot line. Required front yard setbacks shall be observed.

§ 210-48. Separation.

Detached buildings, including accessory buildings on the same lot shall be separated from one another by a free and open air space of not less than 10 feet.

§ 210-49. Height. [Amended 6-26-2000 by L.L. No. 2-2000]

No building shall hereafter be erected, enlarged or altered to exceed 2 1/2 stories or 35 feet, whichever is less, above a basement or cellar in height. This height limitation shall not apply to steeples of places of worship if such steeples do not exceed 150 square feet in area.[7]

ARTICLE XIII
Residence B Districts

§ 210-50. Permitted uses.

In a Residence B District no building or lot shall be used or occupied for any purpose other than as follows:

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6. **Editor's Note: Former Subsection A, regarding side yards, was repealed 2-10-2003 by L.L. No. 1-2003. See now § 210-27.2.**

7. **Editor's Note: Former Section 42, Subsection 7, Coverage, which immediately followed this section, added 6-26-2000 by L.L. No. 2-2000, was repealed 2-10-2003 by L.L. No. 1-2003.**

A. A use permitted in Residence A Districts.

B. An area not exceeding 500 square feet in a dwelling for the office of a medical doctor or dentist duly licensed to practice in the State of New York when such practice is conducted by the resident thereof.

§ 210-51. Density.

A. No lot hereafter used for residential purposes shall contain an area of less than 5,000 square feet and no lot hereafter used for nonresidential purposes shall contain an area of less than 40,000 square feet; provided that a dwelling may be erected or maintained on any lot separately owned at the time of passage of this chapter, and provided further that all the other provisions of this chapter are observed.

B. No building shall hereafter be erected on a lot having a frontage of less than 50 feet on any street on which the lot abuts.

C. No nonresidential building shall be erected, altered, enlarged or moved on a lot to occupy, together with other buildings on the lot, more than 20% of the area of the lot.

§ 210-52. Setbacks.

A. No building shall hereafter be erected, altered, enlarged or moved on a lot nearer to a street line than the building nearest the street line heretofore lawfully erected on an adjoining lot on the same street, but not nearer than 20 feet.

B. The following features may extend into any front, side or rear yard not to exceed the distances specified:

(1) Cornices, canopies, eaves, gutters, leaders or any similar features: 36 inches.

(2) Stoop, consisting of a raised entrance platform with steps leading up to it with its floor no higher than that of the entrance to the building: four feet. A railing no higher than three feet may be placed around the stoop.

(3) Steps: no limit.

(4) A chimney: 24 inches.

(5) Belt courses, window sills and other similar ornamental features: six inches.

§ 210-53. Yards.

Each lot shall have side and rear yards and no building shall hereafter be erected, altered, enlarged or moved on a lot so as to be nearer to a lot line than the following distances:

A. (Reserved)[8]

B. On a corner lot, one side yard shall not be less than 10 feet, and the other side yard not less than 25 feet.

C. Rear yards: not less than 25 feet. However, detached accessory buildings which do not exceed one story nor 15 feet in height may be erected, altered, enlarged or moved, as long as no part shall be nearer than two feet to a side or rear lot line. Required front yard setbacks shall be observed.

§ 210-54. Separation.

Detached buildings, including accessory buildings on the same lot shall be separated from one another by a free and open air space of not less than 10 feet.

§ 210-55. Height. [Amended 6-26-2000 by L.L. No. 2-2000]

No building shall hereafter be erected, enlarged or altered to exceed 2 1/2 stories or 35 feet, whichever is less, above a basement or cellar in height. This height limitation shall not apply to steeples of places of worship if such steeples do not exceed 150 square feet in area.[9]

ARTICLE XIV
Multifamily Districts

§ 210-56. Permitted uses.

In a Multifamily District, no building, structure or land shall be used or occupied for any purpose other than as follows:

A. A use permitted in the Residence B District.

B. A multifamily house.

C. A parking garage or parking lot as an accessory to any of the uses enumerated in this section, in which are prohibited the storage or sale of gasoline or other materials for serving vehicles, and the maintenance of equipment for their repair.

D. The following uses, provided that a special permit is obtained from the Board of Trustees in each specific case after public hearing and notice and further provided that the Board of Trustees finds that such use promotes the general health, safety, morals and welfare of the community and is in accordance with the general purpose and intent of this chapter:

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8. **Editor's Note: Former Subsection A, regarding side yards, was repealed 2-10-2003 by L.L. No. 1-2003. See now § 210-27.2.**

9. **Editor's Note: Former Section 43, Subsection 7, Coverage, which immediately followed this section, added 6-26-2000 by L.L. No. 2-2000, was repealed 2-10-2003 by L.L. No. 1-2003.**

(1) A public library, a club, restricted to an elected membership, for social intercourse, dining service and sleeping accommodations, not catering to the general public and not operated for gain and profit.

§ 210-57. Density.

A. No multifamily house or group of houses shall hereafter be erected or altered to occupy more than 20% of the lot area lying within this use district, nor shall such house or houses be designed or used to accommodate more than one family or household for each 3,000 square feet of the area of the lot lying within this use district.

B. No club shall hereafter be erected or altered to accommodate or make provisions for sleeping accommodations for more than one person for each 1,000 square feet of the area of the lot lying within this use district.

C. No school shall be erected or altered to occupy, together with other buildings on the lot, more than 20% of the area of the lot.

D. In no building existing at the time of the passage of this chapter shall rooms or sleeping accommodations be increased to exceed the limitations fixed by this section.

§ 210-58. Setbacks.

A. No building shall hereafter be erected, altered, enlarged or moved on a lot nearer than 50 feet to the street line of the Boston Post Road or nearer than 35 feet to a street line other than the Boston Post Road.

B. A public garage accessory to a permitted use, if so constructed that its roof is not higher than the basement ceiling level of the building to which it is accessory, may extend toward but not nearer than five feet from the street line.

§ 210-59. Yards.

No building shall hereafter be erected, altered, enlarged or moved on a lot nearer than 30 feet to a lot line, other than a street line, provided that when such lot line lies wholly within the multifamily district and is more than 30 feet from the boundary line thereof, such distance shall be not less than 20 feet.

§ 210-60. Height.

No building shall be erected, enlarged or altered to exceed 2 1/2 stories above a basement or cellar in height. This height limitation shall not apply to steeples of places of worship if such steeples do not exceed 150 square feet in area.

§ 210-61. Parking area.

No building or structure shall hereafter be erected, enlarged or altered unless there be a paved private yard area or garage space or both, sufficient in size to accommodate the required number of motor vehicles as specified in § 210-23 of this chapter.

§ 210-62. Approval of plans.

No building having more than two families, and no group of buildings shall be erected on any lot unless a development plan for the entire lot has been approved by the Planning Board. Subsequent to issuance of such approval, no building permit shall be issued except for building in conformity with the approved development plan.

ARTICLE XV
Retail Districts

§ 210-63. Permitted uses.

A. No building or land shall be used or occupied for any purpose other than as follows:

(1) A store or establishment for the sale, at retail, of merchandise or services, provided that no store or establishment selling or serving food or beverage for consumption on the premises shall be permitted within the Retail Districts unless such sales are purely incidental to the operation of a bona fide retail drugstore, grocery store, delicatessen or variety store. **[Amended 3-10-1975 by L.L. No. 1-1975]**

(2) An establishment for the rendering or furnishing of personal service to the residents of the locality, but not involving fabrication on the premises.

(3) Offices for the rendering of professional services, or for the transaction of business not involving manufacture or the storage of merchandise.

(4) Parking garage or parking lot as an accessory to any of the uses enumerated in this section, but not including the storage of gasoline or other materials for servicing vehicles, or the maintenance of equipment for their repair.

(5) A church or other place of worship, a church school or parochial school, or a public school under the jurisdiction of Free School District #1, Town of Pelham.

(6) The following uses, provided a special permit is obtained from the Board of Trustees in each specific case after public hearing and notice and further provided that the Board of Trustees finds that such use promotes the general health, safety, morals and welfare of the community and in accordance with the general purposes and intent of this chapter:

(a) A public library, a club restricted to an elective membership for social intercourse, dining service and sleeping accommodations not catering to the general public and not operated for a gain or profit.

B. No structure, building or land shall be used or occupied for a use permitted in a Multifamily District in combination with a use otherwise permitted by this section.

§ 210-64. Setbacks.

A. No building shall hereafter be erected, altered, enlarged or moved on a lot nearer than 50 feet to the street line of Boston Post Road or nearer than 25 feet to the street line of Pelhamdale Avenue.

B. No display of merchandise shall be made or maintained outside of the building.

§ 210-65. Yards.

A. No building, shall hereafter be erected, altered, enlarged or moved on a lot nearer than 30 feet to a lot line other than a street line; provided that when such lot lies wholly within the retail or multifamily district and is more than 30 feet from the boundary line thereof, such distance shall be not less than 20 feet.

B. The following features may extend into any front, side or rear yard not to exceed the distances specified:

(1) Cornices, canopies, eaves, gutters, leaders or any similar features: 36 inches.

(2) Stoop, consisting of a raised entrance platform with steps leading up to it with its floor level no higher than that of the entrance to the building: 4 feet. A railing no higher than three feet may be placed around such stoop.

(3) Steps: no limit.

(4) A chimney: 24 inches.

(5) Belt courses, window sills and other similar ornamental features: six inches.

§ 210-66. Height.

No building shall hereafter be erected, enlarged or altered to exceed 2 1/2 stories above a basement or cellar in height. This height limitation shall not apply to steeples of places of worship if such steeples do not exceed 150 square feet in area.

ARTICLE XVI
Business Districts
[Amended 9-25-2000 by L.L. No. 4-2000]

§ 210-67. Purposes.

A. The purpose of the Business 1 District is to preserve the scale, type and intensity of existing uses within the business area to the southeast of the Boston Post Road corridor, which serves as a gateway to the Village. The regulations for the Business 1 District

include standards and guidelines to enhance the District's, aesthetic character, upgrade the streetscape and create an attractive and appealing business environment.

B. The purpose of the Business 2 District is to establish a mixed use district made up of high-quality, medium-intensity commercial, service and design uses, to provide for uses which encourage pedestrian activity and visual aesthetics, to maintain existing buildings and to preserve the architectural integrity and character of the existing structures.[11]

§ 210-68. Permitted principal uses.

A. No building or premises in the Business 1 District shall be used, and no building shall be erected, altered or added to in the Business 1 District, unless otherwise provided in this chapter, except for the following:

(1) Business and professional offices other than medical offices.

(2) Manufacturing, producing, assembling, processing, converting, altering, furnishing or cleaning of goods.

(3) Wholesaling, storing or warehousing of goods, including building supplies.

(4) Convenience stores and delicatessens.

(5) Restaurants and brew pubs.

(6) Retail sales of appliances, furniture and hardware.

(7) Service commercial sales and services, such as locksmiths, vacuum cleaners, air conditioners, paint, printing and reproduction studios, glass, wallpaper, carpet and flooring,

(8) Personal service stores.

B. No building or premises in the Business 2 District shall be used, and no building shall be erected, altered or added to in the Business 2 District, unless otherwise provided in this chapter, except for the following:

(1) Retail sale of antiques; antique furniture; apparel; audio equipment; baked goods; bedding; books and periodicals; china; compact discs; cookware; crafts; cutlery; electronic equipment; flowers and plants; glassware; home entertainment media; home furnishings; jewelry; kitchenware; lamps and lighting; linens; office equipment and supplies; pottery; shoes; specialty foods and sports equipment.

(2) Artists' studios and galleries.

(3) Banks and financial institutions.

(4) Brew pubs and restaurants, other than fast-food, drive-in and carry-out restaurants.

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11. Editor's Note: Former Subsection C, regarding the purpose of the Business 3 District, which immediately followed this subsection, was repealed 3-23-2009 by L.L. No. 1-2009 and 1-11-2010 by L.L. No. 1-2010.

(5) Business and professional offices other than medical offices.

(6) Department stores.

(7) Farmer's markets.

(8) Health clubs provided that there may not be any admission charged for exhibitions and that the number of spectators permitted on the premises is limited (subject to compliance with applicable building, fire and zoning code provisions) to no more than 150. **[Amended 10-27-2003 by L.L. No. 3-2003]**

(9) Existing manufacturing, producing, assembling, processing, converting, altering, finishing or cleaning of goods together with retail and/or business offices incident thereto, provided that: **[Amended 10-27-2003 by L.L. No. 3-2003; 3-23-2009 by L.L. No. 1-2009; 1-11-2010 by L.L. No. 1-2010]**

(a) The retail and/or business office area is no less than 20% of the gross floor area of the premises; and

(b) Such uses, other than the retail and/or business office portion thereof, do not occupy more than 80% of the ground floor or 10,000 square feet, whichever is less; and

(c) There shall be no outside storage of goods or materials; and

(d) All manufacturing, producing, assembling, processing, converting, altering, finishing or cleaning of goods shall occur indoors; and.

(e) The manufacturing, producing, assembling, processing, converting, altering, finishing or cleaning of goods shall not produce odors, dust, or noise detectable at the property line.

(10) Wholesaling, storing or warehousing of goods, including building supplies, together with retail sales incident thereto, provided that: **[Amended 10-27-2003 by L.L. No. 3-2003]**

(a) The retail sales area is no less than 25% of the gross floor area of the premises; and

(b) Such uses, other than the retail portion thereof, shall not occupy more than 1/3 of the ground floor.

(11) Public utility substations.

(12) Personal service stores.[12] **[Added 10-27-2003 by L.L. No. 3-2003]**

(13) Coffee shop restaurants. **[Added 4-27-2015 by L.L. No. 1-2015]**

(14) Fast-casual restaurants. **[Added 4-27-2015 by L.L. No. 1-2015]**

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12. Editor's Note: Former Subsection C, regarding uses in the Business 3 District, which immediately followed this subsection, was repealed 3-23-2009 by L.L. No. 1-2009 and 1-11-2010 by L.L. No. 1-2010.

§ 210-69. Uses allowed by special permit.

Buildings or premises in the business districts may be used, and buildings may be erected, altered or added to in such districts, for the following purposes upon the issuance of a special permit by the Board of Trustees:

A. Gasoline stations, automobile repair shops, automotive services and the retail sale of automotive parts, provided that the following conditions are satisfied:

(1) All repair work shall be done indoors.

(2) All automobile parts shall be stored completely within a building.

(3) Overnight outdoor storage of motor vehicles shall not be permitted.

(4) The following accessory uses shall be permitted: car washes and convenience stores.

B. Fast-food, drive-in and carry-out restaurants, provided that the following conditions are satisfied:

(1) No such establishment is located within 1,000 feet of any existing fast-food, drive-in, or carry-out restaurant located either within or outside the boundaries of the Village of Pelham Manor.

(2) No such establishment is located within 300 feet of any residence district either within or outside the boundaries of the Village of Pelham Manor.

(3) No such establishment is located within 100 feet of the intersection of a state or county road.

(4) The location, size and quantity of waste receptacles shall be shown on an approved site plan.

(5) Waste shall be stored in a covered and landscaped disposal area so that the container is not visible from any street upon which the establishment fronts or from abutting property.

(6) Waste materials which contain food or food particles or which tend to create a public nuisance shall be removed from the premises at least once in every 24 hours.

C. Regional shopping centers, provided that the following conditions are satisfied:

(1) The site shall have an area of not less than 15 acres.

(2) The site shall be in single ownership or in joint ownership under a suitable agreement, in recordable form, that provides for coordinated development of the parcel.

(3) The site shall have frontage on a major road, or the development of the site can be designed in such a way as to make satisfactory provision for direct and adequate access to a major road.

(4) The potential range of peak-hour traffic and parking demand, both automobile and truck, to be reasonably anticipated as a result of the proposed development shall not substantially degrade traffic patterns in the area.

(5) The site and the proposed use are such that the architectural design of the principal and accessory buildings and structures will:

(a) Reflect the existing "industrial" character of the district;

(b) Incorporate existing building facades into the design to the extent possible; and

(c) Not include flat, box-like structures.

(6) The proposed use will not generate any noise, odor or vibration that exceeds the general level of noise, odor or vibration emitted by uses outside the boundaries of the district.

(7) The site shall be such that the development can be designed in a manner that:

(a) Protects adjoining land uses from any adverse impacts of development;

(b) Encourages pedestrian usage by incorporating design elements such as multiple street-level entrances and ample windows;

(c) Does not require outside storage;

(d) Places lighting in such a way as to reflect light away from adjacent residential districts and highways; and

(e) Requires only such signage as is located on the site or in reasonable proximity thereto and is not visible from adjacent residential districts.

(8) The required number of off-street parking and loading spaces shall be based upon the parking requirement set forth in § 210-23C for a planned/regional shopping center, or if the following conditions "a" through "f" are met, the required number of off-street parking and loading spaces shall be based upon the sum of the spaces required for each individual use set forth in § 210-23C, whichever is less. The required number of parking spaces may further be reduced by the approving agency by no more than 15% if, in the approving agency's judgment, the number of spaces actually provided will satisfy the needs of the regional shopping center, the purposes of this chapter, and if the following conditions [Subsection C(8)(a) through (f)] are met: **[Added 8-14-2006 by L.L. No. 2-2006]**

(a) The retail uses are spatially separated.

(b) Employee parking for the anchor tenant is provided in the rear of the building.

(c) The shopping center is accessible by public transportation.

(d) The proposed tenant mix includes establishments with substantially different peak operating hours.

(e) The proposed mix of uses with low parking generation rates balances out the retail uses with higher parking generation rates.

(f) The shopping center does not contain a grocery store, fast-food store, or other such use with a higher parking generation rate.

(9) The maximum height of the principal structure may be increased from three stories or 45 feet to four stories or 60 feet, whichever is less, provided that the following conditions [Subsection C(9)(a) through (d)] are met: **[Added 8-14-2006 by L.L. No. 2-2006]**

(a) The additional floor or height shall not be utilized for a high-intensity use.

(b) The additional floor or height shall not be utilized for retail.

(c) The additional floor or height shall not have an adverse visual impact on neighboring residential areas.

(d) The additional floor or height shall not have an adverse visual impact on the character of the surrounding area.

(10) Provided the maximum building coverage set forth in § 210-71B(2) is not exceeded, the Village Board may, in the course of approving a site plan for a regional shopping center, modify the maximum permitted development coverage set forth in § 210-71B(3) to permit up to 93% development coverage, provided that the following conditions [Subsection C(10(a) through (g) are met: **[Added 8-14-2006 by L.L. No. 2-2006]**

(a) The applicant shall provide landscaped area off-site in a location approved by the Village Board, the area of which shall be double the area of on-site development coverage in excess of 90%.

(b) The off-site landscaped area shall be within 500 feet of the project site and shall involve the conversion of existing impervious surface to pervious surface.

(c) The percent of on-site landscaping required by the Village Code cannot be met without substantially altering the functionality of the proposed development.

(d) The provision of the off-site landscaping shall substantially improve the appearance of that off-site area, and shall result in a decrease of impervious surface.

(e) The off-site landscaping shall be of exceptionally high quality, with a diversity of plants and trees that mitigate the heat island effect and beautify the commercial district.

(f) The on-site landscaping shall be of exceptionally high quality, with a diversity of plants and trees that mitigate the heat island effect, buffer the parking area from public streets, and beautify the commercial district.

(g) The on-site and off-site landscaping shall add to the pedestrian environment and improve the public space.

(11) The schedule of footcandle values for the grade-level parking lot and driveways of a regional shopping center shall be as follows: **[Added 8-14-2006 by L.L. No. 2-2006]**

Type of Lighting	Minimum Level (footcandles)	Average Level (footcandles)	Maximum Level (footcandles)
Grade level parking and driveways	0.6	4.2	8.0

(12) No sign shall be erected in a regional shopping center in the Business 2 District that fronts on a federal, state, or county road except in accordance with the following standards and specifications: **[Added 8-14-2006 by L.L. No. 2-2006; 11-3-2007 by L.L. No. 3-2007]**

(a) Wall signs attached to the face or side of a building conforming to the following specifications:

[1] Each separate store, service establishment or other business located in a regional shopping center shall be allowed a maximum of one wall-mounted sign for every 50 linear feet of building frontage associated with the premises occupied by that store, establishment or business, with a minimum of one wall-mounted sign per store, service establishment or other business. For purposes of this section, "building frontage" shall be any side of a building or structure that faces a street or parking lot in a regional shopping center.

[2] The maximum sign area for each side of a building or structure that faces a street or parking lot in a regional shopping center shall be three times the linear frontage of that side of the building or 500 square feet, whichever is less.

[3] In instances where the tenants of a regional shopping center share the same linear building frontage with one or more other tenants, the maximum sign area, per sign, on the shared building frontage for tenants over 40,000 square feet shall be 500 square feet, and the maximum sign area for tenants under 40,000 square feet shall be 250 square feet.

(b) Freestanding or monument signs identifying the shopping center conforming to the following specifications:

[1] A freestanding or monument sign announcing the name of the shopping center shall be located on private property.

[2] One two-sided freestanding sign identifying the shopping center may be erected at each entrance drive to the shopping center located on a federal, state or county road and, in the case of shopping centers located at the intersection of two public streets, one two-sided freestanding sign at each intersection.

[3] The maximum height of the structure to which the sign is affixed, including the base and sign face of the monument, shall not exceed 15 feet, including a sign face which shall not exceed 11 feet. The total maximum area of the sign face shall not exceed 200 square feet per sign. In the case of a two-sided sign, each side of the sign shall be included in the calculation of the area of the sign face.

(c) Freestanding or monument signs identifying retailers or tenants within the shopping center conforming to the following specifications:

[1] A freestanding or monument sign identifying retailers or tenants in the shopping center shall be located on private property unless the owner of the sign is granted written consent by the applicable public agency to place the signage on public property including any public right-of-way.

[2] Every store, establishment or other business shall be allowed one two-sided freestanding or monument sign dedicated to that entity, or a single side on two separate freestanding signs.

[3] The maximum height of the structure to which the sign is affixed shall not exceed 13 feet and the total maximum area of the sign face of any freestanding sign shall not exceed 60 square feet per side.

(d) Changeable copy signs are prohibited.

(e) Signage designed to face and attract motorists from the Hutchinson River Parkway is prohibited. Signage on the rear of buildings shall be limited to the area above customer entrances.

(f) Roof signage is prohibited.

(g) Awnings or canopies conforming to the following specifications are permitted:

[1] Awnings and canopies shall not fully shield a window.

[2] Awnings and canopies shall be fully maintained. Ripped or torn awnings or canopies are prohibited.

[3] The fabric, graphics, and type of an awning or canopy shall not be fluorescent in color.

[4] Awnings and canopies shall compliment the architectural style and color of the building on which they are located.

[5] Any graphics or type on an awning or canopy shall not cover more than 10% of the visible surface area of the awning or canopy.

(h) Directional signs for the purpose of directing pedestrians and/or motorists to specific streets, locations or businesses, conforming to the following specifications:

[1] Directional signs shall be located on private property except that they may be located on public property if the owner of the signs obtains permission to erect them from the owner of the public land.

[2] The maximum sign area for a directional sign shall not exceed six square feet per side.

(i) Exterior signs shall be externally illuminated to the greatest extent practicable. Internally illuminated light box signs are prohibited. Signage that utilizes reverse illumination or illuminated channel lettering is permitted.

(j) In the event of any conflict between the provisions of § 210-69C and any other provisions of this chapter, the provisions of this § 210-69C shall control.

D. Studios, provided that the following conditions are satisfied:

(1) Sounds, emissions and/or equipment accessory thereto shall be fully contained within the studio and shall not be unduly annoying to other persons on nearby premises or public places.

(2) No production activities shall take place outside of the building or structure except in accordance with regulations established by the Village Manager, which shall provide for neighborhood and community notification, satisfactory proof of insurance, definition of permissible hours of operation, provision of such additional parking as may be necessary, establishment of a schedule of operations, provision for temporary outside storage of production equipment, payment of any fee as may be established by the Board of Trustees and provision of such supplementary information regarding the proposed activity as may be reasonably necessary.

(3) The following accessory uses shall be permitted: catering and studio equipment sales and repair.

E. Hotels and conference centers, provided that the following conditions are satisfied:

(1) The entire property, including any accessory structures, shall be maintained in common ownership and control throughout the life of the development.

(2) Access conditions shall be adequate for the estimated traffic to and from the site to assure the public safety and to avoid traffic congestion in the surrounding neighborhood.

B. Lot and bulk regulations. Each site in the business districts shall be subject to the following lot and bulk regulations: **[Amended 10-27-2003 by L.L. No. 3-2003]**

(1) Minimum lot area: 10,000 square feet (unless otherwise specified).

(2) Maximum building coverage: 65%.

(3) Any parking or garage area, delivery or service yard, or active recreation area, shall be screened so as to adequately protect the view of neighboring properties, as well as to assure an attractive environment within the site.

(4) Each hotel shall have a lobby area and an office, and each unit shall have a bath or shower facility, one toilet facility and a sink.

(5) Units shall not contain kitchen facilities of any type; shall not be used as apartments for nontransient tenants; and shall not be connected by interior doors in groups of more than two.

(6) Each unit shall have an area of not less than 300 square feet.

(7) The following accessory uses shall be permitted:

(a) Amusement or sports facilities for the use of the hotel/conference guests, including swimming pools, children's playgrounds, tennis or recreation rooms.

(b) Meeting or conference rooms.

(c) Banquet facilities.

(d) Motor vehicle rental agency, provided that:

[1] Not more than 10 vehicles are stored on the lot at any one time;

[2] The area used for parking or storage of rental vehicles is identified in the site development plan for the site; and

[3] The area designated for the parking or storage of rental vehicles shall be in addition to, and not in substitution for, the area otherwise required for off-street parking.

§ 210-70. Permitted accessory uses. [Amended 2-24-2014 by L.L. No. 1-2014]

The following are permitted as accessory uses in the business districts:

A. Off-street parking and other usual and customary accessory uses, provided that any accessory use is incidental to the principal use of the premises.

B. Amusement devices, in accordance with a license issued by the Board of Trustees pursuant to Chapter 118 of this Code, accessory to a full-service restaurant not less than 35,000 square feet in area which is open to the public at least 70 hours per week and offers a full menu during all operating hours.

§ 210-71. Development standards.

A. Area plan. No building or premises in the business districts shall be used, and no building shall be erected, altered or added to in the business district, except in accordance with the area plan for the business district adopted by the Board of Trustees.

(3) Maximum development coverage: 90%.

(4) Minimum lot width: 100 feet.

(5) Minimum building setback:

(a) Front: 10 feet.

(b) Rear: 10 feet.

(c) Side: 10 feet.

(d) Hutchinson River Parkway: 30 feet.

(e) Hutchinson River: 30 feet.

(6) Floor area ratio: 1.25.

(7) Maximum height of principal structure: three stories or 45 feet, whichever is less.

C. Architectural and design standards. Architectural and design standards are established in order to articulate and protect the architectural integrity and character of the existing commercial and warehouse buildings. New buildings and the renovation of existing buildings in the business districts shall be designed in such a way as to respect the scale and architectural character of existing structures and enhance pedestrian experiences at grade level. In applying these standards, the Board of Trustees shall consider the manner and extent to which an application contains architectural features consistent with such standards and the purposes and objectives set forth herein, including the following architectural and design features:

(1) The design of buildings shall be part of an integrated overall site design related to other surrounding development and design and topographical conditions.

(2) Treatment of the sides and rear of the proposed buildings shall be in a manner substantially consistent in appearance, amenity and quality of materials with the frontage, as may be appropriate in view of the degree of visibility of the sides and rear of such buildings from nearby properties.

(3) Existing building details, including, but not limited to, base, cornices, entry, windows, shall be preserved whenever possible and whenever visually consistent with the established surrounding aesthetic character.

(4) Missing and damaged architectural details shall be replaced or repaired, as appropriate.

(5) Materials, colors and textures for additions shall be consistent with those of the existing buildings.

(6) A minimum of 50% of the ground floor facade of new commercial retail buildings shall be transparent.

(7) New roof openings shall be located so that they are not visible from street level.

(8) A single color for nonpermanent detail fixtures, such as entry canopies, shutters, window awnings and entryways, shall be used on retail commercial structures.

(9) Details which are sympathetic to and enhancing of the brick-gabled buildings shall be incorporated into alteration or reuse of the buildings east of Pelham Parkway.

D. Landscaping requirements. Landscaping requirements are established in order to encourage, a coordinated landscape design incorporating the treatment of all open spaces, walks, access roads and parking areas in the business districts into a continuous, consistent and integrated design. Wherever possible, attractively landscaped open spaces shall be provided which will offer maximum usability to users of buildings and the general public. Such open spaces shall be located so as to take into consideration the existing views and land uses and the creation and preservation of centrally located landscaped areas and plazas. All open spaces, pedestrian walks, parking areas, traffic islands and interior drives shall be designed as an integral part of an overall site design, appropriately related to existing and proposed buildings, structures and open areas and in conformance with the following regulations:

(1) The landscape treatment of plazas, pedestrian areas, courtyards and similar areas shall include a mix of shade trees and other plant materials, such as ground cover and shrubs. Proper and appropriate regard shall be given to microclimate, the function of the landscaped area, aesthetics, existing plantings and required maintenance, in determining the species, scale and planting pattern.

(2) The visual impact of parking areas shall be screened and buffered from street view by interrupting continuous rows of parking spaces with plantings.

(3) Internal landscaping shall cover at least 10% of the area of any open grade-level parking lot of 20 or more spaces. Landscaped areas shall be dispersed throughout the parking lot.

(4) Grade-level parking areas, walks and other surface areas shall offer a variety of colors and textures which are in harmony with the nearby buildings and existing paved areas.

(5) Grade level parking areas shall provide pavement areas that are safe for pedestrian traffic and wheelchair traffic.

(6) Plantings along sidewalks shall occur with regularly spaced indigenous flowering trees, selected with regard to the quality, character and species of existing plantings on the street, the scale of the street, the width of the sidewalk, the need to provide for or maintain visibility of storefronts and the type of pedestrian or vehicular traffic.

(7) Shade trees provided within parking lots shall not be less than three inches in caliper and shall be of species indigenous to New York State.

(8) Flowering trees provided along storefronts and sidewalks shall not be less than two inches in caliper and shall be of species indigenous to New York State.

(9) All tree supplemental and replacement tree plantings shall be at least 10 feet to 12 feet tall and have a caliper of not less than 3 1/2 inches to four inches, unless the specific species indicates otherwise.

E. Streetscape guidelines. All development in the business districts shall be consistent with the following streetscape guidelines, which are established in order to encourage and enhance a contemporary streetscape design which is sympathetic to the architectural and visual integrity of the business districts, to continue and encourage maintenance within the districts, to preserve and upgrade sidewalks, curbs and street elements, to encourage and increase safe pedestrian activity and to provide a commercial area that is functional and attractive to the community:

(1) All existing sidewalks and curbs shall be rebuilt to a safe and presentable condition.

(2) No external display of merchandise shall be permitted except:

(a) Outdoor sales upon the issuance of a special permit by the Board of Trustees; and

(b) Gasoline-dispensing fuel pumps bearing the name of the brand and type of gasoline, the number, size and type of which shall be determined by the owner of said pumps. Such pumps shall be located on a pump island not nearer to the street line than the setback requirement for the district in which the filling station is located. For each two dispensing pumps, there may be displayed or maintained one lube oil rack for containers of lube oil on the pump island, or at such other location as may be desired by the owner of said racks; provided, however, that said racks are not placed nearer to the street line than the pumps islands.

(3) Equipment, including, but not limited to, machinery, HVAC systems, telecommunications facilities and satellite dishes may be installed on rooftops, provided that it is not visible from street level.

(4) Canopies that complement the color and texture of buildings shall be used outside windows, entryways and exit ways.

(5) Benches shall be provided along the street line of properties with street frontage of 200 linear feet or more. One bench shall be provided per 200 linear feet of street frontage.

F. Lighting standards. All development in the business districts shall be consistent with the following lighting standards, which are established in order to provide clean, compatible contemporary design and appropriate and adequate illumination and to provide regulations to address lighting needs for visibility and personal safety without the negative impacts of off-site light spillover.

(1) Exterior lighting may be used to light doors, steps, sidewalks, streets and parking areas, but shall be located and shielded to prevent glare on other properties and shall be limited in hours of operation, as appropriate.

(2) Floodlighting, other than for purposes of safety and security, shall not be permitted in the business districts.

(3) Proposed streetlighting fixtures shall be coordinated with street tree planting plans.

(4) New streetlighting fixtures shall be satisfactory in design to the Inspector of Buildings.

(5) A lighting plan shall be required for all developments required to provide a parking area with more than 10 parking spaces. The plan shall depict the location, orientation and configuration of all exterior lighting for the development.

(6) All lighting fixtures designed or installed so as to illuminate any portion of a site shall meet the following requirements:

(a) The light source shall be completely concealed within an opaque housing and shall not be visible from any street right-of-way.

(b) Only incandescent, fluorescent or metal halide lamps may be used. The same type of light source must be used for the same or similar types of lighting on any one site.

(c) Each fixture shall be mounted in such a manner that its cone of light does not cross any property line.

(d) All site lighting shall be designed so that the level of illumination, as measured in footcandles (fc) at any one point, meets the standards in the table below. Minimum and maximum levels are as measured at any one point. Average levels are not to exceed the following values, calculated using only the area of the site intended to receive illumination.

Type of Lighting	Minimum Level (footcandles)	Average Level (footcandles)	Maximum Level (footcandles)
Canopy area	1.0	2.0	3.0
Grade-level parking lot	0.5	1.0	1.5
Landscape and decorative	0.5	0.75	1.0
Walkways and streets	0.5	1.0	1.5

ARTICLE XVII
(Reserved) [13]

§ 210-72. through § 210-74. (Reserved)

13. Editor's Note: Former Article XVII, Industrial Districts, was repealed 3-23-2009 by L.L. No. 1-2009 and 1-11-2010 by L.L. No. 1-2010.

ARTICLE XVIII
Railroad District

§ 210-75. Permitted uses.

A. A railroad, including accessory services but not including switching, storage or freight yards.

B. A public utility unit substation to supply electrical power, provided that a special permit is granted by the Board of Appeals in each specific case after a public hearing upon proper notice, and further provided:

(1) That the Board of Appeals finds that said unit substation is essential to the needs and demands of the area, that it will promote the general health, safety and welfare of the community in accordance with the general purpose and intent of this chapter.

(2) That the structure and its equipment does not exceed 12 feet in height.

(3) That all electrical parts, equipment and devices are completely housed in an enclosure of steel or other equally protective material.

(4) That the entire installation is enclosed by a chain link fence or similar fence not less than five feet in height with the gate or entrance through the fence securely locked at all times except during the actual ingress and egress of authorized persons.

(5) That the area in which the structure is located is screened by the planting and maintaining of evergreen trees and evergreen shrubs as prescribed by the Board of Appeals to effectually cut off any view of the structure and prevent detraction from the appearance of the neighborhood.

(6) That said unit substation have no moving parts except switches, generate no smoke, gas or noise and cause no interference with radio or television reception.

(7) That the applicant comply with such other and further requirements and standards as found by the Board of Appeals to be necessary to protect the neighborhood and its residents, prevent the deterioration of property values and promote the general health, safety, morals and welfare of the community.

ARTICLE XIX
Stormwater Control
[Added 11-27-2006 by L.L. No. 4-2006]

§ 210-76. Applicability.

A. This Article XIX shall be applicable to all land development activities as defined in this Article XIX, § 210-78.

B. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:

(1) Review the plans; or

(2) Upon approval by the Village Board of Trustees of the Village of Pelham Manor, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board.

C. All land development activities subject to review and approval by the Village of Pelham Manor under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this article and Article I of Chapter 183.

D. All land development activities not subject to review as stated in § 210-76C shall be required to submit a stormwater pollution prevention plan (SWPPP) to the Stormwater Management Officer, who shall approve the SWPPP if it complies with the requirements of this article and Article I of Chapter 183.

§ 210-77. Exemptions.

The following activities may be exempt from review under this article and Article I of Chapter 183.

A. Agricultural activity as defined in this article and Article I of Chapter 183.

B. Silvicultural activity except that landing areas and log haul roads are subject to this article and Article I of Chapter 183.

C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

E. Any part of a subdivision if a plat for the subdivision has been approved by the Village of Pelham Manor on or before the effective date of this article and Article I of Chapter 183.

F. Land development activities for which a building permit has been approved on or before the effective date of this article and Article I of Chapter 183.

G. Cemetery graves.

H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

I. Emergency activity immediately necessary to protect life, property or natural resources.

J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.

K. Landscaping and horticultural activities in connection with an existing structure.

§ 210-78. Definitions.

The terms used in this Article XIX or in documents prepared or reviewed under this Article XIX shall have the meaning as set forth in this section.

AGRICULTURAL ACTIVITY — The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

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

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

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

CLEARING — Any activity that removes the vegetative surface cover.

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

DEPARTMENT — The New York State Department of Environmental Conservation.

DESIGN MANUAL — The most recent version of the New York State Stormwater Management Design Manual, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER — A person who undertakes land development activities.

EROSION CONTROL MANUAL — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

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

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

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System 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.

INFILTRATION — The process of percolating stormwater into the subsoil.

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.

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, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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.

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

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.

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

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.

PROJECT — Land development activity.

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs or habitats for threatened, endangered or special concern species.

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.

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.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

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.

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.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operated for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER — An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

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.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF — Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK —

A. 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.

B. 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.

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

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

§ 210-79. Stormwater pollution prevention plans.

A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article and Article I of Chapter 183.

B. Contents of stormwater pollution prevention plans.

(1) All SWPPPs shall provide the following background information and erosion and sediment controls:

(a) Background information about the scope of the project, including location, type and size of project.

(b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

(c) Description of the soil(s) present at the site;

(d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.

(e) Description of the pollution prevention measures that will be used to control lifter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

(f) Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;

(g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project closeout;

(h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

(i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

(j) Temporary practices that will be converted to permanent control measures;

(k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

(l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

(m) Name(s) of the receiving water(s);

(n) Delineation of SWPPP implementation responsibilities for each part of the site;

(o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

(p) Any existing data that describes the stormwater runoff at the site.

(2) Land development activities as defined in this Article XIX and meeting Condition A, Condition B or Condition C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in § 210-79B(3) below as applicable:

(a) Condition A: Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

(b) Condition B: Stormwater runoff from land development activities disturbing five or more acres.

(c) Condition C: Stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

(3) SWPPP requirements for Conditions A, B and C:

(a) All information in § 210-79B(2) of this article and Article I of Chapter 183;

(b) Description of each postconstruction stormwater management practice;

(c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;

(d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;

(e) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;

(f) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;

(g) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice.

(h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

(i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 210-81.

C. Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this article and Article I of Chapter 183.

D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

E. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) The certification statement(s) shall become part of the SWPPP for the land development activity.

F. Retention of SWPPP. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 210-80. Performance and Design Criteria for Stormwater Management, Erosion and Sediment Control.

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

A. Technical standards. For the purpose of this article and Article I of Chapter 183, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article and Article I of Chapter 183:

(1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").

(2) 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, hereafter referred to as the "Erosion Control Manual").

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

§ 210-81. Maintenance and repair of stormwater facilities.

A. Maintenance during construction.

(1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article and Article I of Chapter 183. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(2) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Pelham Manor to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article and Article I of Chapter 183. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Village of Pelham Manor.

C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article and Article I of Chapter 183 shall operate and maintain the stormwater management practices to achieve the goals of this article and Article I of Chapter 183. Proper operation and maintenance also includes, as a minimum, the following:

(1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article and Article I of Chapter 183.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 210-80B.

D. Maintenance agreements. The Village of Pelham Manor shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this article and Article I of Chapter 183 entitled "Sample Stormwater Control Facility Maintenance Agreement."[10] The Village of Pelham Manor, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and Article I of Chapter 183 and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 210-82. Subdivision Regulation.

In addition to any other provision of law in the event of a subdivision of land:

A. For preliminary subdivision plat a stormwater pollution prevention plan (SWPPP) consistent with the requirements of this Article XIX shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in this Article XIX. The approved preliminary subdivision plat shall be consistent with the provisions of this Article XIX.

B. For final subdivision plat approval a stormwater pollution prevention plan consistent with the requirements of this Article XIX and with the terms of preliminary plat approval shall be required for final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in this Article XIX. The approved final subdivision plat shall be consistent with the provisions of this Article XIX.

§ 210-83. Site plan review regulation.

In addition to any other provision of law, in the event of an application for site plan review; for site plan approval a stormwater pollution prevention plan consistent with the requirements of this Article XIX shall be required to be submitted with the application for site plan approval. The SWPPP shall meet the performance and design criteria and standards in this Article XIX . The approved site plan shall be consistent with the provisions of this Article XIX.

§ 210-84. Enforcement and penalties.

A. Notice of violation. When the Village of Pelham Manor determines that a land development activity is not being carried out in accordance with the requirements of this

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10. Editor's Note: Schedule B is on file in the Village offices.

article and Article I of Chapter 183, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

(1) The name and address of the landowner, developer or applicant;

(2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the land development activity into compliance with this article and Article I of Chapter 183 and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

B. Stop-work orders. The Village of Pelham Manor may issue a stop-work order for violations of this article and Article I of Chapter 183. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Village of Pelham Manor confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article and Article I of Chapter 183.

C. Violations. Any land development activity that is commenced or is conducted contrary to this article and Article I of Chapter 183 may be restrained by injunction or otherwise abated in a manner provided by law.

D. Penalties for offenses. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Article XIX shall be guilty of a violation punishable by a fine not exceeding $350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than $350 nor more than $700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed six months, or both. Each week a violation continues shall be an additional violation of this Article XIX. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article and Article I of Chapter 183 shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this Article XIX, the Stormwater Management Officer may prevent the occupancy of said building or land.

F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village of Pelham Manor may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

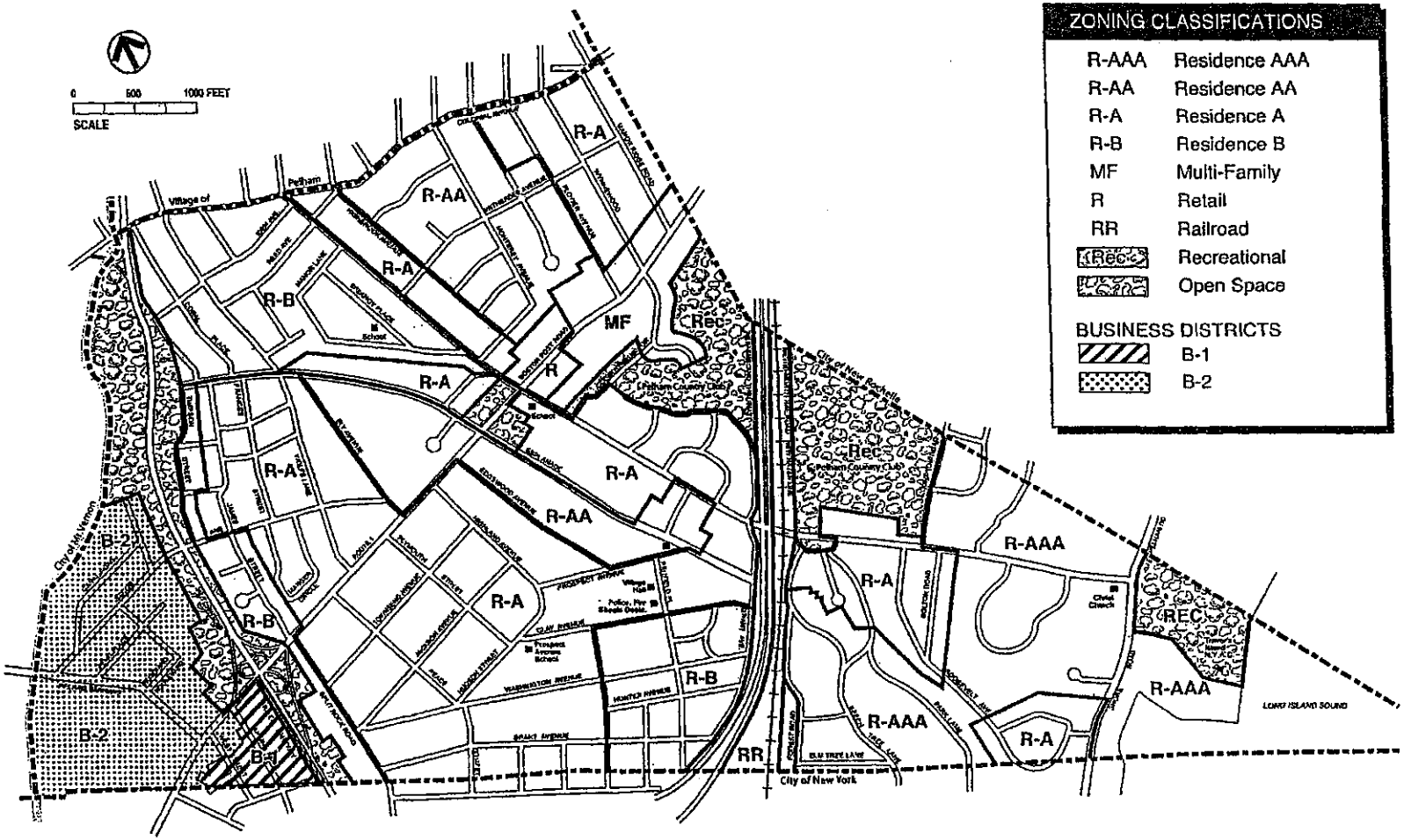
G. Fees for services. The Village of Pelham Manor may require any person undertaking land development activities regulated by this article and Article I of Chapter 183 to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village of Pelham Manor or performed by a third party for the Village of Pelham Manor.

210 Attachment 2

Village of Pelham Manor
Stormwater Management Practices Acceptable for Water Quality
(From: New York State Stormwater Management Design Manual, Table 5.1)
[Added 11-27-2006 by L.L. No. 4-2006]

Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stromwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (1-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.

Group	Practice	Description
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-I)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (0-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

210 Attachment 1

Village of Pelham Manor