ZONING BYLAWS

TOWN OF PEMBROKE

Revised through May 2016

TOWN OF

PEMBROKE

MASSACHUSETTS

TABLE OF CONTENTS

SECTION I	CITATION AND PURPOSE		3.
SECTION II	DEFINITIONS		3.
SECTION III	ESTABLISHMENTS OF DISTRICTS		8.
SECTION IV	USE AND DIMENSIONAL REGULATIONS		
	1.	Residence District A	12.
	2.	Residential-Commercial District	15.
	3.	Business District A	18.
	4.	Business District B	19.
	5.	Industrial District A	21.
	5a.	Industrial District B	23.
	6.	Storage of Junk	25.
	7.	Center Protection District	25.
	8.	Water Resource and Groundwater Protection District	28.
	9.	Adult Use Overlay District	34.
	10.	Medical Marijuana Overlay District	36.
SECTION V	SPECIAL PROVISIONS, STANDARDS AND PROCEDURES		
	1.	Signs	40.
	2.	Flood Plain and Watershed Protection District	43.
	3.	Trailers	46.
	4.	Off-Street Parking Access & Loading Requirements	46.
	5.	Nonconforming Uses	48.
	6.	Impact Standards	50.
	7.	Site Plan Approval	50.
	8.	Prevention of Light Pollution	54.
	9.	Determination of Adequacy of the Way Policy and Procedures	56.
	10.	Lot Characterization Number	59.
	11.	(Reserved)	59.
	12.	Solar Photovoltaic Installations	59.
SECTION VI	ADMINISTRATION		
	A.	Enforcement	68.
	B.	Zoning Board of Appeals	68.
	C.	Appeals	69.
	D.	Special Permits	69.
	E.	Variances	70.
	F.	Notice of Public Hearing	71.
	G.	Hearings and Decisions	71.
	H.	Effects of Unfavorable Decisions	72.
	I.	Penalties	72.
	J.	Separability	72.

ZONING BYLAWS
TOWN OF
PEMBROKE
MASSACHUSETTS

SECTION I
Citation and Purpose

This Bylaw shall be known and may be cited as the Zoning Law of the Town of Pembroke. It is enacted to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to provide for housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, schools, parks, open spaces and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the town, including consideration of the recommendations of the master plan adopted by the planning board and the comprehensive plan of a regional planning agency; to preserve and increase amenities; to enhance the visual environment of the town; to protect and preserve from despoliation significant environmental features and resources, such as salt marshes, lakes, ponds, rivers, brooks and other water bodies by reducing the sources and possibilities of pollution, sedimentation or other destruction of water bodies; to protect wetlands and wetlands deemed subject to seasonal or periodic flooding; and to protect and promote the natural scenic and aesthetic qualities of the town.

SECTION II
Definitions

Access

That portion of a lot which allows the interior to be accessible to both vehicular and pedestrian traffic. Access must be through the frontage of the lot and must be along and from the way which services the lot. Except for residential uses, the access to a lot in any zoning district shall not pass through or over another zoning district.

Accessory Uses

Uses closely related to, supporting, or customarily incident to the main use of a lot. In the case of garages in Residence District A, this is limited to provision for four automobiles, none of which may be rented or leased for commercial purposes to any person other than the occupant of the residence. For the use of elevated water storage tanks, this includes the installation of antenna(s) on the water storage tank and construction of associated wireless telecommunication facilities.

Alternative Energy

Combined Heat and Power; Electric and hydrogen powered vehicles and associated technologies including advanced batteries and recharging stations.

Assisted Living Residence

A building containing dwelling units for persons in need of assistance with activities of daily living and as defined and regulated by M.G.L. ch. 19D and 651 CMR 12.00.

Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year.

Body Art

The practice of physical body adornment by permitting establishments and practitioners using, but not limited to, the following techniques: body piercing (excluding piercing of the earlobe with a pre-sterilized single-use stud-and-clasp system manufactured exclusively for ear piercing), tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are considered medical procedures by the Massachusetts Board of Registration in Medicine, such as implants under the skin, which are prohibited.

Body Art Establishment

A location, place, or business, whether public or private, where the practices of Body Art are performed, whether or not for profit.

Building

A structure enclosing space and providing shelter for goods, persons, animals or processes.

Building Floor Area

The sum of the floor area(s) on all levels of all buildings or structures, but excluding cellars or attics not utilized as a primary or accessory use in said building or structure.

Building Lines

There shall be two such lines for each developed lot or parcel, a front building line and a rear building line. The front building line shall be that line which, when drawn parallel to the way line, intersects that point of any building, exclusive of accessory buildings, said point being closest to the way line. The rear building line shall be that line which, when drawn parallel to the way line, intersects that point of any building, exclusive of accessory buildings, said point being farthest from the way line.

Common Driveway

A path or drive, either paved or unpaved, over which vehicular access to a way is gained from the interior of more than one lot. For purposes of this bylaw, common driveways shall not be allowed in any zoning district within the town.

Coverage

The sum of the ground areas of the lot covered, or to be covered, by all buildings or structures and all paved areas, to include walkways, patios, roadways, access ways, turnarounds, loading areas, and parking areas. Said sum shall not exceed sixty percent of the total lot area.

Detached One-Family House

A freestanding dwelling designed and equipped for occupancy in its entirety by one household or family and having no party wall or walls in common with an adjacent house or houses. This excludes house trailers, mobile homes, trailer coaches or similar units designed for transportation over the highway by attached wheels.

Detached Two-Family House

A detached two-family house is a dwelling accommodating not more than two families. Such house has no party wall or walls in common with an adjacent house or houses.

Dwelling

A building created or modified for residential use.

Dwelling Unit

A dwelling or portion of a dwelling containing facilities for one household.

Erected

Built, constructed, installed or otherwise caused to exist on a given site.

Family

A group of people living as a single housekeeping unit or household.

Farm

A farm shall be any tract of land used for the production of crops or the rearing of animals but shall not include the keeping of a kennel, a hobby kennel, or a commercial kennel, or the keeping of four or more pigs.

Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation.

Frontage

Land along the way which is:

a. A public way which has been accepted at a town meeting or a way which the town clerk certifies is maintained and used as a public way.
b. A way shown on a plan theretofore approved, endorsed and constructed in accordance with the Subdivision Control Law.
c. A way, in existence when the Subdivision Control Law became effective in the town, which has been certified by the planning board as having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby.

   Frontage shall be used to provide access to the interior of the lot and shall be measured between side lot lines at the way and shall be contiguous.

Front Yard

A front yard is the required open space between the way line and the nearest part of any building on the lot excluding projections. Both frontages of corner lots are considered to be front yards and must meet front yard requirements.

Half-Story

The term "'half-story" shall mean a story within a sloping roof, the area of which at a height four feet above the floor does not exceed two-thirds of the floor area of the story immediately below.

Hotel

A multi-storied structure that provides overnight sleeping rooms with interior passage with private bathrooms, suites, and telecommunications services in each rentable room. This establishment may provide restaurant, entertainment and pool and spa amenities for the public.

Kennels

Various types of kennels shall be defined as follows:

a. Kennel: One pack or collection of four or more dogs over the age of three months kept on a single premises, not to exceed six dogs.
b. Hobby Kennel: A kennel maintained for a collection of six to ten dogs or for breeding dogs for show or sport, or which sells dogs from less than four litters per year, not to exceed ten dogs on the premises over the age of three months.
c. Commercial Kennel: A kennel maintained as a business for the boarding or grooming of dogs, or which sells dogs born and raised on the premises from more than four litters per year.

For purposes of this bylaw, commercial kennels shall not be an allowed or permitted use in any zoning district within the town.

Lot

A lot is a parcel of land occupied or to be occupied by a building(s) and its accessories, together with the required open space.

Lot Line

A boundary line setting off a lot of land.

Lot Perimeter

The sum of the lengths of all of the sides of any individual lot.

Lot Perimeter Ratio

The ratio of the area of a lot in square feet divided by the perimeter of the lot in feet. Said ratio shall not be less than the minimum established for each zoning district.

Lot Width

The distance between side lot lines as measured along a line parallel to the way line, or the distance between lot lines measured as the shortest distance along a line joining any two points along each of any two side lot lines, whichever distance is lesser.

Multiunit Dwelling

Means a dwelling arranged, intended or designed to be occupied by three or more families.

Nonconforming Use

A use which could not be initiated at a given location under current zoning but which was legal when it began.

Personal Service Business

Business which provides personal care to people, including hair salons, barbershops, nail salons, beauty spas, businesses providing simple ear-piercing services (piercing of the earlobe with a pre sterilized single-use stud-and-clasp system manufactured exclusively for ear-piercing) and similar businesses.

Premises

A distinct portion of a lot or a building under the control or use of one person and set off from adjoining space.

Projections

Projection shall mean cornices, eaves, gutters, outside chimneys, steps, bay windows and terraces.

Renewable Energy

Solar-photovoltaic (PV) and thermal; Wind; Biomass power conversion or thermal technologies, including R&D related to, or the manufacture of, wood pellets ultra low emissions high efficiency wood pellet boilers and furnaces; Low Impact Hydro-electric and kinetic; Ocean thermal, wave or tidal; Geothermal; Landfill Gas; and Fuel Cells that as Renewable Energy or Advanced biofuels.

Restaurant

The term, "restaurant," as used herein, shall mean any establishment involved in food service or food preparation in which twenty-five percent, or more, of the floor area is dedicated to, or, twenty-five percent, or more, of the receipts derived thereof, are attributable to said operations. The term shall include take-out food establishments, fast food establishments, delicatessens, pizza shops, sub shops, coffee shops, and any other similar businesses. The term shall not include cafeterias and similar operations whose primary activity is to provide service to the employees of the principal business or establishment.

Signs

See Sign Definitions in Section V, I.

Story of a Building

A story of a building is that part of any building comprised between any floor and the floor or roof next above; the first story being the lowest story which is seventy-five percent, or more, above the average level of the ground adjacent to the exterior walls thereof.

Structure

A manmade assemblage of materials arranged in, on, or above the ground and enclosing or consuming space, except a fence of six feet or less in height.

Way

A way is a passage, street, road, or bridge - public or private. For purposes of this bylaw, a way shall be one which is:

a. A public way which has been accepted at a town meeting or a way which the town clerk certifies is maintained and used as a public way.
b. A way shown on a plan theretofore approved, endorsed, and constructed in accordance with the Subdivision Control Law.
c. A way in existence when the Subdivision Control Law became effective in the town, which has been certified by the planning board as having sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby.

Way line

The way line of any lot shall be that property line which abuts the way along which the lot gains its frontage and its access.

Yard

That area of the lot between lot lines and setback lines.

SECTION III
Establishment of Districts

Classes of districts: For the purpose of the zoning bylaw, the town is hereby divided into the following classes or districts, to be known as:

1. Residence District A

This district shall include all the land in Pembroke which is not included in the Residential-Commercial, Business, or Industrial Districts.

2. Residential-Commercial District

This district shall include the land within the following described areas, the rear boundary line to be 800' from and parallel to the specified way line:

A. Washington Street: Beginning at the south property line of Briggs Cemetery, thence on both sides southerly to a point 100' north of Pudding Brook.
B. Washington Street: Beginning at the intersection of Washington Street and Barker Street, thence on both sides southerly to the Pembroke-Duxbury town line.

3. Business District A

This district shall include the land within the following described areas, the rear boundary line to be 300' from and parallel to the specified way line except as noted:

A. Center Street: Southerly from the intersection of Mountain Avenue on both sides of Center Street to the intersection of Hobomock Street.
B. Mattakeesett Street: Beginning at the westerly side of the intersection of Grove Street to the intersection of Maquan Street and including all of Lots 338, 338A and 339 on Mattakeesett Street, as currently shown on Assessors' Plan B-8.
C. School Street: Beginning at the Pembroke-Hanson town line, thence on both sides to the north corner of Alvern Road.

4. Business District B

This district shall include the land within the following described areas, the rear boundary line shall be 400' from and parallel to the specified way line except as noted:

A. Church Street: An area along Route 139 easterly of Route 3, bounded by Route 3, the Route 3 interchange, and the Marshfield town line, and having a rear boundary line 800' from and parallel to the way line of Church Street.

B. Oak Street: An area lying south of the Route 3 and 139 interchange, and bounded by Oak Street, Old Oak Street, Route 3, and Church Street.

C. Church Street: An area bounded by Church Street, Old Church Street, and Route 3.

D. Church Street: 400' in depth from the way line. Beginning 400' westerly of Cross Street, on the south side only, thence easterly to Oak Street and including all of the land currently shown as Lot 18B on Assessors' Plan F-15 and all of the land currently shown as Lot 59 on Assessors' Plans F-14 & F-15.

E. Hobomock Street: 600' in depth from the way line. Beginning on the northerly side at the easterly property line of Lot 1 as currently shown on the Assessors' Plan D-6, thence westerly for a distance of 900'.

F. Washington Street: Beginning at the Pembroke-Hanover town line, thence on both sides southerly to the property line of the "Friends Meeting House"; beginning at the intersection of Columbia Road and Washington Street, thence on both sides southerly to a point 300' south of the southeasterly lot line of Lot 30 as currently shown on Assessors' Plan D-14.

G. Washington Street: Having a rear boundary line 450' from and parallel to the current layout and travelled way of Washington Street, beginning at a point 100' south of Pudding Brook and thence southerly to the intersection of Barker Street.

H. Columbia Road: Beginning at the Pembroke-Hanover town line, thence southerly and on both sides to the junction of Washington Street.

I. Schoosett Street: Beginning on the northerly side at the easterly property line of the "Friends Meeting House," on the southerly side beginning at Washington Street, thence easterly to Water Street and including the whole of the land currently shown as Lot 25 on the Assessors' Plan D-14, except those portions thereof which comprise three strips of land 50' wide along the easterly, southerly and westerly sides thereof.

J. Water Street: That portion known as Route 139, beginning at Schoosett Street and thence easterly on both sides to Church Street.

K. Church Street: Beginning at Water Street, on both sides, thence easterly to the westerly boundary line of Parcel 28A, as shown on Assessor’s Map F15 on the north side and to the interchange at Route 3 on the south side to a depth of 400 feet.

5. Industrial District A

This district shall include the land within the following described areas:

A. All that area not in the Business A or B districts and bounded as follows: From the junction of the northern section of Water Street with Church Street southeasterly to the junction of Elm Street with Oak Street, thence northeasterly along the westerly sideline of Oak Street to a point 400' southwest of Winter Street on Oak Street, thence southeasterly to an intersection with a branch of Pudding Brook, thence easterly along Pudding Brook to Huldah Brook, thence northerly to the Marshfield town line, thence westerly and northerly to Route 3, thence northwesterly to old Oak Street, thence southerly to Oak Street, thence westerly and northwesterly to Church Street, thence westerly to the point of beginning, excluding a strip of land 300' wide abutting the northwesterly side of Oak Street between the junction of Elm

Street on Oak Street and a point 400' southwest of the junction of Winter Street on Oak Street.

5A. Industrial District B

This district shall include the land within the following described areas:

A. An area northerly of the Route 3 Route 139 interchange, bounded by the Marshfield Town Line, Route 3, and the interchange.

B. An area bounded by Water Street on the north, Route 3 on the east, Church Street and Old Church Street on the south, and on the west, to the westerly boundary of Parcel 28A as shown on Assessor's Map F-15 including Lots 5, 6, 28, and 28A, inclusive of Cross Street but excluding all of Lots 3A, 3B, 7C, 7D, 7E, 87, 88, 89, 90, 91, and 92.

6. Flood Plain and Watershed Protection District

A. Flood Plain District

The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Pembroke designated as Zones A and AE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Pembroke are panel numbers 25023C0201J, 25023C0202J, 25023C0203J, 25023C0204J, 25023C0206J, 25023C0207J, 25023C0208J, 25023C0209J, 25023C0211J, 25023C0212J, 25023C0214J, 25023C0216J, 25023C0217J, 25023C0218J, 25023C0219J, and 25023C0226J, dated July 17, 2012. The exact boundaries of the District are defined by the l00-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study report dated July 17, 2012. The FIRM and Flood Insurance Study report are incorporated herein by reference and are on file with the Town Clerk and the Building Inspector.

B. Watershed Protection District

7. Historic Districts

The town voted to designate and include the following described premises in the Historic Districts as provided by Chapter 40C of the General Laws:

A. PARCEL ONE: That parcel of land with the buildings thereon at the junction of Schoosett and Washington Streets, known as the Friends Meeting House, bounded and described as follows: Southwesterly and southerly by Washington and Schoosett Streets; northeasterly by land of Stroll-O-Chair Distributors of Worcester, Inc., and the Protectowire Company.
The above described premises are shown as Lot 2 on Assessors' Plan D-14.

B. PARCEL TWO: Those two certain parcels of land with the buildings thereon on Center Street known as the Pembroke Historical Society bounded and described as follows: Westerly by Center Street; northerly, easterly and southerly by land of the Town of Pembroke.
The above described premises are shown as Lots 37 and 63 on Assessors' Plan C-9.

C. PARCEL THREE: That certain parcel of land with the rights and improvements thereto known as Peter's Well and situated on Fairwood Drive, bounded and described as follows:

Easterly by Fairwood Drive; southerly and westerly by land now or formerly of the Henrich Development Trust; northerly of land of Joseph M. and Joan V. Garrity.
The above described premises are shown as Lot 54 on Assessors' Plan D-10.

D. PARCEL FOUR: That certain parcel of land with the buildings thereon on the easterly side of Barker Street commonly known as the Adah Hall premises, bounded and described as follows: Westerly by Barker Street northerly, easterly and southerly by land now or formerly of Sumner R. M. Sands.
The above described premises contain approximately five acres and 4,360 square feet and are shown as Lot 11A on Assessors' Plan E-11.

8. Lots in Two Districts

Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted portion, providing the lot has frontage in the less restricted district.

9. Nonresidential Frontage

In the Business District A, Business District B, Residential-Commercial District, Industrial District A and Industrial District B frontage required for uses not allowed in the Residential District shall be provided only along the streets listed as specified way lines in Section III. The specified way lines are listed as sub-paragraph headings within paragraphs 2, 3, and 4. The frontage requirement is not met by any frontage the property may have along other streets which are residentially zoned but intersect with the streets listed as specified way lines. This article takes precedence over the "Zoning Map of Pembroke, MA June 1946" as amended and incorporated into the zoning bylaws.

10. Center Protection District

This district is created to protect the visual qualities of the historical, cultural, and governmental center of Pembroke. It shall include all that land that has frontage on the following ways or to a depth of 300' from said ways, whichever is greater:

a. Center Street: Beginning on the westerly side at the southerly boundary of the parcel of land occupied by the Center Cemetery and thence southerly on the westerly side of Center Street to a point opposite the southerly boundary line of the parcel of land occupied by the Center Library and thence southerly on both side of Center Street to the intersection of Mountain Avenue.
b. Mattakeesett Street: beginning at Center Street, thence on both sides westerly to the intersection of Grove Street and including all of Lot 100 as currently shown on Assessors Map C-9 Lot 100.

11. Adult Use District:

The Adult Use Overlay District is herein established and shall be superimposed on the other districts established by this bylaw. Adult Uses shall be prohibited at any other location in the Town.

Boundaries: Boundaries of the Adult Use Overlay District are shown on the Town of Pembroke Zoning Map revised 1981, include the entire area of the Industrial B Zoning District lying easterly of Commonwealth of Massachusetts State Route 3 to the Pembroke Town Boundary and the entire area of the Business B Zoning District lying easterly of the Commonwealth of Massachusetts State Route 3 to the Pembroke Town Boundary.

SECTION IV
Use and Dimensional Regulations

1. RESIDENCE DISTRICT A

On any lot used for residential purposes in any zoning district in the town, no other use shall be allowed except for accessory uses, home occupation uses, or trade occupation uses when such trade occupation uses are permitted by special permit. In addition, on any lot used for other than residential purposes, except for farming, gardening, nursery or greenhouse use, no residential use shall be established.

In this district, no building, structure, land or premises shall be used, erected, altered or maintained for any purpose injurious, noxious, or offensive to the neighborhood by reason of the emission of odor, dust, smoke, noise, vibration, glare, or heavy volumes of traffic, nor for any purpose except:

A. Uses Allowed

1. Detached one-family house.
2. A church, municipal or civic use; a farm, garden, nursery or greenhouse, which may sell produce the major portion of which is raised on the premises; but excluding any use which is injurious or offensive to the neighborhood.
3. Home occupation, classified as follows: The office of a physician, dentist, lawyer, architect, accountant or bookkeeper, engineer, surveyor, insurance agent, or similar profession, beauty parlor, real estate office, music or other instructor, provided that all instructing is conducted indoors, telephone answering service, or hobby crafts, provided:
   a. The operator thereof resides thereon.
   b. The space occupied by such professional or business use shall not occupy more than twenty-five percent of the total floor area of the dwelling exclusive of the basement, whether said space is located in the basement or elsewhere.
   c. Parking will be limited to three motor vehicles for customers and clients.
   d. No person may work therein who is not a resident of the premises.
   e. There shall be no outside display of goods, merchandise or equipment.
   f. No such use shall be injurious or offensive to the neighborhood or shall alter the character of the property or buildings.
4. Accessory uses on the same lot with and customarily incident to any of the above allowed uses and not detrimental to a residential neighborhood, but excluding a garage for storage of more than four automobiles, the keeping of more than three pigs, or the keeping of any kennel except as provided in Paragraph B., below.

B. Uses Permitted By Special Permit

The following uses may be permitted only when the applicant clearly establishes that such uses are not noisy, injurious, noxious or offensive to the neighborhood and do not derogate from the purpose of this bylaw as determined by the board of appeals after due notice and a public hearing, as per Section VI, provided that there be no outside display of goods produced or for sale, and provided that any grant of a special permit shall be conditioned upon full compliance with off-street parking, site plan approval and other provisions of this bylaw.

1. Trade occupations, such as electrician, radio-TV repair, plumbing and carpentry, or other similar occupations, all of which are subject to the provisions of Paragraphs A.,

1, (3), (a) through (c) plus (e) and (f), above, and all other home occupations employing persons not residing on the premises. Any such trade occupation or home occupation shall be limited to no more than five employees in total to include the owner/ occupant.

2. Any of the following uses: Cemetery; golf club; or institutions for philanthropic use.
3. A commercial riding stable, a kennel or hobby kennel, subject to all limitations, restrictions, safeguards, or conditions which may be imposed by the board of appeals. For purposes of this bylaw, commercial kennels shall not be an allowed or permitted use in any zoning district within the town.
4. The addition of one attached dwelling unit to an existing detached one family house subject to the following conditions:
    a. The proposed attached dwelling unit shall contain no more than one bedroom and no more than fifty percent (50%), inclusive of all lofts and any attic areas seven feet or greater in height, of the gross area contained in the existing detached one family house, exclusive of all unfinished cellars and attics, or no more than eight hundred square feet of area, whichever is lesser.
    b. The existing detached one family house shall be owner/occupied and shall have been issued an occupancy permit at a point in time greater than one year prior to the request for special permit.
    c. The lot occupied by the existing detached one-family house shall contain at least forty thousand square feet of area, said area being exclusive of any and all easements, cranberry bogs, wetlands, or floodplain and watershed areas.
    d. The intent of this provision is to provide dwelling units for persons who are related to the owner/occupants of the existing detached one-family house either by blood or by marriage.
    e. A condition of approval and grant of a special permit shall require the submittal of a covenant or deed restriction satisfactory to the town and stating that the existing one-family house and the proposed attached dwelling unit shall forever, or until such time released by the town, remain in common ownership.
5. For the purpose of promoting affordable housing in the Town of Pembroke and in accordance with the Massachusetts Department of Housing and Community Development Local Initiative Program (LIP) one accessory apartment may be allowed per lot by special permit approved by the Zoning Board of Appeals subject to the following standards and conditions:
    a. Accessory apartments may be allowed on residential lots with a minimum of twenty thousand (20,000) square feet of contiguous upland except, a dwelling which had been issued a special permit under Section IV, 1, B., 4 of these zoning bylaws and prior to the adoption of this bylaw shall have no minimum lot size requirement.
    b. In order to lease an accessory apartment the owner must occupy the dwelling as a primary residence and lease only the permitted accessory apartment.
    c. Accessory apartments created under this bylaw shall be subject to a minimum 15 year use restriction, recorded at the Plymouth Registry of Deeds, which shall maintain a maximum rent which can be charged, as defined in sub-sections g. and h. herein. No accessory apartment shall be occupied until a copy of said use restriction, recorded at the Plymouth County Registry of Deeds is provided to both the Building Inspector and the Pembroke Housing

Authority or a monitoring agent contracted by the Town. The special permit will be issued to the owner/applicant and as such is not transferable to successors. Owners of existing permitted in-law apartments may apply for an accessory apartment special permit. No accessory apartment shall be separated by ownership from the principal dwelling.

d. Accessory apartments shall not be larger than a total of eight hundred (800) square feet in area, contain one (1) bedroom, provide occupancy to no more than two (2) persons, provide two (2) off street parking spaces and be attached to a detached single family dwelling.

e. Accessory apartments shall be in compliance with all local zoning except where specifically exempted herein and meet all local and state building codes including Wetlands Protection Act, Pembroke Water Resource and Groundwater Protection District and Title V regulations.

f. Owners of property containing an accessory apartment shall be responsible for submission to the Pembroke Housing Authority or a monitoring agent contracted by the Town, information including verification of owner occupancy status, income eligibility of the leasee/tenant(s) and a copy of a lease agreement specifying the rental amount to be charged each month. Leases shall be issued for a period not to exceed one (1) year and submission of the required information must be provided prior to executing a lease to the Pembroke Housing Authority or the monitoring agent.

g. Accessory apartments created under this provision shall only be rented to a person or persons meeting the Pembroke Housing Authority guidelines for low income households, in accordance with the Massachusetts Department of Housing and Community Development Local Initiative Program (LIP). For purposes of this section, low-income persons shall have annual income of no more than eighty (80%) percent of median income as reported in the most recent LIP guidelines within the Pembroke region.

h. Rents hereunder shall not exceed the maximum permitted under the then current guidelines promulgated by the Massachusetts Department of Housing and Community Development Local Initiative Program (LIP).

i. Failure to comply with any provision of this bylaw may result in fines as established in Section VI, A. of these zoning bylaws.

j. In accordance with Massachusetts General Laws, Chapter 40A, Section 9, the Zoning Board of Appeals shall adopt, after a duly advertised public hearing, rules and regulations further defining procedures related to the administration of this bylaw.

k. The Board of Selectmen may adopt, after a duly advertised public hearing, fees related to the administration of this bylaw.

C. Miscellaneous Uses

Signs, trailers, off-street parking, and uses of lands in the Flood Plain and Watershed Protection District shall be regulated as per Section V.

D. Dimensional Regulations

1. Lot Sizes: All lots created after May 5, 1999 shall contain a minimum of 40,000 square feet of area and a minimum of 150' of frontage. All buildable lots must have at least 80% contiguous upland area - i.e., land not defined as wetlands pursuant to

the Massachusetts Wetlands Protection Act. Of the 40,000 square feet at least 30,000 square feet must be derived from within 275' of the way line. The house must be placed in a circle somewhere on the lot having a diameter of 150', located totally within the 80% upland area, and said circle is to have the ability to be inscribed from the lots frontage to the design area. Except for buildings of accessory use, there shall be only one building per lot.

2. Front Yards: In this district where the way is 40 or more feet in width, no building or structure shall be erected or placed within 40' of the way line except in those instances where a setback from the way line of 40' would not be in conformance with adjacent dwellings, in which case a lesser setback may be permitted but not less than 25'. Where the way line is less than 40' in width the building or stand shall be placed not less than 55' from the center of the way except in those instances where a setback from the center of the way of 55' would not be in conformance with adjacent dwellings, in which case a lesser setback may be permitted but not less than 40' from the center of the way.
3. Side and Rear Yards: No building or structure shall be erected within 25' of the rear lot line and no building or structure shall be erected within 20' of the side lot lines.
4. Corner Clearances: Within the area formed by the lines of intersecting ways and a line joining points on such lines 15' distance from the intersection, or in the case of a rounded corner, the point of intersection of their tangents, no structure other than a building, and no foliage shall be maintained between a height of 2' and a height of 8' above the plane through their curb grades.
5. Projections: Nothing herein shall prevent the projection of steps, stoops not exceeding 30 square feet in area, eaves, cornices, windowsills, or belt courses into any required yard.
6. Heights: No building or structure for residential purposes shall be erected or altered to exceed two and one half stories in height. However, chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend a reasonable height above the height limits herein fixed.
7. Off-Street Parking: Parking facilities shall be applied as per Section V. 5.

2. RESIDENTIAL·COMMERCIAL DISTRICT

In this district no building, structure, land, or premises shall be used, erected, altered, or maintained for any purposes injurious, noxious, or offensive to the neighborhood by reason of the emission of odor, dust, smoke, noise, vibration, glare, or heavy volumes of traffic, nor for any purposes except:

A. Uses Allowed

1. Any use allowed in Residence District A.
2. Business, financial, governmental, insurance, medical, professional, real estate, fitness/health centers, or similar office uses.
3. Retail stores for the sale of goods provided that any permitted outdoor display, storage, or sale of goods is conducted no closer than forty feet of the way line.
4. Light industry, including fabrication, assembly, finishing, packaging or research, to include the manufacture, assembly, and packaging of merchandise.
5. Offices and clinics for medical, psychiatric and similar health services, and their related laboratories, for the examination and treatment of persons as outpatients.
6. Laboratories and research facilities provided that any related manufacturing or processing occupies no more than twenty-five percent of the gross floor; area.

7. Sanitary landfill operations and all other methods for the disposal, treatment, or processing of trash, refuse, debris, or other rubbish material are not deemed to be light industry within the meaning of this bylaw and shall not qualify herein as either an allowed use or a permitted use.
8. Personal Services

B. Uses Permitted by Special Permit

The following uses may be permitted only when the applicant clearly establishes that such uses are not noisy, injurious, noxious, or offensive to the neighborhood and do not derogate from the purpose of this bylaw as determined by the zoning board of appeals after due notice and a public hearing, as per Section VI, provided that, any grant of a special permit shall be conditioned upon full compliance with off-street parking, site plan approval, and other provisions of this bylaw.

1. Institutions for philanthropic use.
2. Outdoor storage, display, and sale of goods, but no closer than forty feet of the way line.
3. Multiunit Dwellings, including those designated as low and moderate income housing. Multi-dwelling structures, not to exceed a density of four dwelling units per acre, provided that the planning board, after notice and a public hearing, shall find and rule that such structure or structures shall not be injurious, noxious, offensive, or detrimental to the neighborhood and subject to the dimensional requirements of Paragraph (D), below, and subject to the following conditions:
   a. A site plan shall be submitted to the planning board accompanying any application hereunder.
   b. In acting upon an application under this section, the planning board shall take into consideration whether: the specific site is an appropriate location for the use or structure; adequate public sewerage and water facilities or suitable soils for on-lot sewerage and water systems are available; there will be undue nuisance or serious hazard to vehicles or pedestrians; and whether adequate and appropriate facilities will be provided to ensure the proper operation of the proposed use or structure.
   c. The planning board shall also impose, in addition to the conditions specified, such additional conditions that it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purpose of this bylaw, including but not limited to the following: front, side and rear yards greater than the minimum required by this bylaw; screening, buffers, or planting strips, fences, or walls, as specified by the board; modification of the exterior appearance of the structure, method and time of operation or extent of facilities, regulation of number and location of driveways, or other traffic features beyond the minimum required by this bylaw.
4. Restaurants.

C. Miscellaneous Uses

Signs, trailers, off-street parking, and uses of lands in the Flood Plain and Watershed Protection District are regulated as per Section V.

D. Dimensional Regulations

Residence District A requirements apply to uses allowed in that district. The requirements below apply to all other uses allowed in this district:

1. Lot Sizes: All uses require at least 120,000 square feet of area, said area being exclusive of any and all easements, cranberry bogs, wetlands, floodplains and watershed areas. All multiple unit dwellings are limited to no more than one dwelling unit per 10,000 square feet of lot area exclusive of all easements, cranberry bogs, wetlands, floodplains and watershed areas.
2. Frontage: All uses require at least 250 contiguous feet at the way line, and in addition, multiunit dwellings require at least twenty feet of frontage per unit, all of which must be contiguous.
3. Minimum Lot Perimeter Ratio: All uses require a minimum lot perimeter ratio greater than fifty-five.
4. Front Yards: All buildings, structures, and paved areas other than access ways shall be set back a minimum of 100' from the front lot line.
5. Side Yards: No building, structure, or paved area shall be erected within forty feet of the side lot lines except that: Multiple unit dwellings abutting a residential use or district shall have, at a minimum, 100' side yards on that side(s) abutting the residential use or district.
6. Rear Yards: No building, structure, or paved area shall be erected within fifty feet of the rear lot lines except that: Multiple unit dwellings abutting a residential use or district shall have, at a minimum, 100' rear yards whenever the rear lot line abuts the residential use or district.
7. Lot Width: At any point between the way line and the rear building line of any building, other than an accessory building, the distance between the side lot lines, as measured in any direction, shall not be less than 170'.
8. Corner Clearances: No building, no structure, no fence other than a post and rail fence, no sign, and no foliage shall be maintained between a height of two feet and a height of eight feet above the plane through the curb grades of intersecting ways within the area formed by the lines of intersecting ways and lines parallel to and thirty feet in distance from the intersecting way lines, or, in the case of a rounded corner, within an area which is thirty feet or less in distance from both way lines.
9. Projections: Nothing herein shall prevent the projection of steps or stoops not exceeding 30' in area, eaves, cornices, windowsills, or belt courses into any required yard.
10. Heights: No building or structure shall be erected or altered to exceed 2 1/2 stories in height. However, chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend a reasonable height above the height limits herein fixed.
11. Driveways: Except for uses allowed in Residence District A, driveways providing a means of access for each individual lot shall not exceed one foot in width for each ten feet of frontage, and there shall not be more than two such driveways. Common driveways providing a means of access and egress for more than one lot shall not be allowed.
12. Building Floor Area: The building floor area shall not exceed thirty-five percent of the total site area.
13. Coverage: The sum of the ground area of the lot covered, or to be covered, by all buildings or structures and all paved areas, to include walkways, patios, roadways,

access ways, turnarounds, loading areas, and parking areas shall not exceed sixty percent of the total site area.

14. Landscaping: At least forty percent of any required yard shall be landscaped or left in a natural state. At least fifty percent of any yard or buffer strip abutting a residential use or district shall be landscaped or left in a natural state. Along any lot line abutting a residential use or district, there shall be planted a dense natural hedge greater than six feet in height and located within ten feet of said lot line. Said natural hedge shall provide a visual screen between any structures or parking area and the residential area.
15. Buffer Strips:

3. BUSINESS DISTRICT A

In this district, no building, structure, land or premises shall be used, erected, altered, or maintained for any purpose injurious, noxious, or offensive to the neighborhood by reason of the emission of odor, dust smoke, noise, vibration, glare or heavy volumes of traffic, nor for any purposes except:

A. Uses Allowed

1. Any use allowed in Residence District A.
2. Business, financial, governmental, insurance, medical, professional, real estate, fitness/health centers, or similar office uses and their ancillary services.
3. Retail stores for the sale of goods provided that there be no outside display, storage, or sale of goods without a special permit under subsection B.7.
4. Banks or similar institutions.
5. Places of assembly.
6. Personal Services.

B. Uses Permitted by Special Permit

The following uses may be permitted only when the applicant clearly establishes that such uses are not noisy, injurious, noxious or offensive to the neighborhood and do not derogate from the purpose of this bylaw as determined by the board of appeals after due notice and a public hearing, as per Section VI, provided that there be no outside display of goods produced or for sale, and, provided that any grant of a special permit shall be conditioned upon full compliance with off-street parking, site plan approval, and other provisions of this bylaw.

1. Any use permitted in Residence District A.
2. Gasoline sales and incidental services.
3. A garage or other building used for the repair, cleaning or painting of motor vehicles, but excluding car wash facilities.
4. A funeral parlor or home, a convalescent, or nursing home.
5. Restaurants.
6. Automobile sales and display provide, however, that in no event shall the sale of junk motor vehicles and/or parts thereof qualify as “automobile sales” which may be permitted under this section. Junk motor vehicles, whether licensed or not, are those which are worn out, cast-off or discarded and which are ready for dismantling or destruction, or those which have been collected or stored for salvage or for shipping in order to make use of parts there from.
7. Outdoor storage, display and sale of goods.

C. Miscellaneous Uses

Signs, trailers, off-street parking, and uses of lands in the Flood Plain and Watershed Protection District shall be regulated as per Section V.

D. Dimensional Regulations

1. Dimensional Regulations are the same as those for Residence District A for those uses allowed in that district.
2. Dimensional Regulations for all other uses shall be the same as the dimensional regulations for Residential District A with the following exceptions:
   a. No paved area shall be allowed in any required side or rear yard.
   b. Building Floor Area: The building floor area shall not exceed forty-five percent of the total site area.
   c. Coverage: The sum of the ground area of the lot covered, or to be covered by all buildings or structures and all paved areas, to include walkways, patios, roadways, access ways, turnarounds, loading areas, and parking areas shall not exceed sixty percent of the total site area.
   d. Driveways providing a means of access and egress for each individual lot shall not exceed twenty-four feet in width, excluding the radii.
   e. Landscaping: At least forty percent of any required yard shall be landscaped or left in a natural state. At least fifty percent of any yard or buffer strip abutting a residential use or district shall be landscaped or left in a natural state. Along any lot line abutting a residential use or district, there shall be planted a dense natural hedge greater than six feet in height and located within ten feet of said lot line. Said natural hedge shall provide a visual screen between any structures or parking area and the residential area.

4. BUSINESS DISTRICT B

In Business District B no building, structure, premises or land shall be used except in conformance with the impact standards in Section V. 7 or shall be used for any purposes except:

A. Uses Allowed

1. A church, municipal, or civic use.
2. Institutions for educational, religious, or philanthropic use.
3. Business, financial, governmental, insurance, medical, professional, real estate, fitness/health centers, or similar office use, hotel, convention center and their ancillary services.
4. Retail stores for the sale of goods provided that any permitted outdoor display, storage, or sale of merchandise is conducted no closer than 40' of the way line.
5. Light industry, including fabrication, assembly, finishing, packaging or research, to include the manufacture, assembly, and packaging of merchandise.
6. Offices and clinics for medical, psychiatric and similar health services, and their related laboratories, for the examination and treatment of persons as outpatients.
7. Laboratories and research facilities provided that any related manufacturing or processing occupies no more than twenty-five percent of the gross floor area.
8. Banks or similar financial institutions.
9. Places of assembly.
10. Only currently existing residences.

11. Sanitary landfill operations and all other methods for the disposal, treatment, or processing of trash, refuse, debris, or other rubbish material are not deemed to be light industry within the meaning of this bylaw and shall not qualify herein as either an allowed use or a permitted use.
12. Personal Services

B. Uses Permitted by Special Permit

The following uses may be permitted only when the applicant clearly establishes that such uses are not noisy, injurious, noxious, or offensive to the neighborhood and do not derogate from the purpose of this bylaw as determined by the board of appeals after due notice and a public hearing, as per Section VI, provided that any grant of a special permit shall be conditioned upon full compliance with off-street parking, site plan approval, and other provisions of this bylaw.

1. Outdoor storage, display, and sale of goods.
2. Gasoline sales and incidental services; but not body painting or repairs, mechanized carwash facility, auto sales, or major repair facilities
3. Indoor commercial recreation.
4. Restaurants.
5. Body Arts Establishments only in the area described in Section III Establishment of Districts, sub-section 4. Business District B, sections A., B., C. and D. The area limitation in this subsection is not intended to prohibit Body Art Establishments in the Industrial A District pursuant to Section IV.5.B.3 or the Industrial B District pursuant to Section IV.5A.B.3.

C. Miscellaneous Uses

Signs, trailers, off-street parking, and uses of land in the Flood Plain and Watershed Protection District shall be regulated as per Section V.

D. Dimensional Regulations

1. Lot Sizes: All uses require at least 80,000 square feet of area. In addition, at least 70,000 square feet of said area shall be exclusive of any and all easements, cranberry bogs, wetlands, flood plains and watershed areas.
2. Frontage: All uses require at least 200 contiguous feet at the way line.
3. Minimum Lot Perimeter Ratio: All uses require a minimum lot perimeter ratio greater than forty-four.
4. Front Yards: All buildings structures and paved areas other than access ways shall be set back a minimum of sixty feet from the front lot line.
5. Side Yards: No building, structure, or paved area shall be erected within thirty feet of the side lot lines.
6. Rear Yards: No building, structure, or paved area shall be erected within forty feet of the rear lot line.
7. Lot Width: At any point between the way line and the rear building line of any building, other than an accessory building, the distance between side lot lines, as measured in any direction, shall not be less than one hundred thirty-five feet.
8. Corner Clearances: No building, no structure, no fence other than a post and rail fence, no sign, and no foliage shall be maintained between a height of two feet and a height of eight feet above the plane through the curb grades of intersecting ways within the area formed by the lines of intersecting ways and lines parallel to and 30'

in distance from the intersecting way lines, or, in the case of a rounded corner, within an area which is thirty feet or less in distance from both way lines.

9. Projections: Nothing herein shall prevent the projection of steps or stoops not exceeding thirty square feet in area, eaves, cornices, windowsills, or belt courses into any required yard.
10. Heights: No building or structure shall be erected or altered to exceed three stories in height. However, chimneys, elevators, poles, spires, tanks, towers and other projections not used for human occupancy may extend a reasonable height above the height limits herein fixed.
11. Driveways: Driveways providing a means of access and egress for each individual lot shall not exceed one foot in width for each ten feet of frontage, excluding radii, and there shall not be more than two such driveways. Common driveways providing a means of access and egress for more than one lot shall not be allowed.
12. Building Floor Area: The building floor area shall not exceed thirty-five percent of the total site area
13. Coverage: The sum of the ground area of the lot covered, or to be covered, by all buildings or structures and all paved areas, to include walkways, patios, roadways, access ways, turnarounds, loading areas, and parking areas shall not exceed sixty percent of the total site area.
14. Landscaping: At least forty percent of any required yard shall be landscaped or left in a natural state. At least fifty percent of any yard or buffer strip abutting a residential use or district shall be landscaped or left in a natural state. Along any lot line abutting a residential use or district, there shall be planted a dense natural hedge greater than six feet in height and located within ten feet of any structures and parking area and the residential area.
15. Buffer Strips: Along any lot line abutting a residential use or district there shall be planted a dense natural hedge greater than six feet in height and located within ten feet of said lot line. Said natural hedge shall provide a visual screen between any structure or parking area and the residential area.
16. Dimensional Regulations: Dimensional regulations for existing uses which are allowed uses in Residence District A shall be the same as dimensional regulations for that district.

5. INDUSTRIAL DISTRICT A

In this district, no building, structure, premises or land shall be used except in conformance with the impact standards in Section V. 7 or shall be used for any purposes except:

A. Uses Allowed

1. A church, municipal, or civic use.
2. Institutions for educational, religious, or philanthropic use.
3. Business, financial, governmental, insurance, medical, professional, real estate, assisted living residence, fitness/health centers, or similar office use, hotel, convention center and their ancillary services.
4. Light industry, including fabrication, assembly, finishing, packaging or research, to include the manufacture, assembly, and packaging of merchandise.
5. Sanitary landfill operations and all other methods for the disposal, treatment, or processing of trash, refuse, debris, or other rubbish material are not deemed to be

light industry within the meaning of this bylaw and shall not qualify herein as either an allowed use or as a permitted use.

6. Any use allowed in Business District B except #10.

B. Uses Permitted by Special Permit

The following uses may be permitted only when the applicant clearly establishes that such uses are not noisy, injurious, noxious or offensive to the neighborhood, and do not derogate from the purpose of this bylaw as determined by the board of appeals after due notice and a public hearing, as per Section 6, provided that there be no outside display of goods produced or for sale, and, provided that any grant of a special permit shall be conditioned upon full compliance with off-street parking, site plan approval, and other provisions of this bylaw.

1. Light industrial processing.
2. Warehousing and wholesale merchandise storage.
3. Any use permitted by special permit in Business District B.
4. Restaurants.
5. Office buildings not to exceed four stories in height.

C. Miscellaneous Uses

Signs, trailers, off-street parking, and uses of land in the Flood Plain and Watershed Protection District shall be regulated as per Section V.

D. Dimensional Regulations

1. Lot Sizes: All uses require at least 80,000 square feet of area. In addition, at least 70,000 square feet of said area shall be exclusive of any and all easements, cranberry bogs, wetlands, flood plains and watershed areas.
2. Frontage: All uses require at least 200 contiguous feet at the way line.
3. Front Yards: All buildings, structures, and paved areas other than parking and access ways shall be set back a minimum of sixty feet from the lot line.
4. Side Yards: All building, structure, and paved areas other parking and access ways shall be set back a minimum of 20 feet for the side lot line.
5. Rear Yards: All building, structure, and paved areas other than parking and access ways shall be a minimum of 20 feet from the rear lot line.
6. Lot Width: At any point between the way line and the rear building line of any building, other than an accessory building, the distance between side lot lines, as measured in any direction, shall not be less than one hundred and thirty-five feet.
7. Corner Clearances: No building, no structure, no fence other than a post and rail fence, no sign, and no foliage shall be maintained between a height of two feet and a height of eight feet above the plane through the curb grades of intersecting ways within the area formed by the lines of intersecting ways and lines parallel to and thirty feet in distance from the intersecting way lines, or, in the case of a rounded comer, within an area which is thirty feet or less in distance from both way lines.
8. Projections: Nothing herein shall prevent the projection of steps or stoops not exceeding thirty square feet in area, eaves, cornices, windowsills, or belt courses into any required yard.
9. Heights: No building or structure shall be erected or altered to exceed four stories in height. However, chimneys, elevators, poles, spires, tank, towers and other

projections not used for human occupancy may extend a reasonable height above the height limits herein fixed.

10. Driveways: Driveways providing a means of access and egress for each individual lot shall not exceed one foot in width for each ten feet of frontage, excluding radii, and there shall not be more than two such driveways. Common driveways providing a means of access and egress for more than one lot shall not be allowed.
11. Building Floor Area: The building floor area shall not exceed forty-five percent of the total site area.
12. Coverage: The sum of the ground area of the lot covered, or to be covered, by all buildings or structures and all paved areas, to include walkways, patios, roadways, access ways, turnarounds, loading areas, and parking areas shall not exceed eighty percent of the total site area.
13. Landscaping: At least forty percent of any required yard shall be landscaped or left in a natural state. At least fifty percent of any yard or buffer strip abutting a residential use or district shall be landscaped or left in a natural state. Along any lot line abutting a residential use or district, there shall be planted a dense natural hedge greater than six feet in height and located within ten feet of said lot line. Said natural hedge shall provide a visual screen between any structures or parking area and the residential area.
15. Buffer Strips: Within this district, no building or structure shall be placed within one hundred and fifty feet of Residence District A or within one hundred and fifty feet of any existing residential use.

5A. INDUSTRIAL DISTRICT B

In this district, no building, structure, premises or land shall be used except in conformance with the impact standards in Section V.7 or shall be used for any purposes except:

A. Uses Allowed

1. A church, municipal, or civic use.
2. Institutions for educational, religious, or philanthropic use.
3. Business, financial, governmental, insurance, medical, professional, real estate, assisted living residence, fitness/health centers, or similar office use, hotel, convention center and their ancillary services.
4. Light industry, including fabrication, assembly, finishing, packaging or research, to include the manufacture, assembly, and packaging of merchandise.
5. Sanitary landfill operations and all other methods for the disposal, treatment, or processing of trash, refuse, debris, or other rubbish material are not deemed to be light industry within the meaning of the bylaw and shall not qualify herein as either an allowed use or as a permitted use.
6. Retail Sales in the Industrial B Zone west of Route 3.
7. Any use allowed in Business District B except #10.

B. Uses Permitted by Special Permit

The following uses may be permitted only when the applicant clearly establishes that such uses are not noisy, injurious, noxious, or offensive to the neighborhood and do not derogate from the purpose of this bylaw as determined by the board of appeals after due notice and a public hearing, as per Section VI, provided that there be no outside display of goods produced or for sale, and provided that any grant or a special permit shall be conditioned

upon full compliance with off-street parking, site plan approval, and other provisions of this bylaw.

1. Light industrial processing.
2. Warehousing and wholesale merchandise storage.
3. Any use permitted by special permit in Business District B.
4. Office buildings not to exceed four stories in height.

C. Miscellaneous Uses

Signs, trailers, off-street parking, and uses of land in the Flood Plain and Watershed Protection District shall be regulated as per Section V.

D. Dimensional Regulations

1. Lot Sizes: All uses require at least 80,000 square feet of area. In addition, at least 70,000 square feet of said area shall be exclusive of any and all easements, cranberry bogs, wetlands, flood plains and watershed areas.
2. Frontage: All uses require at least 200 contiguous feet at the way line.
3. Front Yards: All buildings, structures, and paved areas other than parking and access ways shall be set back a minimum of sixty feet from the lot line.
4. Side Yards: All buildings, structure or paved areas other than parking and access ways shall be set back a minimum of twenty feet from the side lot line.
5. Rear Yards: All buildings, structures, and paved areas other than parking and access ways shall be set back a minimum of twenty feet from the rear lot line.
6. Lot Width: At any point between the way line and the rear building line of any building, other than as accessory building, the distance between side lot lines, as measured in any direction, shall not be less than one hundred thirty-five feet.
7. Corner Clearances: No building, no structure, no fence other than a post and rail fence, no sign, and no foliage shall be maintained between a height of two feet and a height of eight feet above the plane through the curb grades of intersecting ways within the area formed by the lines of intersecting ways and lines parallel to and thirty feet in distance from the intersecting way lines, or, in the case of a rounded corner, within an area which is thirty feet or less in distance from both way lines.
8. Projections: Nothing herein shall prevent the projection of steps or stoops not exceeding thirty square feet in area, eaves, cornices, windowsills, or belt courses into any required yard.
9. Heights: No building or structure shall be erected or altered to exceed four stories in height. However, chimneys, elevators, poles, spires, tank, towers and other projections not used for human occupancy may extend a reasonable height above the height limits herein fixed.
10. Driveways: Driveways providing a means of access and egress for each individual lot or shall not exceed one foot in width for each ten feet of frontage, excluding radii, and there shall not be more than two such driveways. Common driveways providing a means of access and egress for more than one lot shall not be allowed.
11. Building Floor Area: The building floor area shall not exceed forty-five percent of the total site area.
12. Coverage: The sum of the ground area of the lot covered, or to be covered, by all buildings or structures and all paved areas, to include walkways, patios, roadways, access ways, turnarounds, loading areas, and parking areas shall not exceed eighty percent of the total site area.

13. Landscaping: At least forty percent of any required yard shall be landscaped or left in a natural state. At least fifty percent of any yard or buffer strip abutting a residential use or district shall be landscaped or left in a natural state. Along any lot line abutting a residential use or district there shall be planted a dense natural hedge greater than six feet in height and located within ten feet of said lot line. Said natural hedge shall provide a visual screen between any structure or parking area and the residential area.

6. STORAGE OF JUNK

A. No yard abutting or visible from a way or public park or public beach shall be used for the storage or display or abandonment of any type of junk, scrap, trash, rubble or discarded or abandoned equipment or material.

B. No junk motor vehicle as defined herein shall be parked or stored on any lot in any district other than in a completely enclosed building; provided that one such vehicle may be kept behind the building line of the principal structure in any side or rear yard which cannot be viewed from a way, public park or public beach. A junk motor vehicle is defined as one which is worn out or discarded or which is ready for dismantling or destruction or which has been collected or stored for salvage, or for stripping in order to make use of parts thereof. Any parts from such vehicles shall be considered to be junk motor vehicles. A motor vehicle without current registration or license plates for the current year shall be considered to be a junk motor vehicle except that an unregistered vehicle used for farm or garden purposes or for recreational or camping purposes such as campers, trailers, dune buggies, or skimobiles shall not be considered to be a junk motor vehicle for that reason alone. The board of selectmen, after notice to abutters and a public hearing, may issue a permit to keep more than one junk motor vehicle if the board determines that to do so will not be injurious or offensive to the neighborhood, will not depreciate property values, will not create a hazard to the public safety, and will not become a public nuisance.

7. CENTER PROTECTION DISTRICT

In this district no building, structure, land, or premises shall be used, erected, altered, or maintained for any purposes injurious, noxious, or offensive to the neighborhood by reason of the emission of odor, dust, smoke, noise, vibration, glare, or heavy volumes of traffic, nor for any purposes except:

A. Uses Allowed

1. All uses permitted in the Residence District A.
2. Offices and clinics for medical and psychiatric and similar health services and their related laboratories for the examination and treatment of persons as outpatients, health and fitness centers.
3. Businesses that provide financial, legal, insurance, real estate, educational, banking, technology, mortuary, travel and vacation, consumer services or similar office uses and their ancillary services.
4. Retail stores for the sale of goods provided that any permitted outdoor display, storage or sale of goods is conducted no closer than forty (40) feet of the way line.
5. Municipal, governmental, charitable, philanthropic, educational and religious organizations.
6. Automobile sales and display, automotive repair including automotive painting and bodywork and storage of automobiles for parts or recyclables and automobile washing facilities shall not qualify herein as either an allowed use or a permitted use.

7. Personal Services

B. Uses Allowed by Special Permit

For purposes of this bylaw, the special permit granting authority shall be the Planning Board.

1. Restaurants, however, food servers that solely provide "drive thru" food and beverage goods and or food servers that would primarily dispense food and or beverages without indoor seating facilities shall not qualify herein as either an allowed use or a permitted use.
2. Mixed use development, a mix of residential units and any of the uses allowed or permitted herein within this district is allowed notwithstanding the limitations of section IV. 1; first paragraph.
3. "Drive thru" operations.
4. Outside display and sale of goods.

C. Restrictions

1. All buildings and structures within public view will be of American Colonial, Greek Revival, Federalist and or traditional New England architectural design, or similar style, approved by the Planning Board after a public hearing in accordance with M.G.L., Ch. 40A, Sec. 9 and 11.
2. Planning Board approval is required for all signs constructed, erected or alter within this district and signs will conform to the provisions of Section V.I. of these bylaws with the following additional restrictions:
   a. Accessory standing signs shall not exceed thirty-two (32) square feet in area or exceed twelve (12) feet in height from the ground.
   b. Accessory signs attached to or part of a wall shall not exceed ten (10) percent of said wall area.
   c. The material of all signs within the district except temporary and traffic signs shall be constructed of natural or painted wood, and shall display painted, routed or raised wood letters or substitutes approved by the Planning Board.
   d. The placement of signs shall be so as not to interrupt the significant architectural features of a building, including but not limited to, the window openings, cornice line and roof line.
   e. The two (2) signs which an establishment may erect according to the provisions of this bylaw shall display a consistent style and lettering and shall only advertise the name of the establishment and its primary business.
   f. Signs that advertise specials, price of goods or services to be sold on premises or any other ancillary goods or services available on premises shall not qualify herein as an allowed sign use and or permitted sign use.
   g. Signs may be illuminated only by a white, steady stationary light of reasonable intensity shielded and directed solely at the sign.

3. The exterior finish of all buildings within the district shall be made of brick, glass and or wood, wood simulated, or a suitable substitute material approved by the Planning Board. The Planning Board must approve of the exterior finish color of the brick, glass and wood or suitable substitute to be applied.

D. Dimensional Regulations

1. Lot sizes: All lots within the district to be used for Residential A. uses, require all the dimensional requirements of the Residence District A.
2. Lot sizes: All lots within the district to be used for business uses require at least a forty thousand (40,000) contiguous square feet of area.
3. Lot sizes: All lots within the district to be used for mixed use development, residential and business uses contained on the same lot, require one hundred thousand (l00,000) contiguous square feet of area.
4. Frontage: All uses within the district require the following street frontage requirements:
   a. Residence A., one hundred and fifty (150) contiguous linear feet at the way line.
   b. Business, one hundred and fifty (150) contiguous linear feet at the way line.
   c. Mixed Use, two hundred and fifty (250) contiguous linear feet at the way line.
5. Front Yards: No building or structure shall be erected within forty (40) feet from the front lot line. No paved area, other than accessways and sidewalks, shall be built within fifteen (15) feet of the front lot line.
6. Side Yard: No building or structure shall be erected within twenty (20) feet of the side lot line. No paved area, other than accessways and sidewalks, shall be built within 10 feet of the side lot line.
7. Rear lot line: No building or structure shall be erected within twenty (20) feet of the rear lot line. No paved area, other than accessways and sidewalks, shall be built within 10 feet of the rear lot line.
8. Sidewalks and covered walkways shall be considered landscaping and not paved coverage.
9. Height: No building shall exceed two and one-half (2 1/2) stories in height or exceed thirty-six (36) feet in height, except by special permit.
10. Building Floor Area: The building floor area shall not exceed fifteen percent (15%) or nine thousand (9,000) square feet whichever is lesser of the total site area, except by special permit.
11. Coverage: The sum of the ground area of the lot covered, or to be covered by all buildings or structures and all paved areas, to include patios, roadways, accessways, turnarounds, loading areas and parking areas not exceed sixty-five percent (65%) of the total site area, except by special permit.
12. Landscaping: At least thirty-five percent (35%) of the total site area shall be landscaped. Along any rear or side lot line that abuts a residential or municipal use there shall be planted a natural hedge greater than six (6) feet in height and located within ten (10) feet of said lot line, except by special permit.

E. Miscellaneous Provisions
1. Housing Density: On a lot that is submitted for approval as a mixed use development, the allowed amount of residential units shall be determined by dividing the total site area by ten thousand (10,000) square feet. The resultant number rounded to its closest whole number shall be the number of residential units allowed. The development shall average no more than 1.25 bedrooms per residential unit.
2. Parking: On a lot that has been submitted for approval as a mixed use development at least two (2) parking spaces per unit shall be provided in a parking area designated for owner/renter occupants. Additionally, said mixed use development shall provide one (1) space for each three hundred (300) square feet of business retail floor area.

Parking requirements for non mixed use applicants shall be determined by zoning bylaws proved in Section V., 4. A. 1.

3. Mixed Use Ratio: On a lot that is submitted for approval as a mixed use development the total building floor area shall be separated into a residential component, of at least thirty percent (30%) but not to exceed fifty percent (50%), of the building floor area and a business component, of at least fifty percent (50%) but not to exceed seventy percent (70%) of the building floor area. A building may contain both residential and commercial uses.

F. Exemptions

1. Interior arrangements or architectural features not subject to public view.
2. Ordinary maintenance, repair, or replacement of any exterior architectural feature within this district which does not involve a change in design, material, or outward appearance except to conform to this section of the bylaw.
3. Meeting of requirements certified by a duly authorized public officer to be necessary for public safety.
4. Construction or alteration under a permit issued by the building inspector prior to the adoption of this bylaw.
5. Temporary structures and signs used in conjunction with civic or charitable events.
6. Landscaping with plants, trees and shrubs on existing developed sites.
7. Storm doors, windows, screens, window air conditioners.

8. WATER RESOURCE AND GROUNDWATER PROTECTION DISTRICT

A. Purpose of the District

Whereas:

1. the groundwater underlying the Town of Pembroke is a primary source of its existing and future drinking water supply; and
2. the siting of land uses that have the potential to release hazardous waste, petroleum products, or other contaminants significantly increase the risk of contamination to the Town's drinking water, and
3. poor management practices, accidental discharges, and improper maintenance of these facilities may lead to the release of pollutants; and
4. discharges of hazardous waste, leachate, pathogens, and other pollutants have repeatedly threatened surface and groundwater quality throughout Massachusetts; and
5. surface and groundwater resources in the Town of Pembroke contribute to the Town's drinking water supplies;
6. therefore, the Town of Pembroke adopts the following bylaw, under its authority as specified in Section B, as a preventative measure for the purposes of:
7. preserving and protecting the Town of Pembroke's drinking water resources from the discharge of pollutants; and
8. minimizing the risk to public health and the environment to the Town due to such discharges.

B. Scope of Authority

The Water Resource and Groundwater Protection District is delineated on a map entitled Zoning Map with Water Resource and Groundwater Protection District, appended to the Zoning Bylaws, and shall be superimposed over any other district established by these bylaws. The district includes specifically designated areas, such as Zone II areas and Interim

Wellhead Protection Areas (IWPA). The overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses. Applicable activities or uses which fall within the Water Resource and Groundwater Protection District must comply with the requirements of this district as well as with the underlying zoning. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Water Resource and Groundwater Protection District.

C. Definitions

For the purpose of this regulation the following words or phrases shall have the following meanings.

Commercial Fertilizers:

Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed by its manufacturer to have value in promoting plant growth. Commercial fertilizers do not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum.

Department:

The Massachusetts Department of Environmental Protection

Discharge:

The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of the Commonwealth. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on site leaching structure or sewage disposal system.

Hazardous Material:

A product, waste or combination of substances which because of its quantity, concentration, or physical, chemical, toxic, radioactive, or infectious characteristics may reasonably pose a significant, actual, or potential hazard to human health, safety, welfare, or the environment when improperly treated, stored, transported, used, disposed of, or otherwise managed. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as "toxic" or "hazardous" under Massachusetts General Laws (M.G.L.) Chapter 21C and 2lE, using the Massachusetts Oil and Hazardous Substance List (310 CMR 40.0000). The definition may also include acids and alkalis, solvents, thinners, and pesticides.

Historical High Groundwater Table Elevation:

A groundwater elevation which is determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Surveyor the Town of Pembroke Water Department.

Interim Wellhead Protection Areas (IWPA):

For public water supply wells or well fields that lack a Department approved Zone II, the Department will apply an interim wellhead protection area. This interim wellhead protection area

shall be one-half mile radius measured from the well or wellfield for sources whose approved pumping rate is 100,000 gallons per day or greater. For wells that pump less than 100,000 gallons per day, the IWPA radius is proportional to the well's approved daily volume following the IWPA Chart as referenced in Division Water Supply Policy 92-01.

Landfill:

A facility established (in accordance with a valid site assessment) for the purpose of disposing of solid waste into or on the land, pursuant to 310 CMR 19.006.

Non-sanitary Wastewater:

Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than the collection of sanitary sewerage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

Open Dump:

A facility which is operated or maintained in violation of the Resource Conservation and Recovery Act (42 U. S. C. 4004(a)(b)), or the regulations and criteria for solid waste disposal.

Septages:

The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tank, or other sewage waste receptacles. Septage does not include any material, which is a hazardous waste, pursuant to 310 CMR 30.000.

Sludge:

The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

Treatment Works:

Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

Use of Toxic or Hazardous Material:

The handling, generation, treatment, storage, or management of toxic or hazardous materials.

Very Small Quantity Generator:

Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste products as defined in 310 CMR 30.136.

Waste Oil Retention Facility:

A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L.c.21.s.52A.

Water Resource and Groundwater Protection District:

An overlay district delineated on the Zoning Map of the Town and superimposed over any other district established by these bylaws. The Water Resource and Groundwater Protection District shall include Zone II areas and Interim Wellhead Protection Area.

Zone II:

The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at the safe yield with no recharge from precipitation), as defined by 310 CMR 22.00.

D. District Boundary Disputes

1. If the location of the Water Resource and Groundwater Protection District in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the Board of Appeals. Any application for this purpose shall be accompanied by adequate documentation. One copy of the complete application will be submitted to the Department of Public Works. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should be properly located. The determination of the location and extent of the Water Resource and Groundwater Protection District area shall be in conformance with the criteria set forth in 310 CMR 22.00 and in the DEP's "Guidelines and Policies for Public Water Systems." At the request of the owner(s), the Town may engage a professional land surveyor, engineer (civil or sanitary), hydrologist, or geologist to determine more accurately the boundaries of the district with respect to the individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.
2. Permitted Uses:
   The following uses are permitted within the Water Resource and Groundwater Protection District, provided that all necessary permits, orders and approvals required by local, state and federal law are also obtained.
   a. conservation of soil, water, plants and wildlife;
   b. outdoor recreation, nature study, boating, fishing and hunting, where otherwise legally permitted;
   c. foot, bicycle and/or horse paths and bridges;
   d. normal operation and maintenance of existing water bodies and dams, flash boards, and other water control, supply and conservation structures;
   e. maintenance, repair, and enlargement of any structure subject to Section 5. A.-G. "Prohibited Uses" below.
   f. Residential development, subject to Section 5. A.-G. "Prohibited Uses" below.
   g. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing subject to Section 5. A.-G. "Prohibited Uses" below.
   h. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, above ground water storage tanks and tunnels. Underground storage tanks related to these activities are not categorically permitted.

E. Prohibitions

1. Notwithstanding any land uses, which are otherwise permitted by local, state and or other federal laws, the siting of the following, are prohibited in the Water Resource and Groundwater Protection District.

a. landfills
b. open dumps
c. automobile graveyards and junkyards
d. municipal wastewater treatment facilities with on-site disposal of primary or secondary treated effluent
e. vehicle washes
f. dry cleaning establishments, coin or commercial laundries
g. motor vehicle and motorized marine vehicle repair facilities and body repair shops
h. metal plating facilities
i. chemical and biological laboratories
j. trucking and mass transit terminals
k. sludge and septage monofils
l. stockpiles or disposal of chemically treated snow and ice that have been removed from highways and roadways.
m. petroleum, fuel oil and heating oil bulk stations and terminals, including, but not limited to those listed under Standard Industrial Classification (SIC) coded 517l and 5983. SIC codes are established by the U. S. Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual and any subsequent amendments.
n. new cemeteries, or the expansion of existing cemeteries beyond existing boundaries
o. floor drains
p. use of any lake, pond, river or stream as a water source for hydro-seed pumps trucks.

2. Facilities for the treatment or disposal of non-sanitary wastewater are prohibited, with the following exceptions:
   a. Replacement or repair of an existing system is exempt if the existing design capacity is not exceeded; and
   b. Treatment works approved by the Department and designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05 (3) or 5.05 (13); and
   c. Publicly owned treatment works
3. Facilities that treat, store, or dispose of hazardous waste are prohibited with the following exemptions.
   a. very small quantity generators,
   b. household hazardous waste collection centers of collection events
   c. waste oil retention facilities, and
   d. treatment works for the restoration of contaminated ground or surface waters in compliance with M.G.L.c.21E and 310 CMR 40.000.
4. Removal of soil, loam, sand, gravel, or any other mineral substances within four (4) feet of the historical high groundwater table elevation is prohibited with the following exceptions:
   a. substances which are removed and redeposited with 45 days of removal on site to achieve a final grade greater than four (4) feet above the historical high water mark; and
   b. excavations for the construction of building foundations or the installation of utilities.

5. Land uses that result impervious cover of more than 15% or 2500 square feet of any lot, whichever is greater, are prohibited; unless a system of artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality.
6. Cluster Subdivisions shall not be allowed in the Water Resource Groundwater Protection District
7. Use Variances Disallowed
   Within the Water Resources Groundwater Protection District, use variances pursuant to Section VI.E of this bylaw shall not be allowed.

F. Conditional Prohibitions

The storage of certain waste materials, chemicals, and petroleum products is prohibited except if contained in accordance with the following requirements:

1. The storage of and sludge and septage unless storage is in compliance with 310 CMR 32.00.
2. Storage of roadway de-icing chemicals (sodium chloride, chemically treated abrasives, or other chemicals) and the storage of chemical fertilizers unless the storage is in a structure that prevents the generation and release of contaminants or contaminated runoff.
3. Storage of animal manure unless covered or contained in accordance with the standard and guidelines of natural resource conservation service.
4. Storage of liquid hazardous materials, as defined in M.G.L.c.21E, and/or liquid petroleum products is prohibited unless the material and stored;
   a. above ground level, and
   b. on an impervious surface, and
   c. in container (or above ground tanks) designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.
5. Agricultural use of liquid petroleum products, unless covered or contained in accordance with standards and guidelines of the natural resource conservation service.

These storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements. Compliance with all provisions of this bylaw must be accomplished in a manner consistent with Massachusetts Plumbing, Building and Fire Code requirements.

G. Certificate of Compliance

Certification of compliance with the provisions of this bylaw by the Department of Public Works shall be required prior to the issuance of construction or occupancy permits for property within the Water Resources and Groundwater Protection District.

9. ADULT USE OVERLAY DISTRICT:

Purpose and Intent: It is the purpose and intent of this section to address and mitigate the secondary effects of the Adult Uses referenced herein, such as increased crime, adverse impacts on public health, negative impact on retail business climate, and negative impact on residential and commercial property values. The provisions of this section have neither the purpose nor intent of imposing a limitation or restriction on freedom of expression as protected by the First Amendment

of the United States Constitution and all other laws related thereto. Neither is it the purpose or intent of this section to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

1. The Adult Use Overlay District is herein established and shall be superimposed on the other districts established by this bylaw. Adult Uses shall be prohibited at any other location in the Town.
2. Definitions:
   Adult Uses: An establishment having a substantial or significant portion of its business activity, stock in trade, or other materials for sale, rental, or display, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct as defined in M.G.L. chapter 272, section 31, including but not limited to the following:
   A. Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. chapter 272, section 31.
   B. Adult Entertainment Club: An establishment which provides live entertainment for its patrons which includes the display of nudity as defined in M.G.L. chapter 272, section 31.
   C. Adult Motion Picture Theatre: An establishment used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L chapter 272, Section 31.
   D. Adult Paraphernalia Store: An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement, as defined in M.G.L. chapter 272, section 31.
   E. Adult Video Store: An establishment having as a substantial or significant portion of its stock in trade videos, movies, DVD's or other film materials which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement, as defined in M.G.L. chapter 272, section 31.
   F. Massage Service Establishment: An establishment and/or business providing pressure or friction upon any or all parts of the external human body independently or in conjunction with mechanical or electrical apparatus, lotions or creams, and upon which a party receiving such service would be reasonably expected to provide consideration for such service, exclusive of physicians, surgeons, chiropractors, osteopaths, physical therapists, nurses, barbers, beauticians or other parties licensed by the Pembroke Board of Health under M.G. L. Chapter 140, Section 51.
3. Substantial or Significant Portion: The term substantial or significant portion shall mean any of the following:
   A. Twenty percent (20%) or more of the business inventory or stock of merchandise for sale, rental, distribution, or exhibition during any time period of time; or
   B. Twenty percent (20%) or more of the annual number of gross sales, rentals, or other business transactions; or
   C. Twenty percent (20%) or more of the annual gross business revenue of the establishment.
4. Special Permit:

A. No Adult Use shall be allowed except by a Special Permit granted by the Zoning Board of Appeals.
The Zoning Board of Appeals shall grant a Special Permit only upon the determination that the location and design are in harmony with its surroundings, and only if the use is found by the Zoning Board of Appeals to comply with the following minimum special permit criteria.

B. No Special Permit for an Adult Use shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63, or M.G.L. Chapter 272, Section 28.

5. Location: Lots containing an Adult Use may not be located:
   A. Within five hundred (500) feet of a boundary line of a residential zoning district;
   B. Within five hundred (500) feet of a lot line of any lot containing a church, school, or public library;
   C. Within five hundred (500) feet of a lot line of any lot containing any other Adult Use as defined herein.

6. Signage:
   A. Any sign that depicts, describes or is related to nudity or to sexual conduct as defined in M.G.L. 272, Section 31, and that is visible from the outside of the building is prohibited;
   B. All other signage regulations shall conform in accordance with Section V-I of this code.

7. Any Adult Use in existence prior to the adoption of this Section shall apply for a Special Permit as specified in this Section within ninety (90) days following the adoption of this section.

8. The application for the Special Permit for an Adult Use establishment must be submitted by the owner of the property and must include the following information:
   A. The name and address of the legal owner of the proposed establishment;
   B. The name and legal address of the legal owner of the property;
   C. The name and addresses of all persons having a lawful, equity or security interest in the establishment (including but not limited to all legal and equitable interests, security interests, mortgage, lease, including the naming of all trustees and beneficiaries of any trusts, LLC's and/or other device holding ownership of such establishment);
   D. The name and address of the manager of the establishment;
   E. The number of employees; and
   F. Proposed provisions for security within and without the establishment;
   G. A plan showing the exact physical layout of the interior of the establishment.

9. Any Adult Use Special Permit issued under this bylaw shall lapse within one (1) year if substantial use thereof has not sooner commenced except for an act of God or in the case of a permit for construction, if construction has not begun by such date except for an act of God, excepting only any time required to pursue or await determination of an appeal from the grant hereof.

10. The provisions of this Section shall apply only to Adult Uses as defined on this Section which are also defined in Section 9A of Chapter 40A of the General Laws.

11. Invalidity: Any section of this bylaw, or portion thereof, declared invalid shall not affect the validity or application of the remainder of the bylaw.

10. **MEDICAL MARIJUANA OVERLAY DISTRICT:**

1. **Establishment**: The Medical Marijuana Overlay District is established as an overlay district. The boundaries of the Medical Marijuana Overlay District are shown on the Zoning Map on file with the Town Clerk. Within the Medical Marijuana Overlay District, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the Medical Marijuana Overlay District may be used either for (1) a Registered Marijuana Dispensary, in which case the requirements in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the Medical Marijuana Overlay District are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the Medical Marijuana Overlay District conflict with the requirements of the underlying district, the requirements of the Medical Marijuana shall control.
2. **Purpose**: To provide for the placement of a Registered Marijuana Dispensaries, in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of the Registered Marijuana Dispensaries on adjacent properties, residential neighborhood, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and the removal of the Registered Marijuana Dispensaries.
3. **Definitions**: Where not expressly defined in the Zoning By-laws, terms used in the Medical Marijuana Overlay District by-law shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated there under, 105 CMR 725.001, et seq., and otherwise by their plain language.
   a. Registered Marijuana Dispensary: also known as a Medical Marijuana Treatment Center, means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualify patients or their personal caregivers. Unless otherwise specified, Registered Marijuana Dispensary refers to the site(s) of dispensing, cultivation, and preparation of marijuana.
4. **Location:**
   Registered Marijuana Dispensary shall be allowed in the Industrial A and Industrial B Zoning Districts in the area west of Route 3.
   a. Registered Marijuana Dispensaries may be permitted in the Medical Marijuana Overlay District pursuant to a Special Permit.
   b. Registered Marijuana Dispensaries may not be located within five (500) hundred feet of the following:
      1. School, including a public or private elementary, vocational, or secondary school. The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 4.b. to the nearest point of the property line of the proposed Registered Marijuana Dispensaries.
   c. The distance requirement may be reduced by twenty-five percent or less, but only if:
      1. The applicant demonstrates that the Registered Marijuana Dispensary would otherwise be effectively prohibited within the municipality;
      2. The applicant demonstrates that the Registered Marijuana Dispensary will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

5. **Procedure**:
   The Planning Board shall be the Special Permit Granting Authority for a Registered Marijuana Dispensary special permit.
   a. Application: In addition to the materials required under Section V., Special Provisions, Standards and Procedures, 7.
      Site Plan Approval, the applicant shall include:
      1. A copy of its registration as an Registered Marijuana Dispensary from the Massachusetts Department of Public Health
      2. A detailed floor plan of the premises of the proposed Registered Marijuana Dispensary that
      3. Identifies the square footage available and describes the functional areas of the Registered Marijuana Dispensary, including areas for any preparation of marijuana-infused products;
      4. Detailed site plans that include the following information:
         a. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this By-law;
         b. Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
         c. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
         d. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;
         e. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
         f. Adequacy of water supply, surface and subsurface drainage and light.
      5. A description of the security measures, including employee security policies, approved by the Department of Public Health for the Registered Marijuana Dispensary;
      6. A copy of the emergency procedures approved by Department Public Health for the Registered Marijuana Dispensary;
      7. A copy of the policies and procedures for patient or personal caregiver home-delivery approved by Department Public Health for the Registered Marijuana Dispensary;
      8. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between Registered Marijuana Dispensaries approved by Department Public Health;
      9. A copy of proposed waste disposal procedures; and
      10. A description of any waivers from Department Public Health regulations issued for the Registered Marijuana Dispensary.
   b. The Special Permit Granting Authority shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, and the Highway Department. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.

c. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town's boards and departments, the Special Permit Granting Authority may act upon such a permit.

6. **Special Permit Conditions on the Registered Marijuana Dispensaries**: The Special Permit Granting Authority shall impose conditions reasonable appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's Registered Marijuana Dispensary, the Special Permit Granting Authority shall include the following conditions in any special permit granted under this By-law:
   a. Hours of Operation, including dispatch of home deliveries.
   b. The permit holder shall file a copy of any Incident Report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the Special Permit Granting Authority within 24 hours of creation by the Registered Marijuana Dispensary. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
   c. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by Department Public Health or the Division of Administrative Law Appeals, as applicable, regarding the Registered Marijuana Dispensary with the Zoning Enforcement Officer and Special Permit Granting Authority within 48 hours of receipt by the Registered Marijuana Dispensary.
   d. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
   e. The special permit shall lapse within **(**five**)** years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.
   f. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the Registered Marijuana Dispensary.
   g. The special permit shall lapse upon the expiration or termination of the applicant's registration by the Department Public Health.
   h. The permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of the cessation of operation of the Registered Marijuana Dispensary or the expiration or termination of the permit holder's registration with Department Public Health.
7. **Exemption from Registered Marijuana Dispensary Special Permit Requirement**: Registered Marijuana Dispensaries that demonstrate that they are protected pursuant to the agricultural exemption under G.L.c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section V. Special Provisions, Standards and Procedures 7. Site Plan Approval of the Pembroke Zoning By-laws.
8. **Prohibition Against Nuisances**: No use shall be allowed in the Medical Marijuana Overlay District which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

9. **Severability**: The provisions of this By-law are severable. If any provision, paragraph, sentence, or clause of the By-law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By-law.

SECTION V
Special Provisions, Standards and Procedures

1. SIGNS

A. Purposes This bylaw is adopted for the regulation and restriction of signs within the town in order to protect and enhance the visual environment of the town and to promote the safety, convenience, and welfare of its residents.

B. Definitions

1. Sign:
Any permanent or temporary object, device, structure, billboard, placard, painting, drawing, poster, design, letter, work, banner, pennant, insignia, trade flag, or

representation, or the painting of any of the foregoing on the surface of a building or structure used as, or which is in the nature of, an advertisement, announcement, or direction or for the calling of attention to the premises which is on a public way, or on private property within public view from a public or private way, public park, or reservation.

2. Accessory Sign:
   Any sign which advertises or indicates the person occupying the premises on which the sign is located or the business or activity conducted thereon, or advertises the property itself or any part thereof as for sale or for rent; and which contains no other matter.
3. Non-accessory Sign:
   Any sign which is not an accessory sign; including but not limited to a billboard.
4. Standing Sign:
   Any accessory sign which is not attached to a building.

C. Permit Requirements

1. No sign except as noted below, shall be erected, altered, or relocated without a written permit from the Inspector of Buildings/Zoning Enforcement Officer and no such permit shall be issued unless such sign conforms with all of the provisions of this bylaw.
2. Accessory signs not exceeding two square feet in area which contain the name and/or address of the occupant of a residence including the identification of an accessory business being conducted on the premises and accessory signs not exceeding six square feet in area which advertise the sale or lease of the property shall not require a permit. No sign shall be located within ten feet from the edge of the pavement of any public or private way except that a sign may be located on or attached to a building if the building is located within such distances and such signs shall be subject to the general prohibitions contained in Paragraph G of this bylaw.
3. The Inspector of Buildings/Zoning Enforcement Officer may issue a permit for a sign to be located closer than the distance required in paragraph E if the board determines that such sign will not be inconsistent with the purposes of this bylaw and that such sign will not be injurious or offensive to the neighborhood.
4. The Inspector of Buildings/Zoning Enforcement Officer may issue a temporary permit for a period not to exceed thirty days no more than six (6) times in a twelve (12) month period, for the erection and maintenance of a sign which does not conform to the provisions of this bylaw.
5. Such signs as legal and public signs as are required by law including "posting" signs so-called including "no hunting" and "no trespassing" signs, traffic signs, historic markers, memorial signs and similar signs shall be allowed in any district without a permit.

D. Number of Signs Per Lot

1. In Residence District A one accessory sign shall be permitted on each lot.
2. In all other districts one accessory sign may be attached to or printed on each wall which faces a public way or which contains a public entrance or in lieu thereof, one sign may be attached to the roof of said building. The Inspector of Buildings/Zoning Enforcement Officer may in his/her discretion permit the erection of additional accessory signs if the Inspector of Buildings/Zoning Enforcement Officer determines that such additional signs are consistent with the purposes of this bylaw and is in the interest of the public and is not injurious or offensive to the neighborhood. Such

additional signs shall comply with all requirements of this bylaw and in addition thereto, the Inspector of Buildings/Zoning Enforcement Officer may impose such other terms and conditions in excess of those contained in this bylaw as the board shall deem necessary to promote the purposes of this bylaw Including the size, type, and location of such signs.

E. Location Requirements

1. No sign shall be located within twenty-five feet of any public or private way or within a radius of one hundred and fifty feet from the point where the centerlines of two or more such ways intersect except that a sign may be located on or be attached to a building if the building is located within such distances.
2. No sign shall be located within fifty feet of any other sign unless such signs are placed back-to-back.
3. The Inspector of Buildings/Zoning Enforcement Officer may issue a permit for a sign to be located closer than the above distance if the board determines that such sign will not be inconsistent with the purposes of this bylaw and that such sign will not be injurious or offensive to the neighborhood.

F. Size of Signs

1. In Residence District A, an accessory sign shall not exceed two square feet in area except as noted in C. (2) above. The Inspector of Buildings/Zoning Enforcement Officer may issue a permit for a sign in excess of such dimensions if the Inspector of Buildings/Zoning Enforcement Officer determines that such a sign will not be inconsistent with the purposes of this bylaw and that such a sign will not be injurious or offensive to the neighborhood.
2. In all other districts: An accessory standing sign shall not exceed one hundred square feet in area or exceed twenty feet in height from the ground. A sign which constitutes a directory of the establishments occupying a building may exceed one hundred square feet in area so long as it does not exceed one square foot in area for each such establishment.
3. In all other districts, an accessory sign:
   a. which is attached flat to a wall shall not exceed twenty percent of said wall area;
   b. which is not attached flat to a wall of a building shall not exceed five square feet in area and shall not project more than 4' from the wall of the building;
   c. which is mounted on or above the roof of a building or on other appurtenance above the ceiling of the highest occupiable floor of the building shall not exceed twenty percent of the area of any wall of such building which faces a public way and shall not exceed the height of such roof by more than ten feet.
4. Determination of Area of Signs:
   a. The area of a sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions but shall not include any supporting structure or bracing.
   b. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window shall be considered to be that the smallest quadrangle or triangle which encompasses all the letters and symbols.
   c. The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross-section of that object.

d. In computing the area of signs, both sides of a "V"-shaped sign, but only one side of back-to-back signs, shall be counted.

G. General Requirements

1. Movement: No sign shall move or shall contain any moving, flashing or animated lights, or visible moving or movable parts, except such portions of a sign which consist solely of indicators of time and/or temperature.
2. Illumination: Signs may be illuminated only by the following means:
   a. By a white, steady stationary light of reasonable intensity shielded and directed solely at the sign.
   b. By interior non-exposed lights of reasonable intensity.
   c. No sign shall contain red or green lights if such colors would constitute a traffic hazard. Neon tubes or similar devices shall not be permitted.

H. Non-Accessory Signs

1. The erection or continued maintenance of non-accessory signs is not permitted, provided that such signs lawfully erected prior to the date of adoption of this bylaw may be maintained until June 30, 1977.

I. Nonconforming Accessory Signs

1. Accessory signs which were legally erected before the adoption of this bylaw which do not conform to the provisions of this bylaw may continue to be maintained without a permit, provided, however, that no such sign shall be permitted if, after the adoption of this bylaw, it is enlarged, reworded (other than in the case of theatre or cinema signs or signs with automatically changing messages), redesigned or altered in any substantial way, except to conform to the requirements of this bylaw; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent of the replacement cost or the sign at the time of the restoration shall not be repaired or rebuilt or altered, except to conform, to the requirements of this bylaw. Any exemption provided in this section shall terminate with respect to any sign which:
   a. shall have been abandoned;
   b. advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; or
   c. shall not have been repaired or properly maintained within thirty days after notice to that effect has been given by the Inspector of Buildings/Zoning Enforcement Officer; or
   d. does not conform to paragraph G, Section 2 (illumination requirements).

J. Political Signs:

Political signs shall be exempt from all provisions of this bylaw except the following:

1. No person, firm, association, or corporation shall erect or display any fixed political sign on any property of the Town, County, State, or Federal Governments or on any buildings, poles or apparatus owned by any of the utility companies or on any other person's private property, except with written permission from the owner.
2. All political signs shall be set back a minimum of ten feet from the edge of the pavement of any public or private way except that a sign may be located on or attached to a building if the building is located within such distances and such signs shall be subject to the general prohibitions contained in Paragraph G of this bylaw.

K. Appeals

1. Any person aggrieved by an order or decision of the Inspector of Buildings/Zoning Enforcement Officer under this bylaw may file a written appeal with the board of appeals of the Town of Pembroke within twenty-one days after the order or decision of the Inspector of Buildings/Zoning Enforcement Officer. Upon filing of such an appeal, the board of appeals shall hold a public hearing thereon, notice of which shall be given by publication and mailing as required by the provisions of this zoning bylaw. The granting of an appeal or any variance from these bylaws shall be based upon the applicant's proof that such a grant or variance would meet all three of the following criteria:
   a. The situation is unique and distinctive to the particular property in question.
   b. Strict implementation of the bylaw would cause an undue hardship in the specific instance; and
   c. Granting of the appeal of a variance from this bylaw would not derogate from the intent of this bylaw and would be in the public interest.

L. Exemptions

1. Any new sign, excepting those located in the North Pembroke Historic District or the Center Historic District, and not exceeding 8 square feet, that is a replacement of an existing sign that currently conforms to zoning, shall not require any permits as long as said replacement sign is of similar size, color, shape and is to be placed on the same base/post of the existing sign and is primarily a change of lettering. Said determination is to be made by the Inspector of Buildings/Zoning Enforcement Officer.

2. FLOOD PLAIN AND WATERSHED PROTECTION DISTRICT

A. Flood Plain District

1. Purpose

The purpose of this Flood Plain District is to protect the health and safety of persons against the hazards of flooding, to conserve the value of land and buildings, to facilitate the adequate provision of a water supply through preservation and of the ground water table, to protect and preserve the marshes, bogs, ponds and watercourses and their adjoining wetlands, to protect the town's significant environmental features by reducing the sources and possibilities of pollution, sedimentation and destruction of water bodies, to encourage the most appropriate use of land, and to preserve and increase the amenities of the town. This section does not grant any property rights, it does not authorize any person to trespass, infringe upon or injure the property of another; and it does not excuse any persons of the necessity of complying with other sections of this bylaw or other applicable laws, regulations or bylaws.

2. Jurisdiction

The Flood Plain District shall be considered to be superimposed over any other district established by this bylaw.

3. Use Regulations

   a. Uses Permitted:

      1. Land in the Flood Plain District may be used for any purpose otherwise permitted in the underlying district except that no building or other structure shall be constructed except duck blinds or structures necessary for the cultivation of cranberry bogs or for the propagation of fish.

2. Land in the Flood Plain District may be used to meet the lot area requirements in Residence District A, provided:

(a). The portion of the lot outside the Flood Plain District contains at least 25,000 square feet of the minimum applicable lot area requirement and the lot is developed for residential use only.

(b). Land in the Flood Plain District may not be used to meet the lot area requirements in Business, Residential-Commercial and Industrial District.

b. Prohibited Uses: No dumping, filling, storage, transfer, dredging or removal of any material, which will reduce the natural water storage capacity of the land or will interfere with the natural flow of water, shall be permitted.

c. Uses Allowed by Special Permit: Where a specific area or parcel of land, shown on the FIRM and FEMA maps as listed in Section III.6 of this bylaw falling within the limits of the Flood Plain District, is proven by competent engineering and surveying evidence to the satisfaction of the Board of Appeals to be above the Flood Plain District elevation shown on the referenced maps, and where proposed use of such land will not increase flood level, increase the danger of flood damage or reduce water storage capacity, and where proposed use of such land is not unsuitable because of drainage conditions, the Board of Appeals may, by special permit, authorize the proposed use of such land and exempt it from some or all of the restrictions of this section, provided that such use will not endanger the health or safety of the occupants thereof.

4. Nonconforming Uses
The provisions of this Section shall not apply to any building or structure in a Flood Plain District in existence or for which building permits had been issued prior to the date of adoption of this section, and such buildings, structures may be repaired, altered, enlarged or rebuilt in compliance with all other sections of this bylaw and applicable state and town laws and regulations, provided that any such enlarged or rebuilt structure shall not affect the natural flow patterns of any watercourse, or endanger the health and safety of the occupants thereof.

5. In Zone AE along watercourses that have a regulatory floodway designated on the Plymouth County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zone A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones

6. All subdivision proposals must be designed to assure that:
a. such proposals minimize flood damage;

b. all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
c.. adequate drainage is provided to reduce exposure to flood hazards.

7. In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities

- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation
  251 Causeway Street, Suite 600-700
  Boston, MA 02114-2104

- NFIP Program Specialist
  Federal Emergency Management Agency, Region I
  99 High Street, 6th Floor
  Boston, MA 02110

8. The Flood Plain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

– Sections of the Massachusetts State Building Code (780 CMR) which address floodplain areas;

– Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

– Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

– Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

B. Watershed Protection District
Regulations governing the Watershed Protection District shall be set forth within one year of approval of this by law.

3. TRAILERS

A permitted use in any district of the town shall not include the occupancy of a house trailer, business trailer, trailer coach, mobile home, or other similar large units for any business or residence purpose except in conformance with the following limited conditions:

A. On written application by the owner of record of any lot in any district, the selectmen or their duly authorized agent shall issue a permit for use on said lot of only one such trailer as a temporary residence for one period of not more than sixty days in any calendar year provided said, trailer:

1. Has adequate sanitary facilities approved in writing by the board of health.
2. Is located at least 40' from any adjoining property lines.
3. Is located at least 20' from the principal building on the same lot; and,
4. Is not objectionable by reason of noise, odor, or public nuisance.

B. On written application by the owner of record of any lot in any district on which a permanent dwelling is being or is to be constructed or rebuilt or remodeled by or for the owner of record, the selectmen or their duly authorized agent shall issue a permit for use on that lot of one such trailer as a temporary residence for a period of not over six months during such construction, rebuilding, or remodeling, and such permits may be renewed if in the opinion of the selectmen, or their duly authorized agent, the progress of the permanent dwelling justifies for a second period of not over six months.

Any permit granted under Sub-Section B shall be subject to all of the conditions cited in Sub-Section A (1-4 inclusive) above, and its issuance shall be contingent upon the existence of a permit for the erection, rebuilding or remodeling of the permanent building on the same lot.

C. On written application by the owner of record of any lot, the board of selectmen may issue a permit for use on said lot of a trailer or trailers as temporary offices for business or other purposes upon such terms as the selectmen may determine. No trailer permitted under this paragraph shall be used for residential purposes.

4. OFF·STREET PARKING ACCESS & LOADING REQUIREMENTS

A. Parking

All new or substantially altered uses or structures shall be provided with paved off-street automobile parking facilities within a reasonable distance of the principal building to be served. No application for a building permit for such structure or use shall be approved unless there is included with the application for a permit a plot plan showing such parking facilities. The following minimum quantities apply to the following uses where allowed:

1. Residence, Business A and Residential Commercial Districts:
   a. For multiunit dwellings, two parking spaces per dwelling unit.
   b. For hotels, rooming houses, tourists' homes, etc., one parking space for every three guest rooms or suites.
   c. For restaurants, diners, bars, night clubs, etc., one parking space for every four seats or other units of expected attendance.
   d. For hospitals, convalescent homes, welfare institutions, etc., one parking space for every four beds.
   e. For office buildings, one parking space for every six hundred square feet of rentable space.
   f. For retail business and personal service establishments, one parking space for every three hundred square feet of selling space.
   g. For wholesale, storage or industrial establishments, one parking space for every three persons employed at anyone peak period.

h. For medical and professional offices and clinics, four spaces for each 800 square feet plus one space for every two employees or nearest multiple thereof.

2. Business B and Industrial Districts:
   a. Store - Retail Business: At least two spaces for each establishment or one space for each one hundred square feet of floor space devoted to retail selling, whichever is larger, plus one space for each two employees or nearest multiple thereof.
   b. Offices, Banks and Similar Business: One space for each one hundred and fifty square feet of floor area plus one space for each three employees or nearest multiple thereof.
   c. Theatres, Funeral Homes and Places of Assembly: One space for each four seats, or 100 square feet of floor area, whichever is the larger.
   d. Hotels, Tourist Homes, etc.: One space for each two sleeping accommodations plus one space for each four employees. Each double bed to be considered two sleeping accommodations.
   e. Restaurants, place serving food or beverages: One space for each four seats plus one space for each three employees or nearest multiple thereof.
   f. Industrial, Manufacturing and Wholesale Uses: One space for each employee on anyone shift.
   g. Bowling Alleys: Four spaces for each alley.
   h. Boarding House: One space for each sleeping room.
   i. Medical or Dental Center or Professional Offices: Four spaces for each eight hundred square feet of floor area plus one space for each two employees.
   j. Other Uses: All other types of commercial and industrial uses not specifically mentioned shall have at least one space for each three employees plus one space for each one hundred and fifty square feet ground floor area. One space shall be provided for each three hundred square feet on other than ground floor.
   k. For retail buildings in excess of 100,000 square feet, one space for every two hundred square feet of Building Area.

B. Access

There shall be a maximum of two points of ingress-egress for each parcel of land, and they may not be more than forty feet wide at the curb line.

C. Loading

1. Business B and Industrial Districts: The following minimum loading requirements shall apply to all industrial and commercial premises in the Business B and Industrial Districts:
   a. Retail Store and Service Establishments: For each retail and service establishment with gross floor area five thousand to ten thousand square feet at least one berth. Additional berths may be required for retail and service establishments with greater floor area and shall be provided as required by the site plan granting authority. The site plan granting authority will consider type of usage and minimizing noise, pollution and traffic congestion as factors in their berth requirements.

b. Office Buildings: For each office building with gross floor area of four thousand square feet or more at least one berth shall be provided.

c. Manufacturing and Industrial Uses: For manufacturing and industrial plants and similar uses up to ten thousand square feet of gross building floor area at least one berth shall be provided. Additional berths may be required for manufacturing and industrial uses with greater floor area and shall be provided as required by the site plan granting authority. The site plan granting authority will consider type of usage and minimizing noise, pollution and traffic congestion as factors in their berth requirements.

d. Hotels, restaurants and conventions centers: one berth shall be provided. The site plan granting authority will consider type of usage, minimizing noise pollution and traffic congestion as factors in additional berth requirements.

5. NONCONFORMING USES

The following applies to nonconforming uses generally; more specific provisions for signs and Flood Plain and Watershed Protection District uses appear in Sections V. 1 and V. 2 above.

A. Except as hereinafter provided, the provisions of this bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing relative to the adoption of this bylaw. But this bylaw shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.

Pre-existing nonconforming structures or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the board of appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. This section shall not apply to billboards, signs and other advertising devices or to accessory uses such as storage shed, decks, open porches, garages, in-ground and above ground pools provided that there is a finding by the Building Inspector that such accessory use is not within any required setback areas under current zoning for a residential lot. Construction under a building permit described in this paragraph shall be commenced within six months of its issuance and construction thereunder shall be accomplished as continuously and as expeditiously as possible.

B. Construction or operation under a building permit or a special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within a period of not less than six months after the issuance of the permit and in cases involving construction, unless such construction is commenced through to completion as continuously and expeditiously as possible.

C. Any nonconforming building or structure which has been damaged by fire or other casualty may be repaired and rebuilt on its original site for a period of two years from the time such damage is sustained. Any increase in the size of the building or any change in the location on the same lot or restoration must be in conformity with the then current height, area, setback and sideline regulations of the district in which the property is located.

D. Any nonconforming use which is discontinued for a period of two years shall be considered to have been abandoned and shall not thereafter be resumed.

E. Any increase in area, frontage, width, yard or depth requirements of this bylaw shall not apply to a lot for single or two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage. The provisions of this paragraph shall not be construed to prohibit a lot being built upon, if at the time of the building, building upon such lot is not prohibited by this bylaw.

F. If a definitive plan, or a preliminary plan followed within seven months by a definitive plan, is submitted to the planning board for approval under the Subdivision Control Law, and written notice of such submission has been given to the town clerk before the effective date of this bylaw, the land shown on such plan shall be governed by the applicable provisions of this bylaw, if any, in effect at the time of the first such submission while such plan or plans are being processed under the Subdivision Control Law, and, if such definitive plan or an amendment thereof is finally approved, for eight years from the date of the endorsement of such approval, except in the case where such plan was submitted and approved before January 1, 1976 for seven years from the date of endorsement of such approval.

G. When a plan referred to Section 81 P of Chapter 41 of the Massachusetts' General Laws has been submitted to a planning board and written notice of such submission has been given to the town clerk, the use of the land shown on such plan shall be governed by applicable provisions of this bylaw in effect at the time of submission of such plan while such plan is being processed under the Subdivision Control Law including the time required to pursue or await the determination of an appeal referred to in said section, and for a period of three years from the date of endorsement by the planning board that approval under the Subdivision Control Law is not required, or words of similar import.

H. Disapproval of a plan shall not serve to terminate any rights which shall have accrued under the provisions of this section, provided an appeal from the decision disapproving said plan is made under applicable provisions of the Subdivision Control Law. Such appeal shall stay, pending an order or decree of a court of final jurisdiction, the applicability to land shown on said plan of the provisions of this bylaw which became effective after the date of submission of the plan first submitted.

I. In the event that any lot shown on a plan endorsed by the planning board is the subject matter of any appeal or any litigation, the exemptive provisions of this section shall be extended for a period equal to that from the date of filing of said appeal or the commencement of litigation, whichever is earlier, to the date of final disposition thereof, provided final adjudication is in favor of the owner of said lot.

J. The record owner of land shall have the right, at any time, by an instrument duly recorded in the Registry of Deeds for the district in which the land lies, to waive the provisions of this section, in which case the bylaw then or thereafter in effect shall apply. The submission of an amended plan or of a further subdivision of all or part of the land shall not constitute such a waiver, nor shall it have the effect of further extending the applicability of the bylaw that was extended by the original submission, but, if accompanied by the waiver described above, shall have the effect of extending, but only to extent aforesaid, this bylaw made then applicable by such waiver.

K. No lot on which is located a building shall be reduced or changed in area or shape so that the lot will then fail to comply with the provisions of this bylaw. This provision shall not apply, however, in the case of a lot which is taken in part for municipal purposes.

6. IMPACT STANDARDS

No building, structure, premises, or land shall be used except in conformance with the following:

A. No noise, vibration, or flashing is normally perceptible (without instruments) above street noise at any point more than three hundred and fifty feet from the premises.

B. Smoke density does not exceed No. 2 of the Ringlemann Scale for more than ten percent of the time, and at no time exceeds No. 3 on that scale.

C. All cinders, dust, fumes, gases, odors, and electromagnetic interferences are effectively confined to the premises.

7. SITE PLAN APPROVAL

A. Purpose

This section is enacted under the authority of Chapter 40A of the Massachusetts' General Laws in order to assure that structures and uses, other than one or two family residences, are developed in the following fashion:

1. In a manner which considers community needs, to include protection for abutting land owners, traffic safety and access, adequate waste disposal, drainage, parking, and environmental protection.
2. In conformity with state and local laws and regulations, including zoning, earth removal, signs, subdivision control, wetlands, flood plain and watershed protection, and water resource protection provisions.
3. The planning board, acting as the approving authority, shall in no case grant site plan approval without first determining compliance with the provisions of subparagraphs (1) and (2), above.

B. When Required

No structure shall hereafter be constructed, erected, relocated, or externally enlarged and no use shall be established, added, changed, or expanded in any district except in conformance with a site plan review, and conditions thereon, approved by the planning board.

This provision shall not apply to a use, structure, or accessory structure on a lot, which is to be used solely for single-family residential purposes.

C. Preliminary Submission

1. A preliminary site plan review may be requested upon submission to the planning board of such plans and supporting evidence as the applicant can provide. Comments and statements made by the board in response to such a submission shall be advisory only unless otherwise specified in writing by the board.

2. A request for a preliminary site plan review may be accompanied by a written request to allow submission of a formal plan without one or more of the items specified in Paragraph D below. The board may waive the submission of any item, in writing, and may accept the preliminary submission as a formal submission. Failure to grant a waiver in writing or to accept the plan as a formal submission within fourteen days after being placed on the agenda and considered by the board shall be deemed a denial of the request.

D. Formal Submission

The formal application for site plan review shall be prepared by a registered professional engineer and a registered land surveyor and shall be clearly and legibly drawn in black India ink upon tracing cloth or equal. The plan shall be at such scale as the board shall require so as to show details clearly and adequately. Sheet sizes shall not exceed 24" by 36". The formal site plan and accompanying request shall contain the following information:

1. Name of the project, locus, boundaries, date and scale of the plan, and, if appropriate, the cover sheet shall state that the plan is subject to certain enumerated conditions on file with the town clerk and with the planning board.
2. Name and address of the record owner, developer, and seal of the engineer and surveyor.
3. A "certified abutters' list" available from the office of the board of assessors.
4. Sufficient data to determine, on the plan and on the ground, the location of, and any proposed changes to, all lot lines, easement lines, and boundary lines, and also, the location of all existing and proposed buildings and structures, showing exterior entrances and exits and all anticipated future additions or alterations. The location and use of all buildings within two hundred feet of the site shall also be shown.
5. Location of all existing and proposed public and private ways, driveways, parking areas, sidewalks, ramps, curbs, significant trees, screening, fences, walls, paths, wetlands, watercourses, lakes, ponds, marshes, landscaping, lighting, planting areas, waste disposal containers, drainage systems, all utilities including water, gas, telephone, cable, and electric lines, and all well areas, both on the site and within two hundred feet of the site.
6. Existing and proposed topography at two foot contour intervals and sufficient information to clearly indicate areas on the site and within two hundred feet of the site where earth removal or filling operations are proposed and the approximate volume in cubic yards. The area proposed for removal or filling operations shall be shaded on two copies of the plan. All elevations shall refer to the nearest U.S.G.S. geodetic bench mark.
7. All zoning district boundaries shall be shown. Flood Plain and Watershed Protection District boundaries, and the area in square feet within the district shall also be shown.
8. Existing and proposed storm water drainage system, water supply lines, sewage disposal, drainlines, culverts, drainage swales, catch basins, headwalls, endwalls, hydrants, manholes, channels, subdrainage, and all other utilities together with soil logs, percolation tests, and drain calculations.

9. Existing and proposed signs located on site and within two hundred feet of the site, and the size, dimension, height, color, and illumination of said signs.
10. Traffic flow patterns within the site, egresses and entrances, loading and unloading areas, curb cuts on site and within two hundred feet of the site, surface construction and estimated daily hour and peak hour traffic levels on site and on all abutting public and private ways.
11. A plan for the control of erosion, dust and siltation both during and after construction. Such plan shall include all existing and proposed slopes, construction sequencing, temporary and permanent erosion control, special construction, and swale and stream scour protection.
12. A plan for the disposal of all brush and stumps. Said plan shall satisfy all requirements of Massachusetts' Department of Environmental Protection.
13. One or more tables indicating, by zoning classifications, the required and proposed lot size, frontage, lot perimeter ratio, front yards, side yards, rear yards, lot width, building heights, building floor area, coverage, landscaping, the proposed use of the site and of all buildings, the number of people anticipated on the site, the number of units and parking areas, and the location on the site plan of all of the above.
14. Suitable space on the plan to record the action of the planning board and the signatures of the members of the board.

E. Standard for Review

In reviewing all applications for site plan approval the board shall consider the following:

1. Protection of the abutting properties, the neighborhood, and the community, to minimize any detrimental or offensive use of the site.
2. Convenience and safety of vehicular and pedestrian movement within the site and in relation to the abutting ways and properties.
3. Adequacy of the methods of disposal of sewage, refuse and other waste, of the methods of drainage of surface water, of the protection of wetlands, water resource protection areas, floodplains, watersheds, aquifers, and well areas.
4. Provisions for lighting, off-street parking, loading and unloading of vehicles, and internal traffic control.
5. Compliance with the provisions of the Massachusetts' General Laws, the rules and regulations of local, state and federal agencies, and the zoning bylaws and the town bylaws of the Town of Pembroke.
6. Failure to comply with the provisions of paragraphs (1) through (5), above, shall result in denial of the application for site plan approval.
7. Renewable or alternative energy research and development facilities and renewable or alternative energy manufacturing facilities, subject to Site Plan review by the Planning Board, pursuant to section V.7. Site Plan Approval and subject to Standard for Review of Sub-Section E. Said Site Plan Approval shall be “expedited” application and permitting process under which said facilities may be sited within one (1) year from date of initial application to the date of final approval by the Planning Board. For the purposes of this section Renewable Energy shall be defined in Section II.

F. Procedure

1. Each formal submission shall be accompanied by a minimum of twelve sets of plans and supporting data. Upon receipt of the plan, the board shall, within fourteen days

but no later than fourteen days prior to the public hearing, deliver one copy of each to the conservation commission, the board of health, the planning board, the building inspector, the highway surveyor, the town planner, and the zoning enforcement officer, together with a statement of the date and time of the public hearing, the date by which comments must be received, and the waivers granted, if any.

2. The board shall obtain, with each submission, a deposit sufficient to cover any anticipated expenses connected with the notice and public hearing and the review of the plan, including any engineering expenses, if so required in the opinion of the board.
3. The board shall hold a public hearing in accordance with M.G.L., Chapter 40A, Sections 9 and 11, and in accordance with the Rules and Regulations of the planning board.
4. The board may provide approval upon specified conditions which shall be stated in writing and attached to the site plan approval.
5. The board may issue certification that a structure or use has been developed, constructed, altered, or changed in conformance with an approved site plan. Failure to complete the specifications contained in a site plan approval and its associated conditions within two years shall cause said approval to terminate.
6. On any application for site plan approval which additionally requires a variance or special permit, said variance or special permit shall be subject to the notice and hearing requirements of M.G.L., Chapter 40A, Section(s) 9 and/or 10 and Section 11. Failure to comply shall result in denial of the application for site plan approval.
7. The board may, after a public hearing, adopt and from time to time amend rules relative to site plan review and the issuance of site plan approval and shall file a copy of said rules with the town clerk.

G. Enforcement

1. No building permit, occupancy permit, special permit, variance, or license of any other kind shall be issued until approval has been granted, the appeal period has expired, and, at the option of the board, all work has been completed to the satisfaction of the board. The board may require the posting of a bond or other financial security to assure compliance with the approval and associated conditions and may suspend any permit or license where work is not performed as required or conditions of approval are not being met. Failure to comply with any conditions of approval are deemed to be a violation of the zoning bylaws.

2 The town may subsequently condition any approval, license, or permit upon the owner or applicant receiving site plan approval, but only if the owner was required to obtain approval and failed to do so.

3. The board of selectmen may appoint an individual whose duties and responsibilities shall be to ensure that no building or structure shall hereafter be constructed, erected, relocated, or externally enlarged and no use shall be established, added, changed, or expanded in any district except in conformance with a site plan review, and conditions thereon, approved by the planning board.

8. PREVENTION OF LIGHT POLLUTION

A) Purpose and Intent: The purpose of this bylaw is to create standards for outdoor lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of property within Pembroke. It is the intent of this section to encourage, through the regulation of the lighting practices and systems which will (i) reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities or Pembroke, (ii) conserve energy and decrease lighting cost without decreasing night time safety, security, and productivity, and (iii) preserve the night sky as a natural resource to enhance nighttime enjoyment of property within Pembroke.

B) Scope Any outdoor lighting fixture newly installed or replaced shall comply with this bylaw.

C) Definitions Except as noted hereinafter, all definitions are provided in the zoning bylaw. Unless the context clearly indicates otherwise, certain words and phrases used in this section shall mean the following:

Lamp
means the component of an outdoor light fixture that produces light.

Direct Light
means light emitted directly by a lamp, off a reflector, or through a refractor of an outdoor light fixture.

Light Trespass
means direct light emitted by an outdoor lamp fixture that shines beyond the boundaries of the property which the outdoor light fixture is intended to illuminate. The intentional illumination requires the consent of the property owner.

Up-light
means direct light emitted by an outdoor light fixture above a horizontal through the fixtures lowest light emitting part.

Shielded
when referring to an outdoor light fixture means that the fixture allows no up-light or light trespass.

Filtered
when referring to an outdoor light fixture means that the fixture is to be fitted with a glass, acrylic, or other translucent enclosure of the light source which will effectively prevent the emission of ultraviolet radiation.

Residential lighting
refers to fixtures customarily used for single family residential settings as opposed to high intensity commercial, industrial and municipal fixtures.

D) Shielding: All outdoor light fixtures subject to this bylaw shall be shielded.

E) Light Trespass Except for street lights, direct light from the light source is to be confined to the property boundaries.

F) Light Intensity and Illuminated Surface Outdoor lighting shall be of substantially minimum intensity needed at the particular time; in particular, parking area lighting shall be reduced or eliminated outside business hours. Preferred surfacing for lighted areas shall be of materials such as blacktop which reflect a relatively small fraction of incident light.

G) Prohibited Light Source
1. Mercury Vapor Lamps
2. Searchlights: The operation of searchlights for advertising purposes is prohibited except as same may be permitted by special permit as hereinafter provided.
3. Indoor Lighting: Indoor light sources will not be projected outside in a manner to defeat the intent of this bylaw.

H) Metal Halide Lighting: All outdoor light fixtures utilizing a metal halide lamp or lamps shall be shielded and filtered.

I) Outdoor Signs: Outdoor light fixtures used to illuminate an outdoor sign shall be mounted on top of the sign structure or otherwise restricted to prevent up-light and light trespass.

J) Exemptions
1. Fossil Fuel Light: All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels are exempt from all requirements of this bylaw.
2. Customary Lighting: Customary outdoor light fixtures such as porch, doorway and lamp-post fixtures using incandescent lamps of 150 watts or less or other lamps of 50 watts or less are exempt from the light trespass requirements of this law.
3. Low Intensity Lighting: customary holiday lighting and lamps of low luminosity and low intensity serving primarily as markers or as low level illumination for entrances and exits or similar use need not be shielded.
4. Emergency Lighting: Requirements for shielding, filtering, and type of light need not be met for emergency lighting required by a public agency in the performance of its duties.
5. Residential safety and Security Lighting: Residential safety and security lighting controlled by motion sensors so that lamps are normally off are exempt from this bylaw.
6. Playing Fields: Public and private schools and municipal sports fields are exempt from the light trespass and up-light requirements of this bylaw, but will not be illuminated by nonconforming lamps except during hours of play.

K) Special Permit Alternative outdoor light fixtures may be allowed by special permit if it is found that: 1) the fixture's design and appearance are superior, 2) significant light pollution will not be created, and 3) light trespass and glare are minimal. A laser light show and/or event utilizing a searchlight display may be allowed by special permit issued by the Board of Selectmen.

9. DETERMINATION OF ADEQUACY OF THE WAY POLICY AND PROCEDURES

A) Purpose:

The purpose of this bylaw is to set forth a procedure and standards by which a lot owner may determine whether one or more lots have frontage on a way that meets the definition of "way" in the Pembroke Zoning Bylaw. This process is called a "Determination of Adequacy of the Way." In addition, the procedures set forth in this bylaw for improvements to private ways are designed to reduce the likelihood of drainage and erosion problems and ensure that improvements, when completed, result in a positive way determination.

B) Authority:

A building permit may not be issued by the Building Inspector for new construction unless the lot on which the building is to be constructed has frontage on a "way" as defined in the Pembroke Zoning Bylaws. For private ways not approved under the subdivision control law, the Planning Board must make a determination as to the adequacy of the way in accordance with this definition.

C) Application for Determination of Adequacy of the Way:

1. Submittal Requirements - Applicants for Determination of Adequacy of the Way shall submit the following items to the Planning Board:
   a. A written request for an adequacy of way determination signed by the individual seeking the determination;
   b. The name of the way for which a determination is being sought;
   c. The assessor's parcel number for the 1ot(s) for which a determination is being sought;
   d. An assessor's map or other locus map which shows adjacent ways and is sufficient to locate the way and parcel.

2. Planning Board Procedure: Upon receipt of a completed request for a Determination of Adequacy of the Way, the Planning Board will schedule the request for its next available meeting.

3. Review Standards: If the way is not a public way or a subdivision way, the Planning Board will consider the following criteria in determining whether a private way is of “sufficient” width, suitable grades, and adequate construction:
   a. The roadway surface must be a minimum of 15 feet of bituminous concrete.
   b. The adequacy of or need for drainage along the roadway.
   c. The number of existing and potential lots on the way.
   d. The slope of the roadway.

The Board's decision shall be based on the conditions that exist at the time the Determination of Adequacy of the Way is requested.

4. Decision: The Planning Board will vote to issue a positive or a negative Determination of Adequacy of the Way within 60 days of receipt of a completed request. The Board's decision will be issued in writing, with reasons set forth, and a copy shall be provided to the Building Inspector.

a. Positive Way Determination: Upon issuance of a positive way determination, applicants may be issued a building permit (assuming all other requirements of the zoning are met).

b. Negative Way Determination: The building department will not issue building permits when a negative way determination is made. In such cases, roadway improvements must be made prior to reconsideration by the Planning Board. Such improvements fall into two categories:

i) Applicants seeking to create new lots on private ways/paper streets must file a subdivision plan pursuant to the Subdivision Control Law and the Pembroke Subdivision Rules and Regulations.

ii) Applicants seeking to develop existing lots may either:

1) File subsequent applications for way determinations under Section C. 1. above until a positive determination is issued; or

2) Follow the optional procedure outlined in Section D below.

D. Improvements to Private Ways and Paper Street

The Planning Board recommends that the following review and approval procedure be undertaken by those applicants seeking to improve private ways to meet the definition of a way.

1. Submittal requirements: Applicants seeking to improve private ways/paper streets shall submit the following items to the Planning Board:

a. The applicant shall submit eight (8) sets of Street Construction Plans showing proposed improvements to the way at a scale of one (1) inch = forty (40) feet or greater in plan and profile view signed by a registered professional engineer. Improvements must be made from the nearest "way" across the required frontage of the lot.

b. An estimate of the number of potential lots that could be served by the way based on existing zoning if a positive way determination were issued.

c. A $500 check payable to the "Town of Pembroke" for administrative fees.

d. A $2,000 check payable to the "Town of Pembroke" for engineering review by the Board's consultant.

e. A certified list of all abutters to the way that is being developed. If two ways are being improved, all abutters to both ways must be notified.

f. A statement whether or not the applicant intends to have the way accepted by the town.

Applicants may request a pre-application meeting with the Planning Board to discuss appropriate waivers and construction standards.

2. Public Hearing Requirements

a. The Planning Board shall conduct a public hearing on the proposed improvements with notice provided at least 14 days prior in a weekly newspaper of local circulation. Applicants must pay the cost of advertising the public hearing.

b. The Planning Board shall request comments from the Department of Public Works, Fire Chief, Safety Officer, Conservation Commission and other applicable boards.

3. Review Standards: Based on site conditions, road improvements shall generally be constructed to the following minimum standards:
   a. Pavement width shall be a minimum of 15' and should be constructed as follows: 3" of bituminous concrete on a 12" minimum gravel base (1 1/2" of Binder course, 1 1/2" of wearing coarse) or existing Asphalt Penetration that has shown its ability to withstand the traffic flow.
   b. Drainage: Depending on topography and other site conditions, curbing, catch basins or other drainage structures may be required. In all cases, appropriate provision for water run-off shall be made so that it leads into a drainage system, no water will be directed onto any abutting property, and no erosion will result.
   c. Tapering: Where necessary, newly constructed segments of an unaccepted way shall be "'tapered back" to provide a safe transition to the cross section of the existing ways.
   d. The Planning Board will consider comment(s) received pursuant to Section 2(b) in reviewing proposed road improvements.

4. Decision:
   a. Following the public hearing, the Planning Board will determine that either:
      1. The improvements are sufficient to allow the way to meet the definition of "way" upon construction, in which case the plans shall be approved.
      2. The improvements with modifications are sufficient to allow the way to meet the definition of "way" upon construction, in which case the plans shall be approved with conditions.
      3. The improvements are insufficient to allow the way to meet the definition of "way" upon construction, in which case the plans shall be denied.
   b. The Board shall have 60 days from submission of a completed application to issue a written decision.
   c. All decisions will be conditioned upon the applicant having the legal right to make proposed improvements to the right of way.

5. Completion of improvements:
   a. Prior to commencing construction, the applicant will be required to pay for the cost of construction oversight by the Board's designee. Any unexpended Rinds will be returned to the applicant following completion of work.
   b. After improvements are completed in accordance with approved plans and the Planning Board is so notified, the Planning Board shall issue a positive way determination for the applicable portion of the way(s) and shall notify the Building Department and the applicant in writing of its decision.

10. LOT CHARACTERIZATION NUMBER

In order to obtain Planning Board approval for a definitive subdivision plan or Planning Board routing slip approval for new residential dwellings, the Lot Characterization Number (LCN) shall not exceed 11 (eleven). The Impervious Area, Natural Area and the LCN shall be shown on plans prepared in accordance with the Planning Board Rules and Regulations. Said plans shall be

submitted to the Planning Board for approval 30 days prior to submission of definitive subdivision plans or request for routing slip sign off. All plantings, required by the Planning Board, shall be completed prior to the building permit being issued. Said plantings shall be established or a bond posted with the Planning Board prior to an occupancy permit being issued.

Definitions: The following definitions apply only to this bylaw.

Impervious Area shall include the surface areas of a lot containing paved areas (greater than 4 feet wide) and structures.

Natural Area shall include all areas of a lot which are not regularly mowed or cleared where naturally occurring indigenous vegetation is promoted such as brushland and forest. These areas are, or will become, over a period of time, naturally occurring woodlands. Areas, which are less than 30 feet in any dimension, shall not be included in this category. Only areas not disturbed can be included as natural areas. Land previously cleared and designated as a natural area, shall be planted, to the satisfaction of the Planning Board. This shall be to aid its development as a natural area. All such plantings shall be shown on a plan and submitted to the Planning Board for approval.

Remaining area shall be the total lot area minus the impervious and natural areas (mowed lawns, gravel drives, etc.). Also included are areas of wetlands, vernal pools, and isolated land subject to flooding surface water bodies. This area will typically be comprised of a buffer around the building footprint and areas necessary for the installation of the septic system, driveways, parking area and utilities.

Lot Characterization Number (LCN) is a number used to characterize an individual lot in terms of drainage runoff volume, environmental sensitivity and preservation of existing rural character of the town.

The LCN is calculated as follows: The Impervious Area Multiplied by 60 (sixty), plus the Natural Area, plus the Remaining Area multiplied by 10 (ten), all divided by the Lot Area.

If any provision of this regulation is held invalid by a court of competent jurisdiction, the remainder of the regulation shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the bylaw.

11. (RESERVED)

12. SOLAR PHOTOVOLTAIC INSTALLATIONS

A. Purpose

The purpose of this by-law is to promote the creation of new solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of solar photovoltaic installations.

B. Applicability

This section applies to solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. This section does not apply to minor modification or maintenance of a solar facility.

Solar facilities shall be allowed on parcels of land in any zoning district except; the center protection zoning district, wherein all Solar Photovoltaic Installation are subject to site plan review and approval in compliance with Sub-Section D.7. Large scale ground mounted solar facilities are not an allowed use in the center protection district.

C. Definitions

1. **"As of right"** As-of–right shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. Projects cannot be prohibited, but can reasonably regulated.
2. **Ground mounted solar facility:** A solar facility that is structurally mounted on the ground.
3. **Large-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, as has a minimum nameplate capacity of 250 kW DC.
4. **Project site:** A parcel or combination of parcels, which the solar facility operator has control of, on which the solar facility is or will be located.
5. **Rated Name plate Capacity:** The maximum rated output of electric power production of the photovoltaic system in direct current (DC).
6. **Roof mounted solar facility:** A solar facility that is structurally mounted on the roof of a building, residence, parking garage, or any other structure.
7. **Solar Photovoltaic Installations:** An arrangement of components to supply usable electric power using the sun as a power source, including but not limited to large and small scale ground mounted solar facilities and roof mounted solar facilities.

D. General Requirements for all Solar Photovoltaic Installations

1. **Large scale ground mounted solar facilities**: Large-scale ground mounted solar facilities shall be allowed in all zones except; Center Protection District and subject to the following conditions:
   - **a.** Site plan review. No large-scale ground mounted solar facility shall be constructed, installed or modified as provided in this section without first obtaining site plan review approval by the Pembroke Planning Board in compliance with subsection D.7 of this section.
   - **b.** Minimum Area. Large-scale ground mounted solar photovoltaic installations shall be located with in Residence A District on parcels containing a minimum of three (3) contiguous acres of uplands.
   - **c.** Monitoring and maintenance. The solar facility shall comply with subsection D.14 of this section.
   - **d.** Site control. The applicant shall submit with its application for site plan review, documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Notice of change of ownership shall be given to the planning board in compliance with subsection D.8 of this section.
   - **e.** Parcels without frontage. Projects for landlocked parcels shall be allowed as long as the following conditions can be met.
     1. The owner has demonstrated a permanent access and utility easement to a public way
     2. The parcel was landlocked prior to October 1, 2013

3. The parcel is a minimum of five (5) acres

f. Financial surety. The applicant shall provide a financial surety in compliance with subsection D.15.3 of this section, if so required by the Planning Board.

g. Compliance with laws, ordinances and regulations. The construction and operation of all large-scale ground mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements.

h. Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

2. **Small scale ground mounted solar facilities:** Ground mounted solar facilities which have a minimum nameplate capacity of less than 250 kW DC, shall be allowed as-of-right with a building permit provided that they meet the following conditions:
   a. Compliance with laws, ordinances and regulations. The construction and operation of all small scale ground mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements.
   b. Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance to the Building Inspector in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
   c. Design standards. The solar facility shall comply with subsection D.12 design standards and subsection D.13.2 environmental standards where applicable
   d. Monitoring and maintenance. The solar facility shall comply with subsection D.14 of this section

3. **Roof mounted solar facilities:** Roof mounted solar facilities shall be allowed as- of-right with a building permit in all zones provided that they meet the following conditions:
   a. Compliance with laws, ordinances and regulations. The construction and operation of all roof mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements.
   b. Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance to the Building Inspector in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.
   c. Structural engineering report. A structural engineering report may be required by the Building Inspector illustrating the structural integrity of the structure and its ability to support the proposed roof mounted solar facility.
   d. Monitoring and maintenance. The solar facility shall comply with subsection D.14 of this section.

4. **Compliance with Laws, Ordinances and Regulations**
   The construction and operation of all solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

5. **Building Permit**
   No solar facility installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

6. **Fees**

The application for a building permit for a solar photovoltaic installation must be accompanied by the fee required for a building permit.

7. Site Plan Review

Large-scale ground-mounted solar photovoltaic installations shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this Bylaw.

a. General

All Plans, maps and drawings shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

b. Submittal Requirements

The project proponent shall provide the Planning Board the following documents:

1. Application. Two original application forms and a designer's certificate.
2. Fee. Required site plan review fee.
3. Siting and design. Eight full copies of a site plan. The plan shall be on 24" × 36" sheets at a scale of 1"=40' or 1"=200', as appropriate, on as many sheets as necessary. Site plans shall be prepared by a Massachusetts licensed professional engineer and/or a registered land surveyor, as applicable. The site plan shall include the following:

c. **Location map**. Copy of the most recent USGS quadrangle map, at a scale of 1:25,000, showing the proposed facility site and the area

d. **Site plan**. A one inch equals two (200) hundred feet plan of the proposed solar facility site, with contour intervals of no more than ten (10) feet, showing the following:

1. Property lines and physical dimensions of the project site and adjacent parcels within one 100 hundred feet of the project site;
2. Location of permanent structures or buildings on the project site and on adjacent parcels of the project site;
3. Location and details of all security measures for the site; and
4. Location of all existing and proposed roads, both public and private, on the project site.

e. **Project plan**. A plan indicating all proposed changes to the landscape of the site shall include the following:

1. Proposed changes to the landscape of the site, grading, vegetation to be removed or altered, amenities such as lighting or fencing, screening vegetation or structures, and wetlands delineation. Lighting shall be designed to minimize glare on abutting properties and be directed downward with full cutoff fixtures to reduce light pollution;
2. Location of the ground mounted solar facility, type of mounting devices, access roads, lighting, ground equipment, fencing, electrical infrastructure, and associated equipment;
3. Plans for accessory buildings or other structures, and location and details of all planned security measures;
4. Layout and details of surfacing for access roads and parking including temporary roads and staging areas; and
5. Any existing overhead utility lines.

f. Operation and maintenance plan. The applicant shall submit a plan for the general maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the large-scale ground-mounted solar facility.

g. Schematics

1. Schematic or blueprints of the large-scale ground-mounted solar facility signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed structures and any shading from nearby structures;

2. Schematic or outline electrical diagram showing proposed solar panels, associated components and electrical interconnection methods, all with National Electrical Code compliant disconnects and over current devices;
3. Description of the major system components to be used including the photovoltaic panels, mounting system and inverter.

h. **Compliance documents**. The applicant will provide the following with the application:

1. A description of financial surety that satisfies subsection D.15.3 of this section;
2. Proof of liability insurance that satisfies subsection D.7.b.3 of this section;
3. Name, address, and contact information for:
   a. Proposed system installer,
   b. The landowner,
   c. The project proponent, as well as all co-proponents; and
   d. Any agents representing the applicant.
4. Evidence of utility notification that satisfies subsection D.10 of this section.

i. Notification. The applicant shall provide the following with the application:

1. List of property owners and their addresses for all parcels of land within three (300) hundred feet of the project site, to be obtained from the most recent property list from the Pembroke Assessor's Office;
2. A10 sized envelopes representing twice the number of abutters listed above to be used by the Planning Board to mail notice of the site plan review hearing and notice of decision.
3. The applicant shall be responsible for the cost of publication of the public hearing notice.

j. Waiver of documents.

The planning board reserves the right to waive documentary requirements as it deems appropriate.

8. Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed large-scale ground-mounted solar photovoltaic installation.

9. Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

10. Utility Notification

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner and operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

11. Dimension, Density and Screening Requirements

a. Minimum Setback Requirements

For all large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

1. Front yard: The front yard depth shall be at least fifty (50) feet.
2. Side yard: Each side yard shall have a depth of at least fifty (50) feet.

3. Rear yard: The rear yard depth shall be at least thirty (30) feet; provided, however, that where the lots abuts a Conservation/Recreation or Residential district, the rear yard shall not be less than fifty (50) feet.

b. Screening

1. Screening of large-scale ground-mounted solar voltaic installations shall consist of landscaping, fence, grassed earthen berm, or some combination of these screening devices. If utilizing a natural buffer, it shall be maintained above the highest level of the solar panels. When a screen consists of plant materials, said materials shall provide screening at the time of planting and be a type that shall be expected to form a year-round dense screen.
2. Abutting residential uses. When a large-scale ground-mounted solar voltaic installation is directly abutting existing residential uses, such screening shall consist of:
   a. For a project site of between three and five acres: Minimum of fifty (50) feet of vegetation buffer with twenty (25) feet being undisturbed closest to the residential property, and the other twenty (25) feet being allowed to be selectively cleared.
   b. For project site of greater than five acres: Minimum of one hundred (100) feet of vegetation buffer with fifty (50) feet being undisturbed closest to the residential property, and the other fifty (50) feet being allowed to be selectively cleared.
   c. Permit for screening reduction: An applicant may request permission to reduce such buffer requirements in such instances where the buffer will have a detrimental effect to the abutters and in such instances where the buffer will have a detrimental effect on the ability to generate power.
3. Abutting nonresidential uses: Screening as determined to be adequate in the form of either vegetation or fencing.

c. Appurtenant Structures

All appurtenant structures to all large-scale ground-mounted solar photovoltaic installations shall be subject to the Zoning Bylaws concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements, as modified by Section D.11.1 herein. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations shall be architecturally compatible with each other. Said structures should be screened from view pursuant to Section D.11.2 and joined or clustered to avoid adverse visual impacts.

12. Design Standards

a. Lighting

Lighting of solar photovoltaic installations shall be consistent with local, state, and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

b. Signage

Signs on all ground-mounted solar photovoltaic installations shall comply with the Town of Pembroke's Sign Bylaw. A sign consistent with the Town's Sign Bylaw shall

be required to identify the owner and provide 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

c. Utility Connections

Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the local utility. Electrical transformers for utility interconnections may be above ground if required by the local utility.

d. Visual Impacts

Ground-mounted solar photovoltaic installation shall be designed to minimize visual impacts including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to provide an effective visual barrier from adjacent roads and to screen abutting residential properties, whether developed or not. Landscaping shall be maintained by the owner/operator of the large-scale ground-mounted solar photovoltaic installation. Siting shall be such that the view of the large-scale ground-mounted solar photovoltaic installation from other areas of Town shall be as minimal as possible, in the sole judgment of the Planning Board.

13. Safety and Environmental Standards

a. Emergency Services

The ground-mounted photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, emergency response plan and site plan to the Fire Department at the same time as the application is submitted to the Planning Board and the Fire Department shall be afforded the opportunity to comment on the proposed project prior to the closing of the public hearing. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify in writing to the Fire Department and Planning Board a responsible person for public inquiries throughout the life of the installation, and shall update such information as necessary.

b. Land Clearing, Soil Erosion and Habitat Impacts

The facility shall be designed to minimize impacts to agricultural land and should be compatible with continued agricultural use to the maximum extent possible. The facility shall be designed to minimize impacts to environmentally sensitive land. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws. In no event shall clear cutting of forest exceed five (5) acres. The design shall minimize the use of concrete and other impervious materials to the maximum extent possible. Locating large-scale ground-mounted solar photovoltaic installation on grades in excess of 15% shall be avoided to the maximum extent feasible.

14. Monitoring and Maintenance

a. Solar Photovoltaic Installation Conditions

The ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to painting,

structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Building Inspector. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

b. Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

15. Abandonment or Decommissioning

a. Removal Requirements

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section D.15.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than one hundred fifty (150) days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

1. Physical removal of all ground solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
2. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2. Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground mounted solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous or decommissioned large-scale ground-mounted solar photovoltaic installation. As a condition of Site Plan Approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation. The Town's cost for the removal will be charged to the property owner in accordance with the provisions of G.L. c.139, §3A as a tax lien on the property.

c. Financial Surety

Proponents of ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than one hundred twenty-five (125) percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety shall not be required for municipally or state owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

16. Action by the Planning Board

Site plan review shall be conducted in accordance with the notice, hearing and filing procedures set forth in M.G.L. c. 40A for special permits, except as otherwise set forth in this section. After determining if the site plan is in conformance with the requirements of this ordinance, and after considering the criteria set forth in [this] section, the Planning Board may approve, approve with modifications, or disapprove the site plan application or grant leave to withdraw. Approval may be subject to any conditions, modifications and/or restrictions as the Planning Board may deem necessary. Leave to withdraw or disapproval by the Planning Board must be supported by written findings.

SECTION VI
Administration

A. ENFORCEMENT

1. The inspector of buildings and the assistant inspector of buildings, or in the event of their disability, incapacity or absence, the board of selectmen, shall be charged with the enforcement of this zoning bylaw, and a permit shall be withheld for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of any provision of this bylaw; and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of any provision of this bylaw.

2. If the inspector of buildings or his authorized agents find that any work being done or any usage of a building, structure or land does not conform to the provisions of this bylaw, the owner or person in possession or in charge or who is doing said work shall be ordered in writing to cease said work or usage immediately. An appeal from such order may then be taken to the board of appeals as hereinafter provided.

3. If the inspector of buildings is requested in writing to enforce any provision of this bylaw against any person allegedly in violation of the same and the inspector of buildings declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen days of receipt of such request.

B. ZONING BOARD OF APPEALS

1. There shall be a zoning board of appeals consisting of three citizens of the town who shall not hold concurrently any elective or other appointive office in the town and who shall be qualified by education or experience to pass upon such matters which may be brought before them. The members shall be appointed by the board of selectmen for terms of one, two, and three years. And the board of selectmen shall appoint three associate members in the same manner, the term of one member and an associate expiring each year. Appointments after the first year are to be for three years. Vacancies shall be filled by the board of selectmen for the balance of any unexpired term. Any member may be removed for cause by the board of selectmen upon written charges and after a public hearing. The three members of the zoning board of appeals shall annually elect a chairman and a clerk from their own number. The chairman of the zoning board of appeals may designate any associate member to sit on the board in case of absence, inability to act, or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board, until said vacancy is filled by the board of selectmen.

2. Meetings of the board shall be held at the call of the chairman or when called in such other manner as the board may determine in its rules and regulations. At all public hearings, the chairman, or in his absence the clerk or acting chairman, may administer oaths, summon witnesses and call for the production of papers.

3. The zoning board of appeals shall adopt rules and regulations not inconsistent with this bylaw for the conduct of its business and for purposes of implementing this bylaw and shall file a copy thereof with the town clerk. The board shall include in its rules and regulations appropriate filing fees to defray its expenses relative to any appeal, application or petition. Such expenses shall include the giving of notices, the holding of hearings and the securing of engineering or other professional or technical services for assistance in making decisions.

4. The zoning board of appeals shall have the following powers:
   a. To hear and decide appeals in accordance with the provisions of paragraph C. below.
   b. To hear and decide applications for special permits upon which the board is empowered to act under the provisions of this bylaw.
   c. To hear and decide petitions for variances as set forth in paragraph E. below.

5. The unanimous vote of the three sitting members of the zoning board of appeals is necessary to grant a special permit or variance, or to reverse any order or decision of the zoning enforcement officer, the inspector of buildings, or other administrative official.

C. APPEALS

1. An appeal to the zoning board of appeals, as herein provided, may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from the zoning enforcement officer, the inspector of buildings, or other administrative officer under the provision of this bylaw, by the regional planning agency in whose area the town is located, or by any person including an officer or board of the town, or of an abutting city or town, aggrieved by an order or decision of the zoning enforcement officer, the inspector of buildings or other administrative officer, in violation of any provision of this bylaw.

2. Any such appeal, to the zoning board of appeals shall be taken within thirty days from the date of the order or decision which is being appealed. The petitioner shall file a notice of appeal specifying the grounds thereof, with the town clerk and a copy of said notice, including the date and time of filing certified by the town clerk, shall be filed forthwith by the petitioner with the officer or board whose order or decision is being appealed, and with the zoning board of appeals, specifying in the notice grounds for such appeal. Such officer or board shall forthwith transmit to the zoning board of appeals all documents and papers constituting the record of the case in which the appeal is being taken.

3. In exercising the powers granted by this provision, the zoning board of appeals may, in conformity with the provisions of this bylaw and the General Laws of Massachusetts, make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all of the powers of the officer or board from whom the appeal is taken and may issue or direct the issuance of a permit.

D. SPECIAL PERMITS

1. The zoning board of appeals shall be the special permit granting authority under this bylaw except where some other board or officer is specifically designated.

2. After notice and a public hearing as required by this bylaw, special permits may be issued only for uses which are in harmony with the general purpose and intent of this bylaw and which conform to all provisions and standards of the various specific sections of this bylaw authorizing such special permits.

3. Special permits may also impose conditions, safeguards, and limitations on time or use.

4. Each application for a special permit shall be filed by the petitioner with the town clerk and a copy of said application, including the date and time of filing certified by the town clerk, shall be filed forthwith by the petitioner with the special permit granting authority.

5. A special permit granted under this section shall lapse one year after the issuance thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a permit for construction, if construction thereof has not begun within the one-year period except for good cause. Time in which a judicial appeal is pending shall not be included in said one-year period.

6. In addition to the special permits authorized by other sections of this bylaw, the zoning board of appeals may issue a special permit to authorize a use which is accessory to other activities if such other activities are permitted as a matter of right under the provisions of this bylaw; and if such other activities are necessary in connection with scientific research or scientific development or related production; and if the board finds that the proposed accessory use does not substantially derogate from the public good. There shall be no need that the proposed accessory use and the principal activity be conducted on the same lot or parcel of land.

E. VARIANCES

1. A petition for a variance from the provisions of this bylaw shall be filed by the petitioner with the town clerk and a copy of said petition, including the date and time of filing certified by the town clerk, shall be filed forthwith by the petitioner with the zoning board of appeals.

2. The zoning board of appeals, after notice and a public hearing as required by this bylaw, may grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of this bylaw, including the authorization of a use or activity not otherwise permitted in the district in which the land or structure is located, provided, however, that such use or activity variance shall not be authorized in a residence district or in a water resource protection district, and further, provided the board specifically finds the following:

   a. That owing to circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and;

   b. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw.

3. When granting a variance, the zoning board of appeals may impose conditions, safeguards, and limitations, both of time and of use, including the continued existence of any particular structures, but excluding any condition, safeguard, or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner, or any owner.

4. If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse provided, however, that the zoning board of appeals in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with the board prior to the expiration of said one-year period. If the board does not grant such extension within thirty days of the date of application, therefore and upon the expiration of the original one-year period, such rights may be re-established only after notice and a new hearing pursuant to the provisions of paragraphs F. and G. below.

F. NOTICE OF PUBLIC HEARING

Before any public hearing involving an appeal, an application for a special permit, a petition for a variance, the zoning board of appeals shall provide notice of such public hearing as follows:

1. Notice of such hearing shall be published in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen days before the date of such hearing.

2. Notice of such hearing shall be posted in a conspicuous place in the town hall for a period of not less than fourteen days before the day of such hearing.

3. Notice of such hearing shall be sent by mail, postage prepaid, to the following persons who shall be called herein the "parties in interest," the petitioner or applicant, abutters, owners of land directly opposite on any public or private street or way, and owners of land within three hundred of the property lines of the property in issue, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town. Such notice by mail shall also be given to the planning board of the town and to the planning board of every abutting city or town.

4. Publications and notices required by this paragraph shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the hearing, the date, time and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested, if any.

G. HEARINGS AND DECISIONS

1. The zoning board of appeals shall hold a public hearing on any appeal, application or petition filed with it within sixty-five days from the date of the filing of such appeal, application, or petition.

2. The decision of the board shall be made within one hundred days after the date of the filing of an appeal or a petition for variance, except in regard to applications for special permits or for site plan approval, in which case the decision of the board shall be made within ninety days following the date of the public hearing. Failure of the board to act within said one hundred day period, or within said ninety day period in the case of an application for a special permit or for site plan approval, shall be deemed to be the grant of the relief, application, or petition sought, provided that there is compliance with the provisions of

M.G.L., Chapter 40A, Sections 9 and 15 and subject to any applicable judicial appeal to the courts of the Commonwealth.

3. The board shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact and setting forth clearly the reason or reasons for its decision and of its official actions, copies of which shall be filed with the town clerk within fourteen days.

4. Notice of the decision shall be mailed forthwith by the zoning board of appeals to the petitioner, applicant or appellant, to the "parties in interest" designated in Paragraph F., above, and to every person present at the public hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Every notice shall specify that judicial appeals, if any, shall be made pursuant to Massachusetts' General Laws, Chapter 40A, Section 17, and such appeals shall be filed within twenty days after the date that the board filed notice of its decision in the office of the town clerk.

H. EFFECT OF UNFAVORABLE DECISIONS

1. No appeal, application, or petition which has been unfavorably and finally acted upon by the zoning board of appeals or any other special permit granting authority shall be acted favorably upon within two years after the date of final unfavorable action unless the zoning board of appeals or other special permit granting authority finds by an unanimous vote specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings, and unless all but one of the members of the planning board consents thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

2. Any petition for a variance or application for a special permit which has been transmitted to the board of appeals or other special permit granting authority may be withdrawn, without prejudice, by the petitioner prior to the publication of the notice of a public hearing thereon, but thereafter may be withdrawn, without prejudice only with the approval of the zoning board of appeals or other special permit granting authority.

I. PENALTIES

Whoever violates any provision of this bylaw shall pay for each offense a fine not to exceed three hundred dollars. Each day that such violation or offense continues shall constitute a separate offense punishable under this paragraph.

J. SEPARABILITY

The invalidity of any provision of this bylaw shall not effect the validity of any other provision thereof.