BY-LAWS

OF THE

TOWN OF PEMBROKE

MASSACHUSETTS

Updated to Town Meeting of April 23, 2013

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ARTICLE I - General Provisions

All by-laws adopted prior to the fifth (5th) day of March, 1956 are hereby repealed.

ARTICLE II - Town Meetings

SECTION 1.
The annual Town Meeting shall be held on the fourth (4th) Tuesday in April at seven-thirty in the evening (7:30 P.M.) and each subsequent Thursday and Tuesday at seven-thirty in the evening (7:30 P.M.) as necessary for the transactions of municipal business, except for the election of officers and the determination of such matters as by law are required to be elected or determined by ballot. In the event that any of the foregoing dates falls on a legal holiday then the scheduled meeting shall be postponed until the following Tuesday or Thursday, whichever is earlier.

SECTION 2.
The annual election of such officers and the determination of matters of law as are required to be elected or determined by ballot shall be held on the Saturday following the fourth (4th) Tuesday in April each year. At this election the polls shall open at 9:00 A.M. and remain open until 7:00 P.M.

SECTION 3.
At State elections the polls shall open at 8:00 A.M. and remain open until 8:00 P.M.

SECTION 4.

A. Notices of every Town Meeting shall be given by posting an attested copy of the Warrant calling the same in the following places: Town Office Building, in each of the Post Offices of the Town, and such other places as the Board of Selectmen may designate, seven (7) days at least before the annual town meeting, and at least fourteen days before any special town meeting. Warrants may be posted by a constable, the Town Administrator, the Police Chief or the Fire Chief. (Art. 66 ATM Apr 30, 2002)

B. The Board of Selectmen, in conjunction with the Commissioners of Department of Public Works, shall ensure that signs are posted at convenient locations throughout the town at least seven (7) days prior to Town Meeting or, Election or Referendum Election.

   a. Signs shall be at least thirty-six (36) inches by thirty-six (36) inches and shall specify the date, place and time of Town Meeting so as to be clearly visible from vehicles.

   b. Signs notifying of an election shall specify the date and times of the election.

SECTION 5.
Whenever two (2) or more articles submitted to the Warrant for any Town Meeting are related to the same subject matter, the Board of Selectmen shall cause them to occur in sequence in their position on the Warrant, and if necessary, shall insert an article which, if acted upon favorably, would combine the several related articles.

SECTION 6.

A. As soon as possible before the day appointed in the Warrant for an Annual Town Meeting, the Board of Selectmen shall cause to be made available to

the residents in the Town of Pembroke copies of the Warrant, report of the Advisory Committee thereon and a copy of the Annual Town Report.

B. Except as otherwise required by law compliance with this Section 6A shall not be a requisite of valid notice of any meeting, and non-compliance with this Section 6 shall not effect the validity of any meeting or any action taken thereat.

SECTION 7.
In conjunction with each article made a part of the Warrant for a Town Meeting pursuant to a petition to the Board of Selectmen, there shall be inserted in such Warrant the name of the first person signing such petition and the words "and others".

SECTION 8.
The Warrant for the Annual Town Meeting shall close on the first (lst) day of February provided however, that the Board of Selectmen shall open the Warrant within such period for the insertion of additional articles to the extent that compliance with any provision of the law shall require or whenever, in their reasonable opinion, there remains sufficient time for compliance with the provisions of Section 4, 5 and 6 of this article and with the provisions of Article X.

SECTION 9.
The Board of Selectmen shall furnish to the Advisory Committee a copy of all articles appearing in any Town Warrant as soon as possible after the closing of said Warrant.

SECTION 10.
The number of voters necessary to constitute a quorum for the purposes of calling the meeting to order shall be one hundred and fifty (150). Thereafter, the quorum requirement shall be one hundred (100) for the further transaction of business, including adjourned sessions and such parts of the meeting that are devoted exclusively to the election of officers. (Art.14 STM 11/15/2012)

SECTION 11.
The order for consideration of all Town Meeting articles,except the General Budget article, including the Wage and Personnel compensation Schedules, shall be chosen in lottery fashion by the Town Clerk, assisted by the Town Moderator. After an article has been drawn for consideration, subsequent articles shall not be drawn until Town Meeting has acted upon the drawn article.

For the purpose of this by-law, the General Budget article and the Wage and Personnel Compensation Schedules shall be considered subsections of the same article, and shall be the first article to be considered at the Annual Town Meeting.
(Art.6 STM 10/21/08)

SECTION 12.
No collective bargaining agreement shall be considered at a Town Meeting or a Special Town Meeting that will consider appropriating the necessary moneys to fund the cost items contained in said agreement unless said agreement has been presented to the Advisory Committee no later than thirty (30) days prior to the start of said meeting.

SECTION 13.
The Annual Capital Plan established under Article XI of these General By-laws and any appropriation required to balance the operating budget shall be enacted at a Special Town Meeting to be held after September 1 of each year upon a warrant duly called by the Board of Selectmen, and shall be the sole article on said warrant.

ARTICLE III - Procedure at Town Meetings

SECTION 1.
All questions or motions submitted for the consideration of the Town Meeting shall be written by the person submitting the question or motion or by the Town Clerk. However, any person may request the Town Clerk to write his or her question and the request shall be complied with.

SECTION 2.
Any person desiring to speak shall arise, address the chair, and upon obtaining recognition, shall stand while speaking unless the Moderator directs otherwise.

SECTION 3.
All votes, unless otherwise provided by law, or otherwise directed by the Moderator, shall be taken in the first instance by a show of hands. If the Moderator is in doubt as to the vote or if seven (7) voters immediately question the vote, the Moderator shall call either for a standing vote or a roll call vote.

SECTION 4.
If the majority of the Town Meeting requests a vote by ballot on any question, or, if in the opinion of the moderator, there is sufficient cause for a written vote such vote shall be taken with the Town furnishing ballots as per the following sample:

YES		NO	

SECTION 5.
A motion to reconsider any vote must be made before the final adjournment of the meeting at which the vote was passed; provided, however, that such motion to reconsider shall not be made at an adjourned session of the meeting unless the mover has given notice of his or her intention to make such a motion either at the session of the meeting at which the vote was passed or by written notice to the Town Clerk not less than twelve (12) hours before the hour to which adjournment has been voted and not more than forty-eight (48) hours after the hour of adjournment of such session.

SECTION 6.
A. Unless otherwise ordered by the Moderator or a vote of the meeting, no person whose name is not on the list of registered voters shall be admitted to the hall; this provision shall be enforced by the use of the check list and the Moderator shall determine the bounds of the hall.

B. A visitors section may be provided so long as seats are available for student groups or others, who in the opinion of the Moderator deserve such consideration.

SECTION 7.
When a question is before the meeting the following motions shall be received and shall have precedence in the foregoing order and the first three (3) shall be decided without debate:

A. To adjourn
B. To lay on the table
C. Previous question
D. To postpone definitely
E. To commit or refer
F. To amend or substitute
G. To postpone indefinitely
H. Main motion

SECTION 8.
No motion the effect of which would be to dissolve a Town Meeting shall be in order until every article in the Warrant has been duly considered and acted upon, but this shall not prevent the postponement of action on, or the consideration of any article to an adjournment of the meeting to a stated time.

SECTION 9.
A motion to consider any article of a Town Meeting Warrant out of order shall require a four-fifths (4/5) vote of those present and voting.

SECTION 10.
The duties of the Moderator and the government of the Town Meeting, not specially provided for by law, or by foregoing rules shall be determined by the rules of practice contained in Town Meeting Time, so far as they are adapted to the conditions and powers of the Town.
(Art. 3 STM 11/1/11)

SECTION 11.
Any taxpayer whose principle place of residence is Pembroke may address the town meeting.

SECTION 12.
Any person may address the town meeting after a majority vote of approval of the voters at any session of town meetings.

ARTICLE IV - Officers, Boards and Committees

SECTION 1.
With the exception of the Town Accountant, each head of a Town department and each board or committee, appointed or elected, shall on or before the fifteenth (15th) of January of each year, file with the Board of Selectmen a written report of his or her doings during the previous calendar year, with recommendations, if any, for action by the Town and shall file with the Town Clerk upon receipt a copy of any study, report, or like document for which compensation has been paid other than through regular salary.

SECTION 2.
Each officer, department head, board or committee authorized to expend money shall, on the thirtieth (30th) day of June of each year, transmit to the Town Accountant all unpaid bills outstanding as of that date. Books of the Town shall be closed on the thirtieth (30th) day of June of each year.

SECTION 3.
Each officer, department head, board or committee making any rule or regulation shall file a copy thereof with the Town Clerk within ten (10) days after the effective date thereof.

SECTION 4.
The Town Accountant shall prescribe the methods of accounting and forms to be used by the several departments of the Town concerned with the collection or disbursement of money and such methods and forms shall conform to the requirements prescribed by the statutes of the Commonwealth and any rules or regulations made thereunder.

SECTION 5.
A. No person shall hold at one time the offices of Selectman and Assessor in the Town of Pembroke.

B. An increase in compensation to temporary or special employees of the Town contained in the passage of an annual budget shall become effective from the date such increase is approved by the Town and shall not be made retroactive to the first (1st) day of January of the year in which such increase is approved by the Town.

SECTION 6.
No person shall be appointed to any Town board or committee unless the individual is a registered voter of the Town.

SECTION 7.
If an appointed member of a Town board or committee misses more than three (3) consecutive meetings without a good cause, the member may be removed from the position by a vote of the Board of Selectmen or for cause after a hearing and a vote of the Board of Selectmen. The provisions of this section must yield to any contrary provisions of the town's charter or of state law that establishes the appointing authority for certain boards and commissions.

SECTION 8.
It shall be the duty of all elected officials, heads of departments and representatives of committees, to be present at all Town Meetings, except with valid reason for absence. In such case, the records of those absent will be available in order to give information pertaining to the budget and articles in the Warrant.

SECTION 9.
A representative of the Board of Health or the Inspector of Buildings/Zoning Code Enforcement Officer shall witness percolation tests taken in the Town.

SECTION 10.
No Town official, whether elected or appointed, shall receive any goods or services from the Town unless such goods or services of the Town are normally available to the general public. This same by-law shall apply to all Town employees.

SECTION 11. Deleted by Art. 26 of the April 2003 ATM

SECTION 12.
Whenever a vacancy exists in any appointive Town office or employee position for which a salary or wage is paid, the vacancy will be advertised once in a local newspaper of general circulation, which will also post it on their websites; also, the position will be posted on the town website. A paper copy will be posted in town hall and in the department seeking the candidate. Applications to fill such vacancy will be accepted by the appointing authority for at least ten (10) business days following the publication notice of vacancy and the closing date will be listed in the notice. This by-law shall not apply to employees covered under Civil Service. The appointing authority of a vacant office or position may make a temporary or interim appointment to fill such vacancy until such time as a permanent appointment is made after compliance with this section. (Art. 21, ATM 4/23/2013)

SECTION 13.
All new full time additions to staff must be first submitted under a special article for consideration and approval at a Town Meeting prior to appropriating or transferring funds therefor.

Exempt from this section are:

A. Hiring of replacement personnel

B. Hiring of personnel into positions that are funded by other than Town of Pembroke appropriations.

C. Hiring of School Personnel.

SECTION 14.
Longevity increments shall be granted annually to the full time Director of the Department of Public Works and Tax Collector after the completion of each five (5) years of full time employment for the Town of Pembroke. Employment as an appointed full time regular employee shall be used in the determination of qualifying for longevity.

Longevity payments will be paid within two (2) weeks of an employee's anniversary date.

Years of Service Completed	Longevity Payment
5 Years	$ 50.00
10 Years	$150.00
15 Years	$200.00
20 Years	$250.00
25 Years	$300.00
30 Years	$350.00

SECTION 15. DELETED (ATM 4/25/02 Art. #35 per ATTY. GEN'L LETTER DATED 08/01/01)

SECTION 16. Any Director of the Department of Public Works in employ before the first (1st) day of July, 1980 shall receive an annual salary which shall equal the following ratios of the annual rate of regular or base compensation for the highest paid employee in the Highway Department.

Year 1 = 1.35
Year 2 = 1.4
Year 3 = 1.45
Year 4 = 1.5

ARTICLE V - Contracts by Town Officers

SECTION 1.
No Town officer and no salaried employee of the Town or any agent of any such officer or employee shall sell materials or supplies or furnish labor to that department of the Town of which (s)he is such officer or employee, whether by contract or otherwise.

SECTION 2.
No Town officer and no salaried employee of the Town or any agent of any such officer or employee shall sell materials or supplies or furnish labor to that department of the town of which (s)he is such officer or employee, whether by contract or otherwise.

SECTION 3.
The procurement of supplies and services by all Town Officers, Boards, and Commissions shall be undertaken in conformity with the provisions of Massachusetts General Laws Chapter 30B as from time to time amended.

Any vendor having a fiduciary relationship with the Town shall be bonded in an amount equal to the average value of monies entrusted to said vendor for payment of town obligations. The vendor shall on request byut at least annually on July 1st, provide the Town Accountant with evidence of such bonding. This bylaw shall not apply to vendors supplying materials to the Town for which payment is made after delivery of the material. It shall apply to but not be limited to vendors providing insurance, payroll and bond services.

The intent is to protect the town against the misappropriation of funds intended to meet insurance, payroll, bond and similar obligations. (STM 04/23/02)

SECTION 4.
The board, officer or committee awarding a contract shall require a suitable bond or security from a person awarded a contract exceeding ten thousand dollars ($10,000.00) to insure performance of the same unless specifically excused in writing therefrom by the Board of Selectmen.

SECTION 5.
Any Town officer, committee, board or department head may as far as practicable in keeping with the provisions of Section 3, call for proposals in advance of an appropriation provided that in any contract awarded to a successful bidder it shall state "subject to an appropriation being made by Town Meeting Vote", which shall appear as a condition to the proposal.

ARTICLE VI - Board of Selectmen

SECTION 1.
The Board of Selectmen shall consist of five(5)members with each member elected at-large at annual town elections for terms of three(3)year. The election of Selectmen shall be done on a cyclical schedule with two(2)Selectmen elected in one year, two(2)Selectmen elected the next year, and one(1)Selectman elected every third year. The election ballot for each year in which more than one Selectman is to be elected shall consist of a single race with the two highest vote recipients elected. In years when only a single Selectman is to be elected, the single highest vote recipient shall be elected.

SECTION 2.
The annual town election in the year 2001 shall provide for a single race to elect three(3)selectmen positions, one(1)for a three(3)year term to expire at the 2004 annual town election, one(1)for a two(2)year term to expire at the 2003 annual town election, and one(1)for a one(1)year term to expire at the 2002 annual town election. In the 2001 town election, the highest vote recipient will be elected to the three(3) year term, the second highest vote recipient elected to the two(2)year term, and the third highest vote recipient elected to the one(1)year term. Thereafter, each annual town election shall consist of a single race to elect either one(1)or two(2) Selectmen for three(3)year terms so as to maintain a five(5)member board.
Selectmen in office on the effective date of this by-law shall serve until the expiration of their term.

SECTION 3.
The Board of Selectmen, acting on the advice of counsel, shall have full authority, as agents of the Town, to institute, prosecute and compromise suits in the name of the Town, and to appear, defend and compromise suits brought against it, and to appear in proceedings before any tribunal, but they are not authorized hereby to commit the Town to any course of action, unless it is otherwise specially voted by the Town.

SECTION 4.
Except as otherwise provided by law, by these by-laws or by vote of the Town in any instance all deeds conveying land or interest in land, executed by the Board of Selectmen, pursuant to due authorization, shall be valid if signed by majority of the Board of Selectmen and sealed with the Town Seal.

SECTION 5.
The Board of Selectmen shall make and enforce rules and regulations consistent with laws and these by-laws for the government of the Police Department and shall cause copies of the same to be printed for the use of the Police Department.

SECTION 6.
To the extent permitted by law and except as otherwise provided by law or these by-laws, the Board of Selectmen shall have the general direction and management of the property and affairs of the Town. This section shall not apply to property in the custody of or use of any Town department, officer or committee.

SECTION 7.
Every license issued by the Board of Selectmen for the storage or sale of gasoline or other petroleum product will become void and of no legal force or effect if construction of a building pursuant thereto is not commenced within six (6) months or completed within one (1) year of the issuance of the license. The Board of Selectmen shall insert these limitations on the face of every license issued for the aforesaid purposes. The Board of Selectmen may for sufficient cause grant reasonable extensions of time to license holders to fulfill the foregoing requirements.

The initial fee for the issuance of such a license shall be one hundred dollars ($100.00) and the annual fee thereafter for the filing of the holder's certificate of registration and the renewal of such a license shall be fifty dollars ($50.00).

ARTICLE VII - Town Administrator

SECTION 1.
The Board of Selectmen, by a majority vote of its full membership, shall appoint a Town Administrator who shall be a professionally qualified person possessing the education, training, and previous experience to perform the duties of the office. The educational qualifications shall consist of at least a bachelor's degree in public administration or related field, with a Masters Degree in Public Administration or Business being highly desirable. The professional experience shall include at least five (5) years in local government, public management, or a similar field. A high level of professionalism is required, characterized by sound judgment, ability to maintain strict confidentiality and an attitude of accessibility and responsiveness to other town personnel and the public. Must posses the ability to handle expected and unexpected emergencies and has a strong realization that small town government requires flexibility in what is entailed in the position

Must demonstrate excellent verbal skills and feel comfortable in public speaking situations. Must posses excellent writing and interpersonal skills to deal with all levels of management and government.

The position requires a working knowledge of municipal finance, budgets, personnel policies and practices, and an ability to analyze a variety of administrative problems to make sound recommendations as to their solution.

Must possess a valid Massachusetts drivers license.

Must be a self motivated organized individual that accepts the role of being the town's chief executive on day-to-day matters and willing to discharge necessary resolution to situations and matters effecting the Town of Pembroke.

SECTION 2.
The Board of Selectmen shall appoint the Town Administrator to serve a three (3) year contractual term, the first year of the initial appointment of which shall be a probationary period, in accordance with the terms of this by-law, and which may be renewed by the Board of Selectmen for successive three (3) year terms.

SECTION 3.
Under the general supervision of the Board of Selectmen, the Town Administrator functions as the town's chief administrator, and in cooperation with the Board of Selectmen is directly responsible for the efficient research, administration, coordination and resolution of all matters that come under the jurisdiction of the Board of Selectmen and shall be the Board of Selectmen's liaison to all facets of the town's government and to the general public. The duties and responsibilities of the Town Administrator are as follows.

<u>Administration</u>
- Maintains complete records of the Office of the Board of Selectmen
- Advises, recommends, initiates and enforces policies and procedures established by the Board of Selectmen
- Communicates the Board of Selectmen's policies and procedures to all departments
- Responsible for receiving and disposition of all correspondence and communications
- Acts as the town's public relations/consumer relations spokesperson for press releases, public statements and official correspondence; initiates appropriate responses to citizen inquiries and correspondence, hears and investigates citizen and other complaints or refers them to the proper department for attention, and makes necessary reports to the Board of Selectmen and other boards as appropriate
- Attends all meetings and hearings of the Board of Selectmen
- Attends all Executive Sessions of the Board of Selectmen
- Attends all sessions of Town Meetings
- Makes necessary procedural preparation for weekly Board of Selectmen's meetings by establishing an agenda, scheduling a realistic time table for appointments,

posting of meetings, anticipating and disseminating background information relative to meeting agenda, and prepares recommendations for their decisions
- Oversees the preparation of detailed minutes of all Board of Selectmen meetings
- Oversees the preparation of detailed minutes of all Executive Sessions within Board of Selectmen meetings
- Ascertains that all decisions of the Board of Selectmen are carried out
- Works with town boards and committees in the preparation of the Town Warrant and the dissemination of appropriate material for Town Meetings
- Responsible for and works with town boards and committees in the preparation of the Town Annual Report
- May be appointed by the Board to serve on other town, county, state or federal boards or committees
- Acts as the overseer and coordinates the management of a centralized town hall computer network system
- Attends professional meeting and keeps abreast of current and pending developments in municipal government and works with any and all outside agencies in furthering the best interests of the town
- Administers the preparation, publication, analyzing and acceptance of all contracted services and bids
- Administers procedures for licenses and permits issued by the Board of Selectmen
- Attends meetings of town boards and committees when needed
- Keeps the Board of Selectmen apprised of actions by town boards and committees

Personnel
- Direct management of the Office of Board of Selectmen; coordinates, supervises and schedules work efforts of one (1) full-time office administrative assistant and one (1) full-time town hall maintenance employee
- Where applicable by town by-laws, provides general supervision to other department heads
- In conjunction with Town Hall Department Heads, screens all candidates for employment of Town Hall and makes hiring recommendations to the Board of Selectmen
- Insures all hiring practices are in compliance with all statutory regulations
- Coordinates and participates in the evaluations of employee performance and goal setting
- Interviews and makes hiring recommendations for employment applicants within the Office of Board of Selectmen as well as other town hall departments
- Functions as town's Human Resource manager and maintains up-to-date data and personnel files of all town employees
- Assists the Board of Selectmen, department heads, Town Accountant, and the town's labor negotiators to monitor and arrive at fair and equitable collective bargaining agreements
- Should have knowledge of Civil Service hiring procedures, regulations and collective bargaining process
- Monitors the work of contractors and consultants hired/retained under the Board of Selectmen's jurisdiction
- Identifies, recommends and implements training programs for the betterment of employee performance

Policies
- Develops policies for ratification of the Board of Selectmen
- Consistently and uniformly implements and enforces policies
- Develops and periodically updates a Town Procedural Manual
- Develops and maintains in-depth job descriptions for all town hall positions
- Holds monthly meetings with department heads to keep them apprised of new policies, programs and events

Financial
- Using information from salary plans and union contracts, debt schedules, past expenditure patterns, revenues and policy direction from the Board of Selectmen, coordinates the timely preparation of all departmental budgets with the Town Accountant, prepares a recommended budget of all town departments to be submitted to the Advisory Committee leading to a fiscal budget for town meeting approval

- Prepares applications for grants, administers grants received, works with appropriate federal, state, county and private officials and reports necessary information to the Board of Selectmen

Legal
- Works closely with Town Counsel in the preparation of legal matters
- Acts as liaison between Town Counsel and town departments, boards and committees and provides the Board of Selectmen with timely summaries
- Informs the Board of Selectmen and other boards and committees of all relevant statutory and regulatory changes

Miscellaneous
- Acts as the town Parking Clerk
- Acts as the town's authorized procurement officer (except for educational related procurements) for all supplies materials and equipment
- Acts as administrator of all town tax-title real estate holdings
- Records and maintains an updated inventory of all town owned property and equipment
- Acts as the town's Americans with Disabilities Act (ADA) Coordinator
- Administers town's casualty and property insurance programs including coordination of claims

SECTION 4.
The compensation and other terms and conditions of employment of the Town Administrator shall be established by a contract of employment entered into between the Town Administrator and the Board of Selectmen, provided that the terms of such contract shall be consistent with this by-law and amounts appropriated therefor by the Town. The position is an exempt position as regarding federal and state minimum wage and overtime requirements and therefore is not eligible to be paid overtime for work performed beyond forty hours in a workweek. The Town Administrator need not be a resident of the Town during her or his tenure. (4/28/98 ATM)

ARTICLE VIII - Town Clerk

SECTION 1.
The Town Clerk shall provide for use at each Town Meeting in accordance with the provisions of these by-laws,

A. A voting list and

B. Ballots which shall be divided into two (2) sections by a perforation and shall have the word "YES" in one section and the word "NO" on the other, each in letters approximately one-half (1/2) inch high.

SECTION 2.
The Town Clerk shall keep a file of all documents, plans and copies of rules and regulations relating to the affairs of the Town which come into the custody of the Town Clerk. The Town Clerk shall suitably index all the records of the Town in the custody of the Town Clerk in a manner convenient for reference and examination.

SECTION 3.
Whenever a voter shall have given notice to the Town Clerk of an intention to move to reconsider any vote, pursuant to the provisions of Section 5 of Article III of these by-laws, the Town Clerk shall immediately post a copy of such notice at the place where the notice of the meeting was
posted.

SECTION 4.
The Town Clerk may in his or her discretion employ a competent stenographer to take in shorthand, after being duly sworn, the entire proceedings of any Town Meeting and the Town Clerk, or with the consent of the Board of Selectmen, any other Town Officer, Department Head, Board or Committee may require the

stenographer to transcribe the whole or any part of the Town Clerk's notes of such proceedings. The stenographer's notes shall be filed with the Town Clerk and retained as part of the public records of the Town. The stenographer shall be paid by the Town for the services as aforesaid. Any voter may at any time require the stenographer to transcribe and furnish to him a record of the whole or any part of any proceedings taken by the stenographer provided the Town Clerk pays the stenographer therefor in advance at the usual rate.

SECTION 5.
It shall be the duty of the Town Clerk to immediately notify in writing all members of committees that may be elected or appointed at any Town Meeting, stating the name of the committee and the business upon which they are to act, or duties which they are to perform.

ARTICLE IX - Town Treasurer

SECTION 1.
The Town Treasurer shall pay no money from the treasury except upon a Warrant or order therefor signed by a majority of the Board of Selectmen and by the Town Accountant. Such Warrant, or order shall be sufficient authority to the Treasurer to pay money in accordance therewith, and such payment shall discharge him from all liability of the money so paid.

SECTION 2.
The Town Treasurer shall have stated hours for the transaction of business and shall give public notice thereof.

ARTICLE X - Advisory Committee

SECTION 1.
There shall be a committee called the Advisory Committee, which shall consider any and all municipal questions for the purpose of making reports or recommendations thereon to the Town.

Such committee shall consist of nine (9) members, voters of the Town, and shall serve without compensation.

No member of such committee, during their term of service, shall hold any regular elective or appointive Town Office having to do with the expenditure of Town funds or money.

An Advisory Committee member shall be appointed by an Appointing Authority composed of the Moderator, Chairman of the Board of Selectmen, and a member of the present Advisory Committee whose term has not expired, chosen by the members of the Advisory Committee. Such Appointing Authority or a majority of them shall, within thirty (30) days after the annual Town Meeting, choose the required member or members to fill such vacancies as they occur for a period of three (3) years thereafter.

The Advisory Committee shall as soon as possible after appointment, meet for the purpose of organization. They shall elect from their membership a chairman and a secretary who shall hold office until the final adjournment of the next annual Town Meeting.

The committee may from time to time make such rules and regulations with reference to their meetings and the conduct of their work as they deem best for the interest of the Town. They shall also hold public meetings and invite any Town officer, employee, citizen or person to attend and to give such information as the individual may have which will assist the committee upon any public matter coming before it for consideration.

A majority of the members of the Advisory Committee shall constitute a quorum thereof.

The Advisory Committee shall, prior to each Annual Town Meeting for the transaction of business, hold one (1) or more meetings at which the heads of the departments shall be invited to be present to consider the items which make up the annual budget and any other municipal matter.

The Advisory Committee shall be furnished by the Board of Selectmen with a copy of all articles appearing in any Town Warrants, as soon as possible after the closing of said Warrant. The Advisory Committee shall prior to each Annual Town Meeting for the transaction of business, prepare, publish and cause to be distributed to the voters of the Town, a budget showing in detail the anticipated income and expenditures for the then current year together with its advice and recommendations for the appropriation of the town funds and also municipal matters coining before such Town Meeting.

The Advisory Committee shall also at each Special Meeting give its advice and recommendations on any or all municipal matters under consideration.

Whenever a vacancy occurs in the Advisory Committee, notice in writing shall be given to the Board of Selectmen, who, together with the remaining members of the Advisory Committee, serving as an Appointing Committee, shall forthwith fill such vacancy for such time as provided by law.

If a member is absent from the Advisory Committee for more than four (4) consecutive meetings, said committee may, in its discretion, declare a vacancy on said committee and request the Appointing Committee to fill said vacancy.

Nothing herein shall affect the terms of the members of the Advisory Committee as constituted on the effective date of this by-law.

SECTION 2.
A copy of the submitted budget shall be returned to the department head, board or committee prior to Town Meeting, delineating the recommendations for change of any item requested, with explanation, suggestions or recommendations for any such change.

ARTICLE XI - Capital Budget Plan

SECTION 1.
In order that the Town 1) coordinate development of a capital expenditure budget with the operating budget of the current year, 2) develop a capital program including the subsequent five (5) years, all officers, boards, and committees including the Board of Selectmen, the School Committee, and the Libraries shall, by a date prior to the first (1st) day of August established by the Town Administrator, submit to the Town Administrator all anticipated expenditures for the next five (5) fiscal years of more than three thousand dollars ($3,000.00) for the acquisition, repair, replacement, or improvement of a tangible item having a useful life of three (3) or more years. The Town Administrator shall submit to the Board of Selectmen prior to the first (1st) day of September a report and recommendations for capital expenditures requiring Town Meeting action which shall list all requests for the next five (5) fiscal years. The Board of Selectmen shall submit a report and recommendations for the next five (5) fiscal years and a Capital Budget Expenditure article listing all recommendations and requests for the next fiscal year to the Advisory Committee by the first (1st) day of October. (Amended Art.#16-Nov.1,2005 STM)

SECTION 2.
The Board of Selectmen may from time to time transfer amounts appropriated for a capital item or items to other items requested by the same department, but shall not make re-allocations between departments or of bond proceeds without further Town Meeting approval.

SECTION 3.
No appropriation shall be voted for a capital expenditure requested by a department, board, or commission unless the proposed capital expenditure has been submitted in accordance with Section 1. However, in order to allow consideration of a project reflecting an extra-ordinary circumstance which must be addressed before the formulation of the next year's capital program, a department, board or committee may submit a proposal to the Town Administrator for consideration.

SECTION 4.
Reports and recommendations under this article shall at a minimum identify all requests and state the reason(s) for approval or denial, and shall also be made available consistent with the Advisory Committee report.

ARTICLE XII - Fiscal Planning and Management Committee

There shall be a committee known as the Fiscal Planning and Management Committee consisting of eleven (11) members made up of the five (5) Selectmen, the Town Administrator, the Town Collector/Treasurer, the Town Accountant, the Chief Assessor/Appraiser, one (1) Assessor and two (2) designees from the Advisory Committee and one (1) designee from the School Committee. The committee will meet periodically for the purposes of forecasting revenues and expenditures and recommending ways to improve the fiscal management of the town.
(amended Article 19-April 27, 2004 STM; and Article 10-Nov.1,2005 STM)

ARTICLE XII-A - Energy Conservation

A. Every department head with jurisdiction over utility expenditures shall undertake all practical measures to reduce energy consumption, including but not limited to:

(a) By December 31, 2008 every department head shall have performed an energy audit on each building under their jurisdiction

(b) All audit recommendations that can be implemented immediately shall be done so forthwith. Any recommendations that require additional costs not budgeted shall be included in the department's recommended budget for Fiscal Year 2010.

B. All new construction and major renovations on town-owned land and buildings shall meet the Mass LEED Plus green building standard established by the Commonwealth of Massachusetts Sustainable Design Roundtable.

C. Every department head with jurisdiction over a municipal building shall ensure that:

(a) Any newly installed HVAC equipment be energy efficient.

(b) That a department policy shall be developed and disseminated to all employees which encourages employees to reduce energy use by turning off lights when not in use, shutting down computers and other office machinery when leaving work, minimizing the use of personal appliances and other actions that will lead to a reduction in energy consumption and costs.

(c) All thermostats are set 2 degrees lower than ususal during the winter and 2 degrees higher than usual during the summer.

(d) Lighting in common areas is reduced without compromising safety.

(e) Energy use in buildings and at facilities is minimized during non-work hours.

D. In any department using vehicles, all drivers should be instructed to minimize fuel usage whenever possible, including limiting idling time (with the exception of vehicles, including emergency vehicles, where idling is required to power equipment) and reduce unnecessary trips. All department heads shall ensure that all vehicles are maintained in a manner that ensures optimal fuel efficiency.

E. When budgeting and soliciting bids for department vehicles, to the extent possible and cost effective, all department heads shall make every effort to purchase vehicles that are energy efficient (including but not limited to hybrid vehicles) and select, whenever possible, vehicles that receive the highest EPA rated miles per gallon.

F. By September 1 of every year, every department head with jurisdiction over a municipal building or vehicles(s) shall submit a report to the Town Administrator detailing total energy usage for the prior fiscal year. For reports submitted after September 2009 and thereafter, all such reports shall include a comparison of total energy usage, including costs, to the prior fiscal year. Copies of each report shall also be submitted to the Board of Selectmen, Advisory Committee, Energy Committee and Town Clerk for inclusion in the Annual Report.

ARTICLE XIII - Drainage Commission

There shall be a commission known as the Drainage Commission consisting of five (5) members.

Terms: The initial terms for all Drainage Commission members shall commence on the first (1st) day of July, 1976 and shall expire as follows:

One (1) on the thirtieth (30th) day of June, 1977
Two (2) on the thirtieth (30th) day of June, 1978
Two (2) on the thirtieth (30th) day of June, 1979

All subsequent terms shall be for a period of three (3) years. Appointing authority shall be chairman of the Board of Selectmen, chairman of the Planning Board and chairman of the Board of Health who will cast the vote of the majority of the Board of Health.

Powers: The Drainage Commission shall have the following authority:

A. To expend all funds appropriated for drainage at any annual or special town meeting.

B. To maintain and cause to be revised when necessary a "Master Drainage Plan.".

C. To make recommendations to the Planning Board for all proposed drainage work in connection with subdivision plans.

D. To approve all drainage on municipal projects.

E. To recommend articles to the Annual Town Meeting and any Special Town Meeting provided such articles are related to drainage.

F. To engage such professional services (lawyers, engineers, etc.) which may be necessary to carry out the above authority provided sufficient funds have been voted at an annual or special town meeting.

G. To authorize from time to time an emergency sum to be spent from the general drainage fund which when voted by the Drainage Commission may be spent by the Director of the Department of Public Works.

ARTICLE XIV - Police Department

SECTION 1.
The Police Department of the Town shall be under the supervision of the Chief of Police.

SECTION 2.
The Chief of Police shall from time to time make suitable regulations governing the Police Department and the officers thereof; subject to the approval of the Board of Selectmen; provided that such regulations shall become effective without such approval upon the failure of the Board of Selectmen to take action thereon within thirty (30) days after they have been submitted to them by the Chief of Police.

SECTION 3.
The Chief of Police shall be in immediate control of all Town property used by the Police Department and of the police officers, whom the Chief of Police shall assign to their respective duties and who shall obey the Chief of Police's orders.

SECTION 4.
The Board of Selectmen shall remain as the appointing authority of the Police Department.

ARTICLE XV - Chief of Police

SECTION 1 – Appointment
The Chief of Police shall be appointed by the Board of Selectmen for a term of three (3) years.

SECTION 2 – Duties
The duties of the Chief of Police shall be those which are now contained in the job description of the Chief of Police in the Pembroke Police Department Rules and Regulations and as they may be amended from time to time by proper authority.

SECTION 3 - Suspension or Removal

A. The Chief of Police may be suspended or discharged by the Board of Selectmen only for just cause including, but not limited to the following:

   a. Failure to carry out the duties of the office as enumerated in the Chief of Police's job description.

   b. Continual absenteeism and tardiness.

   c. Intoxication while on duty.

   d. Misuse of Town funds or property or other conduct involving moral turpitude.

   e. Conduct unbecoming to the position field.

B. Detailed written specifications of the charges and activities relating to the charges shall be provided to the Chief who may request either a private or public hearing to respond to the charges. The requested hearing shall be held within ten (10) days of the request therefor. During the hearing the Chief may be represented by counsel, examine and cross-examine witnesses, introduce evidence and conduct oral argument. The Board of Selectmen shall make findings of fact based on the evidence in the record and then make its decision citing the relevant facts and the reasons therefor.

SECTION 4 - Reappointment
A Chief of Police's appointment shall be automatically renewed for an additional three (3) year term unless the Board of Selectmen gives the Chief of Police at least one hundred eighty (180) days notice in writing of its intention not to reappoint the Chief of Police upon the expiration of the term then in existence.

The Chief of Police shall have the right to request a public meeting with the Board of Selectmen to hear and to respond to the Board of Selectmen's reasons for not intending to reappoint.

SECTION 5 - Employment Contract
The Board of Selectmen shall prepare an employment contract with the Chief of Police covering the terms and conditions of the Chief's employment.

SECTION 6 - Applicability
This by-law shall apply only to a Chief of Police who is appointed subsequent to the time that the position of Chief of Police is removed from Civil Service.

ARTICLE XVI - Public Ways

SECTION 1.
Any person or persons desirous for the opening of private ways for public use shall submit a petition to the Board of Selectmen stating the names and locations of said ways and bearing the signatures of the interested persons as abutting property owners.

In the case of a street or streets within a subdivision approved by the Planning Board pursuant to the Subdivision Control Law, the Planning Board may initiate the action for acceptance by submitting a petition to the Board of Selectmen.

SECTION 2.
Two (2) linen copies of the proposed layout including plan and profile of said streets, drawn to the existing specifications of the Planning Board in effect of the time of submission shall accompany the petition, and shall be submitted before the first (1st) day of November preceding the Annual Town Meeting. The requirements of this section shall not apply to streets which have been approved by the Planning Board as part of a subdivision. The Planning Board shall forward a copy of a subdivision plan to the Board of Selectmen upon request for their use in implementing this article.

SECTION 3.
Upon receipt of the petition and plans the Board of Selectmen shall, as soon as possible, hold a preliminary hearing. The Board of Selectmen must view the premises before the hearing to determine the locus.

SECTION 4.
If, in the opinion of the Board of Selectmen as a result of the preliminary hearing, not enough interest is shown, then the Board of Selectmen have the authority to disapprove any further action.

SECTION 5.
A. If, in the opinion of the Board of Selectmen as a result of the preliminary hearing enough interest is shown, the Board of Selectmen shall insert an article in the Warrant for the next annual Town Meeting for the acceptance of said streets.

B. The Board of Selectmen shall give a public hearing thereon not less then thirty (30) days before the next annual Town Meeting. After giving notice of the same by publication once in each of two (2) successive weeks in a

newspaper whose circulation is widely read in the town, the last publication to be at least seven (7) days before the date of said public hearing.

C. One (1) linen copy of the plans and profile of the proposed layout shall be filed with the Town Clerk not less then seven (7) days before the public hearing.

D. The petitioners shall bring to the public hearing receipts of registered or certified mail showing that notice has been sent to all abutters on the way or ways in question, of the date of the public hearing, said abutters names to be taken from the most recent tax list.

E. The Board of Selectmen shall determine the amount of damages to be awarded to any or all abutters.

SECTION 6.

A. If Street Acceptance is voted, the Board of Selectmen shall write an order of taking, the description of which shall be taken from the plan and profile or any portion of said plan and profile, voted at the Town Meeting.

B. The order of taking and one (1) linen copy of each plan and profile bearing the signature of the Town Clerk shall be filed at the Plymouth County Registry of Deeds within thirty (30) days after the Town meeting.

C. In all such cases the requirements of Massachusetts General Laws, Chapter 41, Section 74, with respect to notice and public hearing, must be complied with.

SECTION 7.
Sidewalks should be in accordance with either specification A or B:

A. Four (4) inch thick cement concrete, laid on a base of gravel. An expansion joint (three-quarters (3/4) inch open) shall be provided at least every twenty (20) feet; dividing joints shall be scored into walk every five (5) inches.

B. Bituminous concrete: A two (2) inch thickness over a gravel base thoroughly compacted.

Curbing: Granite curbs may be required where, in the opinion of the Director of the Department of Public Works, such curbs are necessary to prevent erosion and to control water run off. When conditions warrant bituminous concrete lip curbing or berm of approved cross section may be provided instead of granite. Paving and base construction shall be extended the full width under bituminous concrete curbing. Granite curb shall have cross sections of at least the sizes described below:

Granite: Six (6) inch minimum width at the top
Four (4) inch minimum at bottom
Seventeen (17) inch minimum depth

ARTICLE XVI-A - Temporary Repairs to Private Ways

Pursuant to Massachusetts General Laws (M.G.L.) Chapter 82A, Section 2, no excavator shall, except in an emergency, make a trench excavation, in any public way, public property, or privately owned land until a permit is obtained from the Town in one of the following ways:

A) From the Director of the Department of Public Works for any such work which is located within a public or private way or requires a street opening permit within the Town.

B) From the Building Inspector for any such work which is located on public or privately owned property including residential or commercially zoned land within the Town.

C) A blanket permit may be issued by either the Director of the Department of Public Works or Building Inspector for projects deemed to be large and expansive.

For the purposes of this bylaw, a "trench" shall be as defined by M.G.L. Chapter 82A, Section 4 and 520 Code of Massachusetts Regulations (CMR) 14.00.

As the Town's officers to issue permits under this Section, the Director of the Department of Public Works and Building Inspector will charge fees as follows to cover the cost of administering this bylaw.

Fee Structure:

Permits issued by Building Inspector

Trench permit fee for work done on privately owned land - $25
Blanket permit fee for long term projects - $50

Permits issued by DPW Director

Trench permit fee for work done on public or private ways - $25
Blanket permit fee for long term projects - $50

The fee structure listed above can only be changed with the approval of the Board of Selectmen for the Town of Pembroke. Further, the Town may take reasonable means to secure trenches found unattended, and may recover costs from any applicant, owner and/or contractor whose failure to comply with this section requires the Town to implement safety precautions in order to ensure public safety.

No permit under this section shall be construed as acceptance by the Town of any responsibility for the proper construction or safety precautions required by law for excavation and/or trenching. All such work by any public or private entity shall be in accordance with 29 Code of Federal Regulations (CFR) 1926.650 et.seq., M.G.L. Chapter 82A, Section 4 and 520 Code of Massachusetts Regulations (CMR) 14.00 and all responsibility for compliance shall rest solely with the applicant, owner and/or contractor. (Art. 19 ATM 4/28/09)

ARTICLE XVII - Temporary Repairs to Private Ways

SECTION 1.
The Director of the Department of Public Works shall have authority to employ Town personnel and equipment under the Director of the Department of Public Works control to make temporary repairs to private ways which have been open to public use for six (6) years or more on the following conditions:

SECTION 2.
Such temporary repairs may include the filling of holes, the grading and leveling of surfaces, the oiling or tarring of ways and the covering of said oil or tar with sand or gravel. Drainage may be installed in private ways.

SECTION 3.
No such repairs shall be made unless the Director of the Department of Public Works determines or a Town Meeting votes that such repairs are required by public necessity.

SECTION 4.
This authority to make temporary repairs to private ways may be exercised by the Director of the Department of Public Works only when the necessary funds therefor are available in the Director of the Department of Public Works' budget and only when the Director of the Department of Public Works has available for such use Highway Department equipment and personnel not then needed for the care and maintenance of the Town's public ways.

SECTION 5.
Such temporary repairs shall not be made to a private way unless a majority of abutting land owners petition the Director of the Department of Public Works for such repairs to be made. This requirement of petition shall not pertain to those, private ways which heretofore have been repaired on a regular basis by the Town under authority of the Massachusetts General Laws.

SECTION 6.
The Director of the Department of Public Works shall not repair that portion of a private way which is immediately adjacent to the property of an abutting land owner who objects to such repairs being made.

SECTION 7.
Betterment charges shall not be assessed to abutters and cash deposits shall not be required from abutters in connection with the making of such temporary repairs.

SECTION 8.
This by-law is enacted only for the purpose of authorizing the expenditure of public funds to make temporary repairs to private ways and no duty or obligation is either hereby placed on the Director of the Department of Public Works or hereby assumed by the town to either initially place or place or to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or a want of repair.

SECTION 9.
The making of such temporary repairs to private ways, no matter how often or to what extent, shall not constitute an acceptance by the Town of such private ways as public ways. In any legal action brought against the Town for damages for injury to person or property suffered by reason of a defect or want of repair in a private way which has been so repaired, the Town reserves the right to deny, and shall deny in any such legal action, that the said repaired way is a public way.

SECTION 10.
In the event that a person suffers damages to his or her person or property by reason of the Town's negligence in the making of such temporary repairs, the Town shall not be liable for damages caused by such negligence to any greater extent than if such repairs were done on a public way.

ARTICLE XVIII - Junk Dealers and Collectors

SECTION 1.
The Board of Selectmen may license suitable persons as junk collectors to pass over the public ways and in the course thereof to purchase and collect junk. No person shall engage in such business without such license. As used in these by-laws the word "junk" shall be deemed to describe all articles and material usually so described, and also old metal and every second hand article.

SECTION 2.
The Board of Selectmen may require that any place, vehicle or receptacle used for the collecting or keeping of junk shall be subject to examination at any time by the Board of Selectmen or their agent.

SECTION 3.
Each license under this article shall expire on the thirty-first (31st) day of December following the date of issuance and may be revoked by the Board of Selectmen at any time in their discretion.

SECTION 4.
The Board of Selectmen may license suitable persons to be dealers in and keepers of shops for the purchase, sale and barter of junk, and no person shall be a dealer in or keeper of a junk shop without such license. Any shop and all articles of merchandise therein, and any place used for the keeping of the

articles aforesaid, may be examined at all times by the Board of Selectmen, or by any person by them respectively authorized thereto.

SECTION 5.
Whoever violates any of the provisions of this article or any rule, regulation or restriction contained in any license granted to him hereunder, or any requirement of the Board of Selectmen made hereunder shall forfeit not more than twenty dollars ($20.00) for each offense.

ARTICLE XIX - Licensing and Regulation of Dealers in Precious Metals

SECTION 1.
No person shall collect, deal in or keep a shop for the purchase, sale or barter of precious metals in any building or place within the limits of the Town without a license from the Board of Selectmen.

SECTION 2.
For the purpose of this by-law, the term "precious metals" shall include any precious metal such as gold, silver, or platinum, without regard to the form or amount of such precious metal, or whether or not such precious metal is an incidental or minor component of some other article such as jewelry, bric-a-brac, statuary, or the like.

SECTION 3.
The Board of Selectmen may license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of precious metals at such places within the Town as may be designated in such licenses under such conditions and restrictions as are prescribed in this article, which shall be incorporated in every such license. The fee for granting such license shall be fifty dollars ($50.00).

SECTION 4.
No dealer or keeper of a shop described in this section shall directly or indirectly make any purchase or receive by way of barter or exchange from a minor knowing or having reason to believe him to be such.

SECTION 5.
No item, described in this section purchased or received shall be sold or altered in appearance, form, or substance until a period of at least fifteen (15) days from the date of its purchase except when such period is waived by the Chief of Police or the Chief of Police's designee.

SECTION 6.
Every such licensee shall make out and deliver to the Chief of Police each day a legible and correct list containing an accurate description of all precious metals purchased during the preceding business day, name and address from whom purchased, the prices paid therefor, the time when such articles were purchased and the respective numbers of such items.

SECTION 7.
Every keeper of a shop licensed as provided in this article shall put in some suitable and conspicuous place on his or her shop a sign having his or her name and occupation legibly described thereon and shall keep a book in which shall be written in English, at the time of every purchase, a description of the precious metal so purchased, the name, age and residence of the person from whom purchased, and the day and hour when such purchase was made. Such book and all articles purchased shall at all times be available for the inspection of the Chief of Police or the Chief of Police's designee.

SECTION 8.
Every dealer in precious metals shall have suitable scales approved by the Town Sealer of Weights and Measures. Said scales shall be annually tested and sealed.

SECTION 9.
Whoever, not being licensed as required by this article, deals in, keeps a shop for the purchase, sale or barter of precious metals or whoever being licensed is a dealer in any place or manner other than that designated in their license, or whomever, after notice to the individual that the license has been revoked or whomever violates any rule, regulation or restriction contained in their license shall be subject to a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00), and each day of such violation shall constitute a separate offense.

ARTICLE XX - Police Regulations

SECTION 1.
No person who owns or has charge of any horse, grazing beast, swine or poultry shall suffer or permit such animal to run at large or, while at pasture, to be so tethered that it can, within the limits of its tether, go upon the traveled part of any street or upon any sidewalk.

SECTION 2.
No person having under their care or control any vehicle shall permit the same or the animal or animals attached thereto, if any, to stand on or across any public way in such a manner as to obstruct the same for any unnecessary length of time. No person shall stop with any vehicle in any public way so near another vehicle as to obstruct public travel or upon or across any private way or private driveway.

SECTION 3.
No person shall leave any vehicle or material or place any obstruction in any sidewalk, street or public place and suffer the same to remain there over night without maintaining a sufficient light and suitable guards over or near the same throughout the night, nor allow the same to remain after notice from a police officer, constable or the Board of Selectmen to remove the same.

SECTION 4.
No person shall park any automobile or vehicle within fifteen (15) feet of a fire hydrant.

SECTION 5.
No person shall drive any vehicle upon or over a fire hose while the same is laid by public authority for use in any street or public place, unless directed to upon permission of the individual in authority.

SECTION 6.
No person shall break the surface of or dig up any sidewalk or other part of any public way or place thereon any staging or other temporary structure or move any building in or along the same without a written permit from the Board of Selectmen. Any permit issued therefor shall be in force for such time as the Board of Selectmen may specify and shall be subject to such conditions as they may prescribe, and in every case shall be upon the condition that during the whole of every night from sunset to sunrise lighted lanterns and proper barriers shall be so placed as to secure travelers from danger; and upon the further condition that the permittee shall indemnify the Town against the claims of all persons who may be injured in their persons or property by reasons of the exercise of the privileges conferred by the permit. Permits for moving buildings along the public ways shall be issued only after the applicant has secured from the Inspector of Buildings/Zoning Code Enforcement Officer the permit required under the provisions of the Zoning Bylaws. A permit shall be obtained from the Director of the Department of Public Works before any driveway or walk is constructed which extends over the wayline of any public way.

SECTION 6A - Driveway Permits
a. All hereafter constructed driveways or other entrances for motor vehicles which connect private property with a public way shall require a written permit from the Director of the Department of Public Works before construction.

b. Such driveways shall be located so as not to interfere with existing or proposed drainage structures or systems.

c. Such driveways shall abut the traveled portion of the way at the same level and shall extend from the traveled portion of the way to the private property line with a three (3) inch minimum pitch above the road grade at intersection. The minimum radius at the edge of the traveled way shall be ten (10) feet.

d. Earth materials located between the traveled portion of the way and the private property line shall be removed and replaced with twelve (12) inches of gravel and three (3)inches of bituminous concrete placed in two (2) layers for a distance to be determined by the Director of the Department of Public Works after consideration of the topography and soil conditions in the area.

e. A drain pipe shall be placed under such driveway as specified by the Director of the Department of Public Works if deemed to be necessary to prevent a drainage problem in the public way.

f. No such driveway shall be used and the Inspector of Buildings/Zoning Code Enforcement Officer shall not issue a Certificate of Occupancy for a newly constructed altered building to be serviced thereby until the Director of the Department of Public Works issues a Certificate indicating the proper completion of the driveway in accordance with the permit unless the Director of the Department of Public Works issues a written extension of time for such completion. No such extension of time shall exceed six (6) months.

SECTION 7.

A. Every owner or keeper of a dog who is three (3) months old or over shall license it with the Town Clerk between the first (1st) day of January and the twenty-eighth (28th) day of February of each year. Every owner or keeper of a dog which becomes three (3) months old subsequent to the first (1st) day of January of any year shall license it with the Town Clerk when it becomes three (3) months old. The license fee shall be twelve dollars ($12.00) for female and male dogs and nine dollars ($9.00) for altered male and spayed female dogs. All licenses must be renewed by the twenty-eighth (28th) day of February or be subject to a late fee charge of fifteen dollars ($15.00). The owner or keeper of every dog which is so licensed shall cause it to wear at all times a metal license tag issued for this purpose by the Town Clerk. No person shall own or keep in the Town any dog which by biting, barking or howling, or in any other manner disturbs the peace or quiet of any neighborhood or endangers the safety of any person.
(amended by Article 17 of April 22, 2008 ATM and Article 14 of April 24, 2012 ATM)

B. If the Animal Control Officer determines that a dog in its oestrus cycle or "in heat" is attracting other dogs and such attraction is causing damage or disturbance to any neighborhood, the Animal Control Officer shall order in writing the owner or keeper of such dog to restrain the dog for the duration of its oestrus cycle. If the Animal Control Officer determines that such owner or keeper is not complying with order, the Animal Control Officer shall impound said dog for the duration of its oestrus cycle at the expense of the owner or keeper.

C. Dog Leash Law

1. Any person owning or keeping a dog within the Town of Pembroke shall not suffer nor permit it to constitute a nuisance as hereinafter set forth: provided, however, nothing in this by-law shall be construed to limit or prohibit the use of hunting dogs during the hunting season, or the training of hunting dogs, or during field trials for hunting dogs.

2. If it appears to the Animal Control Officer, upon personal observation, or upon receipt of a complaint in writing under oath, that any dog owned or harbored within the Town is a nuisance by reason of one or any of the following:

a. having bitten any person, or

b. having been found running at large in any of the streets or public places in the Town, or upon premises other than premises of said owner or keeper, or on premises of said owner or keeper, unless it is effectively restrained by a chain or leash, or is under immediate and effective control of a handler, or is within and confined to a motor, or

c. having killed or maimed or otherwise damaged any other domesticated animal, or

d. having chased any vehicle upon any public way or way open to public travel in the Town,

then the Animal Control Officer may, upon such observation, or upon such further investigation of a complaint in writing under oath as the Animal Control Officer may deem necessary, which investigation may include a further examination under oath of the complainant or any other person,

(i) impose a penalty of fifty dollars ($50.00) for the first offense, one hundred dollars ($100.00) for the second offense, and one hundred fifty dollars ($150.00) for each subsequent offense, and/or

(ii) apprehend and impound such dog in the Town Pound and impose, in addition to any penalties, an administrative charge consisting of the dog license fee if it is then unpaid plus twenty dollars ($20.00) per day boarding charges plus twenty-five dollars ($25.00) for a licensed dog or seventy-five dollars ($75.00) for an unlicensed dog, and/or

(iii) issue an interim order that such dog be impounded, restrained or muzzled for a period not to exceed fourteen (14) days.

(amended by Article 18 of April 22, 2008 ATM)

e. No dogs shall be allowed in any town cemetery either on a leash or running at large.

3. The Animal Control Officer shall make a written report of the actions taken pursuant to subsections 1 and 2 and the reasons therefor to the owner or keeper, and submit a copy of such report to the Board of

Selectmen, no later than three (3) days after taking such actions. Upon receipt of such report, the Board of Selectmen may, after hearing, which may include an examination of the complainant and any other person under oath, make such further order or orders concerning such dog as may be deemed necessary.

4. The owner or keeper of any dog that has been the subject of such actions may file a request in writing with the Animal Control Officer that they be modified or vacated, or that the dog be released, and after investigation the Animal Control Officer may modify or vacate such actions order to release such dog, if the order or restraint was imposed by him. If the order was imposed by the Board of Selectmen, the Animal Control Officer shall submit a written report of the Animal Control Officer's investigation, with recommendations, to the Board of Selectmen, who may vacate such order. If the Animal Control Officer, after receiving such request in writing, declines to modify or vacate such actions, the owner or keeper may appeal to the Board of Selectmen.

5. All dogs within the town shall be licensed and registered as provided in Massachusetts General Laws Chapter 140 and Section 7 of Article XX of the Town By-laws.

6. The Board of Selectmen may from time to time adopt and publish such policies, registration fees and procedures as they deem necessary to enforce the intent and purpose of the Animal Control Regulations By-Law, or take any action relative thereto.

SECTION 8.
Whoever violates Section (7A) and/or (7C) of these Town of Pembroke Bylaws shall be liable to a fine of twenty-five dollars ($25.00) for the first offense, fifty dollars ($50.00) for the second offense and one hundred dollars ($100.00) for all subsequent offenses.

SECTION 9.
No person shall solicit within the Town of Pembroke for the purpose of securing charitable donations without first registering their existing license with the Board of Selectmen or securing a permit or license from the Board of Selectmen.

A. No person shall canvass, solicit or call from house to house in the Town to sell or attempt to sell any goods or services including sales or attempted sales by sample or by the taking of orders for the future delivery of such goods or services without first receiving a written permit therefor from the Board of Selectmen. Every such permit shall contain such conditions and restrictions as the Board of Selectmen, after investigation of the applicant and application, deem necessary to protect the safety, security and convenience of the public.

B. No person shall distribute or deliver unordered commercial circulars or other unordered commercial advertising material or unordered periodicals in Pembroke by any means other than the United States Postal Service without first having received a written permit from the Board of Selectmen. Every permit shall contain such conditions and restrictions as the Board of Selectmen, after investigation of the applicant and application, deem necessary to protect the safety, security and convenience of the public and to prevent litter of streets and property in Town. After a holder of such a permit has been informed by the Board of Selectmen that a resident has requested that such material not be delivered to the resident's property, the holder of the permit shall comply with such request and shall not thereafter deliver such material to the requesting resident's property including the street and mailbox, pole or other object in front of such property.

SECTION 10.
No person shall permit an unregistered disabled or unregistered dismantled vehicle or parts thereof to remain on their property for more than one (1) month unless permission to do so is given in writing by the Board of Selectmen after an inspection and a written report thereof by the Board of Health. The foregoing shall not apply to motor vehicles stored inside buildings where they cannot be used as breeding places for mosquitoes and other insects or as harborage for rodents.

SECTION 11.
No person having charge of any vehicle shall leave such vehicle unattended within the limits of any private or public way furnishing access to any building so as to obstruct the free passage or use of any piece of fire apparatus by or through such way.

SECTION 12. (DELETED ART. #36 ATM 4/25/02 PER ATTY. GEN'L LETTER 08/01/01)

SECTION 13.
Every owner or occupant of land on which is located an outdoor swimming pool capable of containing a depth of water of three (3) feet or more shall completely enclose said swimming pool with a four (4) foot fence. Any gate or door through said fence shall be of the same height as the fence and shall be equipped with a latch or lock located within one foot (1') of the top of the fence. Each such gate or door shall be kept locked at all times when the swimming pool is not in actual use. Swimming pools whether above or below ground shall be so enclosed by a fence which cannot be climbed through or under so as to prevent children or

animals from accidentally falling into them. A fence shall mean a wire, wooden or metal enclosure at least four (4) feet in height. At any fence opening, a self-latching type gate at least four (4) feet high shall be used.

SECTION 14.
No person shall drink any alcoholic beverages as defined in Massachusetts General Laws Chapter 138, Section 1, while in or upon any public way or any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, any park or playground, or while in or upon private land, building, structure or place without the consent of the owner or person in control thereof. Any person violating this by-law shall upon conviction be fined not more than fifty dollars ($50.00) for each offense.

SECTION 15 - Anti-Noise By-law

A. It shall be unlawful for any person or persons occupying or having charge of any building or premises or any part thereof in the Town, other than that section of any establishment licensed Massachusetts General Laws Chapter 138, and Chapter 140 Section 181, to cause or suffer or allow any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound making device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise, where the noise is plainly audible at a distance of four hundred (400) feet from the building, structure, vehicle or premises in which or from which it is produced. The fact that the noise is plainly audible at a distance of four hundred (400) feet from the vehicle or premises from which it originates shall constitute Prima Facie evidence of a violation of this by-law. This section shall not apply to the operation of an emergency generator.

B. It shall be unlawful for any person or persons being present in or about any building, dwelling, premises, shelter, boat or conveyance or any part thereof, other than that section of any establishment licensed under Massachusetts General Laws Chapter 138, and Chapter 140 Section 181, who, shall cause or suffer or countenance any loud, unnecessary, excessive or unusual noises, including any loud, unnecessary, excessive or unusual noises in the operation of any radio, phonograph, or other mechanical sound making device, or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or the making of loud outcries, exclamations or other loud or boisterous noises or loud and boisterous singing by any person or group of persons, or in the use of any device to amplify the aforesaid noise, where the aforesaid noise is plainly audible at a distance of four hundred (400) feet from the building, dwelling, premises, shelter, boat, or conveyance in which it is produced. The fact that the noise is plainly audible at a distance of four hundred (400) feet from the premises from which it originates shall constitute Prima Facie evidence of a violation of this by-law. Any person shall be deemed in violation of this by-law who shall make, or aid, or cause, or suffer, or countenance, or assist in the making of the aforesaid and described improper noises, disturbance, breach of the peace, and the presence of any person or persons in or about the building, dwelling, premises, shelter, boat, or conveyance or any part thereof during a violation of this by-law shall constitute Prima Facie evidence that they are a countenancer to such violation.

C. Any person violating the provisions of this by-law shall be punished by a fine not to exceed two hundred dollars ($200.00) for each offense.

SECTION 16 - Unauthorized Parking of Motor Vehicles; Towing and Storage

A. No motor vehicle shall be parked or stopped, whether disabled or not, within the limits of any public or private street or way in town so as to interfere in any manner with the efficient flow of traffic or interfere in

any manner with the means of access of fire apparatus to any building or property or interfere in any manner with the removal or plowing of snow or ice or in any manner obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way, or occupy or obstruct in any manner a parking place reserved for a vehicle used by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate or other object authorized by Massachusetts General Laws Chapter 90, Section 2. Whoever violates the foregoing shall be liable to charges for the removal and storage of the vehicle as well as be subject to punishment by fine of one hundred dollars ($100.00) for occupying or obstructing a parking space reserved for vehicles used by handicapped persons bearing the distinguishing license plate and twenty-five dollars ($25.00)for all other offenses listed, except that the owner of a disabled vehicle shall not be subject to a fine.

B. The Chief of Police or such other officers in the Police Department as the Chief may from time to time designate shall order or arrange for the removal or towing to some convenient place by independent contractors of any motor vehicle found to be in violation of Section 1.

C. The Chief of Police or any of the Chief of Police's designees shall within a reasonable time notify the registered owner of the removed vehicle of the vehicle's removal and the place to which it has been moved. The owner, before being permitted to remove the vehicle, shall establish the right to do so and shall pay to the keeper of the place of storage reasonable fees for the towing and storage of the vehicle; provided, however,

(a) For vehicles removed during snow or ice removal operations, the towing charge shall not exceed twenty-five dollars ($25.00) and the storage charge shall not exceed ten dollars ($10.00) for a twenty-four (24) hour period and five dollars ($5.00) for any lesser period.

(b) For vehicles removed for any other cause, the towing charge shall not exceed the maximum rates established by the Department of Public Utilities and the storage charge shall not exceed twenty dollars ($20.00) per day or any portion thereof.

D. The foregoing towing and storage of motor vehicles shall be accomplished by independent contractors at the request of the above specified police officers, but neither the removal nor the storage of a vehicle under this by-law shall be deemed to be services rendered or work performed for or by the Town of Pembroke or the Pembroke Police Department. The independent contractors shall be liable to the owners of any such removed or stored vehicles for damages and losses to the vehicles and their contents which arise out of the negligence of the contractors.

E. Except in special circumstances involving police security and traffic safety, the independent contractors who perform the above towing and storage services shall be called by the above specified police officers from a rotating list which shall be established by the Board of Selectmen with advice from the Chief of Police. Contractors who possess suitable towing equipment and storage facilities and who demonstrate in ability and willingness to comply with the provisions of this by-law and any additional specifications which may be prepared from time to time by the Board of Selectmen shall be placed on the rotating list. The Chief of Police may suspend or remove a contractor from the rotating list in the event the contractor violates any provision of this by-law or in the event that the contractor refuses or is unable or unavailable to perform three (3) removal operations during a calendar year. Any such action by the Chief of Police may be appealed by the contractor to the Board of Selectmen who, after a public hearing, may affirm, modify or reverse such action. A contractor who refuses, fails or is unable to respond in a timely manner to a request to remove a vehicle shall lose a turn on the rotating list.

F. The request of a disabled vehicle's owner for a particular towing contractor shall be allowed unless a police officer at the scene determines

that public safety and convenience would be impeded. When more than one (1) tow truck is required, the first at the scene shall be given the choice of tow unless a police officer at the scene determines that public safety and convenience requires otherwise.

G. The independent towing and storage contractors:

(a) shall provide the Chief of Police with a copy of their Certificate to Operate issued by the Massachusetts Department of Public Utilities;

(b) shall provide the Chief of Police with a list of all their current rates;

(c) shall post conspicuously in their place of business a list of the maximum charges for removals and storage which are contained in this by-law;

(d) shall provide the Chief of Police with a copy of the registration for each tow truck used for towing under this by-law. Repair and/or dealer's plates are not permitted on tow trucks;

(e) shall maintain records for one (1) year on all vehicles towed and/or stored pursuant to this by-law. The records shall contain the removed vehicle's manufacturer, model and year, identification number, registration number, name and address of owner, time and place from where towed, when and to whom released and all charges made. Records shall be displayed to the Chief of Police or the Chief of Police's designee on request;

(f) shall not release a removed vehicle to its owner if requested not to do so by the Chief of Police or the Chief of Police's designee;

(g) shall store all removed vehicles in Pembroke unless otherwise requested by the owner of the vehicle;

(h) shall be willing and able to tow vehicles twenty-four (24) hours per day and seven (7) days per week regardless of weather conditions and be willing and able to release vehicles to owners or authorized persons seven (7) days per week from 8:00 A.M. to 6:00 P.M. and shall respond and be enroute within ten (10) minutes to all requests for a removal;

(i) shall be responsible for the security of removed and stored vehicles and their contents;

(j) shall release to the owner of a removed vehicle all personal property contained therein which is not an integral part of the vehicle;

(k) shall charge the owner of a removed vehicle only one (1) removal fee in the event that a vehicle is removed to the police station for investigation or impoundment and then subsequently removed to the contractor's premises. Storage fees shall commence when the vehicle arrives at the contractor's premises;

(l) shall have on every tow truck a broom and shovel and shall clean the street of accident debris and shall not charge the owner of a removed vehicle for this service;

(m) shall maintain and use a secure building for inside storage of vehicles which are involved in a police investigation, including a fatal accident, until the investigation is completed;

(n) shall maintain a clean and presentable place of business and their operators and employees shall present a neat appearance and act in a courteous manner and shall refrain from having alcohol on their breaths;

(o) shall notify the Police Department before fulfilling a private request to tow a vehicle which was apparently involved in an accident causing personal injuries or property damage.

SECTION 17 - Water Flow onto Streets
No person shall pump, pipe or channel water in such a manner as to cause it to flow onto any street or way where it may create a hazardous traffic condition.

SECTION 18 - False Alarms

A. When emergency messages are received by the police department that evidence false alarms, the Chief of Police shall take such action as may be appropriate under paragraphs (B), (C), (D), and (E) of this section, and when so required by the terms of the aforementioned paragraphs, order that use of an alarm system be discontinued.

B. After the police department has received three (3) separate false alarms within the calendar year from an alarm system, the Chief of Police shall notify the alarm user, in writing, of such fact and require said user to submit, within fifteen (15) days after receipt of such notice a report describing efforts to discover and eliminate the cause or causes of the false alarms. If the said user, on the basis of absence from the town, or on any other reasonable basis, request an extension of time for filing the report, the Chief of Police may extend the fifteen (15) day period for a reasonable period. If the said user fails to submit such a report within fifteen (15) days or within such extended period, the Chief of Police shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days from the date or receipt of the Chief of Police's order.

C. In the event that the Chief of Police determines that a report submitted in accordance with paragraph (b) of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the Chief of Police shall order that use of the alarm system be discontinued. Any such discontinuance shall be effectuated within fifteen (15) days of receipt of the Chief of Police's order.

D. In the event that the police department records five (5) false alarms within the calendar year from an alarm system, the Chief of Police may order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was disconnected. In the event that the police department records eight (8) false alarms within the calendar year from an alarm system, the Chief of Police shall order that the user of the alarm system discontinue use of the alarm system for the calendar year, but for not less than six (6) months from the date the alarm was discontinued.

E. Any user of an alarm system which transmits false alarms shall be assessed a fine of twenty-five dollars ($25.00) for each false alarm in excess of three (3) occurring within the calendar year. All fines assessed hereunder shall be paid to the Town Treasurer for deposit in the general fund. Upon failure of the user of an alarm system to pay two (2) consecutive fines assessed hereunder within sixty (60) days of assessment, the Chief of Police shall order that the user discontinue use of the alarm system. Any such discontinuance shall be effectuated within fifteen (15) days from the date of receipt of the Chief of Police's order.

F. When emergency messages are received by the police department that evidence false alarms, the Chief of Police shall determine whether the false alarm was caused by inclement weather conditions, power outage or other atmospheric causes. If the Chief of Police determines that the false alarm was the result of any of the aforementioned causes, the false alarm shall not be recorded against the alarm user. The Chief of Police shall establish procedures to ensure the proper recording of false alarms.

G. Any user of an alarm system who has, in accordance with this section, been ordered by the Chief of Police to discontinue use of an alarm system may appeal the order of discontinuance to the Board of Selectmen. Notice of an appeal shall be filed with the Town Administrator of the Board of Selectmen within ten (10) days of the date of the order of discontinuance. Thereafter, the Board of Selectmen shall consider the merits of the appeal, and in connection therewith, shall hear evidence presented by all interested persons. After hearing such evidence, the Board of Selectmen may affirm, vacate or modify the order of discontinuance.

H. Penalties; the following acts and omissions shall constitute violations of this section and shall be punishable by fine up to fifty dollars ($50.00):

a. Failure to obey an order of the Chief of Police to discontinue use of an alarm system, after exhaustion of the right of appeal.

b. Failure to pay two (2) or more consecutive fines assessed under this section within sixty (60) days from the date of assessment.

SECTION 19. – PROHIBITED SALE OF DRUG PARAPHERNALIA

No person, firm, store or corporation shall sell or offer for sale or distribution within the Town of Pembroke the following:

Drug Paraphernalia. For the purposes of enforcement of this Section, drug paraphernalia shall be defined pursuant to Section 1 of Chapter 94C of the Massachusetts General Laws. Drug paraphernalia shall, in addition to the definition under M.G.L. Chapter 94C, Section 1, also include blunt wrappers and rosebud smoking pipes.

Any person, firm store or corporation found in violation of this Section shall be subject to the penalty of a $200.00 fine. A violation of this Section shall occur each day that the prohibited items are found to be sold or offered for sale or distribution.

ARTICLE XX-A – Sex Offender Registry Restrictions

1. ***Definitions.*** For the purpose of this article, the following terms shall have the respective meanings scribed to them:

Adult Criminal Level 3 Sex Offender. A person convicted of a criminal sex offense and designated as a Level 3 sex offender by the Massachusetts Sex Offender Registry Board. The Board has determined that these individuals have a high risk to reoffend and that the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active community notification.

School. A licensed or accredited public or private school or church school that offers instruction in pre-school, including a licensed daycare or other business permitted as a school by the Town of Pembroke, or any of grades K through 12. This definition shall not include private residences in which students are taught by parents or tutors.

GIS. Geographic information system.

2. ***Residency Restrictions.*** It shall be unlawful for any Adult Criminal Level 3 Sex Offender to establish a residence or any other living accommodations within one thousand five hundred (1,500) feet of the property on which any school, day care center, park, or recreational facility open to the public is located. The one thousand five hundred (1,500) feet restriction shall be measured in a straight line from the nearest property line upon which the house, apartment complex, condominium complex, motel, hotel or other residence is located to the property line of the nearest school, day care center, park, or recreational facility. Distances will be taken from the town's GIS system and GIS services to the town shall be presumed accurate and shall be evidence of a violation.

3. ***Established Residents.*** Changes to property resulting in a school, day care center, park, or recreational facility within one thousand five hundred (1,500) feet of an Adult Criminal Level 3 Sex Offender's registered address which occur after an Adult Criminal Level 3 Sex Offender establishes residency shall not form the basis for finding that a criminal sex offender is in violation of Section XX-A of the Pembroke Town Bylaws.

4. ***Notice to Move.*** Level 3 registered Sex Offenders who reside on a permanent or temporary basis within one thousand five hundred (1,500) feet of any school, day care center, park, or recreational facility following passage of this bylaw, shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the Registered Sex Offender's noncompliance with this section of the bylaws, move from said location to a new location, but said new location may not be within one thousand five hundred (1,500) feet of any school, day care center, park, or recreational facility. The first day following the thirty day (30) written notice shall be considered the first violation. Following the first violation, every day that the Registered Sex Offender continues to reside within one thousand five hundred (1,500) feet of any school, day care center, park, or recreational facility shall be considered a violation each day.

5. ***Penalties.*** The following penalties will be imposed by the Town of Pembroke:

   a. First Offense by Registered Sex Offender: Non-criminal fine of $150.00

   b. Subsequent Offense by Registered Sex Offender: Non-criminal fine of $300.00 and notification to offender's parole officer and/or probation officer, and the Commonwealth's Sex Offender Registry Board that the Sex Offender has violated a municipal bylaw.

6. ***Exceptions:*** An adult Criminal Level 3 Sex Offender who has a residence or any other living accommodations within one thousand five hundred (1,500) feet of the property on which any school, park or recreational facility open to the public is located prior to April 28, 2009, shall not be considered in violation of this by-law.

   If any provisions of this bylaw are invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall remain in full force and effect. If any

provisions of this bylaw are in conflict with state law, state law shall prevail.

This Bylaw expressly does not repeal or otherwise affect any other provisions of the Bylaws of the Town of Pembroke, Massachusetts.

ARTICLE XXI - Earth Removal

SECTION 1.
All removal of soil, loam, sand, gravel or rock from land not in public use anywhere in Town is hereby prohibited unless done in strict compliance with a permit granted hereunder by the Board of Selectmen. Removal as used herein shall mean stripping, digging or excavating the forgoing earth material from any lot and removing or carrying it away from said lot.

SECTION 2.
This by-law shall not apply to a removal operation which is the subject of an official permit or license issued in writing prior to the effective date of this article under the authority of the Town, either by the Zoning Board of Appeals, or which is being conducted in compliance with the requirement of a subdivision plan approved by the Planning Board. This by-law shall not apply to removal operations of less than five hundred (500) cubic yards conducted in connection with the construction of a building.

SECTION 3.
All applications for permits shall be accompanied by exhibits and documentation to include all of the following information:

A. The location of the proposed site of excavation.

B. The name and address of the owner of the property involved.

C. The name and address of the petitioner.

D. The name and address of the abutting property owners including those across the street.

E. A plot plan of the land involved, prepared and signed by a registered land surveyor or professional engineer, which plan shall show all structures, property lines, vegetative cover, presence of water course and wet areas and topographic lines at five (5) foot grade intervals carried one hundred (100) feet beyond the limits of the proposed excavation. In the case of an application for the continuation of an existing removal operation, the Board of Selectmen may require that said plans shall include all areas where past removal operations were conducted.

F. A plan prepared as the plot plan showing proposed topographic lines at five (5) foot grade intervals after the proposed excavation is completed. The plan shall also include water course, wet areas and proposed drainage flow in the area after completion of the excavation.

G. Estimated quantities of each substance to be excavated as calculated by a professional engineer;

a. Included shall be a statement from an engineer as to the estimated loam on the premises and the average depth thereof.

b. The amount of loam which will be required to provide a loam cover of at east four (4) inches upon the termination of the removal work and what amount will have to be brought onto the site for such purpose.

c. Documentation from the applicant as to the availability of loam from the site and from off the site for final cover and the approximate cost thereof.

d. Estimate and analysis by an engineer of amounts and type of grass seed, plants and other plantings required to repair the site and the cost of performing such work.

H. Form of bond to be used by applicant.

a. A bond or cash deposit shall be required for all removal operations.

b. The amount of the bond or cash deposit shall be determined by estimating the approximate cost of final grading, loaming, seeding, and planting of necessary plants and trees.

c. The bond or cash deposit shall be held by the Board of Selectmen, in a revolving account established by town meeting vote, for one (1) year after termination of the project or until all conditions as required by the Board of Selectmen have been completed to the satisfaction of the Board of Selectmen. If after eighteen (18) months from the issuance of the permit all conditions as required by the Board of Selectmen have not been completed, (especially grading and seeding) the Board of Selectmen will use said moneys to comply with the originally stated conditions.

SECTION 4.
All permits issued by the Board of Selectmen shall state all the conditions to be imposed, including but not limited to:

A. The finished level and sloping.
B. The limits of the excavation to boundary lines.
C. The directions of placing and seeding loam and other plants.
D. Permission from the applicant to the Board of Selectmen and other Town officials for entry onto the land for inspection to determine compliance with the conditions of the permit.
E. The duration of the removal operation.
F. The construction of fencing and other protections against nuisances.
G. Method of removal.
H. Days and hours of operation.
I. Routes of transportation of material.
J. Control of temporary and permanent drainage.
K. Disposition of boulders, stumps and other waste material.
L. Directions as to non-removal of vegetation as screening.
M. All bonding details.
N. Plans for traffic control and street cleaning at operator's expense.
O. Corrective steps to be taken to restore areas of past removal operations in the case of an application for continuation of an existing removal operation.

SECTION 5.
No permit shall be granted hereunder until a public hearing has been held by the Board of Selectmen after first giving fourteen (14) days notice of the time and place of the hearing in a newspaper having general circulation in the Town of Pembroke and by mailing notice thereof to all abutters. Any permit issued by the Board of Selectmen shall automatically expire upon the termination date stated therein. A permit for any removal hereunder shall not be issued for more than one (1) year's duration and may thereafter be renewed at the discretion of the Board of Selectmen after a public hearing advertised fourteen (14) days prior to such hearing. The applicant shall pay all costs incidental to the foregoing advertising and mailing requirements.

SECTION 6.
No permit for removal hereunder shall be issued if such removal will:

A. Endanger the general public health, safety or convenience or constitute a nuisance.
B. Result in detriment to or depreciation of neighboring properties or interfere with owners or occupants of neighboring properties in the normal use and enjoyment of their properties by reason of noise, dust, vibrations, traffic or drainage conditions.
C. Extend within three hundred (300) feet of a public way, or a way open to public use, nor if there is insufficient vegetative barrier to remain on the property after excavation as proposed to prevent view of the area from a way. This provision may be waived by the Board of Selectmen if said removal operation will result in said site being left at approximate level or grades of adjacent way.

SECTION 7.
Failure to comply with any of the conditions of the permit will result in immediate recession of the permit. Pending the completion of an investigation by the Board of Selectmen into the compliance or non-compliance with any condition of a permit issued pursuant to this article, the Board of Selectmen may suspend all rights incidental to said permit.

SECTION 8.
The applicant shall, prior to receiving a permit, deposit five hundred dollars ($500.00) with the Board of Selectmen which shall use such moneys in hiring engineers or surveyors for examination of the work being performed under the permit and reporting on such to the Board of Selectmen. Upon termination of the work, the Board of Selectmen will account for expenses made hereunder to the applicant and will return any unexpended portion of the deposit.

SECTION 9.
The Board of Selectmen shall have the right to exempt the following removal operations from any or all of the requirements of this by-law:

A. Removal operations consisting of less than five hundred (500) cubic yards.
B. Removal operations to be conducted to assist in the cultivation of cranberry bogs.
C. Existing removal operations so long as the quantity of earth materials proposed to be removed is consistent with the past use and extent of said existing removal operation.

SECTION 10.
Loam shall be removed only for use in the Town.

SECTION 11.
Whoever shall violate any of these provisions shall be punished by a fine of fifty dollars ($50.00) for the first offense, one hundred dollars ($100.00) for the second offense, and two hundred dollars ($200.00) for each subsequent offense.

ARTICLE XXII - Junk Motor Vehicles

SECTION 1.
No person or entity, corporate or otherwise, as owner or as anyone in control or possession of premises shall keep in the open in any area of the Town more than one (1) junk motor vehicle as defined in the following section, without being licensed to do so under this by-law.

SECTION 2.
For the purpose of this by-law a junk motor vehicle shall be one which is worn out, cast off or discarded and 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 a vehicle shall be considered junk motor vehicles under this by-law.

SECTION 3.
A motor vehicle without current registration or license plates for the current year shall be considered to be a junk motor vehicle.

SECTION 4.
Specifically excluded from the provisions of this by-law are motor vehicles used for farm or garden purposes and motor vehicles used for recreational or camping purposes such as campers, trailers, dune buggies and skimobiles.

SECTION 5.
A permit to keep more than one (1) junk motor vehicle may be requested from the Board of Selectman who may issue the permit if the Board of Selectmen, after complying with the provisions of Section 6 determines that the keeping of the requested junk motor vehicle or vehicles will not be injurious or offensive to the neighborhood, will not depreciate property values in the area, will not create a hazard to the public safety or health and will not become a public nuisance.

SECTION 6.
Before granting a permit, the Board of Selectmen shall hold a public hearing, notice of which shall be published at least seven (7) days before the hearing in a newspaper having general circulation in the Town and notice of said hearing shall be mailed to all abutting property owners as recorded in the records of the Board of Assessors. The requirements of this section may be waived in whole or in part by the Board of Selectmen in their discretion.

SECTION 7.
The various provisions of this by-law are severable and the invalidity of a section or provision thereof shall not affect the validity of any other section or provision.

SECTION 8.
Any person or entity who violates this by-law shall be liable to a fine of fifty ($50.00) dollars. Each day that a violation continues shall be considered to be a separate offense.

ARTICLE XXIII - Miscellaneous

SECTION 1.
General physical qualifications for employment by the Town may be prescribed by the Board of Selectmen. Additional special physical qualifications for a particular position may be prescribed by the officer or board having authority to employ, subject to the approval of the Board of Selectmen. To determine physical qualifications for any position in Town employ the Board of Selectmen may require a physical examination by a registered physician approved by them. This section shall not apply to elected officers or members of the Police or Fire Departments who have passed Civil Service examinations.

SECTION 2.
Every person hereafter employed by the Town, except elected officials, members of the Police and Fire Departments and persons appointed to positions under the Civil Service Commission and occasional or substitute employees shall first be certified by a physician, approved by the Board of Selectmen, as physically fit and without congenital or chronic disease or disability that could interfere with reasonably continuous performance of the duties of the position and also that the applicant conforms to the particular requirements of the position, if there are any such in force.

SECTION 3.
The regularly appointed school physician is approved for examination of school department employees.

SECTION 4.
The examination shall be recorded on the prescribed form, and the details shall, subject to the provisions hereof, be confidential to the applicant and the examiner. The record in a sealed container shall be deposited with the Board of Selectmen for safe keeping, the contents subject to future reference only by a physician designated by the Board of Selectmen or School Committee.

SECTION 5.
The examiner shall file with the Board of Selectmen, the town department under which the applicant is to be employed and the Town Accountant a certificate of findings in accordance with Section 1, or a statement that the prospective employee does not meet the required physical standards.

SECTION 6.
The medical examiner may request clinical consultation or laboratory work beyond that specified in the examination form, if in his or her opinion such information is necessary or advisable.

SECTION 7.
A reasonable interval shall be allowed between examination and certification or rejection for the purpose of allowing the applicant to effect such corrections as would make him employable under the regulation.

SECTION 8.
If rejected the applicant shall be informed by the medical examiner of the cause or causes of the rejection. Appeal from the findings of the medical examiner may be made in writing to the Board of Selectmen, or in the case of appointees in the School Department, to the Chairman of the School Board, one (1) other member of the School Board to be appointed by the School Board and the Superintendent of Schools sitting as a Board of Appeals, within one week of the filing of the results of the examination. This appeal shall specifically authorize the medical examiner to disclose the details of the physical examination to the Board to which the appeal is taken, which may then order such further examination as they deem advisable, and the board's decision shall be final.

SECTION 9.
It shall be the duty of all committees appointed prior to the annual meeting to make report at said meeting, unless otherwise directed, upon the matters referred to them.

SECTION 10.
It shall be required that an inventory list of all equipment under the jurisdiction of an officer or committee be filed with the Town Clerk and a copy be presented to the Advisory Committee at the time the annual estimates are being considered for recommendations.

SECTION 11.
The Board of Selectmen shall annually appoint Plumbing Inspector in building whose duty shall be the enforcement in the Town of Pembroke of the rules and regulations adopted by the State Board established under Massachusetts General Laws Chapter 142, Section 13, and 248 C.M.R., §200, the Uniform State Plumbing Code. The Board of Selectmen shall set the fees to be charged by the Plumbing Inspector.

SECTION 12. (DELETED – ART. #39 ATM 4/25/02 PER ATTY. GEN'L LETTER DATED 08/01/01)

SECTION 13.
All matters relating to the acquisition of land for public purposes, the construction of public building or structures, the installation of utilities, and other like public improvements, shall be submitted to the Planning Board, with a time limit designated in each instance, for its report and recommendation before action of the Town. Such reports and recommendations in each case shall be submitted by the Planning Board to the Town in writing and shall be available for use wherever necessary as evidence at hearings where such reports would be of benefit to the Town. Failure of the Planning Board to submit such reports in the time specified shall not prevent action by the Town.

SECTION 14.
All Town Officers shall report the amount of all fees received by them, by virtue of their office from time to time, to the Board of Selectmen who shall publish the same in the Annual Town Report as authorized Massachusetts General Laws (Ter.Ed.) Chapter 40, Section 21, Clause (13).

SECTION 15.
All Town officers shall pay all fees received by them by virtue of their office into the Town treasury as provided in Chapter 40, Section 21 of the Massachusetts General Laws.

SECTION 16.
The Board of Selectmen after consultation with a Chief of the Fire Department, may establish a schedule of fees to be charged for transportation in a Town owned ambulance. The schedule of fees shall reflect the cost to the Town of operating an ambulance service and the schedule of fees may be periodically amended to reflect such changing costs. The Board of Selectmen shall be authorized to collect such fees and charges and to enter into contracts to facilitate the payment of such fees and charges by users, insurance companies and government agencies. The Board of Selectmen shall have the right to waive fees in the cases of users without insurance or other coverage or for any reasons deemed adequate to the Board of Selectmen.

SECTION 17.
The Town shall require that any area in which a percolation test or observation hole is dug be returned as near as possible to its natural state upon completion of the percolation test, with all holes filled in to the original contours and all destroyed trees removed or cut into four (4) foot lengths and stacked.

SECTION 18.
Any parcel of land being prepared for commercial development, industrial development or subdivision must remain undisturbed and in its natural state, regarding removal of trees or excavation of earth until all required approvals and permits are obtained.

Research practices such as observation and percolation test holes to determine suitability of the land for development are expressly excluded from restrictions imposed by the by-law.

Fine for violation of this by-law is one hundred dollars ($100.00) per violation, each day being considered a separate violation, beginning with the first day of tree removal or excavation.

SECTION 19.
If, after a determination by the Inspector of Buildings/Zoning Code Enforcement Officer or by the Zoning Board of Appeals, on any parcel or parcels, there exists a violation of any part of the Zoning By-Law, the owner, person in possession, person in charge, or any of their agents shall not be entitled to any type of permit or approval from the Town, or any official, board or commission thereof, unless and until the parcel or parcels are no longer in violation of the Zoning By-Law. This paragraph shall not be construed so as to prevent an applicant from appearing before the Zoning Board of Appeals seeking, and said Zoning Board of Appeals granting a Special Permit, Site Plan Approval or Variance which would bring said parcel or parcels into conformance with the Zoning By-Law.

SECTION 20.
There shall be no smoking permitted during meetings of any Town board, commission, or agency; unless upon inquiry by the chairperson no person in attendance objects.

SECTION 21.
Any property owner filing for a tax abatement on property where the valuation has been raised fifteen (15) percent or more, may request an inspection of the property by an Assessor or Assessor's Agent. Said inspection must be made prior to the Board of Assessors' ruling on the abatement.

SECTION 22.
The Commission on Disabilities shall review all plans of any commercial or public facility and shall advise the Inspector of Buildings/Zoning Code Enforcement Officer whether said plans comply with Massachusetts General Laws pertaining to handicapped accessibility.

SECTION 23.
All computer hardware and software purchases shall have the prior approval of the Board of Selectmen or their designee. Each proposal shall be evaluated independently and such evaluation shall be based upon the primary use of the equipment, compatibility with other town systems, adherence to town standards, and the financial benefit of the Town.

The Pembroke Public Schools and the Pembroke Public Library's regional network shall be excluded from this by-law.

SECTION 24.
Town Departments are required to give to the Library copies of any reports, studies, surveys or other similar materials for public reference to be on file for a minium of four years. (Art.#30 – ATM 05/04/06)

ARTICLE XXIV - Rules and Regulations Governing the Use of the Lakes, Ponds and Landings in the Town of Pembroke

RULE 1.
No person shall enter or leave the ponds or lakes in Pembroke in which bathing is permitted except at beaches where the Town owns the land, or at such other places as the Board of Selectmen may specially designate, except abutters, their guests and servants on their own respective beaches.

No person shall operate or park an automobile or any other vehicle upon any portion of the land owned by the Town except by permits issued by order of the Board of Selectmen and only upon such ways, places or lots as may be set aside and designated for such purposes.

RULE 2.
Permits, tickets or tags for the use of parking facilities or the use of the lake shore owned by the Town, or any portion of the premises owned or controlled by the Town, shall be issued to applicants who are inhabitants of Pembroke by the Board of Selectmen. Such permits shall be valid for the summer of that year. Not more than one (1) permit, ticket or tag shall be issued for each car, and shall not be transferred.

RULE 3.
No person shall throw, drop, place or deposit in the water or on any beach or premises owned or controlled by the Town any waste papers, glass, rubbish, refuse or garbage except in receptacles provided therefor.

RULE 4.
No person shall bathe or swim in any portion of the waters of the lakes and ponds from any Town beach unless clad in proper bathing attire and no person shall bathe or swim after 10:00 P.M.

RULE 5.
Fishing in the lakes and ponds of Pembroke is subject to the existing rules and regulations of the Commonwealth of Massachusetts pertaining to fishing, and rules and regulations of any body of water used for domestic water supply.

RULE 6.
Row boats, canoes and sailing boats will have the right of way at all times except when a motorboat is being overtaken by a sailing boat.

RULE 7.
No person shall picnic, or spread food upon the ground for the purpose of serving upon the beach owned by the Town or any portion thereof, except on grounds set aside for such purpose by the Board of Selectmen.

RULE 8.
No person shall dress or undress within the area covered by the land owned or controlled by the Town except in a building suitable for the purpose and approved by the Board of Selectmen.

RULE 9.
No person shall use the waters adjacent to any Town beach for washing of clothes, cars or animals or washing of their person with soap.

RULE 10.
No person shall drive any vehicles, except to launch a boat, drive or ride any animal, or bring any dog upon any part of the beach owned or controlled by the Town.

RULE 11.
No person shall, in or around the land owned or controlled by the Town, outcry or solicit any subscription or contribution or have possession or drink any intoxicating liquor, or play any game of chance or have possession of any instrument of gambling or do any obscene or indecent act.

RULE 12.
No person shall dig up, cut, break, remove, deface, defile, or ill use any building, structure, fence, sign, bush, plants, turf, rock, or any other thing located on the area owned or controlled by the Town.

RULE 13.
No person shall throw any stone or any other missile or have possession of or discharge any destructive weapon, firearm, firecracker, torpedo, or firework or make a fire or throw or place a lighted match, cigar, cigarette, or other burning substance, engage in business, sell, or expose for sale, or give away any goods, wares, or circulars, or set a trap or snare or injure or have possession of any wild animal or birds or injure or destroy any bird's nest or eggs or drop or place and suffer to remain any piece of paper or other refuse on any beach or land owned or controlled by the Town, except in receptacles designated therefor.

RULE 14.
No person shall have in their possession tubes, rafts, water wings, and other floating artificial support devices on any part of the beach owned or controlled by the Town.

RULE 15.
~~No aircraft shall land on or take off from the lakes and ponds except in case of emergency.~~ (Deleted by Art. 12 Oct. 19 2010 STM)

RULE 16.
Parking facilities for boat trailers will be provided within the beach area for those cars carrying resident stickers. Limited parking space for transients will be provided outside the beach area owned or controlled by the Town.

RULE 17.
No power boat is to come within two hundred (200) feet of the shore along any public or camp bathing beach or on any part of the beach or land owned or controlled by the Town except for the purpose of making an emergency landing or when the rules of the road deem it necessary for safety.

RULE 18.
No person shall run, drive or operate any boat, canoe or any type of water vehicle propelled by steam, naphtha, gasoline, electricity, or any motor or engine;

A. In a reckless, careless or negligent manner so that the lives or safety of others will be endangered, or

B. Within two hundred (200) feet of any bathing beach or diving raft, or

C. Within fifty (50) feet of any row boat, sail boat, or canoe, except when docking or where the width of the waterway prevents such distance, in which event speed shall be reduced to three (3) miles per hour, or

D. While under the influence of liquor.

RULE 19.
No motor boat or any boat or canoe equipped with an outboard motor or engine shall be operated in the lakes and ponds of Pembroke in which such privileges are permitted at a speed greater than reasonable and proper.

RULE 20.
Water skiing is permitted only subject to the following conditions:

A. Not within two hundred (200) feet of the shore nor within fifty (50) feet of any row boat, sail boat, canoe, wharf or dock with the exception of leaving or entering the shore area when speed shall be reduced so as not to endanger the safety of others except by special permission of the Board of Selectmen.

B. The Board of Selectmen may, from time to time, designate areas prohibiting water skiing therein, in which case suitable buoys and monuments shall be placed designating said areas. Such areas and buoys must be approved by the Division of Motor Boats.

C. No person shall operate any power boat to tow a skier unless such boat is equipped with a ladder, steps or similar means by which any person being towed can be taken from the water.

RULE 21.
No person shall refuse or neglect to obey any reasonable direction of any officer duly authorized to enforce these regulations and rules.

RULE 22.
Definitions: For purposes of this rule the terms below shall have the following meanings:

"Directional sight distance": linear distance of the operator's unobstructed vision in the direction of travel.

"Headway speed": the slowest speed at which a watercraft may be operated and maintain steerage way, but not to exceed ten (10) miles per hour.

No jet ski, surf jet, wetbike, or similar watercraft shall be operated at more than headway speed:

A. within one hundred fifty (150) feet of a marina, boat launching facility, dock, raft, wharf,
or float;

B. within three hundred (300) feet of a public or private bathing beach;

C. when the operator's vision is in any manner obscured such that directional sight distance is less than three hundred (300) feet.

No jet ski, surf jet, wetbike or similar water craft shall be operated on any body of water located in the Town of Pembroke at a speed exceeding thirty (30) miles per hour on in a manner which is unreasonable, improper or hazardous to public safety with due regard to visibility; traffic density; state of wind; water and current; proximity of other craft, operators and water users; and proximity of navigational hazards.

The above rules and regulations are to be enforced by an authorized Police Official of the Town of Pembroke, and the violation of any rule or regulation established under this act shall be punished by a fine of not more than twenty dollars ($20.00).

The above regulations do not apply to use of lakes by boats involved in rescue operations, by aircraft in emergencies, or by police in the course of their duties.

Rules 1-5, 7-16, 21 & 22 approved by Attorney General.. Rules 6, 17-20 & 21 approved by Division of Motor Boats.

RULE 23. "WATERFOWL"

A. No persons' except the Director of the Division of Fisheries and wildlife or his agent or designee, as authorized pursuant to MGL C. 131, shall, feed or bait any waterfowl of the family Anatidae, including but not restricted to ducks, geese, and swans, at any place within 200 feet of any public body of water within the Town of Pembroke.

B. As used in this paragraph, "feeding" and "baiting" shall mean placing, exposing, depositing, distributing or scattering, directly or indirectly,of shelled, shucked or unshucked corn, wheat or other grain, bread, salt or any other feed or nutritive substances in any manner or form so as to constitute for such birds a lure, attraction or enticement to, on or over any such area where such feed items have been place, exposed, deposited, distributed or scattered.

C. Nothing in this bylaw shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Marine Fisheries and Wildlife, by a farmer as defined in MGL C. 128, when such waterfowl or other birds are confined in such a manner as may be required pursuant to said §23 and any person or his agents, invitees or licensees of waterfowl lawfully kept as a pet by that person.

D. Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife or his agent or designee may authorize the emergency feeding of waterfowl and other birds when, in his opinion, such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The Director may authorize such action by such means as he deems necessary and expedient, but such means shall include the immediate notification of the Selectmen thereof by first-class mail.

E. This bylaw may be enforced by police officers, Natural Resource Officers, Shellfish Constables, Harbormasters, Assistant Harbormasters, Agents of the Board of Health, Environmental Police Officers and other enforcement officers of the Division of Law Enforcement, and by Deputy Environmental Police Officers.

F. Upon approval of this bylaw, the Selectmen shall cause one (1) copy thereof to be mailed to the Director of the Division of Fisheries and Wildlife and one (1) copy to the Director of the Division of Law Enforcement.

(ATM 04/25/02 and amended at continued session on 5/2/02)

RULE 24. No person or business will withdraw water from any water body, stream or river for the purpose for commercial or residential hydro-seeding. (Art. 22 of April '03 ATM)

ARTICLE XXV - Open Space Committee

SECTION 1.
The Conservation Commission shall, from time to time, at a frequency deemed necessary by the Conservation Commission, establish a sub-committee, said sub-committee to be known as the "Open Space Committee".

SECTION 2.
The purpose and objectives of the Open Space Committee shall be as follows:

A. To assist the Conservation Commission and the Town in developing an open space plan.

B. To assist in the presentation of said Open Space Plan for approval by the Town and by the Commonwealth.

C. To research, investigate, and evaluate sources of funding for the purpose of acquisition of open space parcels by the Town.

D. To make recommendations to the Conservation Commission and to the Town regarding parcels of land deemed appropriate for acquisition as open space by the Town.

SECTION 3.
The Conservation Commission may promulgate reasonable rules and regulations to effect the interests and purposes of this by-law and the Wetlands Protection Act.

ARTICLE XXVI - Hunting

SECTION 1.
Hunting of any type, possession of or discharge of any destructive weapon or firearm, or setting of traps or snares is to be prohibited in the Veteran's Memorial Town Forest located on School Street in the Town of Pembroke.

SECTION 2.
Hunting of any type, possession of or discharge of any destructive weapon or firearm, or setting of traps or snares is to be prohibited in the J.J. Shepherd Memorial Town Forest located on Mattakeeset Street in the Town of Pembroke.

ARTICLE XXVII - Water Use Restriction By-law

Section 1. Authority
This by-law is adopted by the Town under its police powers to protect public health and welfare and it's powers under Massachusetts General Law Chapter 40, Section 21 et seg.. and implements the Town's authority to regulate water use pursuant to Massachusetts General Law Chapter 40, Section 69B. This by-law also implements the Town' authority under Massachusetts General Law Chapter 40, Section 41A. conditioned upon a declaration of water supply emergency.

Section 2. Purpose
The purpose of this by-law is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

Section 3. Definitions
Person shall mean any individual, corporation trust, partnership or Association, or other entity.

State of Water Supply - Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under Massachusetts General Law Chapter 21G Section 15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 4 of this by-law.

Town shall mean the Town of Pembroke.

Water users or water consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

Section 4. Declaration of a State of Water Supply Conversation
The Town, through its Department of Public Works Commissioners, may declare a State of Water Supply conservation upon a determination by a majority vote of the Department of Public Works Commissioners that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given in accordance with Section 6 of this by-law before it may be enforced.

Section 5. Restricted Water Uses
A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6 of this by-law.

a) Odd/Even Day Outdoor Watering: outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.

b) Outdoor Watering Ban: Outdoor watering is prohibited.

c) Outdoor Water Hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply conservation and public notice thereof.

d) Filling Swimming Pools- -Filling of swimming pools is prohibited.

e) Automatic sprinkler Use: The use of automatic sprinkler systems is prohibited.

f) Lawn Irrigation Systems: The use of lawn irrigation systems is prohibited if such systems are tied into municipal water supply.

Section 6. Public Notification of a State of Water Supply Conservation
Notification of any provision, restriction, requirement or conditions imposed by the Town as part of a State of Water Supply conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under Section 5 of this by-law shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

Section 7. Termination of a State of Water Supply-Conservation: Notice
A State of Water Supply Conservation may be terminated by a majority vote of the Department of Public Works Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply conservation shall be given in the same manner required by Section 6 of this by-law.

Section 8. State of Water Supply Emergency; Compliance with Massachusetts Department of Environmental Protection Orders
Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the Department of Environmental Protection intended to bring about an end to the State of Emergency.

Section 9. Penalties
Any person violating this by-law shall be liable to the Town in the amount of fifty dollars ($50.00)for the first violation and one hundred dollars ($100.00) for each subsequent violation. Penalties shall be recovered by non-criminal disposition in accordance with Massachusetts General Law Chapter 40 Section 21D. Each day of violation shall constitute a separate offense. Any person violating this by-law more than five (5) times within a twelve (12) month period may be subject to shut off of the domestic or commercial municipal water service. Service may be reinstated upon full payment of fines, a twenty-five dollar ($25.00) turn on fee, and if applicable, Department of Public Works personnel overtime cost.

Section 10. Severability
The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof.

ARTICLE XXVIII - Penalties

SECTION 1.
Whoever violates any by-law of the Town whereby an act or thing is enjoined, required or prohibited, shall forfeit and pay for each offense a fine not exceeding fifty dollars ($50.00) unless some other penalty is expressly provided by law, or some by-law of the Town.

SECTION 2 - Non-criminal Disposition and Penalties
Any by-law of the Town of Pembroke or rule or regulation of its boards, commissions, and committees, the violation of which is subject to a specific penalty, may in the discretion of the town official who is the enforcing person, as herein defined, be enforced in the method provided in Massachusetts General Laws Chapter 40, Section 21D. "Enforcing Person," as used in this section shall mean any police officer of the Town of Pembroke with respect to any offense; and the Inspector of Buildings/Zoning Code Enforcement Officer, with respect to Section V of the Zoning By-Laws, otherwise known as the "Sign By-Law," and the Animal Control Officer and Assistant Animal Control Officer with respect to Article XX, Section 7, of the Town By-laws, otherwise known as the "Leash Law", and the Health Agent, with respect to Board of Health Regulations #96-10-07 & #96-9-16 concerning the sale and display of tobacco products, Public Health Nuisances M.G.L. Chapter 111, Sections 122 through 142L; Noisome Trades M.G.L. Chapter 111, Sections 143 through 158; Licensure of Trash Haulers M.G.L. Chapter 111, Section 31A; Minimum Standards for Habitation 105CMR410.00 through 105CMR401.960; Minimum Standards for Food Sales and Service 105CMR590.000’ and Septic Systems Failing to Protect Public Health 310CMR15.300 through 15.354.

Any such enforcing person taking cognizance of a violation of a specific by-law or regulation which (s)he is empowered to enforce, as an alternative to initiating criminal proceedings, may give to the offender a written notice in the form provided in Massachusetts General Laws Chapter 40, Section 21D to appear before the Clerk of Plymouth District Court at any time during office hours not later than twenty-one (21) days after the date of such notice.

Notwithstanding any other provisions of this by-law, when enforced pursuant to the non-criminal disposition procedures of Massachusetts General Laws Chapter 40, Section 21D, the following shall be the fines applicable to each offense:

Violation of Zoning By-Law Section V

First Offense:	Warning
Second Offense:	fifty dollars ($50.00)
All Subsequent Offenses:	one hundred dollars ($100.00)

Violation of Town By-law Article XX, Section 7

First Offense:	ten dollars ($10.00)
Second Offense:	twenty-five dollars ($25.00)
All Subsequent Offenses:	fifty dollars ($50.00)

Violation of Health Regulations Cited Above:

First Offense:	Written Warning
Second Offense:	$25.00
Third and each subsequent offense	$25.00

Each day on which the offense occurs shall constitute a separate offense. No one item may exceed $300 in fines and a standard court complaint will be filed at the point the ticketing abilities have expired. Assessed fines under this article are payable to the Town Clerk and are to be deposited in the general fund.
(amended Art. 15- ATM 4/27/04)

ARTICLE XXIX - Validity

If any article or section of any article of these by-laws is declared unconstitutional or illegal by any court, or is disapproved by any State authority having jurisdiction, the validity of the remaining provisions of these by-laws shall not be affected thereby.

ARTICLE XXX - Council on Aging

There is hereby established a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in coordination with programs of the Massachusetts Department of Elder Affairs. The Council on Aging shall submit an annual report to the Town and shall send a copy thereof to the said Department of Elder Affairs.

And further, that said Council on Aging shall consist of seven (7) members to be appointed by the Board of Selectmen. Of the initial seven (7) members, three (3) shall be appointed for three (3) years, two (2) for two (2) years and two (2) for one (1) year, and thereafter all appointments shall be for three (3) years.

And further, that the initial responsibilities of the Council for Aging shall be to work on a hot lunch program, busing service and a meeting house for the elderly residents of the Town.

And further, that the sum of one hundred dollars ($100.00) be raised and appropriated for the expenses of the council.

ARTICLE XXXI - Historic District By-Law

This by-law shall be known and may be cited as the Historic District By-Law which is adopted under the authority of Massachusetts General Laws Chapter 40C as amended.

SECTION 1. Purpose of by-law
The purpose of this by-law is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of building and places significant in the history of the Town of Pembroke or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith; and to endow the Pembroke Historical Commission with

all of the authority, duties, and responsibilities described in M.G.L. Chapter 40, Section 8D.
(AMENDED ART. 18 OF 4/27/04 ATM)

SECTION 2. Establishment of Historic District Commission
There is hereby established an Historic District Commission, herein called the Commission, that shall oversee operation of historic districts, under the provisions of Massachusetts General Laws Chapter 40C, consisting of seven (7) members and three (3) alternate members to be appointed by the Board of Selectmen. When the Historic District Commission is first established, two (2) members shall be appointed for a term of one (1) year, two (2) members shall be appointed for a term of two (2) years, and three (3) members shall be appointed for a term of three (3) years. When the Historic District Commission is first established, one (1) alternate member shall be appointed for a term of one (1) year, one (1) alternate member shall be appointed for a term of two (2) years and one (1) alternate member shall be appointed for a term of three (3) years. All successors shall be appointed for terms of three (3) years.

The membership of the Historic District Commission shall be made up as follows:

A. One (1) member, if possible, from two (2) nominees submitted by the Pembroke Historical Society, or, in the absence thereof, by the Society for the Preservation of New England Antiquities.

B. One (1) member, if possible, from two (2) nominees submitted by the Massachusetts State Chapter of the American Institute of Architects.

C. One (1) member, if possible, from the Plymouth County Board of Realtors.

D. One (1) member, if possible, from the business community, preferably from an historic district.

E. One (1) member, if possible, who is a resident of or an owner of property in an historic district.

F. One (1) member, if possible, from the Pembroke Historical Commission.

G. Remaining regular and all alternate members shall be without designation.

Vacancies shall be filled in the same manner as the original appointment for the unexpired term.

The Historic District Commission shall annually elect a chairperson and vice-chairperson from its own members and a secretary from within or without the Historic District Commission.

Alternates shall have all the powers and duties of regular members when called to serve by the chairperson or vice-chairperson of the Historic District Commission.

SECTION 3. Administration of historic districts
No building or structure within the historic district shall be constructed, demolished, moved or altered in any way that significantly affects exterior architectural features and no building shall be moved into an historic district unless the Historic District Commission shall first have issued a certificate of appropriateness, a certificate of hardship or a certificate of non-applicability with respect to such construction, alteration or movement. The Inspector of Buildings/Zoning Code Enforcement Officer shall not issue a permit within an historic district unless one of the certificates noted above has first been issued by the Historic District Commission or the proposed improvement is exempted from these.

SECTION 4. Factors to be considered by Historic District Commission
In passing upon matters before it the Historic District Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture and material of the features involved, and the relation of such features to similar features of

buildings and structures in the surrounding area. In the case of new construction of additions to existing buildings or structures the Historic District Commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity. and the Historic District Commission may in appropriate cases impose dimensional and set-back requirements in addition to those required by applicable ordinance or by-law. The Historic District Commission shall not consider interior arrangement or architectural features not subject to public view.

The Historic District Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.

SECTION 5. Exemptions from review
The authority of the Historic District Commission is not extended to the review of the following:

A. Temporary signs and structures, subject to regulations adopted by the Historic District Commission.

B. Terraces, walks, driveways, sidewalks and other similar structures provided that the structure is at grade level. (A change of grade level requires Historic District Commission review). The exception to this exemption is if the terrace, walk, driveway or sidewalk is of historic significance to the site in the judgment of the Historic District Commission.

C. Walls and fences unless they are of historic significance in the judgment of the Historic District Commission.

D. Storm doors and windows, screen doors and windows, window air conditioners, lighting fixtures, antennae and similar appurtenances.

E. Paint or stain of any color.

F. Signs used for residential, occupational, or professional purposes which are not more than one (1) foot square in area provided that:

   a. only one (1) such sign is displayed for each building or structure.

   b. the sign consists of letters painted on wood without a symbol or trademark.

   c. if illuminated, is illuminated only indirectly.

Furthermore, the authority of the Historic District Commission will be limited to the exterior architectural features within the district which are visible from one (1) or more designated public streets, public ways, public parks or public water bodies.

SECTION 6. Additional powers, functions and duties of Historic District Commission

A. The Historic District Commission shall have all the powers of an historic district commission as described in Chapter 40C of the Massachusetts General Laws. The Historic District Commission shall adopt rules and regulations for the conduct of its business, not inconsistent with Massachusetts General Laws Chapter 40C or with the purpose of this by-law. All words and phrases used in this by-law shall be defined and interpreted as specified in said Massachusetts General Laws Chapter 40C except as otherwise provided herein.

B. The Historic District Commission shall coordinate its activities with the Pembroke Historical Commission and oversee the preparation and implementation of historic preservation plans.

C. The Historic District Commission may receive and accept appropriations, grants and gifts for the furthering of the purposes of this by-law. It may establish an historic marker program, publish guides, maps and other appropriate publications to illustrate historical and architectural resources of the historic district and administer any properties or lesser interests which may be acquired.

D. The Historic District Commission shall propose changes in the Pembroke Historic District boundaries and additional historic districts as it deems appropriate. Massachusetts General Law Chapter 40C will guide the procedure for these activities.

E. The Historic District Commission shall act at all times with a clear understanding of the needs of the residents and businesses of historic districts to enjoy the progress of contemporary life in the use of their homes and properties and conduct of their businesses.

SECTION 7. Appeal procedure
An applicant aggrieved by a determination of the Historic District Commission, may, within twenty days after the filing of the notice of such determination with the Town Clerk, file a written request with the Historic District Commission for a review by a person or persons of competence and experience in such matters, designated by the Regional Planning Agency of which Pembroke is a member. The finding of the person or persons making such a review shall be filed with the Town Clerk within forty-five (45) days after the request and shall be binding on the applicant and the Historic District Commission unless further appeal is sought by the applicant in the Superior Court as provided in Section 12A of Chapter 40C.

SECTION 8. Severability
In case any section, paragraph, or part of this by-law be for any reason invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.
SECTION 9. Establishment of North Pembroke Historic District
There is hereby established an historic district to be known as the North Pembroke Historic District under the provisions of the Historic District Act, Massachusetts General Laws, Chapter 40C bounded and described as follows:

Beginning at the North River bridge on Washington Street and continuing in a southerly direction along both sides of Washington Street (Route 53) and extending in the southerly boundary line of the Job Turner House which is number 409 Washington Street and shown as Lot 17 on Assessors' Map E-12 and which is located just south of the intersection of Barker Street and Washington Street. Included in this district are all structures and properties within public view and up to three hundred (300) feet back from the center of the road.

The boundaries are hereby established as shown on the map entitled "North Pembroke Historic District" dated January 30, 1984 which accompanies and is hereby declared to be part of the by-law.

SECTION 10. Establishment of Pembroke Center Historical District
There is hereby established an historical district to be known as the Pembroke Center Historic District, said district having been established under the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. The Pembroke Center Historic District shall include all of the land, and buildings and structures situated thereon, within the following described areas:

A. Beginning at a point approximately four hundred twenty-five (425) feet easterly of the intersection of Oldham Street and Littles Avenue with Center Street, said point being located on the easterly lot line of the parcel of land upon which is situated the Pembroke Police Station and which is shown as Lot 17 on Assessors' Plan C-10, and thence westerly along Center Street, on the southerly side only, to the intersection with Oldham Street and Littles Avenue, and thence southerly along Center Street, on the easterly side only to a point approximately one thousand two hundred fifty (1,250) feet southerly of the intersection of Oldham Street and Littles Avenue with Center Street, said point being located on the southerly lot

line of the parcel of land upon which is situated the Pembroke Center Library and which is shown as Lot 46 on Assessors' Plan C-9, and including all of the land along and southerly and easterly of said portions of Center Street to a depth of five hundred (500) feet from the wayline. This so described area includes the land upon which is situated the Police Station, the Town Hall, the Town Pound, the First Parish Sewing Circle Building, the Historical Society Building, the Hatch School, the Community Center, the Harry M. Woods Memorial Bandstand, the G.A.R. Hall/Boys Club and the Center Library.

B. That parcel of land bounded by Center Street on the easterly side, Oldham Street on the northwesterly side and Curve Street on the southwesterly side, shown as Lots 4 and 5 on Assessors' Plan C-9, and upon which is situated the First Church and Town Green.

C. That parcel of land along Oldham Street and Curve Street upon which is situated the Center Cemetery and which is shown as Lots 7, 13A, 15B and 54 on Assessors' Plan C-9.

ARTICLE XXXI-A - Demolition Delay Bylaw

Title of Bylaw
The Preservation of Historically Significant Buildings

Intent and Purpose
This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town, which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historic District Commission is authorized to advise the Building Commissioner with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

Definitions
APPLICANT-Any person or entity that files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.
APPLICATION-An application for the demolition of a building.
BUILDING-Any combination of materials forming a shelter for persons, animals, or property.
BUILDING COMMISSIONER - The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.
COMMISSION – The Pembroke Historic District Commission or its designee.
DEMOLITION-Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.
DEMOLITION PERMIT - The building permit issued by the Building Commissioner for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.
PREFERABLY PRESERVED - Any significant building, which the Commission determines, following a public hearing that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the three-month demolition delay period of this bylaw.
SIGNIFICANT BUILDING – Any building within the town of Pembroke, which is in whole or in part, predates 1900 (1899 and older) and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or
- The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Procedure

No demolition permit for a building, which is in whole or in part predates 1900, shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building predates 1900 for the purposes of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Commissioner an application containing the following information:

- The address of the building to be demolished.
- The owner's name, address and telephone number.
- A description of the building.
- The reason for requesting a demolition permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photograph(s) of the building.

The Building Commissioner shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within fifteen days of receipt of the application, the Building Commissioner may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Commissioner. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of three months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty-

one days of the public hearing, the Building Commissioner may issue the demolition permit.

Upon a determination by the Commission that any building, which is the subject of an application, is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of three months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the three months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.

Following the three-month delay period, the Building Commissioner may issue the demolition permit.

Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.
The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw.
The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.
The Commission may pro-actively develop a list of significant buildings that will be subject to this bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

Emergency Demolition

If after an inspection, the Building Commissioner finds that a building subject to this bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Commissioner may issue an emergency demolition permit to the owner of the building or structure. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Commission.

Enforcement and Remedies

The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.
Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.
If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by

the Commission.

Historic District Act
Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

Severability
In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.
(Art.34 4/26/04 ATM and amended for placement by Art. 11 10/21/08 STM))

ARTICLE XXXII - Denial, Revocation or Suspension of Licenses and Permits for Failure to Pay Taxes

(a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this article shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license or permit shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of G.L. Chapter 268A in the business or activity conducted in or on said property.

(e) This bylaw shall not apply to the following licenses and permits: open burning; Section 13 of G.L. Chapter 48; bicycle permits; Section 11A of G.L. Chapter 85; sales of articles for charitable purposes, Section 33 of G.L. Chapter 101; children work permits, Section 69 of G.L. Chapter 149; clubs, associations dispensing food or beverage licenses, Section 21E of G.L. Chapter 140; dog licenses, Section 137 of G.L. Chapter 140; fishing, hunting, trapping license, Section 12 of G.L. Chapter 131; marriage licenses, Section 28 of G.L. Chapter 207 and theatrical events, public exhibition permits, Section 181 of G.L. Chapter 140.

ARTICLE XXXIII - Fees

The following proposed fees taken principally from General Laws, Chapter 262, Section 34, to be collected by the Town Clerk:

(1) For filing and indexing assignment for the benefit of creditors, $20.00

(11) For entering amendment of a record of the birth of an illegitimate child subsequently legitimatized, $20.00

(12) For correcting errors in a record of birth, $20.00

(13) For furnishing certificate of birth, $10.00

(13A For furnishing an abstract copy of record of birth, $5.00

(14) For entering delayed record of birth, $20.00

(20) For filing certificate of a person conducting business under any title other than his real name, $40.00

(21) For filing by a person conducting business under any title other than his real name of statement of change of his residence, or of his discontinuance, retirement or withdrawal from, or a change of location of such business, $20.00

(22) For furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business, $10.00

(23) For recording the name and address, the date and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth, $30.00

(29) For correcting errors in a record of death, $20.00

(30) For furnishing a certificate of death, $10.00

(30A) For furnishing an abstract copy of a record of death, $5.00

(42) For entering notice of intention of marriage and issue certificate thereof, $30.00

(43) For entering certificate of marriage filed by persons married out of the Commonwealth $10.00

(44) For issuing certificate of marriage, $10.00

(44A) For furnishing an abstract copy of a record of marriage, $5.00

(45) For correcting errors in a record of marriage, $20.00

(54) For recording power of attorney, $20.00

(57) For recording certificate of registration granted to a person to engage in the practice of optometry or issuing a certified copy thereof, $30.00

(58) For recording the name of the owner of a certificate or registration as a physician or osteopath in the Commonwealth, $30.00

(62) For recording order granting locations of poles, piers, abutments or conduits, alterations or transfers thereof, and increase in number of wires and cable or attachments under the provisions of Section 22 of Chapter 166 - 3.50 additional for each street or way included in such order, $40.00

(66) For examining records or papers relating to birth, marriage or deaths upon the application of any person, the actual expense thereof, but not less than $10.00

(67) For copying any manuscript or record pertaining to a birth, marriage or death, $10.00/page

(69) For receiving and filing of a complete inventory of all items to be included in a "closing out sale" etc., $10.00/page
each additional page $2.00

(75) For filing a copy of written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereof as provided by Section 2, Chapter 182, $25.00

(78) For recording deed of lot or plot in a public burial place or cemetery, $10.00

(79) Recording any other documents per 1st page $10.00
each additional page 2.00
Voter's card $10.00

Article XXXIV - Community Preservation Act Committee

SECTION 1: Establishment

There is hereby established a Community Preservation Act committee, consisting of nine (9) voting members pursuant to the provisions of G.L., c44B, 5. The composition of the committee, the appointing authority and the term of office for the committee members shall be as follows:

(1) One member of the Conservation Commission as designated by the commission;
(2) One member of the Historical Commission as designated by the commission;

(3) One member of the Planning Board as designated by the Board;
(4) One member of the Housing Authority as designated by the Authority;
(5) One member of the DPW as designated by the Commission;
(6) One member of the Open Space Committee as designated by the Committee;
(7) One member of the Recreation Commission as designated by the Commission;
(8) Two members to be appointed by the Board of Selectmen.

Initially, each member designated by the Conservation Commission, Historical Commission, Open Space Committee and Planning Board will serve a three year term, the members designated by the Housing Authority, DPW and Recreation Commission will serve a two year term, and the members designated by appointment by the Board of Selectmen will serve a one year term, or, in the case of a board or committee member, until the member no longer serves in the position or on the board or committee as set forth above, whichever is earlier. Thereafter, each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier.

Should any of the officers, boards, authorities or committees who have appointing authority under this bylaw be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place. Any member of the Committee may be removed for cause by their respective appointing authority after hearing.

SECTION 2: Duties

(1) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, the Planning Board, the Department of Public Works, the Housing Authority, the Open Space Committee, and the Recreation Commission in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

(2) The Community Preservation Committee shall make recommendations to the Town Meeting: for the acquisition, creation and preservation of open space; for the acquisition, creation, preservation, restoration and rehabilitation of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in the Community Preservation Act.. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3) The Community Preservation Committee may include in its recommendation to the Town Meeting, a recommendation to set aside for later spending, funds for specified purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(4) In every fiscal year, the Community Preservation Committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenue in the community Preservation Fund for each of the following purposes:

a. Open space not including land for recreational use)
b. Historic resources
c. Community housing

SECTION 3: Requirement for a quorum and cost estimates
The Community Preservation Committee shall comply with the provisions of the Open Meeting Law, G.L. c.39, 23B. The committee shall not meet or conduct business without the presence of a majority of the members of the Community Preservation Committee. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the committee's anticipated costs.

SECTION 4: Amendments
This bylaw may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of G.L. c.44B.

SECTION 5: Severability
In case any section, paragraph or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue on full force and effect.

SECTION 6: Effective Date
This bylaw shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c.40, 32 have been met.
(Art.16 4/24/07 ATM)

ARTICLE XXXV - STORMWATER MANAGEMENT BY-LAW

SECTION 1. PURPOSE AND AUTHORIZATION

A. Purpose. The purpose of this By-Law is to regulate illicit connections and discharges to storm drain systems, which is necessary for the protection of the Town of Pembroke's water bodies and groundwater, and to safeguard the public health, safety, welfare, and the environment. The purpose of this By-Law is to address the following cases where stormwater may be discharged to the municipal storm drain system:

a. Illicit Discharge and Detection
b. Construction Site Runoff
c. Post-Construction Site Runoff

The goals of this By-Law, with respect to these three cases, are discussed in more detail herein.

Nothing in this By-Law is intended to replace the requirements of other By-Laws and regulations of the Town of Pembroke, or of any State or Federal requirement, law, regulation, or policy, as may apply to an activity that is also subject to this By-Law.

B. Authority. The Stormwater Management By-Law is adopted under the authority granted by G.L. c.83, the Home Rule Amendment of the Massachusetts Constitution, the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

SECTION 2. APPLICATION AND ADMINISTRATION

This By-Law shall apply to flows entering the stormwater and drainage system on public or private ways within the Town of Pembroke. The Pembroke Board of Commissioners of the Department of Public Works established by Chapter 284 of the Acts of 1991 (the "Commission") shall administer, implement and enforce this By-Law. Any powers granted or duties imposed upon the Commission may be delegated in writing by the Commission to employees or agents of the Department of Public Works.

Waiver
A. The Commission may waive strict compliance with any requirements of this By-Law or the rules and regulations promulgated hereunder, where such action is:

Allowed by Federal, State and local statutes and/or regulations;
In the public interest;
Not consistent with the purpose and intent of this By-Law.

B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the By-Law does not further the purposes of this By-Law.

C. All waiver requests shall be discussed and voted on at or following a public hearing for the project.

D. If, in the opinion of the Commission, additional time or information is required for review of a waiver request, the Commission may continue a hearing to a specific date announced at the meeting. In the event the applicant objects to a continuance, or fails to provide the requested information, the waiver request shall be denied.

SECTION 3. DEFINITIONS

As used in this By-Law, the following words and phrases shall have the following meanings:

APPLICANT - Applicant shall refer to a property owner or agent of a property owner who has filed a Stormwater Management Plan or Land Disturbance permit.

AGRICULTURE - The normal maintenance or improvement of land in agricultural or aquacultural use as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.

AUTHORIZED ENFORCEMENT AGENCY - The Commission, its employees or agents designated to enforce this By-Law.

BEST MANAGEMENT PRACTICE (BMP) - An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.

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

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

CLEAN WATER ACT - The Federal Water Pollution Control Act (33 U.S.C. §1251 *et seq.*) and as it is amended from time to time.

CLEARING - Any activity that removes the vegetative surface cover.

DETENTION - The temporary storage of storm runoff in a stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DETENTION FACILITY - A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

DISCHARGE OF POLLUTANTS - The addition, from any source, of any pollutant or combination of pollutants into municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts.

DISCHARGE PERMIT - A permit issued by the United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

EROSION CONTROL - A measure that prevents erosion.

EROSION AND SEDIMENT CONTROL PLAN - A set of plans prepared by, or under the direction of, a licensed Massachusetts Professional Engineer, certified professional in erosion and sediment control, or other appropriately licensed and experienced professional, indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

GRADING - The excavation or filling of material, including the resulting conditions thereof.

GROUNDWATER - Water beneath the surface of the ground.

ILLICIT CONNECTION - Any surface or subsurface drain or conveyance, which allows an illicit discharge into municipal storm drain systems, including without limitation sewage, process wastewater or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this By-Law.
ILLICIT DISCHARGE - Any direct or indirect discharge to municipal storm drain systems that is not composed entirely of stormwater, except as exempted herein. The term does not include a discharge in compliance with an NPDES Storm Water Discharge permit or Surface Water Discharge permit, or resulting from fire fighting activities.
IMPERVIOUS SURFACE - Any material or structure on or above the ground that prevents water from infiltrating the underlying soil. Impervious surfaces include without limitation roads, paved parking lots, sidewalks, and rooftops.
INDUSTRIAL STORMWATER PERMIT - A National Pollutant Discharge Elimination System (NPDES) permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial Stormwater discharges or specifies on-site pollution control strategies.
INFILTRATION - The process of percolating stormwater into the subsoil.
LAND DISTURBANCE ACTIVITY - Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.
MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OR MUNICIPAL STORM DRAIN SYSTEM - The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Pembroke.
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT - A permit issued by the United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts, that authorizes the discharge of pollutants to waters of the United States or Commonwealth.
NONPOINT SOURCE POLLUTION - Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.
NON-STORMWATER DISCHARGE - Discharge to municipal storm drain systems not comprised entirely of stormwater.
OPERATION AND MAINTENANCE PLAN - A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a Stormwater management system to insure that it continues to function as designed.
OWNER - A person with a legal or equitable interest in a property.
PERSON - An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted By-Law, and any officer, employee, or agent of such person.
PHASING - Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.
POLLUTANT - Any element or property of sewage, residential, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent, or other matter - whether originating at a point or non-point source - that is

or may be introduced into any storm drain system or waters of the United States and/or the Commonwealth. Pollutants shall include without limitation:

a. Paints, varnishes, and solvents;
b. Oil, grease, antifreeze, other automotive fluids and/or products;
c. Non-hazardous liquid and solid wastes and yard wastes;
d. Refuse, garbage, litter, rubbish, or other discarded or abandoned objects, ordnances, accumulations and floatables;
e. Pesticides, herbicides, and fertilizers;
f. Hazardous materials and wastes;
g. Sewage, fecal coliform, and pathogens;
h. Dissolved and particulate metals;
i. Metal objects or materials;
j. Animal wastes;
k. Rock, sand, salt, soils, or other products/materials that are mobilized by surface water runoff;
l. Construction wastes and/or residue;
m. Noxious or offensive matter of any kind.

PROCESS WASTEWATER - Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
RECHARGE - The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
REDEVELOPMENT - Any construction, alteration, or improvement exceeding one acre in area where existing land use is high density commercial, industrial, institutional or multi-family residential.
SEDIMENT CONTROL - Measures that prevent eroded sediment from leaving the site or entering off-site drainage structures.
SITE - A parcel of land or a contiguous combination of more than one parcel of land, where grading work is performed as a single unified operation.
STABILIZATION - The use of practices that prevent exposed soil from eroding.
START OF CONSTRUCTION - The first land-disturbing activity associated with a development, including but not limited to land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.
STORMWATER - Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.
STORM DRAIN SYSTEM - The municipal system that collects stormwater, on either public or private ways, within the Town of Pembroke.
STORMWATER MANAGEMENT - The use of structural or non-structural practices that are designed to reduce Stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates, and detrimental changes in stream temperature that affect water quality and habitat.
SURFACE WATER DISCHARGE PERMIT - A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
WATERCOURSE - A natural or man-made channel through which water flows or a stream of water, including, but not limited to, lakes, ponds, rivers, streams, and underground streams.
WATERS OF THE COMMONWEALTH - All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WATERWAY - A channel that directs surface runoff to a watercourse or to the municipal storm drain system.
WASTEWATER - Any sanitary waste, sludge, septic tank or cesspool overflow, or water that during manufacturing, cleaning, or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

SECTION 4. REGULATIONS
The Commission pursuant to G.L. c.83, §10 may promulgate rules and regulations to effectuate the purpose of this By-Law. Failure by the Commission to promulgate such rules and regulations shall not have the effect of suspending or invalidating this By-Law.

SECTION 5. ILLICIT DISCHARGE AND DETECTION
A. Objectives - The objectives of this Section of this By-Law are:
   a. To prevent pollutants from entering municipal storm drain systems;
   b. To prohibit illicit connections and unauthorized discharges to municipal storm drain systems;
   c. To require the removal of all such illicit connections;
   d. To comply with state and federal statues and regulations relating to stormwater discharges;
   e. To establish the legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring, and enforcement.

B. Prohibited Activities
   a. Illicit Discharges - No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the United States and/or the Commonwealth.
   b. Illicit Connections - No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
   c. Obstruction of Storm Drain System - No person shall obstruct or interfere with the normal flow of stormwater into or out of municipal storm drain system without prior approval from the Commission.

C. Exemptions
   a. Discharge or flow resulting from fire fighting activities.
   b. Discharge or flow resulting from DPW ice and snow control operations.
   c. The following non-stormwater discharges or flows are considered exempt provided that the source is not a significant contributor of pollution to the municipal storm drain system:
   (1) Municipal waterline flushing;
   (2) Flows from potable water sources;
   (3) Springs;
   (4) Natural flows from riparian habitats and wetlands;
   (5) Diverted stream flows;
   (6) Rising groundwater;
   (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
   (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
   (9) Discharge from landscape irrigation or lawn watering;

(10) Water from individual residential car washing and temporary fund-raising car wash events;
(11) Discharge from dechlorinated swimming pool water, provided the water is 1) allowed to stand for one week prior to draining, or 2) is tested for chlorine levels with a pool test kit prior to draining - such that chlorine levels are less than one part per million (ppm) chlorine; and provided that the pool is drained in such a way as not to cause a nuisance;
(12) Discharge from street sweeping;
(13) Dye testing, provided verbal notification is given to the Commission prior to the time of the test;
(14) Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
(15) Discharge for which advanced written approval is received from the Commission as necessary to protect public health, safety, welfare, and the environment.

D. Sump Pumps

All sump pumps tied into the MS4 shall be registered with the Pembroke Commission. If, for reasons of protecting public health or the environment, the Commission deems it necessary, disconnection of sump pump(s) or pretreatment of discharge may be required.

E. Suspension of Storm Drain System Access

The Commission may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public, health, safety, welfare, or the environment.

Any person discharging to municipal storm drain systems in violation of this By-Law may have their municipal storm drain system access terminated if such termination would abate or reduce an illicit discharge. The Commission will notify a violator of the proposed termination of municipal storm drain system access. The violator may petition the Commission for reconsideration and hearing. A person commits an offense if the person reinstates municipal storm drain system access to premises terminated pursuant to this section, without prior approval from the Commission.

F. Notification of Spills

Notwithstanding other requirements of local, state, or federal law, as soon as a person responsible for a facility or operation, or responsible for an emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in, or which may result in, discharge of pollutants to the municipal drainage system waters of the United States and/or the Commonwealth, the responsible person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments. In the event of a release of a non-hazardous material, the reporting person shall notify the Authorized Enforcement Agency no later than the next business day. The reporting person shall provide the Authorized Enforcement

Agency written confirmation of all telephone, facsimile, or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge, and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 6. CONSTRUCTION SITE RUNOFF

A. Objectives - The objectives of this Section of this By-Law are to:

a. Protect water resources;
b. Require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;
c. Promote infiltration and the recharge of groundwater;
d. Ensure that soil erosion and sedimentation measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
e. Require practices to control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
f. Comply with State and Federal statues and regulations related to stormwater discharges;
g. Establish the Town of Pembroke's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring, and enforcement.

B. Applicability - This By-Law shall apply to all activities that result in the disturbance of one or more acres of land that drains to the MS4. Except as authorized by the Commission in a Land Disturbance Permit or as otherwise provided for in this By-Law, no person shall perform any activity that results in the disturbance of an acre or more of land.

Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulation 310 CMR 10.4, are exempt. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the above activities that are subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy, as reflected in an Order of Conditions issued by the Conservation Commission, are exempt from compliance with this By-Law.

No person shall excavate, cut, grade or perform any land-disturbing activities of significance, without an approved Erosion and Sediment Control Plan. Activities of significance are those which meet or exceed the following thresholds:

a. Any change of existing grade of more than 2500 sq. ft. or 25% of the lot, whichever is smaller;
b. Removal of existing vegetation of more than 2500 sq. ft. or 25% of the lot, whichever is smaller;
c. Storage of more than 100 cubic yards of excavate or fill.

Activities which are exempt from the requirement of an approved Erosion and Sediment Control Plan are as follows:

a. Emergency activities for the protection of life, property, or natural resources;
b. Existing permitted nursery and agricultural operations.

C. Permits and Procedures

Application - A completed application for a Land Disturbance permit shall be filed with the Commission. A permit must be obtained prior to the commencement of land disturbing activity that may result in the disturbance of an area of one acre or more. The Land Disturbance permit application package shall include:

a. A completed application form with original signatures of all owners;
b. A list of abutters, certified by the Assessor's office;
c. Three (3) copies of the Erosion and Sedimentation Control Plan as specified in Section 6.D.;
d. Payment of the application and review fees;
e. One copy each of the Application Form and the list of abutters, filed with the Town Clerk.

Entry - Filing an application for a permit grants the Commission or its agent permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

Other Boards - The Commission shall notify the Town Clerk of receipt of the application, and shall give one (1) copy of the application package to the Planning Board, the Zoning Board of Appeals, and the Conservation Commission.

Public Hearing - The Commission shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the time of the close of the hearing, unless such time is extended by agreement between the applicant and the Commission. Notice of the public hearing shall be given by publication and posting and by first-class mailings to abutters at least seven (7) days prior to the hearing. The Commission shall make the application available for inspection by the public during business hours at the Department of Public Works.

Information Requests - The applicant shall furnish all additional information requested by the Commission to issue a decision on the application.

Action - The Commission may:

a. Approve the Land Disturbance permit application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this By-Law;
b. Approve the Land Disturbance permit application and issue a permit with conditions, modifications, or restrictions that the Commission determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this By-Law;
c. Disapprove the Land Disturbance permit application and deny the permit if it finds that the proposed plan will not protect water resources and meets the objectives and requirements of this By-Law.

Failure of the Commission to take final action - Failure of the Commission to take final action upon an application within the time specified above shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without Commission action, the Land Disturbance permit shall be issued by the Commission.

Fee Structure - Each application must be accompanied by the appropriate application fee as established by the Commission. Applicants shall pay review fees as determined by the Commission sufficient to cover any

expenses connected with the public hearing and review of the Land Disturbance permit application before the review process commences. The Commission is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Commission on any aspect of the application.

Project Changes - The permitee, or their agent, must notify the Commission in writing of any change or alteration of a land disturbing activity authorized in a Land Disturbance Permit before any change or alteration occurs. If the Commission determines that the change or alteration is significant, based upon the design requirements listed in Section 6.D and accepted construction practices, the Commission may require that an amended Land Disturbance Permit application be filed and a public hearing held. If any change or alteration from the Land Disturbance Permit occurs during any land disturbing activities, the Commission may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

D. Erosion and Sediment Control Plan

The Erosion and Sediment Control Plan shall contain sufficient information to describe the nature and purpose of the proposed development, pertinent conditions of the site and adjacent areas, and proposed erosion and sedimentation controls. The applicant shall submit such materials as is necessary to show that the proposed development will comply with the design requirements listed below.

Design Requirements - The design requirements of the Erosion and Sediment Control Plan are to:

a. Minimize the total area of disturbance;
b. Sequence the activities to minimize simultaneous areas of disturbance;
c. Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;
d. Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
e. Divert uncontaminated water around disturbed areas;
f. Maximize groundwater recharge;
g. Install and maintain all Erosion and Sediment Control Measures in accordance with the manufacturers specifications and good engineering practices;
h. Prevent off-site transport of sediments;
i. Protect and manage an off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered part of the project);
j. Comply with applicable federal, state, and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
k. Prevent significant alterations of habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program (NHESP) as Endangered, Threatened, or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species from the proposed activities;
l. Institute interim and permanent stabilization measures, which shall be instituted on disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site;
m. Properly manage on-site construction and waste materials;

n. Prevent off-site vehicle tracking of sediments.

Erosion and Sedimentation Control Plan Contents: The plan shall contain the following information:

a. Name, address and telephone number of owner, applicant, and person(s)/firm preparing the plan;
b. Title, date, north arrow, names of abutters, scale, legend, and locus map;
c. Location and description of natural features, including,
   (1) Water courses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a Massachusetts Professional Engineer for areas not assessed on these maps;
   (2) Existing vegetation, including tree line canopy layer, shrub layer, ground cover and trees with a caliper of twelve (12) inches or larger, noting specimen trees and forest communities;
   (3) Habitats mapped by the Massachusetts NHESP as Endangered, Threatened, or Of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species within 500 feet of the construction activity;
d. Lines of existing abutting streets showing drainage and driveway locations and curb cuts;
e. Existing soils, volume and nature of imported soil material;
f. Topographical features, including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided where needed;
g. Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of land area to be disturbed;
h. Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plan);
i. Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;
j. Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;
k. Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;
l. Stormwater runoff calculations in accordance with the Department of Environmental Protection's Stormwater Management Policy;
m. Location and description of, and implementation schedule for, temporary and permanent seeding, vegetative controls, and other stabilization measures;
n. A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce the pollutants from these materials, including storage practices to minimize exposure of the materials stormwater, and spill prevention and response;
o. A description of provisions for phasing of the project where one acre of area or greater is to be altered or disturbed;
p. Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sedimentation Control;

q. Such other information as required by the Commission.

Compliance with Commission Regulations

All applications for a Land Disturbance permit shall conform to the requirements of the Commission regulations, including, but not limited to:

a. *Submittal Guidelines for Subdivision Plans, Site Plans or Other Types of Project Plans,* including:
   (1) A hydrologic report, prepared by a registered Massachusetts Professional Engineer;
   (2) Analysis of the 2-inch storm for the 1, 10, 50, and 100 year storm events;
   (3) Volume and rate of runoff calculations;
   (4) Pre- and post development catchment overlays;
   (5) Recommended BMPs;
   (6) Determination of high groundwater based upon soil morphology or the Frimpter method;
   (7) Groundwater mounding analysis;
   (8) All other required hydrologic and design calculations and details.

b. *Stormwater Runoff Management Regulations,* including:
   (1) Reproduction of the preexisting hydrologic conditions;
   (2) Not cause any increase in the amount or rate of runoff;
   (3) Capture and treat the "First flush" (i.e., runoff from the first 2-inches of precipitation, or an alternate value as determined by the Commission);
   (4) Include source controls and design of BMPs.

c. Any other requirements of the Commission.

Compliance with Planning Board Regulations

All applications for a Land Disturbance permit shall conform to the requirements of the Planning Board regulations, including, but not limited to:

a. *Rules and Regulations Governing the Subdivision of Land* (Dated November 19, 2003 or later), hereinafter called "Planning Regulations", including:
   (1) Four copies of a Stormwater Drainage/Hydrologic report, prepared and stamped by a registered Massachusetts Professional Engineer, in accordance with Section 3.321 of the Planning Regulations;
   (2) Stormwater Management in accordance with the requirements of Section 4 of the Planning Regulations;
   (3) Storm drainage design in accordance with Section 5 of the Planning Regulations;
   (4) Storm drainage installation in accordance with Section 6 of the Planning Regulations.

b. Any other requirements of the Planning Board.

E. Inspection and Site Supervision

Pre-construction meeting - Prior to starting clearing, excavation, construction or land disturbance activity, the applicant, the applicant's technical representative, the general contractor, or any other person with authority to make changes to the project, shall meet with the Commission to review the permitted plans and their implementation.

Board Inspection - The Commission, or its designated agent, shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the owner or person responsible for the implementation of the plan wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of

the Commission shall be maintained at the site during the progress of the work. To obtain inspections, the permitee shall notify the Commission at least two (2) working days before each of the following events:

a. Erosion and sediment control measures are in place and stabilized;
b. Site clearing has been substantially completed;
c. Rough grading has been substantially completed;
d. Final grading has been substantially completed;
e. Close of the construction season;
f. Final landscaping (project stabilization) and project final completion.

Permitee Inspections - The permitee or his/her agent shall conduct and document inspections of all control measures, no less than weekly, or as specified in the permit, and prior to and directly following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted monthly to the Commission or designated agent in a format approved by the Commission.

Access Permission - To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Commission, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, survey, or sampling as the Commission deems reasonably necessary to determine compliance with the permit.

F. Surety - The Commission may require the permitee to post a surety bond, irrevocable letter of credit, cash, or other acceptable security before the start of land disturbance activity. The form of the bond shall be approved by town counsel and be in an amount deemed sufficient by the Commission to ensure that work will be completed in accordance with the permit. If the project is phased, the Commission may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Commission has received the Final Report, as required by Section 6.G and a certificate of completion has been issued.

G. Final Report - Upon completion of the work, the permitee shall submit a report (including certified as-built construction plans) from a Massachusetts Professional Engineer, Professional Surveyor, or Certified Professional in Erosion and Sedimentation Control, certifying that all erosion and sedimentation control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

SECTION 7. POST-CONSTRUCTION SITE RUNOFF

A. Objectives - The objectives of this section of this By-Law are to:

a. Require practices to control the flow of stormwater from new and redeveloped sites into the Town of Pembroke municipal storm drain system in order to prevent flooding and erosion;
b. Protect groundwater and surface water from degradation;
c. Promote groundwater recharge;
d. Prevent pollutants from entering the Town of Pembroke's MS4 and to minimize the discharge of pollutants to the MS4;
e. Ensure adequate long term operation and maintenance of structural stormwater Best Management Practices (BMPs), so that they work as designed;

f. Comply with State and Federal statues and regulations relating to stormwater discharges;
g. Establish the Town of Pembroke's legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring, and enforcement.

B. Applicability

No person may undertake a construction activity including clearing, grading and excavation that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land draining to the Town of Pembroke MS4 without a permit from the Commission. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site.

Exemptions

a. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act, regulation 310 CMR 10.04;
b. Maintenance of existing landscaping, gardens, or lawn areas associated with a single family dwelling;
c. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
d. Construction of utilities other than drainage which will not alter the drainage patterns;
e. As authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the activities identified in Section 7.B. (Applicability) that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy, as reflected in an Order of Conditions issued by the Conservation Commission.

C. Permits and Procedure

Filing Application - The site owner or his agent shall file with the Commission three (3) copies of a completed application package for a Stormwater Management permit (SMP). Permit issuance is required prior to any site altering activity. While the applicant can be a representative, the permitee must be the site owner. The SMP application packet shall include:

a. Completed application form with original signatures of all owners;
b. A list of abutters, certified by the assessor's office;
c. Three (3) copies of the Stormwater Management Plan (SWMP) and project description;
d. Three (3) copies of the Operations and Maintenance (O&M) Plan;
e. One (1) copy of the application form, the SWMP, the O&M Plan, and the list of abutters filed with the Town Clerk;
f. Payment of the application and review fees.

Entry - Filing an application for a permit grants the Commission or its agent permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

Other Boards - The Commission shall notify the Town Clerk of receipt of the application, and shall give one (1) copy of the application package to the Planning Board, the Zoning Board of Appeals, and the Conservation Commission.

Public Hearing - The Commission shall hold a public hearing within twenty-one (21) days of the receipt of a complete application and shall take final action within twenty-one (21) days from the time of the close of the hearing, unless such time is extended by agreement between the applicant and the Commission. Notice of the public hearing shall be given by publication and posting and by first-class mailings to abutters at least seven (7) days prior to the hearing. The Commission shall make the application available for inspection by the public during business hours at the Pembroke Commission.

Fee Structure - Each application must be accompanied by the appropriate application fee as established by the Commission. Applicants shall pay review fees as determined by the Commission sufficient to cover any expenses connected with the public hearing and review of the SWP Application before the review process commences. The Commission is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Commission on any aspect of the application.

Action - The Commission may:

d. Approve the SWP Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this By-Law;
e. Approve the SWP Application and issue a permit with conditions, modifications, or restrictions that the Commission determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this By-Law;
f. Disapprove the SWP Application and deny the permit if it finds that the proposed plan will not protect water resources and meets the objectives and requirements of this By-Law;

Failure of the Commission to take final action - Failure of the Commission to take final action upon an application within the time specified above shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without Commission action, the SWP shall be issued by the Commission.

Plan Changes - The permitee, or their agent, must notify the Commission in writing of any change or alteration in the systems authorized by the SWP before any change or alteration occurs. If the Commission determines that the change or alteration is significant, based upon the stormwater management standards listed in Section 7.D and accepted construction practices, the Commission may require that an amended application be filed and a public hearing held.

Project Completion - At completion of the project, the permitee shall submit as-built record drawings of all structural stormwater controls and treatment BMPs required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

D. Stormwater Management Plan (SWMP)

Application of a SWP shall consist of the submittal of a SWMP to the Commission.

The SWMP shall contain sufficient information for the Commission to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from

stormwater. The SWMP shall be designed to meet the Massachusetts Stormwater Management Standards as set forth in Section 7.D and the DEP Stormwater Management Handbook, Volumes I and II.

The SWMP shall fully describe the project in drawings and narrative. It shall include:

a. Locus map;
b. Existing zoning and land use at the site;
c. Proposed land use;
d. Location of all proposed easements;
e. Location of existing and proposed utilities;
f. Topographic survey showing existing and proposed contours at two foot intervals;
g. Existing site hydrology;
h. Description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site into which the stormwater flows;
i. A delineation of 100-year flood plains, if applicable;
j. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
k. The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
l. A drainage area map showing pre- and post construction watershed boundaries, drainage area, and stormwater flow paths;
m. A description and drawings of all components of the proposed drainage system including;
   (1) Existing and proposed locations, cross sections, and profiles of all brooks, streams, drainage swells and the method of stabilization;
   (2) All measures for the detention, retention, or infiltration of stormwater;
   (3) All measures for the protection of water quality;
   (4) The structural details for all components of the proposed drainage systems and stormwater management facilities;
   (5) Notes on drawings specifying materials to be used, construction specifications, and typicals;
   (6) Expected hydrology with supporting calculations.
n. Structural details for proposed improvements including location of buildings or other structures, impervious surfaces and storm drainage facilities, if applicable;
o. Timing schedules and sequences of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;
p. A maintenance schedule for construction;
q. Any other information requested by the Commission.

Standards - Projects shall meet the standards of the Massachusetts Stormwater Policy, including:

a. No new stormwater conveyances (e.g., outfalls) may discharge untreated stormwater directly to, or cause erosion in, wetlands or water of the Commonwealth;
b. Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates;
c. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate

the annual recharge rate from the pre-development or existing site conditions, based on soil types;

d. For new development, stormwater management systems must remove 80% of the average annual load (post development condition) of total suspended solids (TSS). It is presumed this standard is met when:
   (1) Suitable nonstructural practices for source control and pollution prevention are implemented;
   (2) Stormwater BMPs are sized to capture the prescribed runoff volume;
   (3) Stormwater BMPs are maintained as designed.
e. Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs (see Stormwater Management, Volume I: Stormwater Policy Handbook). The use of infiltration practices without pretreatment is prohibited.
f. Redevelopment of previously developed sites must meet the Stormwater Management Standards to the extent practicable. However, if it is not practicable to meet all the Standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions;
g. Erosion and sedimentation controls must be implemented to prevent impacts during disturbance and construction activities;
h. All stormwater management systems must have an operations and maintenance plan to ensure that systems function as designed;

When one or more of the standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

E. Operations and Maintenance (O&M) Plans

An O&M plan is required at the time of application for all projects. The O&M plan shall be designed to ensure compliance with the permit, this By-Law, and the Massachusetts Water Quality Standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The Commission shall make the final decision of what maintenance option is appropriate in a given situation. The Commission will consider natural features, proximity of the site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and the potential need for ongoing maintenance activities when making this decision. The O&M plan shall remain on file with the Commission and shall be an ongoing requirement.

The O&M Plan shall include:

a. The name(s) of the Owner(s) for all components of the system;
b. Maintenance agreements that specify:
   (1) The names and addresses of the person(s) responsible for operations and maintenance;
   (2) A maintenance schedule for all drainage structures;
   (3) A list of easements with the purpose and location of each;
   (4) The signature(s) of the owner(s);

Stormwater Management Easements

a. Copies of stormwater management easements granted or to be granted to the property owner(s) shall be provided to the Commission by the property owner(s) as necessary for:
   (1) Access for facility inspections and maintenance;
   (2) Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event;

(3) Direct maintenance access by heavy equipment to structures requiring regular cleanout.

b. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner;
c. Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Commission;
d. Easements shall be recorded with the Plymouth County Registry of Deeds prior to issuance of a certificate of completion by the Commission.

Changes to O&M Plans

a. The Owner(s) of the stormwater management system must notify the Commission of changes in ownership or assignment of financial responsibility;
b. The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this By-Law by mutual agreement of the Commission and the Responsible Parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include the owner(s), persons with financial responsibility, and persons with operational responsibility.

Inspections - Inspections shall be conducted by the Commission at the following stages:

a. Initial Site Inspection - prior to the approval of any plan;
b. Erosion Control Inspection - to ensure erosion control practices are in accordance with the filed plan;
c. Bury inspection - prior to backfilling of any underground drainage or stormwater conveyance structures;
d. Final inspection - after the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system installed. The Commission shall inspect the system to confirm its "As-Built" features. The inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall recommend that the Commission issues a certificate of completion.

If the system is found to be inadequate by virtue of physical evidence of operational failure, even if it was built as called for in the SWMP, it shall be corrected by the permitee before the performance guarantee is released. If the permitee fails to act, the Town of Pembroke may use the surety bond to complete the work. Examples of inadequacy shall be limited to: errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins.

Compliance with Commission regulations

All SWMP and O&M Plans shall conform to the requirements of the Commission regulations, including, but not limited to:

a. *Submittal Guidelines for Subdivision Plans, Site Plans or Other Types of Project Plans;*
b. *Stormwater Runoff Management Regulations;*
c. Any other requirements of the Commission.

Compliance with Planning Board Regulations
All SWMP and O&M Plans shall conform to the requirements of the Planning Board regulations, including, but not limited to:

a. *Rules and Regulations Governing the Subdivision of Land* (dated November 19, 2003 or later);
b. Any other requirements of the Planning Board.

Surety - The Commission may require the permitee to post a surety bond, irrevocable letter of credit, cash, or other acceptable security before the start of land disturbance activity. The form of the bond shall be approved by town counsel and be in an amount deemed sufficient by the Commission to ensure that work will be completed in accordance with the permit. If the project is phased, the Commission may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the certificate of completion has been issued as required by Section 9.

SECTION 8. ENFORCEMENT
A. Enforcement - The Commission or an authorized agent of the Public Works Director shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Civil Relief - If a person violates the provisions of this By-Law, regulations, permit, notice, or order issued there under, the Commission may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

C. Orders
The Commission or an authorized agent of the Commission may issue a written order to enforce the provisions of this By-Law or the regulations there under, which may include:

a. A requirement to cease and desist from land disturbing activity until there is compliance with the By-Law and the provisions of the Land Disturbance Permit;
b. Maintenance, installation, or performance of additional erosion and sediment control measures;
c. Performance of monitoring, analyses, and reporting;
d. Remediation of erosion and sedimentation resulting directly or indirectly from the land disturbing activity.

If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Pembroke may, at its option, and in the exercise of such rights of entry as the Town may hold by easement or license agreement or court order, undertake such work, and all costs incurred by the Town shall be charged to the violator or property owner, to be recouped through all available means, including the placement of such liens on the property as may be allowed by law.

Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town of Pembroke, including administrative costs. The violator or property owner may file a

written protest objecting to the amount or basis of costs with the Commission within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Commission affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner under G.L. c.83, §14, and shall constitute a lien on the owners' property for the amount of said costs. Interest shall begin to accrue on any unpaid costs that are apportioned t the statutory rate provided in G.L. c.80, §13 and otherwise at the statutory rate provided in G.L. Chapter 59, Section 57 after the thirty-first day at which the assessment first becomes due.

Criminal and Civil Penalties. Any person who violates any provision of this By-Law, regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed $300.00 for each day or part thereof such violation occurs or continues or subject to a civil penalty, which may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.

Non-Criminal Disposition. As an alternative to criminal prosecution, or civil action, the Town of Pembroke may elect to utilize the non-criminal disposition procedure set forth in G.L. Chapter 40, section 21D, in which case the Commission shall be the enforcing party. The penalty for the first violation shall be $100. The penalty for the second violation shall be $200. The penalty for the third and subsequent violations shall be $300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

Appeals. The decisions or orders of the Commission shall be final. Further relief shall be to a court of competent jurisdiction.

Remedies Not Exclusive. The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

SECTION 9. CERTIFICATE OF COMPLETION
The issuing authority will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law.

SECTION 10. SEVERABILITY
The provisions of this By-Law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this 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 11. TRANSITIONAL PROVISIONS
Residential property owners shall have 180 calendar days from the effective date of this By-Law to comply with Section 5 (Illicit Discharge and Detection) or petition the Commission for an extension.
(Art.14 11/6/07 STM and amended for placement by Art. 11 10/21/08 STM)

ARTICLE XXXVI - WETLANDS PROTECTION BY-LAW

Article 1 Purpose

The purpose of this By-law is to protect the wetlands and all resource areas in the Town of Pembroke, by controlling activities deemed to have a significant effect upon wetland values, including but not limited to the following:

(a) public water supply
(b) private water supply
(c) surface water, ground water and water quality
(d) flood control and management
(e) erosion control
(f) storm damage prevention
(g) prevention and abatement of pollution
(h) protection of fisheries (finfish and shellfish)
(i) protection of wildlife and its habitat
(j) protection of plant or animal species listed as special concern, threatened or endangered and protection of their natural habitat by Natural Heritage & Endangered Species Program
(k) wetland plant and animal communities

Article 2 Definitions

The following definitions shall apply in the interpretation and implementation of this By-law.

A. The term ***person*** shall include any individual, group of individuals, association, partnership, corporation, company, business organizations, trust, estate, the Commonwealth or political subdivision therefore to the extent subject to town By-laws, administrative agencies, public or quasi-public corporations of bodies, the Town of Pembroke, and any other legal entity, its legal representatives, agents or assigns.

B. The term ***alter*** shall include, without limitation, the following actions when undertaken in areas subject to the By-law.

a. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind.
b. Changing drainage characteristics, flushing characteristics, salinity distributions, sedimentation patterns, flow patterns, and flood retention characteristics.
c. Drainage or other disturbances of water level or water table.
d. Dumping, discharging or filling with any material, which may degrade water quality.
e. Driving of piles, erection of buildings or structures of any kind.
f. Placing of obstructions whether or not they interfere with the flow of water.
g. Destruction of plant life, including cutting or pruning of trees.
h. Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.
i. Placement of a Title V sub-surface disposal system for new construction within 100 feet of any area subject to protection under the By-law.

C. Term ***banks*** shall mean that part of land adjoining any body of water, which confines the water.

D. The term ***vernal pool*** shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, hold water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife.

E. The Commission may adopt additional definitions not inconsistent with the Article 2 in its regulation promulgated pursuant to Article 12 of this By-law.

Article 3 Application for Permit and Request for Determination

A. Application for Permit No person shall remove, fill, dredge, alter or build upon or within 200 feet of a riverfront area along most perennial streams or within 100 feet of any bank, fresh water wetland, coastal wetland, beach, dune flat, marsh, meadow, bog, swamp or upon or within 100 feet of any estuary, creek, river, stream, pond or lake, or within 100 feet of any land under said waters or upon or within 100 feet of any land subject to tidal action, coastal storm flowage, flooding or inundation, or within 100 feet of the 100-year storm line, other than in the course of maintaining, repairing or replacing but not substantially changing or enlarging, an existing and lawfully located structure of facility used in the service of the public and used to provide gas, electric, water, telephone, telegraph, and other telecommunication services, without filing a written application for a permit so to remove, fill, dredge, alter, or build upon, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued pursuant to this By-law.

B. Form of Application Such applications may be identical in form to a Notice of Intent filed pursuant to Massachusetts General Laws, Chapter 131, Section 40, shall be hand delivered or sent by mail to the Pembroke Conservation Commission (the Commission) and must be filed concurrently with or after applications for all other variances and approvals required by the Zoning By-law, the Subdivision Control Law or any other By-law or regulation have been obtained.

C. Request for Determination Upon written request of any person, the Commission shall, within twenty-one days of closing the public hearing, make a written determination as to whether this By-law is applicable to any land or work thereon. When the person requesting a determination is other than the owner, notice of determination shall be sent to the owner as well as the requesting person.

D. Filing Fee The Commission shall set a filing fee regulation, but no filing fee is required when the Town of Pembroke files an application for a permit.

E. Exceptions The provisions of this section shall not apply to work performed for normal maintenance or improvements of land in agricultural use.

Article 4 Notice and Hearing

The Commission shall open a public hearing on the application within twenty-one days of receipt. When filing an Abbreviated Notice of Intent, Notice of Intent or Abbreviated Notice of Resource Area Delineation, the Commission shall give notice of the time and place of the public hearing, at the expense of the applicant, not less than ten days prior to the hearing and by publication in a newspaper of general circulation in Pembroke. The applicant at his expense shall mail or hand deliver notice of the time and place of hearing to all certified abutters of the land, on which the proposed work is to be done, at least 10 days prior to the hearing. The applicant shall present to the Commission proof of delivery of such notification at the time of the public hearing. Upon submittal, the Commission, its agents, officers, and employees, may enter upon privately owned land for the purpose of performing their duties under this By-law. The Commission is authorized to establish a schedule of fees and costs as may be reasonably required to process applications. The hiring of an outside consultant may be necessary at the expense of the applicant.

Article 5 Permit and Conditions

A. If after closing the public hearing, the Commission determines that the area, which is subject of the application, is significant to the interest protected by this By-law, the Commission shall, within twenty-one days of such hearing being closed, issue or deny a permit for the work requested. If it issues a permit after making such determination, the Commission shall impose such conditions as it determines are necessary or desirable for protection of those interested, and all work shall be done in accordance with those conditions.

B. The Commission is empowered to deny a permit for failure to meet the requirements of this chapter, for failure to submit necessary information and plans requested by the Commission, for failure to meet the design specifications, performance standards, and other requirements or regulations of the Commission, for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetlands values protected by this chapter and where no conditions are adequate to protect those values.

C. Lands within 100 feet of the specified resource areas, and with 200 feet of rivers, streams, and creeks, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse effect upon them either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, but not be limited to, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the aforementioned 100 foot or 200 foot area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by this chapter. In the case of areas within 200 feet of rivers, streams and creeks, no permit issued hereunder shall permit any activities unless the applicant, in

addition to meeting the otherwise applicable requirements of the chapter, has proved by a preponderance of the evidence that there is no practicable alternative to the proposed project with less adverse effects, and should there be no practicable alternative, that such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this chapter.

D. Due consideration shall be give to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, over project purposes, logistics, existing technology, costs of the alternatives and overall project cost.

E. Permits shall expire three years from the date of issuance, unless renewed 30 days prior to expiration, and all work shall be completed prior to the expiration. It is the applicant's responsibility to request an Extension. No proposal which has been unfavorably acted upon by the Commission shall be reconsidered within two years after the date of such unfavorable action unless by a 4/5 vote of the Commission.

Article 6 Emergency Projects

This By-law shall not apply to any emergency project as defined in Massachusetts General Laws, Chapter 131, Section 40.

Article 7 Pre-Acquisition Violation

Any person who purchases, inherits or otherwise acquires real estates upon which work has been done in violation of the provisions of this By-law or in violation of any permit issued pursuant to this By-law, shall forthwith comply with any such order and restore such land to its condition prior to any such violation, provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three years following date of acquisition of real estate by such person.

Article 8 Security

The Commission may require as a permit condition that one or both of the following methods secure the performance and observance of other conditions:

a. By bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient and payable to the Town and separate from any other bonds.

b. By conservation restriction, easement or other covenant running with the land, executed and properly recorded or registered in the case of registered land.

Article 9 Burden of Proof

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this By-law. Failure to provide adequate evidence shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions or in the Commission's discretion to continue the hearing to another date to enable the applicant or others to present additional evidence.

Article 10 Relationship to Wetlands Protection Act

This By-law is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act
(M. G. L. Chapter 131 Section 40) and regulations (310 CMR 10.00) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

Article 11 Enforcement

Any person or persons who violates any provision of this By-law or of any condition or a permit issued pursuant to it shall be punished by a fine of not more than $300.00. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offence. Upon request of the Commission, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this By-law and permits issued pursuant to it.

Article 12 Rules and Regulations

After due notice and public hearing the Commission may promulgate rules and regulations of effectuate the purposes of this By-law. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this By-law.
(Art. 26 04/22/08 ATM)

ARTICLE XXXVII - STRETCH ENERGY CODE

(A) Adoption: The Town of Pembroke has adopted the provisions of 780 CMR 120.AA (i.e., Appendix 120.AA of the State Building Code or the "Stretch Energy Code"), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.

(B) Purpose: The purpose of the Stretch Energy code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.
(STM Oct. 19, 2010)

All of the foregoing by-laws have been approved by the Attorney General and published according to law.

A true copy:

_____

Attest: Mary Ann Smith, Town Clerk