



**OFFICE OF THE BOARD OF SELECTMEN
OFFICE OF THE TOWN MANAGER**

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Pembroke, MA 02359
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DATE: February 13, 2020

TO: Rebecca Colleta, Planning Board Chairman
Matthew Heins, Planning Board Assistant

FROM: Ed Thorne

RE: Annual Town Meeting Zoning Articles: Referred to Planning Board

At their meeting of Tuesday, February 11, 2020, the Pembroke Board of Selectmen voted to include the twelve (12) Zoning Bylaw change articles (attached) submitted by the Affordable Housing Committee or Planning Board for inclusion in the Annual Town Meeting Warrant.

As they are Zoning By-Law changes, these articles are being referred to the Planning Board for the purposes of conducting public hearings related thereto, and to produce a report of the Planning Board's recommendations on each article. Please note that the warrant will be submitted for publication at its signing on April 14, 2020 for the annual town meeting on May 12, 2020.

Enclosures: Articles 20 through 31 (inclusive)

cc: Affordable Housing Committee

ARTICLE 20 – AMEND ZONING BYLAWS, DEFINITIONS

To see if the Town will vote to amend the Pembroke Zoning Bylaws, Section II – Definitions, by inserting, in alphabetical order, the underlined text as follows, or take any action relative thereto:.

Residential Affordable Housing Development

A residential development of at least twenty-five (25) dwelling units, a percentage of which is designated as affordable housing units and restricted to low- or moderate-income households. A residential development may consist of a mixture of detached one-family houses, detached two-family houses, multiunit dwellings, townhouses, and/or condominium units.

Submitted by the Affordable Housing Committee

ARTICLE 21 – AMEND ZONING BYLAWS, INDUSTRIAL DISTRICT A

To see if the Town will vote to amend the Pembroke Zoning Bylaws, Section IV.5.B – Industrial District A – Uses Allowed by Special Permit, by inserting the underlined text as follow, or take any other action relative thereto:

6. Residential Affordable Housing Developments, pursuant to Section V.14.

Submitted by the Affordable Housing Committee

ARTICLE 22 – AMEND ZONING BYLAWS, INDUSTRIAL DISTRICT B

To see if the Town will vote to amend the Pembroke Zoning Bylaws, Section IV.5A.B – Industrial District B – Uses Allowed by Special Permit, by inserting the underlined text as follow, or take any other action relative thereto:

5. Residential Affordable Housing Developments, pursuant to Section V.14.

Submitted by the Affordable Housing Committee

ARTICLE 23 – AMEND ZONING BYLAWS,

To see if the Town will vote to amend the Pembroke Zoning Bylaws, Section V – Special provisions, Standards and Procedures, by adding a new sub-section 14 - Residential Affordable Housing Special Permit, by inserting the text as follows, or take any other action relative act thereto:

14. RESIDENTIAL AFFORDABLE HOUSING SPECIAL PERMIT

- A. Purpose and Intent.** The purpose of this Residential Affordable Housing Bylaw is to create housing opportunities in Pembroke for people of varying ages and income levels; to increase the supply of affordable housing for Eligible Households with low and moderate income; to promote a mix of geographic distribution of affordable housing throughout the town; to provide housing options for people who work in Pembroke; and to create housing units eligible for listing in the Subsidized Housing Inventory.
- B. Special Permit Granting Authority**
1. A residential affordable housing development may be allowed pursuant to the provisions of this Section through a special permit from the Planning Board, as the Special Permit Granting Authority.
- C. Applicability.**
1. This Section shall apply to residential affordable housing developments that results in the net increase of twenty-five (25) or more Dwelling Units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential structures and uses, whether on one or more contiguous parcels.
 2. Residential affordable housing developments shall not be segmented to avoid compliance with this Section. Segmentation shall mean one or more divisions of land that cumulatively result in a net increase of twenty-five (25) or more lots or Dwelling Units that could have been developed but for the segmentation of lots over the previous eighteen (18) month period.
- D. Definitions.**
1. Affordable Housing Unit: A dwelling unit with an Affordability Deed Restriction that is occupied by or available to a Low or Moderate Income Household and is eligible for inclusion on the Town’s Subsidized Housing Inventory as maintained by the Department of Housing and Community Development.
 2. Affordable Deed Restriction: A covenant agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. An affordable housing restriction shall be enforceable under the provisions of M.G.L. Chapter 184, Section 32, and be approved by the Department of Housing and Community Development.
 3. Low- or Moderate-Income Household: A household with income at or below 80% of the Area Median Income, adjusted for household size.

4. **Maximum Affordable Purchase Price or Rent:** A selling price or monthly rent, exclusive of utilities, that meets the maximum purchase price or rent guidelines of the Massachusetts Department of Housing and Community Development for inclusion on the Subsidized Housing Inventory.
5. **Area Median Income:** The household income determined annually by the U.S. Department of Housing and Urban Development for the Town or the region that includes the Town.
6. **Qualified Purchaser:** A low- or moderate-income household that purchases and occupies an affordable housing unit as its principal residence.
7. **Qualified Renter:** A low- or moderate-income household that rents and occupies an affordable housing unit as its principal residence.
8. **Subsidized Housing Inventory:** The Department of Housing and Community Development's Subsidized Housing Inventory as provided in 760 CMR 56.03(2).

E. Application; required submissions.

1. In addition to an application for a special permit, an applicant shall submit to the Planning Board the following documents:
 - a. A site plan which complies with the requirements of Section V.7.D.
 - b. A Unit mix proposal, proposed rent or subsidy source, and proposed rent schedule.
2. Copies of the documents required by this subsection shall be forwarded to the Affordable Housing Committee for their comments and suggestions, to be reviewed by the Planning Board prior to rendering a decision on an application for a Special Permit under this Section.

F. Mandatory Provision of Affordable Housing Units.

1. In any development subject to this Section, the percentage of Affordable Housing Units required shall be 25% percent of the total number of proposed dwelling units.
2. A fractional Affordable Housing Unit of 0.5 or higher shall be rounded up to the next whole number. Fractional housing units of less than 0.5 shall require be rounded down to the next whole number.
3. An affordable housing unit created in accordance with this bylaw shall be subject to an affordable housing restriction or regulatory agreement that contains limitations on use, resale and rents. The affordable housing restriction or regulatory agreement shall meet the requirements for inclusion on the Town's Subsidized Housing Inventory, as maintained by the Department of Housing and Community Development, and shall be in force for the maximum period allowed by law.
 - a. The affordable housing restriction or regulatory agreement shall be enforceable under the provisions of M.G.L. Chapter 184.
 - b. The Planning Board shall require that the applicant comply with the mandatory provisions of affordable housing units and accompanying restrictions on affordability, including the execution of the affordable housing restriction or regulatory agreement.
 - c. All documents necessary to ensure compliance with this bylaw shall be subject to review and approval of the Planning Board and review as to form by Town Counsel. Such documents shall be executed and recorded prior to

and as a condition of issuance of any Certificate of Occupancy unless recording is permitted by the Planning Board for good reason.

G. Adjustment of Dimensional Requirements.

H. Location and Comparability of Affordable Housing Units.

- a. The permit application for the proposed development shall include a plan showing the proposed locations of the Affordable Housing Units.
- b. Affordable Housing Units shall be distributed throughout a development.
- c. Affordable Housing Units shall be conveniently located to the development's common amenities as the market rate units.
- d. Affordable Housing Units shall be indistinguishable from market-rate units as viewed from the exterior.
- e. Affordable Housing Units shall:
 1. Be equivalent to the market-rate units in terms of design, quality of construction, workmanships, mechanical, plumbing, heating and cooling systems, roofing, insulation, windows and energy efficiency.
 2. The Building Inspector may inspect the premises to ensure that the developer has complied with these requirements and if necessary, require reasonable changes to achieve compliance.

I. Timing of Construction of Affordable Housing Units.

- a. Affordable Housing Units shall be constructed in accordance with the following schedule, and shall be determined by the number of building permits issued for affordable and market-rate units:
 1. Up to [%%]% Market-Rate Units – No Affordable Units Required;
 2. Etc.
 3. Etc.
 4. Up to [%%]% Market-Rate Units – 100% Affordable Units Required;
- b. Affordable Housing Units shall not be the last units to be built in any development that is subject to this Section.

Submitted by the Affordable Housing Committee

ARTICLE 24 – AMEND ZONING BYLAWS,

To see if the Town will vote to amend the Pembroke Zoning Bylaws Section III.6.A by deleting the strikethrough text and replacing it with the underlined text as follows, or take any action relative thereto:

A. Flood Plain District

The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Pembroke designated as Zones A and AE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Pembroke are panel numbers 25023C0201J, 25023C0202J, 25023C0203J, 25023C0204J, 25023C0206J, 25023C0207J, 25023C0208J, 25023C0209J, 25023C0211J, 25023C0212J, 25023C0214J, 25023C0216J, 25023C0217J, 25023C0218J, 25023C0219J, and 25023C0226J, dated July 17, 2012 25023C0201K, 25023C0202K, 25023C0203K, 25023C0204K, 25023C0206K, 25023C0207K, 25023C0208K, 25023C0209K, 25023C0212K, 25023C0214K, 25023C0216K, 25023C0217K, 25023C0218K, 25023C0219K, and 25023C0226L, dated July 22, 2020. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study report dated ~~July 17, 2012~~ July 22, 2020. The FIRM and Flood Insurance Study report are incorporated herein by reference and are on file with the Town Clerk and the Building Inspector.

Submitted by the Planning Board

ARTICLE 25 – AMEND ZONING BYLAWS, INDUSTRIAL DISTRICT A

To see if the Town will vote to amend the Pembroke Zoning Bylaws Section IV.5.A.6 – Industrial District A, by deleting the strikethrough text and replacing it with the underlined text as follows, or take any action relative thereto:

6. Any used allowed in Business District B except #10 and detached one-family houses and detached two-family houses, which are not allowed in the Industrial District A.

Submitted by the Planning Board

ARTICLE 26 – AMEND ZONING BYLAWS, INDUSTRIAL DISTRICT B

To see if the Town will vote to amend the Pembroke Zoning Bylaws Section IV.5A.A – Industrial District B, by deleting the strikethrough text and replacing it with the underlined text as follows, or take any action relative thereto:

7. Any used allowed in Business District B except #10 and detached one-family houses and detached two-family houses, which are not allowed in the Industrial District B.

Submitted by the Planning Board

ARTICLE 27 – AMEND ZONING BYLAWS, INDUSTRIAL DISTRICT A

To see if the Town will vote to amend the Pembroke Zoning Bylaws, Section IV.5.B – Industrial District A, by deleting the strikethrough text and replacing it with the underlined text as follow, or take any action relative thereto:

1. Any use permitted by special permit in Business District B: except the addition of one attached dwelling unit to an existing detached one family house, and accessory apartments, which are not allowed in the Industrial District A.

Submitted by the Planning Board

ARTICLE 28 – AMEND ZONING BYLAWS,

To see if the Town will vote to amend the Pembroke Zoning Bylaws, Section IV.5A.B – Industrial District B, by deleting the strikethrough text and replacing it with the underlined text as follow, or take any action relative thereto.

3. Any use permitted by special permit in Business District B: except the addition of one attached dwelling unit to an existing detached one family house, and accessory apartments, which are not allowed in the Industrial District B.

Submitted by the Planning Board

ARTICLE 29 – AMEND ZONING BYLAWS,

To see if the Town will vote to amend the Pembroke Zoning Bylaws Section IV.8.E.6 – Water Resource and Groundwater Protection District, by inserting the underlined text as follows, or take any action relative thereto:

6. Cluster Subdivisions, and land designated in Cluster Subdivisions for dwellings, accessory buildings, driveways, roadways, septic systems, and sewerage systems, shall not be allowed in the Water Resource Protection District, except for the portion of land in a Cluster Subdivision designated as “Open Land,” which may be allowed in the Water Resource Protection District. For the purposes of this Section, “Open Land” is defined as a parcel or parcels of land, or an area of water, or a combination of land and water, not including roads or ways, whether public or private, and reserved for open space, conservation, agriculture, recreation park purposes, or some combination of the foregoing.

Submitted by the Planning Board

ARTICLE 30 – AMEND ZONING BYLAWS,

To see if the Town will vote to amend the Pembroke Zoning Bylaws Section II, Definitions, and Section IV, Use and Dimensional Regulations, by deleting the strikethrough text and inserting the underlined text as follows, or take any action relative thereto:

Section II, Definitions

Kennels

Various types of kennels shall be defined as follows:

- a. Kennel: One pack or collection of four or more dogs over the age of three months kept on a single premises, not to exceed six dogs.
- b. Hobby Kennel: A kennel maintained for a collection of six to ten dogs or for breeding dogs for show or sport, or which sells dogs from less than four litters per year, not to exceed ten dogs on the premises over the age of three months.
- c. Commercial Kennel: A kennel maintained as a business for the boarding or grooming of dogs, or which sells dogs born and raised on the premises for more than four litters per year.
- d. Daycare Kennel: A business establishment used exclusively for the daycare of dogs that are not the property of the owner of the establishment at which such services are rendered; provided however that a Daycare Kennel shall not include a facility for the boarding, holding, overnight stays, or training of dogs, an animal shelter or animal control facility, a pet shop licensed under Section 39A of Chapter 129, grooming facility operated solely for the purpose of grooming, a veterinary office or veterinary hospital.

Section IV.1.B.3

3. A commercial riding stable, a kennel, ~~or hobby kennel, or daycare kennel~~, subject to all limitations, restrictions, safeguards, or conditions which may be imposed by the board of appeals. For the purposes of this bylaw, commercial kennels shall not be allowed or permitted use in any zoning district within the town.

Section IV.2.B

- 2. Kennel, Hobby Kennel and Daycare Kennel.

Submitted by the Planning Board

ADVISORY COMMITTEE RECOMMENDATION:

SELECTMEN’S RECOMMENDATION:

EXPLANATION: *Passage of this article would*

ARTICLE 31 – AMEND ZONING BYLAWS,

To see if the Town will vote to amend the Pembroke Zoning Bylaws Section II, Definitions, by inserting, in alphabetical order, the underlined text as follows, and by amending Section IV.7.B, the Center Protection District – Uses Allowed by Special Permit, by inserting the underlined text as follows, or take any action relative thereto as follows, or take any action relative thereto:

Section II, Definitions

Mixed-Use Structure

A building or structure that is used for any combination of residential or business uses allowed as of right in the Residence District A and Business District A, and may include multiunit residential dwellings.

Section IV.7.B

5. Mixed-Use Structure.

a. The Planning Board shall, based upon the uses proposed, specify in the Special Permit the minimum or maximum floor area permitted to be used for each use within the Mixed-Use Structure.

b. Any change in the minimum or maximum floor area permitted to be used for each use within the Mixed-Use Structure shall require a modification of the Special Permit by the Planning Board.

Submitted by the Planning Board

Please note as **a point of information only**, the Affordable Housing Committee has also submitted an article to the warrant to establish an Affordable Housing Trust, language below.

ARTICLE 19 – ACCEPT G.L. C.44, §55c: ESTABLISH AFFORDABLE HOUSING TRUST

To see if the Town will vote to accept the provisions of G.L. c. 44, Section 55C for the purpose of establishing a Municipal Affordable Housing Trust, or take any other action related thereto.

Submitted by the Affordable Housing Committee