

**MINUTES OF THE ANNUAL TOWN MEETING  
TOWN OF PEMBROKE, NH  
MARCH 10, 2009**

The meeting was opened by Moderator Thomas E. Petit at 11:00 a.m.

**A motion was made to act on Articles #1 and #2 and to act on the remaining articles at the deliberative session on March 14, 2009 at the Pembroke Academy Auditorium.**

**MOVED: Chester Martel**

**SECONDED: Roland Young, Jr.**

**VOTE: YES**

**MOTION PASSED**

**ARTICLE #1:** To choose all necessary officers for the ensuing year.

\*Denotes elected

Town Clerk for one year:  
Vote for not more than one  
James F. Goff               \*251

Water Commissioner for five years:  
Vote for not more than one  
Maurice L. Lavoie               \*240

Treasurer for one year:  
Vote for not more than one  
John B. Goff               \*236

Trust Fund Trustee three years:  
Vote for not more than one  
Normand H. Provencher               \*233

Selectman for three years:  
Vote for not more than one  
Fred Kline               \*236

Library Trustee for three years:  
Vote for not more than one  
Joyce Heinrich               \*225

Sewer Commissioner for three years:  
Vote for not more than one  
Jules A. Pellerin               \*235

5353 names on checklist  
262 ballots cast

**ARTICLE #2: AMEND ZONING ORDINANCE**

**Are you in favor of adopting the following amendments to the existing Zoning Ordinance of the Town of Pembroke as proposed by the Planning Board?**

**Amendment 1. § 143-8. Definitions.** To amend the Zoning Ordinance to add definitions of buildable area, non-buildable area, submerged areas, and maximum height, and to remove Note 11 of § 143-21. Table of Dimensional and Density Regulations regarding height restrictions, as its provisions are contained in the new maximum height definition.

Buildable Area – That area of a lot that excludes all soils identified as poorly and very poorly drained, all wetlands, floodplains, submerged areas, land set aside for open space or conservation purposes, slopes 15% or greater, and dedicated easements or rights-of-way. Setbacks and wetland buffers may be included when calculating buildable area. However, no construction is allowed in the setbacks and wetland buffers.

Non-Buildable Area – That area of a lot including all soils identified as poorly and very poorly drained, all wetlands, floodplains, submerged areas, land set aside for open space or conservation purposes, slopes 15% or greater, and dedicated easements or rights-of-way.

Contiguous Buildable Area – A contiguous area which consists of buildable area on a single lot, unfragmented by non-buildable area.

Maximum Height – Maximum height of buildings shall be measured from the finished grade to the highest point of the roof and shall not exceed 50' in height. Occupied space shall not exceed 35' in height from the finished grade on each side of the building to the top of the highest window on each side of the building. This definition shall not apply to chimneys, elevator

bulkheads, skylights, ventilators, cooling towers, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above the roof, nor to domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than 20% of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae, and other like structures, which do not occupy more than 20% of the lot area, provided the excepted appurtenances are not located within the flight paths of an airport as defined by F.A.A regulations.

Submerged Areas – Areas which are covered or inundated by water.

**YES 170**

**NO 61**

**AMENDMENT #1 ADOPTED**

**Amendment 2. § 143-21. Table of Dimensional and Density Regulations.** To amend Reference Heading A to delete “in Useable Land”, to delete Note 1 relating to the use of useable land, to amend the provisions of Note 5 so that setback requirements also apply to accessory buildings, to add new minimum contiguous buildable area requirements, and to add provisions for siting buildings and septic systems within the minimum contiguous buildable area and Code Enforcement Officer responsibilities.

REFERENCE HEADINGS:

A = Minimum Lot Area ~~in Useable Land~~ (square feet)

~~1) The minimum lot size shall be met by the use of useable land.~~

5) Within the R1, B1, and B2 districts only, a dwelling or accessory building need not be set back a distance greater than the average set-backs of dwellings or accessory buildings on the lots adjacent to either side.

12) In addition to the required minimum lot size there shall be a minimum contiguous buildable area on each lot which shall equal or exceed seventy percent (70%) of the minimum lot size for that zoning district.

13) Any buildings and any septic systems must be sited within the 70% minimum contiguous buildable area but not within any setback or buffer. The Code Enforcement Officer will be responsible for reviewing and accepting new septic system plans prior to the plans being submitted for State approval. The accepted plans shall be stamped and signed by the Code Enforcement Officer.

**YES 160**

**NO 71**

**AMENDMENT #2 ADOPTED**

**Amendment 3. §143-72. Wetlands Protection (WP) District.** To amend the wetland buffer requirements to prohibit roadways and construction work zones within the buffer, and to remove requirements for wetlands buffer markers.

D. Other requirements: [Amended 3-13-2007 by Amendment No. 2]

2) No structure, roadway, or construction work zone shall be located closer than 20 feet measured horizontally from any wetland.

~~3) Wetlands buffer markers shall be placed every 25 feet along the perimeter of a delineated twenty foot wetland buffer.~~

**YES 159**

**NO 76**

**AMENDMENT #3 ADOPTED**

**Amendment 4. §143-81. Special requirements; CRD-2 Rural Open Space Development.** To amend the Zoning Ordinance to add the lot area, frontage, and setbacks for the Limited Office (LO) and Medium Density-Residential (R1) Districts by inserting provisions for when town water and sewer are available.

B. Minimum areas and yard requirements for Rural Open Space Developments shall be the following:

(3) R1 and LO Districts with town water and sewer:

Lot Area	25,000 Square Feet
Frontage	100'
Side Yard Set-back	15'
Rear Yard Set-back	50'
Front Yard Set-back	25'

**YES 174                      NO 58                                      AMENDMENT #4 ADOPTED**

**Amendment 5. Article XVII, Growth Management Ordinance.** To readopt the existing Article XVII Growth Management Ordinance to extend the termination date for one year through March 31, 2010 by amending §143-139. Effective Dates and to modify the effective date and time to 12:00 AM April 1, 2009.

**§143-139. Effective dates.**  
This article becomes effective ~~upon adoption~~ at 12:00 AM April 1, 2009 and shall remain in effect until 11:59 PM March 31, ~~2009~~ 2010. However, the Planning Board shall annually review the need for the article and send a status report on growth and the progress Pembroke has made toward improving its capital facilities to the Board of Selectmen by January 1 of each year the article is in effect. If the Board of Selectmen finds that the capital facilities needs have been resolved, then it shall make a recommendation for repeal of this article.

**YES 185                      NO 49                                      AMENDMENT #5 ADOPTED**

**MINUTES OF THE ANNUAL TOWN MEETING  
TOWN OF PEMBROKE, NH  
DELIBERATIVE SESSION  
MARCH 14, 2009**

Moderator Thomas E. Petit opens the meeting at 10:00 a.m and then reads the results of the ballot vote taken on March 10, 2009.

Boy Scout Troop 270 led the voters in the Pledge of Allegiance.

**There was a motion made to not read the warrant in full before the meeting and read each article as it comes up for action.**

**MOVED: Daniel Crean                                      SECONDED: Nancy Kurinskas**

**VOTE: YES    MOTION PASSED**

Selectman Fred Kline introduces the family of Steven Elliott and presents them with the dedication of the 2008 Pembroke Town Report.

He then reads the dedication:

“DEDICATION  
The Board of Selectmen hereby dedicates the 2008 Town report in memory of Steven G. Elliot of the Pembroke Fire Department. May he rest in Peace.  
Steven G. Elliott  
1952-2008

Shortly after moving to the Town of Pembroke Steve joined the Fire Department where he rose to the rank of Engineer. Steve became the unofficial caretaker of installing and taking down the flags that fly proudly along Pembroke Street as part of the program sponsored by the Pembroke Women’s Club. Steve was also the Treasurer of the Firefighters Association as well as a Scout leader for 5 years. An avid family man who loved to read will be missed by all who came in contact with him.”

Fred Kline then speaks about Pembroke’s Semi-quincentennial Celebration and reads a proclamation from the Governor of the State of New Hampshire.

**ARTICLE #3: (By Petition)** To see if the Town of Pembroke will vote to raise and appropriate the sum of \$200 per year for the repair and replacement of unserviceable flags and accessories that are hung on the poles on Route 3 in Pembroke as part of the Pembroke Women’s Club Proudly Our Colors Fly Project.

**MOVED: Robert Farley                      SECONDED: Vincent E. Greco**

**There was a motion made to drop “per year” from Article #3.**

**MOVED: Virginia Landry                      SECONDED: Marie Ayles**

**VOTE: YES                                      MOTION PASSED**

**VOTE ON ARTICLE #3 AS AMENDED: YES                      ARTICLE #3 ADOPTED AS AMENDED**

**ARTICLE #4:** To see if the Town will vote to raise and appropriate the sum of \$20,000 from the Soucook River Tax Increment District Fund to pay costs and administrative expenses incurred in connection with the Soucook River Tax Increment District Plan and to authorize the withdrawal of \$20,000 from the Soucook River Tax Increment District Fund for that purpose.

**Recommended By Board of Selectmen  
Recommended By Budget Committee**

**MOVED: William Stanyan                      SECONDED: Daniel Crean**

**VOTE: YES                                      ARTICLE #4 ADOPTED**

**ARTICLE #5:** To see if the Town will vote to discontinue the following Capital Reserve Funds in accordance with the recommendations made by the State of New Hampshire Department of Revenue Administration. Said Funds no longer carry a balance.

- 1993 Cemetery Improvement Fund
- 1993 Library Building Capital Reserve Fund
- 1995 Retaining Wall Fund (Union Street)
- 2001 Computer System Capital Reserve Fund
- 2003 Property Revaluation Capital Reserve Fund

**MOVED: Robert Farley                      SECONDED: Richard Courtemanche**

**VOTE: YES                                      ARTICLE #5 ADOPTED**

**ARTICLE #6:** To see if the Town will vote to appoint the Selectmen as agents to expend from the Revaluation Update Capital Reserve Fund previously established in 2008.

**MOVED: William Stanyan                      SECONDED: Paula Kudrick**

**VOTE: YES                                      ARTICLE #6 ADOPTED**

**ARTICLE #7:** To see if the Town will vote to raise and appropriate the sums set forth below to be placed in the Capital Reserve Funds previously established.

Town Equipment Capital Reserve Fund	\$150,000
Police Cruiser Capital Reserve Fund	\$30,000
Police Small Equipment Capital Reserve Fund	\$15,000
Municipal Facilities Capital Reserve Fund	\$100,000
Fire Major Equipment Capital Reserve Fund	\$125,000
Fire Small Equipment Capital Reserve Fund	\$15,000
Library Reference Media Capital Reserve Fund	\$3,500
Revaluation Update Capital Reserve Fund	\$140,000

**Recommended By Board of Selectmen  
Recommended By Budget Committee**

**MOVED: Robert Farley                      SECONDED: Vincent E. Greco**

**There was a motion made to “Remove Police Cruiser Reserve fund”**

**MOVED: Todd Terrien                      SECONDED: Peter Bullock**

**VOTE: NO                                      MOTION FAILED**

**There was a motion made to “Drop library Reference Media Capital reserve fund to 0”**

**MOVED: Todd Terrien                      SECONDED: Brian Seaworth**

**VOTE: NO                                      MOTION FAILED**

**VOTE ON ARTICLE #7 AS WRITTEN: YES                      ARTICLE #7 ADOPTED**

**ARTICLE #8: Chapter 133: SOLID WASTE MANAGEMENT**

**§ 133-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

ACCEPTABLE WASTE – Household garbage, trash, rubbish and refuse originating within the boundaries of the Town, normally collected or disposed of as a result of residential pickups or deliveries.

AUTOMATED COLLECTION – shall mean a method of collecting refuse and recycling through the use of mechanical collection equipment and special containers issued for the storage and collection of rubbish and recyclables.

AUTOMATED COLLECTION CART – shall mean a specially designed container with wheels, approved by the department of public works to be used for the storage of acceptable refuse or recyclables in the automated collection operation.

COMMERCIAL – Commercial entities doing business in the Town of Pembroke, including but not limited to contractors, multifamily dwellings of more than five (5) units, manufactured housing parks and commercial establishments of any size such as residential boarding and lodging homes, convalescent and nursing homes, private schools, motels, inns, restaurants, lounges, retail sales, service businesses, professional offices, manufacturing or automotive-related business.

CURB LINE – shall mean the area directly behind or adjacent to the curb; in the absence of a curb, the area adjacent to the edge of pavement or road.

CURBSIDE COLLECTION – shall mean the pickup of acceptable trash and recyclables at certain residences in the Town.

CUSTOMER – shall mean any resident who receives solid waste &/or recycling service from the Town.

DESIGNATED COLLECTION POINT – shall mean the place where the automated cart shall be placed for service, as determined by the Department of Public Works.

DIRECTOR – shall mean the Director of Public Works or his or her duly authorized representative.

DWELLING UNIT – shall mean any building or portion thereof that contains living facilities (which provide for sleeping, eating, cooking, and sanitation) for not more than one (1) household.

EXTRA REFUSE – shall mean any refuse placed on, around or in a five-foot radius of the automated collection cart in excess capacity of the automated cart.

HAZARDOUS WASTE – shall mean hazardous waste as defined in RSA 147-A:2, as amended, and the following:

- A. Waste containing explosive, toxic or pathological substances;
- B. Waste defined or classified as hazardous waste at any time under federal, state or local law, or any regulation thereunder, or waste defined by any applicable federal, state or local law as low-level or high-level radioactive waste;
- C. Waste prohibited for incineration by any local, state or federal agency with jurisdiction over the waste plant or facility because of its toxic nature;
- D. Waste (other than acceptable waste of the character referred to in Subsection A of the definition of “acceptable waste”), the processing of which would result in hazardous waste under Subsections A, B or C of this definition; or
- E. Containers which hold or which previously have held waste described under Subsections A, B or C above.
- F. If any governmental entity having jurisdiction shall determine that any substances, which are not as of the date of this chapter considered harmful or of a toxic nature or dangerous, are harmful, toxic or dangerous, such substances shall thereafter be deemed “hazardous waste.”

INFECTIOUS WASTE – shall mean waste that has the potential to cause an infectious disease via exposure to a pathogenic organism of sufficient virulence and dosage, through a portal of entry in a susceptible host.

MULTI-FAMILY RESIDENTIAL PROPERTY – shall mean more than one (1) but not more than five (5) dwelling units in a building.

NON-RESIDENTIAL UNIT – shall mean any establishment except those defined under residential property.

OTHER SOLID WASTE – Residential white metal goods, household appliances, recyclables, including electronic waste, tires, street sweeping, brush, tree stumps (no tree stumps will be accepted from commercial haulers), tree limbs and brush under five (5) inches in diameter and residential demolition debris that is no more than four (4) feet in length. The above noted items are not accepted at curbside, but are accepted at the Transfer Station.

OVERLOADED – shall mean that the automated cart is so full of refuse that its lid is not completely closed, thereby exceeding the automated cart’s rated capacity.

PERSON – Any natural person, partnership, corporation, association or other legal entity.

RECYCLABLE – shall mean any acceptable material that is collected and handled by the Town for remanufacture into new products. The Director of Public Works shall determine which materials are acceptable in the curbside collection program.

RECYCLING (RESOURCE RECOVERY) PROGRAM – The acceptance, processing and marketing of recyclable materials such as glass, aluminum cans and newspaper.

REGIONAL WASTE PLANT and/or CO-OP – The Concord Regional Solid Waste/Resource Recovery Cooperative (Concord CO-OP).

RESIDENTIAL PROPERTY – shall mean a single-family or multi-family housing building that consists of five (5) or fewer dwelling units, including apartments in commercial buildings.

SOLID WASTE – Shall have the meaning prescribed by the Division of Solid Waste Management of the New Hampshire Department of Environmental Services as set forth in New Hampshire Administrative Rules, Env-Sw 103.46.

SOLID WASTE FACILITY – The facility maintained by the Town within the borders of the Town to collect other solid waste and acceptable waste and recyclables.

TRASH – Waste, refuse, rubbish or garbage, including any acceptable material that does not meet the definition of “recyclable.”

TOWN – The Town of Pembroke, New Hampshire

UNACCEPTABLE WASTE - Waste that is unacceptable at curbside, at the waste plant or at the solid waste facility such as:

- A. Pathological and biological waste, oil sludge, cesspool or other human waste, human remains, street sweepings, large items of machinery and equipment such as automobile and vehicular parts, trailers, agricultural equipment, marine vessels or similar items, farm and other large machinery, wire and cable from industrial sources and, plastics from industrial sources, foundry sands, tree stumps (see “other solid waste”), liquid wastes and slurries, explosives (including ammunition and firearms), and radioactive materials.
- B. Any item of waste exceeding six (6) feet six (6) inches in any one (1) of its dimensions or being in whole or in part a solid mass, the solid portion of which has dimensions such that sphere with a diameter of eight (8) inches could be contained within such solid portion.
- C. Animal remains, dirt, concrete and other non-burnable construction material and demolition debris over 4 feet in length (see “other solid waste”) and chemicals from industrial and commercial sources such as cleaning fluids, petroleum products, paints, acids, caustics, pesticides, poisons, drugs or other materials the processing of which the Town or operator of the waste plant reasonably believes would pose a threat to health or safety or the processing of which may cause damage to the waste plant.
- D. Any waste which, if processed, would violate or cause the violation of any judicial decision, order or action of any federal, state or local government or any agency thereof or applicable law.
- E. Hazardous waste as defined in Section 133-1 herein.

YARD WASTE – shall mean organic material, including leaves, grass clippings and pine needles, which are banned by the NH Department of Environmental Services, its successor agency, or the appropriate regulatory authority from disposal in landfills and incinerators.

**§ 133-2. Regulated activity.**

- A. All acceptable waste or other waste originating or collected within the municipal boundaries of the Town shall be delivered to and deposited for disposal at the regional waste plant as designated by the Board of Selectmen or the solid waste facility, as the case may be.
- B. The Board of Selectmen is authorized to explore the feasibility of constructing a joint facility or entering into a contract to use an existing facility with any surrounding Town if costs are to be allocated on a percentage of use basis.
- C. The Board of Selectmen is authorized to develop and implement a resource recovery program.
- D. No person shall deliver or cause the delivery of any solid waste originating outside the municipal boundaries of the Town to the solid waste facility. No person shall

deliver or cause the delivery of any unacceptable waste or hazardous waste originating in Pembroke to the regional waste plant or solid waste facility. No person shall cause or allow solid waste originating outside the Town which is delivered to the regional waste plant to be credited against the quantity of acceptable waste received or accepted at the regional waste plant for the account of the Town. No person shall deliver or cause the delivery of acceptable waste originating within the Town to the regional waste plant in any vehicle with a gross vehicle weight of less than twenty seven thousand five hundred (27,500) pounds.

E. All items defined as “unacceptable waste” or “hazardous waste” shall be the responsibility of the owner or waste generator and shall be disposed at the owner’s or waste generator’s expense, in accordance with federal, state and local ordinances.

F. The Town shall not bear the cost for pickup or transportation of any commercial acceptable solid waste generated in the Town of Pembroke. The tipping fee for all commercial acceptable solid waste generated in the Town of Pembroke, and delivered to the regional waste plant, shall be paid by the hauler.

G. Residential acceptable solid waste from dwelling units that receive collection service from the Town, shall be picked up and transported to the regional waste plant by the Town subject to the following conditions, until the Town implements an automated collection program.

- (1) Containers shall be no larger than thirty-five (35) gals. and the combined weight of container and waste shall not exceed forty (40) lbs. in total weight.
- (2) Solid waste shall be bagged whether or not it is placed in a container. Loose household solid waste in barrels shall not be acceptable.
- (3) Properties consisting of mixed use residential and commercial units shall be limited to a maximum total of four (4) containers of waste per residential unit, per weekly pickup. All waste from use of the commercial units shall be picked up in accordance with letter F. of this section. [Added 3-13-2001 by ATM Art. 15]
- (4) Containers must be at curbside not later than 6:45 am on collection day, and no earlier than the previous evening.
- (5) When an automated collection program is implemented, customers shall be required to utilize one collection cart for trash and one collection cart for recyclables per dwelling unit, in order to receive collection service by the Town.
- (6) When the Town provides a curbside recycling collection, all customers shall be required to divert acceptable recyclables from the trash and participate in the recycling collection service.

#### **§ 133-2.1. Automated Collection.**

(A) The purpose of this section is to establish minimum standards for the storage, collection, transportation and disposal of solid waste and recycling, utilizing an automated collection system to promote the health, safety, and welfare of the Town’s residents, employees and environment, and to minimize the amount of trash generated in the Town.

(B) The Director of Public Works (hereinafter the “Director”) shall have the direct responsibility for the administration of this section subject to the direction and control of the Town Administrator and the Board of Selectmen.



(C) General Requirements.

- (1) Two automated collection carts and instructions for use will be available to residents who receive collection services from the Department of Public Works, prior to the onset of the new collection program.
- (2) It shall be the customer's responsibility to assure that automated collection carts are placed in the appropriate location designated by the Town, by 6:45 am on collection day.
- (3) The Town shall not be responsible for collection if there is a violation of any part of this section, or circumstances that are beyond the control of the Town. Circumstances or violations include, but are not limited to, automated cart overload, unacceptable materials, improperly loaded automated cart, blocked access, automated cart inaccessibility, or dangerous situations.
- (4) The only automated collection carts used in the program shall be those approved by the Town, and imprinted with the Town seal. No other type of automated cart is allowed. Carts shall be placed at the Town-designated collection point on the scheduled collection day by 6:45 a.m. Such location shall be easily accessible to the container with the lids completely closed at least five feet from any obstruction, and with the handle of each cart facing the house. It shall be the duty of each customer to remove the automated cart from the curb line by the end of the collection day. It is prohibited to overload automated carts in a manner that is likely to cause damage to the collection vehicle, the automated cart or to create a litter condition or to impede collection.
- (5) Automated collection within the Town is mandatory in those areas designated by the Director of Public Works.
- (6) Any manure, offal or other noxious material that, in the discretion of the Director, has not been securely wrapped and placed in an automated cart, shall not be collected. All refuse shall be drained of any free liquids prior to placement in any automated container. Trash shall be placed in bags first, then inside the cart. Recyclables shall be placed in the cart loose. It shall be the responsibility of the resident to keep automated carts clean.
- (7) It shall be a violation hereof to place or deposit any refuse whatsoever in or around an automated cart owned or provided for the use of another customer without that customer's approval.
- (8) The Town shall reserve the right to inspect any or all refuse, prior to and/or during collection and disposal, for compliance with local, state, or federal laws or regulations, and to reject if non-compliant.

(D) Carts

- (1) All automated carts will be assigned to a street address and have an imprinted number for identification purposes. One cart shall be used for trash and one cart for mixed recyclables.
- (2) The automated carts approved by the Town shall not be filled to exceed the manufacturer's recommended limit (two hundred (200) pounds total weight for a 90-95 gallon container and one hundred fifty (150) pounds for a sixty-five-gallon container) and all rubbish must fit inside the automated collection container. The cover of any automated cart must be kept closed at all times except when the automated cart is being filled, emptied or cleaned. Animal wastes and ashes shall be wrapped separately from other refuse in a manner to prevent spillage prior to placement in an automated trash container.
- (3) Currently served dwelling units are limited to a maximum of two automated collection carts, one for trash and one for recyclables. If a customer requires more than the determined number of automated collection carts, or does not have the room to properly place automated carts at curbside for collection, the director may require the owner to

purchase and maintain additional town-approved carts or to obtain private collection service.

- (4) Any customer in possession of an approved automated collection cart shall pay the cost of repair or replacement of any damaged container, if it is the determination of the Director that such damage is the result of negligence of, or abuse by, the customer. The charge shall be the actual cost of repair or replacement as determined by the Town. If a cart is rendered unusable through the fault of the Town, then a replacement cart will be provided at no cost to the customer.
- (5) Automated carts shall only be used for storage and placement for the collection of trash and recyclables by the Town.
- (6) In order to maintain an orderly and aesthetic appearance within the Town, and to prevent unauthorized encroachment on any street, public property or private property, automated containers shall be stored on private property except on collection days. Failure by the customer to comply with a Town notification citing improper storage for automated carts shall be a violation of this section.
- (7) Automated collection carts are not to be left curbside, street side or roadside overnight after the day of collection.

(E) Rubbish collection service.

- (1) To be eligible to receive collection service, the customer shall currently be receiving service as of the effective date of this section, in accordance with the existing collection policy. Adding new customers shall be subject to approval by the Town.
- (2) Standard curbside collection service shall consist of once a week co-collection of acceptable trash and recyclables, in accordance with Town policies.

(F) Points of collection. Automated containers shall be placed:

- (1) Within two (2) feet of the curb line or where directed by the Town.
- (2) At least five (5) feet away from all objects such as fences, mailboxes, and utility poles, and clear of overhanging vegetation, utility wires, etc. to allow for the unimpeded operation of collection vehicles.
- (3) So that the automated container handle is facing the dwelling unit.
- (4) At least five (5) feet from the other cart.
- (5) At least (10) feet away from parked vehicles.
- (6) Residents are responsible for ensuring the accessibility of all containers.
- (7) The Director of Public Works shall have the authority to designate placement of carts.

(G) Prohibited material. All materials prohibited under other ordinances, and:

- (1) Unacceptable Waste as defined in Section 133-1 herein.
- (2) No toxic, extremely hazardous, dangerous/hazardous or liquid waste as defined now or hereafter, shall be deposited curbside or in any automated collection cart intended for disposal.
- (3) Household hazardous waste or small quantity generator waste shall not be deposited curbside or in any automated collection cart.
- (4) No infectious waste shall be placed curbside or in any automated cart for collection.

- (5) No rocks, concrete, asphalt, dirt, construction debris or other similar material shall be placed in automated carts.
- (6) No hot ashes or any other material capable of causing ignition or spontaneous combustion shall be placed in any automated collection cart.
- (7) No motor oil or other automotive fluids shall be deposited in any automated cart.
- (8) The Town reserves the right to prohibit, or to place disposal restrictions upon any waste that may adversely affect disposal. This shall also extend to any item that may pose a risk to the health or safety of Town employees. Disposal restrictions that may be implemented shall include, but are not limited to, item size restrictions, quantity restrictions, recycling regulations, special preparation requirements, and rubbish source documentation requirements.
- (9) Failure of a customer to comply with disposal restrictions will be deemed a violation and may, at the discretion of the director, result in revocation of collection services.
- (H) Enforcement: This section shall be enforced by either the Health Officer or the Code Enforcement Department or their duly authorized agents, after initial notification to the violator by the Department of Public Works.
- (I) Violation: Any customer found to have violated any of the provisions of this section may have their service terminated, at the discretion of the director. If service is terminated, the customer shall be entitled to a hearing before the Board of Selectmen, according to the process outlined in section 133-4.C. of this chapter.

**§ 133-3. Solid waste facility.**

**A. Operating hours.**

- (1) The solid waste facility will be open for residential users Tuesday and Saturday, 7:30 a.m. to 3:30 p.m.
- (2) The solid waste facility shall be closed on all holidays that are observed by the Town and on Old Home Day.
- (3) The Director of Public Works or his authorized representative shall have the authority to open the solid waste facility at other times.

**B. Authorized solid waste facility use shall be by residents of the Town of Pembroke who properly display a current solid waste facility permit sticker.**

**C. Recycling (Resource Recovery) program. Materials for recycling shall be placed in the recycling bins under the supervision of the attendant. Recycled materials shall be dry and free of food waste and other contaminants. When the Town implements a curbside recycling program, users of the Transfer Station must recycle all recyclable materials being delivered to the Transfer Station.**

**D. Scavenging/solid waste facility. Scavenging/picking at the solid waste facility is strictly prohibited.**

**E. Violations of regulations. The Director of Public Works or his/her authorized representative shall be in charge of the solid waste facility operation and will ensure that all procedures and regulations are obeyed. Penalties for any violation shall be as follows:**

- (1) First violation will result in a thirty-day suspension of permit from the day of the violation.
- (2) Second violation will result in a one-year suspension of permit from the day of the violation.

F. Permits. All facility users must obtain and display a valid Town facility permit for admittance to the solid waste facility. Permits must be obtained at the Pembroke Public Works Department, 8 Exchange Street.

G. Facility fee schedule.

(1) Permit fees.

(a) Residents: no charge for annual renewal of permit.

(2) Tipping fees.

(a) Fees charged are the most current voted on by the Board of Selectmen, after holding a public hearing. The Pembroke Public Works Department shall have available a current fee schedule for users.

H. Future permits and fees. The Board of Selectmen may, from time to time, set fees and rates for the use of the solid waste facility. Per RSA 41:9-a, the Board of Selectmen shall hold a public hearing prior to setting fees and rates.

**§ 133-4.Solid Waste Plant and Regional Waste Plant The provisions of this section shall apply to private haulers collecting solid waste and / or recycling in the Town, not to residents bringing their own trash and recycling to the Transfer Station.**

A. Licensing.

(1) No person shall collect, transport or deliver solid waste or recycling originating within the Town without first obtaining a license from the Board of Selectmen, or its designee.

(2) Any person required by this section to obtain a license shall make application to the Board of Selectmen, or its designee, providing the information required. Each application shall be accompanied by a nonrefundable application fee as voted on by the Board of Selectmen.

(3) The application shall contain all information required by the Board of Selectmen, including but not limited to a description of the activities engaged in, e.g., collection, transportation or delivery of acceptable waste; list of commercial customers and size and location of containers, pickup route, designated day and time of pickup, type and amount of waste handled; certificate of insurance with limits of coverage as determined by the Board of Selectmen, or its designee; a description of the facilities operated and used; and a equipment inventory, including a description of the make, model and year of each vehicle used for the collection or transportation of solid waste.

(4) The Board of Selectmen or its designee shall act to grant or deny a license application within fifteen days of the submission of a complete application.

(5) Licenses shall be renewed annually, and all information provided in the initial application shall be revised upon application for license renewal. If the Board of Selectmen or its designee shall determine the application is incomplete, they shall notify the applicant, in writing, of the specific information necessary to complete it. The Board of Selectmen, or its designee, shall be informed immediately, in writing, of any changes in or additions to the information required on the application.

(6) Licenses issued hereunder shall not be transferable.

(7) All licenses shall expire one (1) year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provision of this chapter.

- (8) The annual license fee shall be designated by the Board of Selectmen for each applicant licensed. In the event that the Board of Selectmen, or its designee, deny a license application, they shall notify the applicant, in writing, and shall state the reasons for the denial. Upon such notice, the applicant may request a hearing in accordance with the procedures in § 133-4C hereof.
- (9) Operating times are the same as provided in the Pembroke Noise Ordinance, as adopted at the March 15, 2008 Town Meeting.

(B) Suspension and revocation.

- (1) Any license issued under this chapter may be suspended or revoked by order of the Board of Selectmen after the Board of Selectmen shall have notified the licensee, in writing, of the intent to suspend or revoke, the reasons therefore [sic] and the licensee has had an opportunity for a hearing in accordance with the procedures in § 133-4C hereof.
- (2) A license may be suspended or revoked for the following causes:
  - (a) Violation of this chapter;
  - (b) Violation of any provision of any state or local law or regulation relating to this chapter, including but not limited to RSA 149-M or any environmental law;
  - (c) Violation of any license condition; or
  - (d) Falsehoods, misrepresentations or omissions in the license application.

(C) Hearings.

- (1) Any person denied a license or whose license is proposed to be suspended or revoked pursuant to § 133-4B shall be entitled to a hearing before the Board of Selectmen, if such request is made, in writing, within fifteen (15) days of the licensee's receipt of the notice of denial or proposed suspension or revocation.
- (2) A hearing authorized by this chapter shall be held within thirty (30) days after receipt by the Board of Selectmen of the written request for a hearing.
- (3) The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least ten (10) days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.
- (4) A determination shall be made by the Board of Selectmen within twenty (20) days after the conclusion of the hearing and a notice of the decision shall be served upon the applicant or license by certified mail, return receipt requested.
- (5) A final determination relative to the denial, suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than ten (10) days after the date notice of such final determination has been mailed by certified mail, return receipt requested, to the licensee or applicant. Such final determination shall be conclusive. Notice of the final determination shall set forth reasons for denial, suspension or revocation and the effective dates thereof, together with a statement that such decision may be appealed as provided by the laws of the State of New Hampshire.
- (6) Any claim arising out of or relating to a final determination shall be reviewable as provided by the laws of the State of New Hampshire.

### **§ 133-5. Administration.**

This chapter shall be administered by the Board of Selectmen, whose powers and duties are as follows:

- A. To adopt reasonable rules, regulations, fees and fines as needed to enforce this chapter, including, without limitation, rules and regulations governing the delivery of acceptable waste to the municipal solid waste facility, as well as other facilities the Town has an agreement or contract with to provide such services;
- B. To consider all license applications and to grant or deny each application within fifteen (15) days after receipt of a completed application at the town offices or within such other time as the Board of Selectmen and the applicant shall agree is reasonable;
- C. To review any alleged violations of this chapter, and to impose appropriate penalties as required by this chapter; and
- D. To institute necessary proceedings, either legal or equitable, to enforce this chapter.

### **§ 133-6. Enforcement and penalties.**

- A. Any person who violates this chapter shall be guilty of a violation for each incident or occasion of violation.
- B. Any person who violates this chapter shall be subject to a fine, payable to the Town, of not more than one thousand dollars (\$1,000.) for each violation.

### **§ 133-7. Conflict and severability.**

- A. The provisions of this chapter shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary hereto or in conflict herewith.
- B. The provisions of this chapter shall be severable, and if any phrase, clause or sentence or provision or the application thereof to any person or circumstance shall be held invalid, the remainder of this chapter and the application thereof shall not be affected thereby.

### **§ 133-8. Amendment of provisions.**

The Board of Selectmen, after a public hearing, may amend this chapter as it relates to the municipal solid waste facility and or collection or whenever the agreement between the Town and the COOP or the COOP and the operator of the waste plant requires it.

**There was a motion made to not read the entire article before action is taken.**

**MOVED: Larry Preston**

**SECONDED: Chester Martel**

**VOTE: YES**

**MOTION PASSED**

Gerard Fleury made a presentation on the Solid Waste Ordinance and how recycling would be done.

**MOVED: Gerard Fleury**

**SECONDED: David Sheldon**

Tim Sweeney asked if Wheelabrator accepts recyclables.

Sally Hyland stated that the Concord Co-op has plans for recycling in the permitting process and should be ready to accept our recyclables in the year 2010. She also stated that there are other facilities that accept recyclables now.

**There was a motion made to change Article #8 Chapter 133: SOLID WASTE MANAGEMENT § 133-1. Definitions. ACCEPTABLE WASTE by adding “Animal remains generated as a result of normal hunting and fishing activities” at the end.**

**AND**

**To change Article #8 Chapter 133: SOLID WASTE MANAGEMENT § 133-1. Definitions UNACCEPTABLE WASTE C. by striking “Animal remains”**

**MOVED: John Bates**

**SECONDED: Jane Bates**

**VOTE: TO CLOSE FOR A VOICE VOTE**

**Moderator Petit then asked for a vote by holding up the voter cards.**

**YES: 100 NO: 114**

**MOTION FAILED**

**There was a motion made to amend Article #8 to remove from § 133-2 G by striking (5) and (6)**

**MOVED: Brian Seaworth**

**SECONDED: Kathy Cruson**

**VOTE: NO**

**MOTION FAILED**

**There was a motion made to vote on the article as written.**

**MOVED: Helen Fryer**

**SECONDED: Vincent E. Greco**

**VOTE: YES**

**MOTION PASSED**

**VOTE ON ARTICLE #8 AS WRITTEN: YES ARTICLE #8 ADOPTED**

**ARTICLE #9:** To see if the Town will vote to raise and appropriate a sum not to exceed \$260,000 for the purchase of a split body automated collection vehicle and to authorize the withdrawal of a sum not to exceed \$260,000 from the Town Equipment Capital Reserve Fund.

**Recommended By Board of Selectmen**

**Recommended By Budget Committee**

**MOVED: Larry Preston**

**SECONDED: Sally Hyland**

Mark Dumas asked about problems with people not separating the trash and recyclables.

Sally Hyland stated that the truck will have cameras that the operator will use to monitor what is being dumped in the truck, if he sees any abuse he will use the identification numbers on the barrels to identify which owner the trash came from.

Dianna Maffucci stated that she “likes the idea of tabling this for now” but does not make a motion to do so. She then states that she lives in a development that pays for their own trash pickup and does not like the idea of her taxes going up to pay for containers for the residents that have their trash picked up by the Town.

Lisa Gilbert asked about the maintenance costs for the new vehicle.

Sally Hyland stated that there is a 5 year warranty on the truck.

**VOTE: YES**

**ARTICLE #9 ADOPTED**

**ARTICLE #10:** To see if the Town will vote to raise and appropriate the sum not to exceed \$252,000 for the purchase of the necessary collection carts needed to operate automated collection. The costs of the containers will be funded through the collection of user fees and

**Recommended By Board of Selectmen**  
**Not Recommended By Budget Committee**

**MOVED: William Stanyan**      **SECONDED: Alane Rapazza**

Fred Kline stated that the residents will still be able to use the transfer station, they just won't have curbside pickup.

**MOVED: Pentti Aalto**                      **SECONDED: Leon Pirak**

**VOTE ON ARTICLE #10 AS WRITTEN: YES                      ARTICLE #10 ADOPTED**

**Recommended By Board of Selectmen**  
**Recommended By Budget Committee**

James Boisvert stated that there would be a 5 year warranty on the packer.

**Recommended By Board of Selectmen**  
**Recommended By Budget Committee**

**VOTE: YES** **ARTICLE #12 ADOPTED**



**ARTICLE #13:** To see if the Town will vote to raise and appropriate the sum of \$150,000 for the renovations of North Pembroke Road that were incurred during the flood of 2007. These funds have been applied for and approved and the grant will reimburse the Town 100% of the cost and there will be no impact on your taxes.

**Recommended By Board of Selectmen**  
**Recommended By Budget Committee**

**MOVED: Robert Farley**

**SECONDED: Diane Schuett**

**VOTE: YES**

**ARTICLE #13 ADOPTED**

**ARTICLE #14:** To see if the Town will vote to raise and appropriate the sum not to exceed \$25,855 to purchase and equip one (1) Police vehicle and to authorize the withdrawal of a sum not to exceed \$25,855 from the Police Cruiser Capital Reserve Fund created for this purpose.

**Recommended By Board of Selectmen**  
**Recommended By Budget Committee**

**MOVED: Marie Ayles**

**SECONDED: Robert Farley**

**VOTE: YES**

**ARTICLE #14 ADOPTED**

**ARTICLE #15:** To see if the Town will vote to raise and appropriate the amount of \$7,299,184 for the 2009 Municipal operating budget, not including appropriations by special warrant articles and other appropriations voted separately.

**Recommended By Board of Selectmen**  
**Recommended By Budget Committee**

**MOVED: David Freeman-Woolpert**

**SECONDED: Mark Lepage**

Daniel Crean asked what the increase in the operating budget is.

Town Administrator David Jodoin explained that the comparison between last year's budget without the warrant articles and this year's without the warrant articles is an increase of \$410,142. Taking into consideration that we are mandated by the state to do a revaluation that will cost about \$140,00 then subtract out the other large items being water and sewer, the increase on the town side is roughly \$60,000. That has to do with additional costs that are being incurred right now for the costs for paving.

**There was a motion made to "Reduce the amount in article 15 by \$45,000"**

**MOVED: Jeff White**

**SECONDED: Todd Terrien**

**VOTE: NO**

**AMENDMENT FAILED**

**VOTE ON ARTICLE #15 AS WRITTEN: YES**

**ARTICLE #15 ADOPTED**

Moderator Petit explained that Article #18 is next on the warrant as there is no Article #16 or Article #17.

**ARTICLE #18:** To transact any other business that may legally come before said meeting.

Joe Crowley asked why there is no CPA report in this year's Town Report.

David Jodoin explained that in light of the way things are going in the world of finance, the auditors are required to do more work and it is taking longer for the audit. Because of the change in personnel with the town, information was not getting back and forth between the town and the auditing firm in a timely fashion. He stated that he had talked with the auditors earlier in the week and they should be finalizing the report shortly and it will be available at the Town Hall

and the Library. The town will be able to put the 2007 auditor's report and hopefully the 2008 auditor's report in the 2009 Town Report.

There was a motion made to adjourn.

**MOVED: Vincent Greco**

**SECONDED: Brian Seaworth**

**VOTE: YES**

**2009 TOWN MEETING ADJOURNED AT 1:17 p.m.**

Respectfully submitted

James F. Goff  
Town Clerk  
Town of Pembroke, NH

TOWN SEAL