

# Permitting Guide

## Town of Pelham, MA

A how-to manual for residents, business owners, developers, contractors, realtors and consultants



### **Prepared For**

The Town of Pelham in consultation with the Pelham Planning Board and Town Boards and Departments.

### **Prepared By**

The Pioneer Valley Planning Commission

This project was made possible by funding from District Local Technical Assistance, an annual program funded by the Legislature and the Governor through a state appropriation. (January 2020)



## Contents

How to Use this Guide.....	1
The Permitting Process: An Overview .....	1
Frequently Asked Questions.....	2
Pelham Boards and Departments.....	4
Rules of Thumb for Building Permits .....	7
Steps in Identifying the Permits or Licenses that you will need.....	7
Land Use Conformance .....	8
Zoning Bylaw.....	8
Single Family Dwellings .....	9
Conservation Commission Review.....	10
Special Permits.....	11
Site Plan Review .....	13
Subdivision Regulations .....	14
Applying for a Variance .....	15
Filing for an Appeal.....	16
State Permits.....	17
Federal Permits.....	18
Other Relevant State Laws .....	18

## Appendices

- A – Permits & Licenses
- B – Special Permit Process diagram
- C – Zoning Map & Village Center Zoning Map

## How to Use this Guide

This Guide provides an overview of the pertinent laws and permit review process and where to find assistance. **This document is only a guide, however, and does not supersede any of the laws, regulations, or bylaws that have been formally adopted by the Town.**

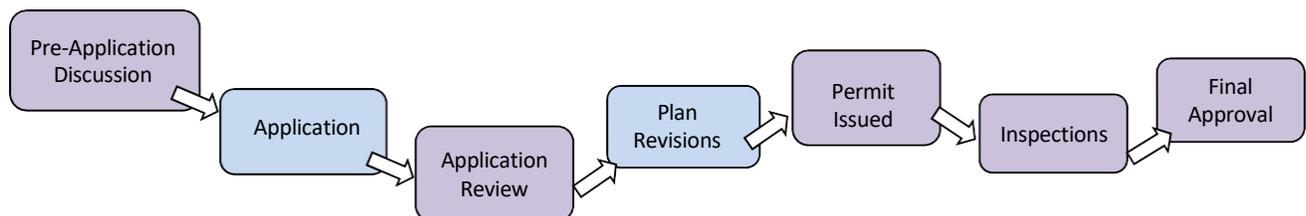
## The Permitting Process: An Overview

The first three steps for any project: Look on the town website or contact the Planning Board to (1) Determine the Zoning District in which the project falls; (2) Determine what permits are needed for your project by looking at the Table of Uses in the Zoning Bylaw and in the non-zoning provisions of the Code of Pelham; (3) If the project involves any land alteration (new construction, an addition to an old structure, new driveway, tree or trail cutting etc.), consult the Conservation Commission, Board of Health, Department of Public Works and/or the Building Inspector.

Nearly all projects require an assortment of permits under the state building code so be sure to consult the Building Inspector even if the project seems minor. Some projects may require approval by multiple departments and boards before a permit can be issued. Applicants are encouraged to speak with appropriate departments throughout the permitting and inspection process in order to minimize the potential for delays.

Furthermore, since every project is unique, the application for your project may not match what is found in this guide. The building inspector or town boards can help to confirm the forms and documents you will need prior to submitting your application. While every application is different based on the type of permits, the following items are typically required for all development permits: **Permit Forms, Plans, and Application Fees.**

The graphic below shows the general process for many permits that are required for more complicated development projects.



## Frequently Asked Questions

### How do I know if a permit or review is needed?

A good rule of thumb is that any work that builds a new structure or alters walls or roofs requires a building permit. Also, garages, sheds, fences, decks and swimming pools require building permits. Sometimes, depending on the project site and characteristics, other permits might be needed. Your best course of action is to ask first – the Building Inspector can help you determine exactly which permits apply to you. Most application forms are available on the town website: <https://www.townofpelham.org/>.

### What if I want to construct a new home or new business?

New construction sometimes requires one or more permits, depending on the size, location, and proposed use of the structure. Your first step should be to consult the Building Inspector, Planning Board, or Conservation Commission. The Building Inspector will discuss with you the property improvements you propose, and the typical permit requirements for those improvements. The Building Inspector or these other town bodies will also inform you of other regulations, such as wetlands regulations, that might apply to your site. He will also guide you to the Zoning Bylaw, which specifies minimum lot area; setbacks for front, rear and side yards; and permitted uses in specific districts.

### How do I know what laws apply to my project?

Call the Building Inspector or attend a Planning Board meeting. They can help you determine the laws and regulations that govern your project and your site.

### What is Zoning?

All property in Pelham is classified into one of five zoning districts: Residential (R), Limited Business (LB), Village Center Mixed-Use (VC-MU), Village Center Neighborhood (VC-N), and Village Center Rural Edge (VC-RE). These districts define in detail the uses that are allowed in that district by right or by special permit. Each land use has specific regulations for lot frontage, lot area, and yard setbacks. There is also one “overlay district” (Water Supply Protection) that stipulates additional development controls in that area of town.

### What is the difference between the Zoning Bylaw and the Building Code?

Zoning regulations are established by the Town. Zoning determines the types of structures and uses that are allowed in each zoning district. No matter where your property is located in town, it is subject to some type of zoning regulation. The Building Code is established by the Commonwealth and applies to all structures and buildings, no matter the use or location. The Building Code sets the minimum safety standards to protect the health and safety of the building occupants and neighbors. The Building Inspector is also the Zoning Enforcement Officer in the Town of Pelham.

### What if my proposed structure is not allowed by the Zoning Bylaws?

Some uses are allowed only with a Special Permit. A Special Permit means that the use is not normally permitted, but the Town will consider allowing it if it meets certain criteria and is judged to be an overall benefit to the Town. The Zoning Bylaws outline the process and the uses subject to Special Permits (also see page 11 of this Guide). In certain circumstances, when a proposed structure cannot fit properly on a lot, a Variance may be sought from the Zoning Board of Appeals. See page 15 of this Guide and/or contact the Building Inspector for more information.

### What other Bylaws does the Town have that require permits?

All of the bylaws that regulate activities having to do with living, working, and developing property in Pelham are included in the Town Code but are in the General Bylaws, not under Zoning. Some of the additional permits and licenses issued by the Town include dog licenses, driveway permits, and earth removal permits. A comprehensive list of the Permits and Licenses that are issued by the Town is included in Appendix A of this Guide. Again, if in doubt check with the Building Inspector/Zoning Enforcement Officer or the Town Clerk with your proposed projects and they will let you know whether or not a permit is needed or whom to contact.

## Pelham Boards and Departments

### Board of Assessors

The assessors list and value all real properties within the town every 5 years to be submitted to the State Department of Revenue for certification. The assessors do not directly tax any properties. Assessors can provide a [Certified List of Abutters](#) needed for applications requiring Special Permits and Site Plan Review or actions by the Conservation Commission, Planning Board and other boards and committees that require that abutters be notified of projects or public hearings.

**Contact:** Lori Turati, Assessor's Assistant

**Office:** 351 Amherst Road, Pelham, MA 01002

**Phone:** (413) 253-0734

### Board of Health

The Board of Health enforces the state and local health and environmental codes. Among the many permits and certificates it issues are those for septic systems, wells, restaurants and food other types of food retailers, mobile home parks, and piggery licenses. The Town of Pelham participates in a regional health department, the Quabbin Health District, which is based in the Town of Ware and includes the Town of Belchertown. The Quabbin Health District conducts inspections and serves as staff for the Boards of Health in the towns within the District.

**Contact:** Andrea Crete, Public Health Director; Betty Barlow, Administrative Assistant

**Office:** Quabbin Health District, Town Hall, 126 Main Street, Suite D, Ware, MA 01082

**Phone:** (413) 967-9615

**Permits Issued:** [Construction of a Private Well](#), [Perc Test](#), [Plumbing Permit](#), Septic System Permit, Recreational Camp Permit, Temporary Food Establishment, non-commercial keeping of animals (section 125-15 of Pelham Zoning Bylaws), housing and lead paint code enforcement, and public health nuisance investigations.

### Building & Associated Inspections

#### *Building Inspector & Zoning Enforcement Officer*

The role of the Building Inspector is to ensure that proposed developments comply with the state building code, local zoning regulations, and any other applicable regulations. The Building Inspector is responsible for issuing building permits and for conducting required inspections. Inspections for electrical and plumbing permits are conducted by the electrical and plumbing inspectors.

The Building Inspector is responsible for the enforcement of the Town's zoning bylaws and provides support to other town bodies including the Conservation Commission, Planning Board, Select Board, and the Zoning Board of Appeals. All of these boards have enforcement authority under the Enforcement Bylaw adopted in 2018 under the provision of MGL Ch. 40 s. 21D, the non-criminal disposition method permitting the issuance of fines for violation of zoning and non-zoning bylaws. The Building Inspector is appointed on an annual basis by the Board of Selectmen.

**Contact:** David Waskiewicz, Building Inspector & Zoning Enforcement Officer

**Phone:** (413) 687-5036

**Permits Issued:** [Building Permit for single-family, two-family dwellings](#), [Building Permit - Any Building Other Than A One- or Two-Family Dwelling](#), [Sign Permit](#), [Trenches](#)

### *Electrical Inspector*

**Contact:** Ronald Shepard

**Phone:** (413) 575-3403

**Permits Issued:** Electrical Work

### *Plumbing and Gas Inspector*

**Contact:** Andrew French

**Phone:** (413) 537-2596

**Permits Issued:** All plumbing work (after being notified by the Quabbin Health District) and gas applications sent directly to 143 Mechanic Street, Amherst MA 01002

### **Conservation Commission**

The Conservation Commission is primary responsible for enforcing the regulations of the Massachusetts Department of Environmental Protection, particularly the [Wetlands Protection Act](#) and [Rivers Protection Act](#), and the Town of Pelham's local Wetlands Bylaw.

**Contact:** Mr. Dana MacDonald, Chair - **Phone:** (413) 461-8224

**Conservation Agent:** Janice Stone

**Email:** [conservationagent@townofpelham.org](mailto:conservationagent@townofpelham.org)

**Permits Issued:** [Request for Determination of Applicability \(RDA\)](#); Order of Conditions (following [Notice of Intent](#) to do work in a resource area), Certificate of Compliance

### **Department of Public Works**

The Department of Public Works (DPW) manages the buildings and grounds, roads, bridges, and stormwater infrastructure for the Town of Pelham. Applications for driveway permits, curb cuts, trenches, and stormwater permits should be submitted to the DPW. **Note:** The DPW should be contacted for driveway repairs that include intersections with town roads and drainage areas. The Planning Board also has some jurisdiction over roads and stormwater management of subdivisions and developments in the Village Center. The Conservation Commission should be contacted for anywhere that streams or wetlands may be impacted. The Town also has a Scenic Roads Bylaw that affects work proposed in the Town Right of Way of designated scenic roads.

**Contact:** Richard Adamcek, Superintendent

**Office:** 353 Amherst Road, Pelham, MA 01002

**Phone:** (413) 253-5245

**Permits Issued:** [Trench Permits](#), [Driveway Permits](#)

### **Dog Officer**

**Contact:** Nancy Long, Dog Officer

**Phone:** (413) 253-0484 (same number as the Police Department which will refer the call)

## Fire Department

The Fire Department processes all permits associated with the storage of flammable or hazardous materials, underground storage tanks, the use of explosives or blasting materials and cutting and welding equipment. Also, this department conducts inspections associated with smoke and fire detectors and sprinkler systems.

**Contact:** Chief Dennis Nazzaro

**Office:** 2 South Valley Road, Pelham, MA 01002

**Phone** (non-emergency): (413) 253-3311

**Permits Issued:** Burning yard waste requires a permit and is legal only during the “burning season.” The following forms and applications can all be found on the State of Massachusetts [website](#): Oil Burner Permit, Blasting Permit, Tank Truck Permit, Vent Free Gas Heater Permit, Flammables Storage Permit, Black Powder Permit, Tank Removal Permit (above/underground), Tank Storage Permit, Self Service Gas Station Suppression Permit, Sprinkler System Permit (for property transfers, minor or new construction/additions), Fire Alarm Systems Permit (minor or new), battery storage.

## Historical Commission

The Historic Commission reviews applications for any project that is located in the Pelham Historic District and is governed by the Pelham Historic District Bylaws.

**Contact:** Karl Martini, Chair

**Office:** 351 Amherst Road, Pelham MA 01002

**Phone:** (413) 256-4606

## Planning Board

The Planning Board is responsible for the long term planning for the community. In accordance with town regulations, the Planning Board conducts Site Plan Review, reviews Subdivision applications, and reviews some development proposals that require a Special Permit and/or Site Plan Approval.

**Contact:** Judith Eiseman, Chair

**Office:** 351 Amherst Road, Pelham, MA 01002

**Phone:** (413) 230-9771

**Email:** [judyeiseman@comcast.net](mailto:judyeiseman@comcast.net)

**Permits Issued:** Approval Not Required (ANR), Subdivisions, Scenic Roads review/permits. and some projects requiring Site Plan Approval and/or Special Permits in the Village Center

## Select Board

The Select Board is the chief elected body of the town of Pelham representing all residents and protecting the general welfare of the community. The Select Board has six specific areas of authority that are important to the town. These include the powers to: prepare the town meeting warrant and call town meetings; make appointments to town boards and offices; employ Town Counsel; employ professional administrative staff; sign warrants for the payment of all town bills; and grant certain licenses and permits.

### Select Board:

Robert Agolia, David Shanabrook, Tara Loomis

**Contact:** Susannah Carey, Executive Assistant

**Office:** 351 Amherst Road, Pelham, MA 01002

**Phone:** (413) 253-7129

**Permits Issued:** Storage of unregistered motor vehicles; permission to place objects within the Rights of Way of

public roads; One Day Special Alcohol Permit

### **Town Clerk**

The Town Clerk posts all meetings as required by open meeting law; maintains open meeting law compliance records; maintains public records and access to them, including all vital records (birth, death and marriage.) The Town Clerk handles ethics disclosures and requests for voter lists, manages all elections including voter registration, and certifies all nomination and petition papers for town and state elections and swears in elected and appointed officials. The Town Clerk is responsible for submitting records of town meeting votes and election results to the state Attorney General and has numerous other official state-mandated duties.

**Contact:** Sandra Burgess, Town Clerk

**Office:** 351 Amherst Road, Pelham, MA

**Phone:** 413-253-0512 **fax:** 413-256-1061

**Email:** [pelhamtownclerk@comcast.net](mailto:pelhamtownclerk@comcast.net)

**Permits Issued:** Business Certificates (DBA Certificates), Burial Permits, and Marriage Licenses, Dog & Kennel Licenses, Elections

### **Tree Warden**

The Tree Warden is responsible for the protection and maintenance of trees located in Town Right-of-Ways. The Tree Warden must be contacted when development may impact town-owned trees, either above the ground or below ground. The Public Shade Tree Act applies and a public hearing must be held for any tree work that is proposed within a public right of way.

**Contact:** David Hawkins, Tree Warden

**Phone:** (413) 253-4266

### **Zoning Board of Appeals**

The Zoning Board of Appeals (ZBA) is the permit granting authority that decides upon petitions for variances and hearing administrative appeals of decisions made by the Building Inspector. The ZBA may also review and decide on applications for special permits (as detailed in the Pelham Zoning Bylaws) and comprehensive permits for subsidized housing under MGL Ch 40B.

**Contact:** Jeffrey Eiseman, Chair

**Office:** 351 Amherst Road, Pelham, MA 01002

**Phone:** (413) 253-2932

**Permits Issued:** Variances, Special Permits, Appeals of Building Inspector decision, Comprehensive Permits

## Rules of Thumb for Building Permits

Three key rules apply when a project is still in the planning stages:

1. Any project involving an existing structure, including a house, garage, shed, etc., requires a call to the Building Inspector. He will review the zoning district requirements and direct you to the regulations that apply and to others who may need to be involved—including the Conservation Commission if wetland resources are nearby.
2. Any work on land that does not involve an existing structure and/or that alters the land (including tree cutting), requires a call or visit to the Conservation Commission as well as to the Building Inspector. When a building project is proposed (including single family homes, home additions, and the installation of wells and septic systems) the Commission may offer an “advisory assessment” or a more formal “Request for Determination of Applicability” of the Wetlands Protection Act and/or town wetlands bylaw. The advisory assessment is not a formal permit process but ensures that water resources are considered for all development projects.
3. Larger or more complex developments require review and approval by a number of boards (i.e. subdivisions or projects requiring Special Permits or Site Plan Review), a **Pre-Application Meeting** with the Permit Granting Authority (PGA) and/or a technical review committee (the Building Inspector and representatives from the Fire and Police Departments, Conservation Commission, Board of Health, and Department of Public Works) is highly recommended. This allows the boards to provide feedback before final plans are developed, saving time and expense later and contributing to a well-formed site design.

Plan review and applications for permits from Town departments may happen concurrently, but a final building permit cannot be issued until all other approvals have been obtained. Similarly, a zoning permit cannot be issued until all permits have been obtained.

### Steps in Identifying which Permits or Licenses you will need

**First**, identify the type of project you are undertaking. Some permit applications require action or review by several departments or boards. Others are relatively straightforward and can be accomplished with one visit to the Town Clerk.

**Next**, see the Town’s website and specific department web pages for permit application links for relevant forms, documents and information that must be submitted with an application – Town staff and other officials can also help with this. Hyperlinks are provided in the list of permits provided in Appendix A when these documents are provided online.

## Land Use Conformance

Land use and development is controlled by the Pelham Zoning Bylaw, the Subdivision Regulations, and the Massachusetts Wetlands Protection Act and may include some local bylaws such as the scenic roads and wetlands bylaws. Conformance review for each requires a different process. In addition, all projects require a Building Permit to comply with the Massachusetts Building Code.

### Zoning Bylaw

The Pelham Zoning Bylaw promotes the public health, safety, and welfare of the Town by regulating the way land is used in the town. The Bylaw consists of two components: the [Zoning Map](#) (see Appendix C), which divides the Town into various geographic zoning and overlay districts, and the [Zoning Bylaw](#), which detail the regulations applying to those districts. Several types of regulations are contained within the Zoning Bylaw:

- **Principal Use Regulations (Article III)** – the types of uses permitted in each district. Some uses such as multi-family dwellings, off-street parking & loading, earth removal, and large-scale ground-mounted solar installations have additional regulations described in Section V (Special Use Regulations).
- **Dimensional & Density Regulations (Article III, § 125-6)** – spatial qualities of land use, such as frontage, lot sizes, permitted height, and setbacks of structures within lots for each district.
- **District Regulations (Article IV)** – The Water Supply Protection Overlay District includes modifications or additions to underlying zoning regulations for water supply protection. These apply to specific “overlying” geographies, mapped or described in the Zoning Bylaws. This section also includes Village Center Districts Regulations which include additional requirements and use restrictions for the Village Center Districts.
- **Performance Standards (Article V)** – standards for lighting, noise, odor, storm water runoff, erosion control, water quality, explosive materials, screening and buffer requirements that must be met in all districts. These are delineated within each use section.
- **Special Use Regulations and Performance Standards (Article V)** – Special Use Regulations are specific to certain uses such as multi-family dwellings, elderly housing, home occupations, earth removal, signs, large ground-mounted solar installations, fences, marijuana dispensaries, and Open Space Design in the Village Center district. Performance Standards are specific standards such as lighting, noise, odor, storm water runoff, erosion control, screening and buffer requirements that must be met for each Special Use.

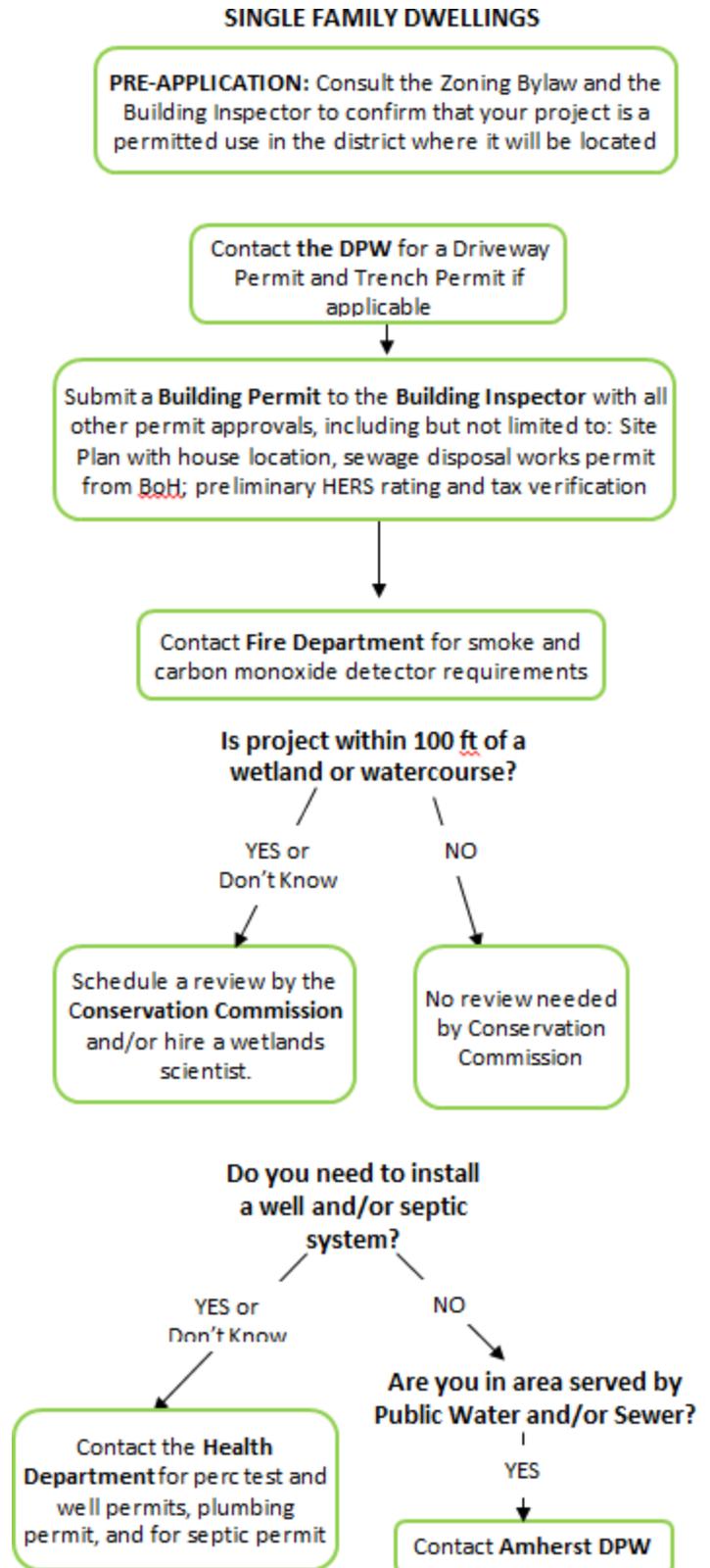
Any **change of use** or **physical changes to a site or the exterior of a building** require a permit. Single family residential dwelling units may be permitted by the Building Inspector without the need for review by the Planning Board or the Zoning Board of Appeals. The **Schedule of Use Regulations (§ 125-5)** in the Zoning Bylaw indicates the type of review that is required for different types of development in each zoning district.

The Bylaw requires a **Special Permit** and/or **Site Plan Review** for many uses or developments. Special Permits are discretionary and may be conditioned or denied by the Special Permit Granting Authority (SPGA) specified in the relevant sections of the Bylaw. If your project requires Site Plan Review and/or a Special Permit, it is important to speak with the Planning Board and Building Inspector, who will guide you through the process.

The following charts show the development review process required for building Single Family Dwellings followed by the review process by the Conservation Commission, and Site Plan Review and/or Special Permits. These are followed by an explanation of the process for Subdivision permitting. As noted above, some projects will require review by multiple boards and permits from multiple departments.

## New Single Family Dwellings

Building of Single Family Dwellings is allowed in all districts without the need for review by the Planning Board or Zoning Board of Appeals. However, the project must comply with dimensional regulations in the districts in which it is located, may need to be reviewed by other boards (such as the Conservation Commission to determine if the site is located near a wetland), and will likely need permits from other departments (such as the Board of Health and the Department of Public Works). All development projects, including new home development and alteration of existing homes will need to submit a Building Permit, and it is important that applicants consult with the Conservation Commission to discuss wetlands and stormwater concerns on the site.



## Conservation Commission Review

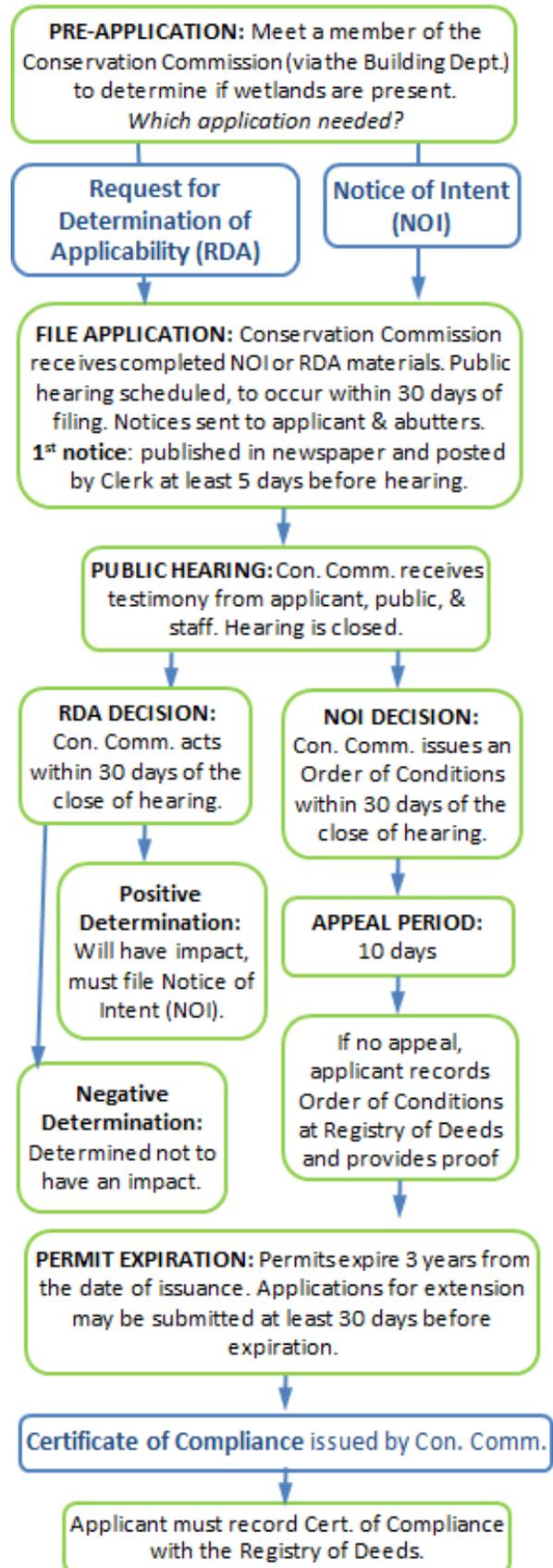
The Pelham Conservation Commission is responsible for reviewing applications for development to ensure that they comply with the Massachusetts Wetlands Protection Act ([MGL 131, Section 40](#)) and the [Pelham Local Wetlands Bylaw](#). The process under the local bylaw is the same, but additional wetlands resources are protected under this bylaw including vernal pools, buffers, springs, and headwaters to streams. The Wetlands Protection Act protects wetlands, water sources, and adjoining land areas by preventing or minimizing impacts to these resources. Anyone proposing to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter resources or areas within delineated areas as noted below will need permission from the Conservation Commission.

**Caution:** Don't assume that an area is not covered under these laws! It takes expertise to identify areas which may not be obviously wet but which are nevertheless protected because of soil type or proximity that isn't immediately visible in all seasons.

- 200 feet within any perennial stream or river;
- 100 feet from any freshwater wetlands, vernal pools, reservoirs, ponds of any size, or lands subject to flooding or inundation by ground or surface water;
- 100-year floodplains;
- No development or disturbance is permitted within a minimum non-disturbance zone of 100 feet from the above resources. In the case of the local bylaw, the 100-foot buffer itself is recognized as a resource area that needs to be protected.
- Exceptions for certain uses may apply, but be aware that Pelham protects resources that are not protected under state law

Wetlands and water bodies are not noted on the Pelham Zoning Map. However, these maps should not be relied upon except as a general reference. A professional wetlands scientist is often needed to delineate actual resource extent.

## CONSERVATION PROCESS



## **Special Permits**

The Zoning Board of Appeals is the Special Permit Granting Authority (SPGA) for projects requiring special permits in all districts except those in the Village Center. For the Village Center Mixed Use, Village Center Neighborhood, and Village Center Rural Edge Districts, the Planning Board is the SPGA for development or changes in use that require special permits.

A special permit is a discretionary land use approval that a property owner is required to obtain prior to undertaking certain activities on his/her property. The Schedule of Use Regulations (Section 125-5 of the Pelham Zoning Bylaw) lists the types of uses that require Special Permits (SPs) or Site Plan Approval (SPA).

The criteria that the SPGA considers in review of an application for a Special Permit is included in Section 125-25 (5) of the Pelham Zoning Bylaw. If both a Special Permit and Site Plan Approval are required, the SPGA will consider the site plan approval requirements listed in Section 125-26 for Site Plan Approval.

Massachusetts General Law (MGL) Chapter 40A Sections 9 and 11 includes the required procedures for the SPGA to follow when reviewing and taking action on special permits. A timeline for special permits is included in Appendix B, and a brief outline of the steps in the special permit process is provided below.

### **1) Special Permit Application**

Applicants for Special Permits must fill out the Application for Findings, Appeals, Variances and Special Permits that may be found on the Town website or at the Town Clerk's office. The Town requires the original form and eleven (11) copies as well as any required plans specified in the Zoning Bylaw.

### **2) Application Submission**

The special permit process begins when the applicant files a special permit application with the town/city clerk and then files a copy of the application, including the time and date of filing certified by the clerk, with the SPGA. If the special permit application is distributed to other municipal boards for advisory opinions then it is sent to those boards at this time. The act of filing the special permit application with the required application fee starts the clock for the time in which the SPGA must take final action.

An applicant may withdraw a special permit application without prejudice any time prior to the date of the first publication of the notice of the public hearing in the newspaper. The applicant may only withdraw its application after that date without prejudice upon the consent of the majority vote of the SPGA, otherwise the withdrawal of the application is with prejudice and the applicant cannot submit the same application for two years.

### **3) Public Hearing and Strict Notice Requirements**

M.G.L. c. 40A § 9 instructs the SPGA to hold a public hearing on the special permit application within 65 days from the date of its filing. The purpose of the public hearing is to allow interested persons the opportunity to provide comments on the special permit application. The statute imposes the following strict notice requirements that the SPGA must meet for the public hearing to qualify.

- a) Notice must be posted in a conspicuous place in the city or town hall for a period of not less than 14 days before the day of the hearing.
- b) Notice must be published in a newspaper of general circulation in the city/town in each of two successive weeks – the first publication to be not less than 14 days before the hearing.
- c) Notice must be mailed to “parties in interest”, which include the petitioner/applicant, abutters, owners of land directly opposite on any public or private street, abutters to abutters within 300 feet of the

property line of the petitioner, the planning board of the town/city, and the planning board of every abutting city or town. Please see M.G.L. c. 40A § 11 for more information on “interested parties.”

#### **4) Reviewing Relevant Project Information**

At the same meeting or a subsequent meeting after the close of the public hearing, the SPGA members review all of the information collected including site plans and technical reports and each member formulates his/her opinion on whether to approve, deny, or approve subject to conditions the special permit application.

#### **5) Voting on the Special Permit Application**

At the same meeting or a subsequent meeting the SPGA members vote on the special permit application. The granting of a special permit requires the unanimous vote of a three member board or the vote of at least four members of a five member board. The decision of the SPGA must be in writing and contain a detailed record of the proceedings, an accounting of the vote of each member and the reasons for its decision. The SPGA has 90 days from the date of the public hearing to make its decision. The 90 day time limit may be extended by mutual agreement of the SPGA and the applicant. Please see M.G.L. c. 40A § 9 for additional information.

#### **6) Filing Special Permit Decision with the Town/City Clerk**

The SPGA is required to file its decision within 14 days from the end of the 90-day period mentioned above (or extended time) in the office of the town/city clerk and to send a certified copy of the special permit decision to the applicant (and owner if different). The 20-day appeal period from the special permit decision begins with the filing of the decision with the town/city clerk.

#### **7) Sending Notice of the Special Permit Decision**

The SPGA must mail a notice of the special permit decision to the applicant, parties in interest as defined in M.G.L. c. 40A § 11 and every person at the public hearing who requested that notice be sent and provided an address. Please see M.G.L. c. 40A § 11 for more information.

#### **8) Recording the Special Permit Decision at the Registry of Deeds**

The special permit only takes effect upon the recording of the special permit at the appropriate registry of deeds. The recording must include a certification from the town/city clerk that the 20-day appeal period has passed and no appeal has been filed. Please see M.G.L. c. 40A § 11 for more information.

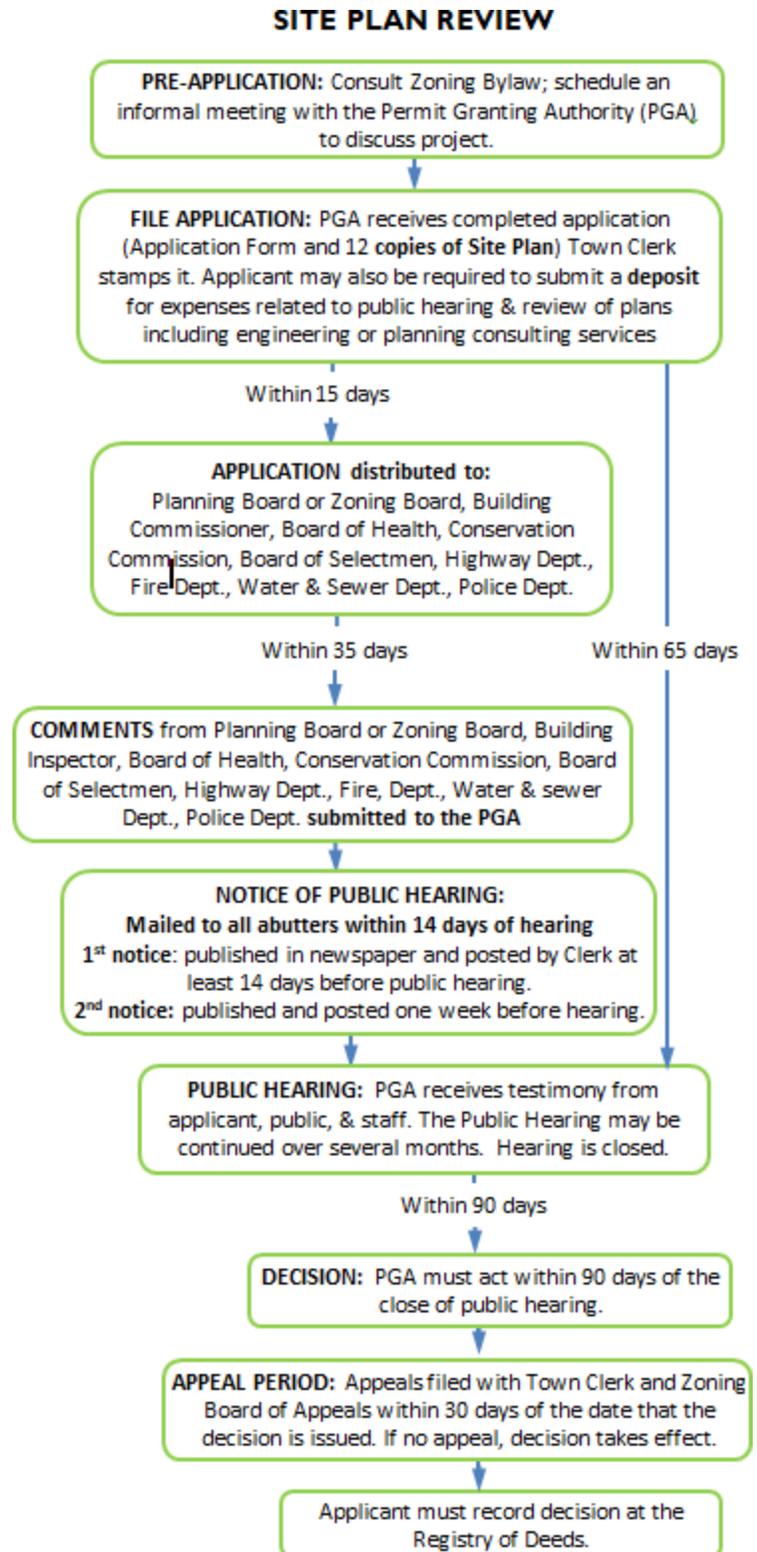
## Site Plan Approval

As for Special Permits, Pelham’s Zoning Board of Appeals (ZBA) is the Permit Granting Authority (PGA) for proposals that require Site Plan Approval (SPA) in all districts except for those in the Village Center Mixed Use, Village Center Neighborhood, and Village Center Rural Edge Districts. In these Village Center districts, the Planning Board is PGA for Site Plan Approval.

The purpose for Site Plan Approval is to ensure that new development is designed in a manner that reasonably protects visual and environmental qualities and property values, and that ensures adequate drainage of surface water, and safe vehicle access. The criteria for Site Plan Approval are included in the Pelham Zoning Bylaws in Section 125-6, F.

For projects requiring Site Plan Approval in any of the Village Center districts, additional criteria and design standards are located in Section 125-8.2, F. This section includes standards for building design, site design and landscaping, lighting, parking, signage, and stormwater management that supersede criteria found elsewhere in the Zoning Bylaw.

The procedures that Pelham uses for Site Plan Approval follow the same procedures as for Special Permits (see Special Permits section and the timeline in Appendix B).

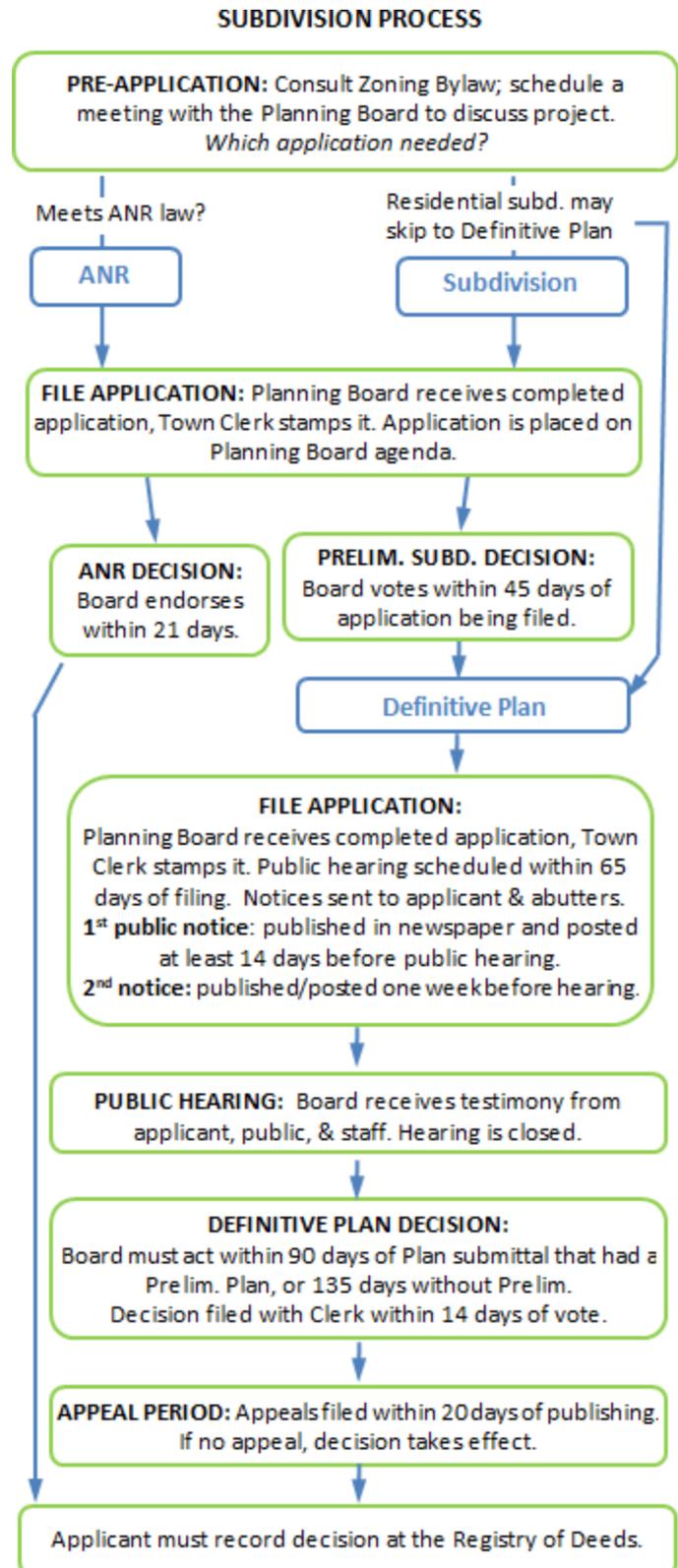


## Subdivision Regulations

Pelham’s Subdivision Regulations regulate the division of land into smaller lots and also dictate standards for new streets, storm water infrastructure, and other improvements. Larger subdivisions typically go through a multi-step review and approval process.

However, under Mass. General Law, if the proposed lot divisions occur along an existing public way with adequate access, and result in lots that conform to zoning specifications for minimum frontage, the land division is not subject to Subdivision Control Law. This is known as an Approval Not Required (ANR) subdivision.

In addition, automatic approval of a properly submitted plan will occur if the Planning Board fails to act on the plan or fails to notify the Town Clerk or applicant of its determination within 21 days after the Plan has been submitted to the Planning Board.



## Applying for a Variance

If a project cannot conform to the Zoning Bylaw or Subdivision Regulations, owners/developers may seek “variances” from the specific sections of the Bylaw or Regulations that would be violated. This must be done before a project can receive permits.

The Zoning Board of Appeals (ZBA) is responsible for hearing variance requests. Under [Massachusetts law](#), variances can only be granted if the ZBA finds *all* of the following exist:

- That a “substantial hardship,” financial or otherwise, exists because of the literal enforcement of the bylaw;
- That this hardship is owed to circumstances related to the “soil conditions, shape, or topography of such land or structures”;
- That these circumstances are “especially affecting” such land but not generally affecting that zoning district; and
- That relief may be granted without “substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose” of the bylaw.

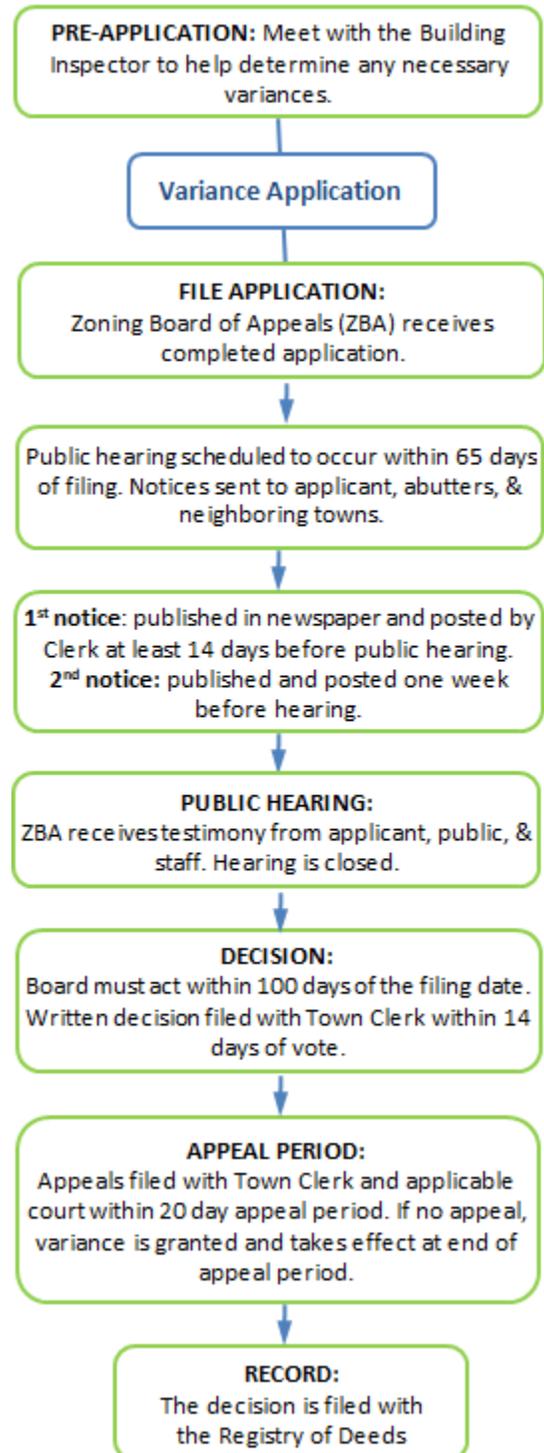
Once a variance has been granted, it must be filed with the Registry of Deeds in order to be valid.

## Filing for an Appeal

An appeal may be filed by the applicant, the Pioneer Valley Planning Commission (PVPC), or any person including an officer or board of the Town of Pelham or of an abutting city or town aggrieved by an order or decision by the Building Inspector or other administrative official. Appeals are filed with the Zoning Board of Appeals.

The application for a Variance or Appeal can be found here: [https://www.townofpelham.org/sites/pelhamma/files/uploads/application\\_for\\_finding.pdf](https://www.townofpelham.org/sites/pelhamma/files/uploads/application_for_finding.pdf)

## VARIANCE PROCESS



## State Permits

### Massachusetts Highway Access Permit

Required by the Massachusetts Department of Transportation (MassDOT) for new or altered driveways on any State Roadway (Route 202).

**Contact:** MassDOT, District 2  
811 North King Street, Northampton, MA 01060  
Phone: (413) 582-0599  
<https://www.mass.gov/locations/highway-district-2-office>

### The Massachusetts Endangered Species Act (MESA)

The MESA is regulated by the Natural Heritage and Endangered Species Program (NHESP) and requires a permit for alterations to Priority Habitat areas. NHESP Priority Habitat maps are available for review at the offices of the Conservation Commission or Board of Selectmen.

**Contact:** Natural Heritage and Endangered Species Program  
Massachusetts Division of Fisheries and Wildlife  
1 Rabbit Hill Road, Westborough, MA 01581  
Phone: (508) 389-6357  
<https://www.mass.gov/orgs/masswildlifes-natural-heritage-endangered-species-program>

### Massachusetts Environmental Policy Act (MEPA)

The MEPA requires the submission of an Environmental Impact Report (EIR) for projects and activities undertaken, funded or requiring a permit from MEPA state agencies if the project exceeds specified thresholds.

**Contact:** Massachusetts Environmental Policy Act Office  
100 Cambridge Street, Suite 900, Boston, MA 02114  
Phone: (617) 626-1031  
<https://www.mass.gov/orgs/massachusetts-environmental-policy-act-office>

### 401 Water Quality Certification

Required by the Massachusetts Department of Environmental Protection (DEP) for any project that will alter over 5,000 square feet of wetlands and/or the dredging of more than 100 cubic yards of Land Under Water as defined in the Massachusetts Wetlands Protection Act.

**Contact:** Massachusetts Department of Environmental Protection (MassDEP)  
Wetlands Program - [dep.wetlands@state.ma.us](mailto:dep.wetlands@state.ma.us)  
<https://www.mass.gov/wetlands-protection>

### State and Federal Historic Assets Reviews

Any projects that require state or federal funding, licenses, or reviews must be reviewed in compliance with Section 106 of the National Historic Preservation Act of 1966 (36 CFR 800) and the Massachusetts General Laws Chapter 9, sections 26-7C. It is the nature of the federal or state agency involvement that triggers the review, not listing in the either the state or federal Registers.

More information on the federal 106 regulations is available on the web site of the Advisory Council on Historic Preservation, <https://www.achp.gov>. Information on the state process is published in the web site

of the Code of Massachusetts Regulations (CMR) at 950 CMR 71, [www.mass.gov/code-of-massachusetts-regulations-cmr](http://www.mass.gov/code-of-massachusetts-regulations-cmr).

When filings are made copies should also be sent to the Pelham Historical Commission, Town Offices, 351 Amherst Road, Pelham Mass. 01002. The Town Commission is a participant in the federal and state review processes.

## **Federal Permits**

### **Section 404 of the Federal Clean Water Act**

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into the “waters of the United States,” including ponds, rivers, streams and wetlands. Activities regulated under this program include fill or development, water resource projects such as dams or levees, infrastructure development such as highways or airports, and mining projects. <https://www.epa.gov/cwa-404/section-404-permit-program>

### **Environmental Protection Agency Storm Water Notices of Intent and/or NPDES Permits**

NPDES permits are required for storm water discharges associated with certain industrial activities except operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale. The project owner and operator are required to file a Notice of Intent or pollution abatement plan with the EPA. <https://www.epa.gov/npdes/npdes-permit-basics>

## **Other Relevant State Laws**

**Chapter 30A, §§18-25** – Open Meeting Law

**Chapter 40B** - Chapter 40B is a state statute, which enables local Zoning Boards of Appeals to approve subsidized affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions.

**Chapter 61** – Taxation of certified forest land

**Chapter 61A** – Taxation of land in agricultural or horticultural use

**Chapter 61B** – Taxation of land classified as for recreational use

**Chapter 87** – Public Shade Tree Act

**Chapter 132** – Forest Cutting Practices Act

## Appendix A – Pelham Permits and Licenses

Please note that Pelham does not have an online submission process at this time – all applications must be mailed or hand-delivered. Keep in mind that most permits require fees to be submitted with an application. The Town’s website or staff can provide accurate fee information.

Common permits and licenses that must be obtained in Pelham are listed alphabetically below, categorized by type of project.

### Residential Permits & Licenses

Permit/License	Purpose	Issued By	Notes
<a href="#">Building Permit</a>	Construction/Repair/Renovation/Demolition; includes Private Swimming Pools	Building Department & Planning Board	Consult Building Inspector about required permits for small repairs or renovations
Accessory Apartment, Attached	Second dwelling unit inside or attached to primary single family dwelling	Building Inspector, Zoning Board of Appeals	By Right (Village Center); allowed by Special Permit and SPA in Residential and Limited Business districts
Accessory Apartment, Detached	Second, smaller dwelling unit in a detached structure	Planning Board	Not allowed in Residential or Limited Business districts; Site Plan approval required in Village Center districts
<a href="#">Driveway Permit</a>	Construction of a new driveway	Department of Public Works	“Common Access Driveway” requires SP or SPA from Planning Board
<a href="#">Electrical Work</a>	Any interior or exterior electrical work for which a permit is needed	Electrical Inspector	
Bed-and-Breakfast	An owner occupied dwelling that may rent up to 4 units and a maximum of 8 renters for short-term occupancy	Planning Board or Zoning Board of Appeals	Site Plan Review and Special Permit required in Residential and Limited Business districts, just SPA in Village Center districts
Two-Family or Multi-Family Dwellings	Multiple dwelling units (i.e. not accessory to primary dwelling unit)	Planning Board or Zoning Board of Appeals; Building Inspector	Site Plan Review or Special Permit required
<a href="#">Percolation Tests</a>	The soil testing required to determine if a site is suitable for onsite septic system.	Board of Health, Quabbin Health District	
<a href="#">Plumbing</a>		Plumbing and Gas Inspector	
Elderly Congregate Housing	Up to six housing units for older adults (age not specified in Zoning)	Planning Board or Zoning Board of Appeals	Required SPA or SP - Planning Board is the PGA in Village Center districts while the ZBA is the PGA in all other districts

Permit/License	Purpose	Issued By	Notes
Ground Signs		Zoning Board of Appeals	See Zoning
Subdivisions, Residential (New Streets)	Division of land into two or more parcels with a new street providing access to parcels	Highway Department, Planning Board	NPDES Permit; SP/PB-SPA
Subdivisions, Residential (No New Streets)	Division of land into two or more parcels – without new streets included as part of plan	Planning Board	SP/PB-SPA.
<a href="#">Trenches</a>	Digging of trenches for the laying of pipes, utilities, culverts, etc.	Department of Public Works	.
<a href="#">Wells</a>	New drinking water wells	Board of Health	
Home Occupation	Use of a dwelling, or an accessory building on the same zoning lot, for commercial activities; these activities are secondary to the use of the structure as a residential dwelling.	Planning Board or Zoning Board of Appeals	Site Plan Review or Special Permit required
More Than One Dwelling on a Parcel	Open Space Development – does not apply to accessory apartments	Planning Board	Site Plan Review or Special Permit required

### Business/Commercial (Operations) Permits and Licenses

Permit	Purpose	Issued By	Notes
Business Certificates (DBA Certificates)	All businesses including Home Occupations must have a DBA certificate that includes the name of the business	Town Clerk	

### Business/Commercial (Zoning) Permits and Licenses

Permit	Purpose	Issued By	Notes
Commercial Boarding Stable, Riding Academy (five acres or less)	Riding academies of five acres or less	Zoning Board of Appeals	Special Permit required
Commercial Recreation, Hunting, Fishing	Use of land for these purposes – see Miscellaneous permits section for Hunting & Fishing permits	Zoning Board of Appeals	Special Permit required
Major Home Occupation	By-Right or Special Permit	Zoning Board of Appeals or Planning Board	Prohibited in Residential district, Special Permit (from ZBA) required in Limited Business District; SPA with Planning Board in Village Center districts
Ground Mounted Solar Photovoltaic Installation (Any Scale)	Construction, operation, repair and removal	Building Inspector or Zoning Board of Appeals	Varies by size of installation

Permit	Purpose	Issued By	Notes
Retail/Office/Professional with building footprint of less than 2,500 sq ft	Uses, with a building footprint less than 2,500 square feet	Planning Board	Allowed by Special Permit from Planning Board in VC-MU and VC-N district (does not apply to single-family uses or exempt uses per Chapter 40A Sec. 3).
Retail/Office/Professional with building footprint of more than 2,500 sq ft	Uses, with a building footprint greater than 2,500 square feet require a Special Permit (does not apply to single-family uses or exempt uses per Chapter 40A Sec. 3)	Planning Board	Allowed by Special Permit from Planning Board only in VC-MU district (does not apply to single-family uses or exempt uses per Chapter 40A Sec. 3)
Parking	Off-street parking for residential; requirements vary by district	Planning Board & Zoning Board of Appeals	Special Permit required.
Restaurant/Bar/Entertainment	Eating establishment, bar – liquor license separate	Planning Board	Site plan approval from Planning Board
Wireless Communications Tower		Zoning Board of Appeals	Special Permit, Site Plan Approval required

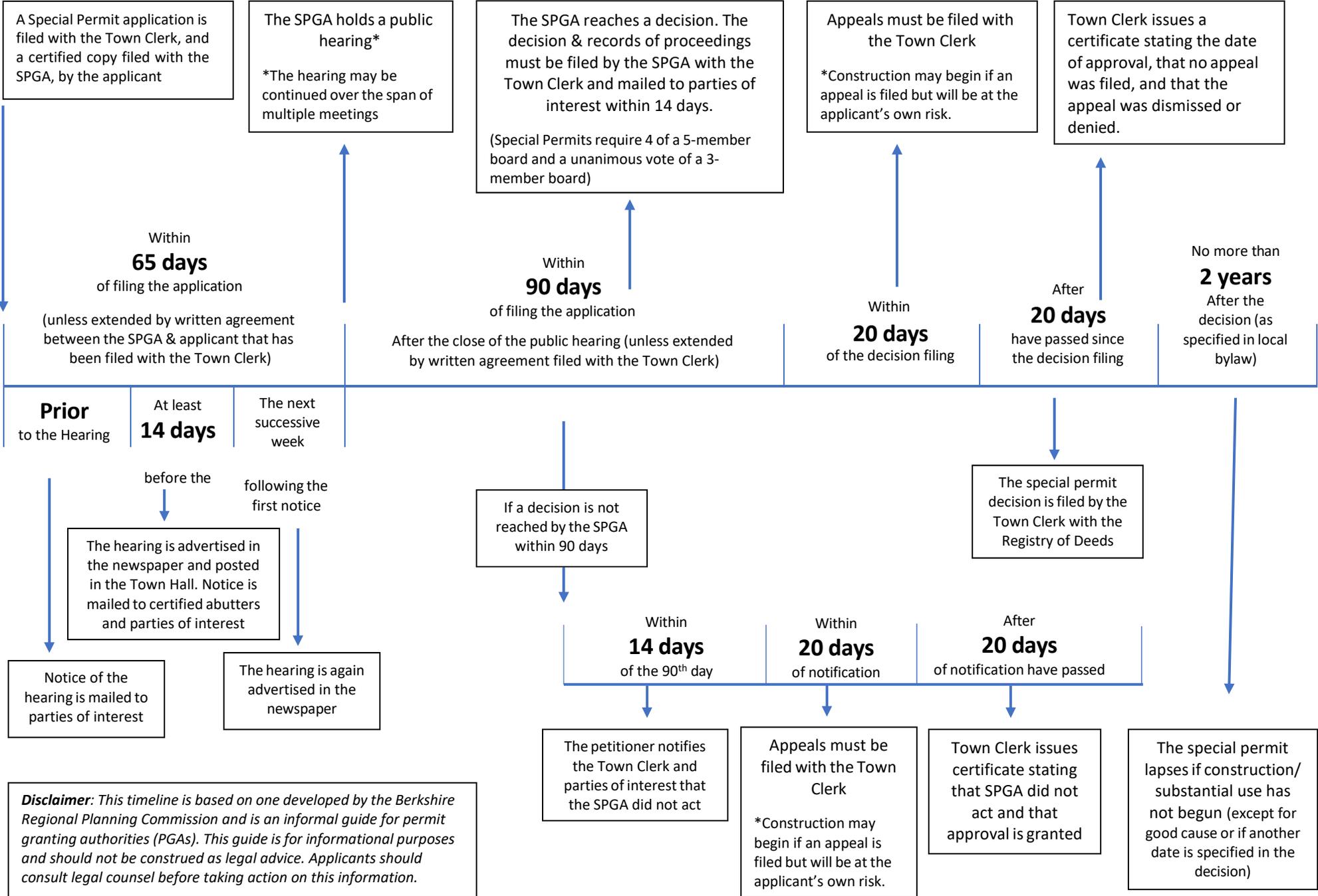
### Institutional (Zoning) Permits & Licenses

Permit	Purpose	Issued By	Notes
Cemetery	Burial of the deceased	Zoning Board of Appeals	Special Permit and SPA required
Childcare Facility	For daytime child care – regulations vary by size of facility	Planning Board or Zoning Board of Appeals	Zoning Restrictions. Subject to limitations in M.G.L Chapter 40A Section 3
Clubhouse, Headquarters of Fraternal Organization	Bona fide membership organizations under provisions of Mass General Law	Planning Board or Zoning Board of Appeals	Site Plan Review or Special Permit
Community Center, Facility for the Elderly		Planning Board or Zoning Board of Appeals	Site Plan Review or Special Permit
Family Childcare Home, Large Family Childcare Home	For daytime child care – regulations vary by size of facility	Building Inspector, Zoning Board of Appeals	Allowed by right in Village Center districts
Other educational or childcare use not subject to the limitations on municipal regulation in MGL c. 40A Section 3		Planning Board	Site Plan Review or Special Permit required - Subject to limitations in M.G.L Chapter 40A Section 3
Private Museum, Art Gallery, Craft Center		Zoning Board of Appeals or Planning Board	Site Plan Review or Special Permit required

## Miscellaneous Permits and Licenses

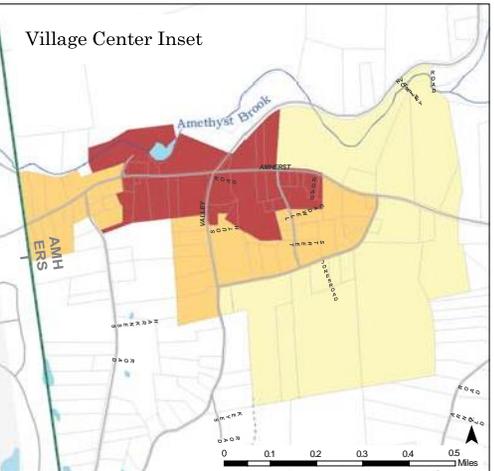
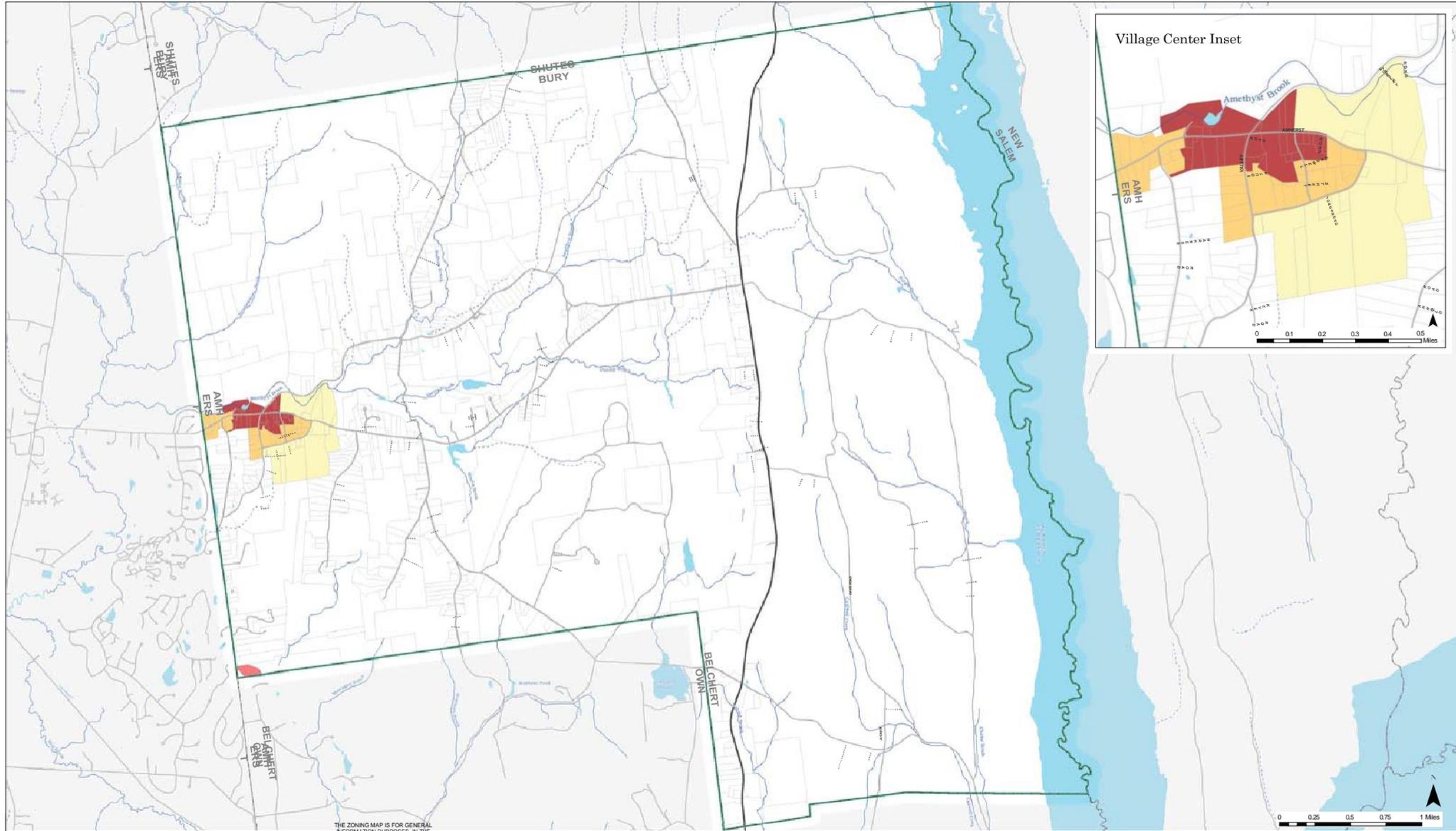
Permit	Purpose	Issued By	Notes
<a href="#">Burn Season Permit</a>	Outdoor burning	Fire Department	
<a href="#">Dog and Kennel Licenses</a>	Licenses must be purchased for all dogs. Kennel licenses are for multiple dogs in one location.	Town Clerk	Proof of rabies vaccinations must be provided at time of licensing.
<a href="#">Hunting and Fishing</a>	Required for all hunting and fishing in MA	Not issued in Pelham	Permits may be purchased <a href="#">online</a> or at a license agent location
Tree pruning or planting in a Public Right of Way	Pubic Shade Tree Law	Tree Warden	<a href="#">M.G.L. Chapter 87</a>

# Appendix B Special Permit Process – MGL Ch. 40A



**Disclaimer:** This timeline is based on one developed by the Berkshire Regional Planning Commission and is an informal guide for permit granting authorities (PGAs). This guide is for informational purposes and should not be construed as legal advice. Applicants should consult legal counsel before taking action on this information.

**Appendix C – Zoning Map & Village Center Zoning Map**



# 2018 ZONING MAP OF THE TOWN OF PELHAM

THE ZONING MAP IS FOR GENERAL INFORMATION ONLY. IT IS NOT TO BE USED AS A BASIS FOR THE VOTE OF TOWN MEETING ESTABLISHING OR AMENDING BOUNDARIES AND THE TEXT OF THE BYLAW GOVERNS.

Disclaimer: The display of the status of streets classification is not official, and may contain errors or omissions. While all reasonable efforts have been made to assure the accuracy of the information provided, do not rely on this information without appropriate due diligence.



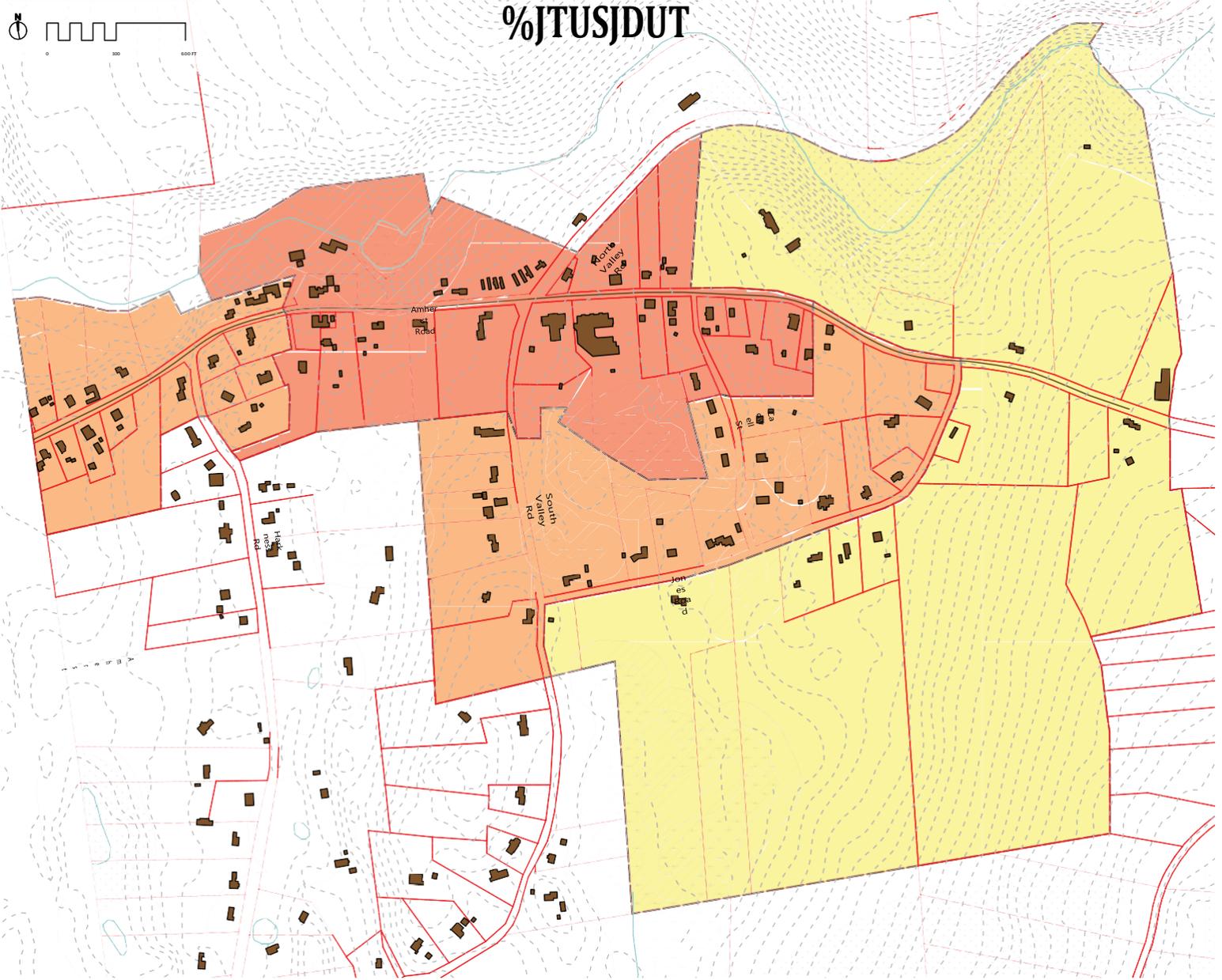
- Zoning Districts**
- (R) Residential
  - (VC-RE) Village Center Rural Edge
  - (VC-N) Village Center Neighborhood
  - (VC-MU) Village Center Mixed Use
  - (LB) Limited Business
  - Water Supply Protection Overlay District Boundaries (All land in Pelham)

- Town Boundaries
- Tax Parcel Boundaries
- U.S Highway
- Local Road
- Open Water
- Stream
- Intermittent Stream



# West Pelham Village Center Zoning

%JTUSJDUT



## Description of 7JMMBHF \$FOUFS Zoning Districts

The plan for the West Pelham Village Center divides the area into three neighborhoods: **Village Center Mixed Use**--the heart of the village center. This neighborhood includes parcels that are a short walk from the Library and the Elementary School along Amherst Road. This area has existing sewer capacity. In this neighborhood, small businesses and a greater diversity of housing would be allowed with standards to ensure high quality design consistent with the character of a traditional New England village. Small village lots (1/4 acre, 80 ft of frontage) enable limited infill development.

**Village Center Neighborhood**--parcels on Amherst Road, South Valley Road, Jones Road, and Cadwell Street that are adjacent to the mixed use area. These parcels are within walking distance of the Library and School. Proposed lot size is 3/4 acre with 125' of frontage. This lot size requires innovative septic design or a sewer connection. Parcels on Amherst Road are currently served by sewer or have it available to them. Greater diversity of housing and limited businesses would be allowed in this area with detailed standards to ensure compatibility with the neighborhood.

**Village Center Rural Edge**--parcels on the east and southeast edges of the Village Center. Some parcels are served by sewer; some are not. Parcels are adjacent to large forested areas or important habitat. The proposed default lot size in this area is 2 acres with 125' of frontage. Open Space Design (OSD) is the preferred development approach for this area. It requires significant open space protection, allows flexibility in lot layout, and allows density bonuses for affordable housing, extra protected open space, and/or public access to protected open space. The plan for this area strikes a balance between conservation of natural areas & creation of an attractive neighborhood.

## Key

- Property Line (from Amherst GIS)
- Contour, 3m (from Mass GIS)
- Hydrography (from Mass GIS)
- Wetland (from Mass GIS)
- NHESP Priority Habitat (from Mass GIS)
- Pelham Wetland Buffer (PVPC based on Mass GIS)
- Existing Building (from Mass GIS)
- Existing Sewer Line (from Amherst GIS)
- Village \$FOUFS .JYFE 6TF
- Village \$FOUFS /FJH/CPSIPPE
- Village \$FOUFS 3VSBM &EHF



