

ARTICLE 1. GENERAL PROVISIONS

Section 1-1: Title

This Ordinance shall be known and may be cited as the Town of Pembroke, North Carolina, Unified Development Ordinance, and may be referred to as the Pembroke UDO.

Section 1-2: Authority

- (A) Zoning provisions enacted herein are under the authority of North Carolina General Statute (NCGS) 160D, Article 7 Zoning, which extends to towns/cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. It authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each class of type of building throughout each district, but that the regulations in one district may differ from those in other districts. *(Amended 8/2/2021)*
- (B) Subdivision provisions enacted herein are under the authority of NCGS 160D, Article 8, Subdivision Regulations, which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding. *(Amended 8/2/2021)*
- (C) Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes (NCGS) and that section is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 1-3: Purpose

For the purpose of promoting the health, safety, morals, and general welfare, this Ordinance is adopted by the governing body to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of units that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures and land for trade, industry, residence, or other purposes.

This Unified Development Ordinance and Zoning Map is intended to coordinate with a comprehensive plan and is designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and

air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to control development of flood prone areas and regulate stormwater runoff/discharge; to regulate signs; and to establish proceedings for the subdivision of land. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction. These regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school. *(Amended 8/2/2021)*

Section 1-4: Jurisdiction

- (A) This Ordinance shall be effective throughout the Town’s planning jurisdiction. The Town’s planning jurisdiction comprises the area within the corporate boundaries of the Town as well as the one-mile extraterritorial area as shown on the “Official Zoning Map” for the Town of Pembroke. Such planning jurisdiction may be modified from time to time in accordance with NCGS 160D-202. *(Amended 8/2/2021)*
- (B) In addition to other locations required by law, a copy of the official zoning map showing the boundaries of the Town’s planning jurisdiction shall be available for public inspection in the Town Hall.
- (C) Except as hereinafter provided, no building or structure shall be erected, moved, altered, or extended, and no land, building, or structure or part thereof shall be occupied or used unless in conformity with the regulations specified for the district in which it is located. *(Amended 8/2/2021)*
- (D) Exemptions. *(Amended 8/2/2021)*
 - (1) These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific plan as required by the requirements previously adopted or previously approved vested rights in accordance with NCGS 160D-108. Any preliminary or final subdivision plat approvals required for such approved or exempted site-specific plans shall be conducted in accordance with the requirements of the previous Unified Development Ordinance.
 - (2) In accordance with NCGS 160D-913, this UDO is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. Notwithstanding the provisions of any general or local law or ordinance, except as provided in Article 9, Part 4 of NCGS 160D, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval by the Council of State or its delegee.

- (3) The following are not included within the definition of a subdivision (as provided in Article 2), and are not subject to the regulations of this Ordinance:
- The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown on its subdivision regulations.
 - The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
 - The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
 - The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.
 - The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (4) The provisions of this Ordinance shall not apply to existing bona fide farms. A bona fide farm is any tract of land containing at least three acres which is used for the production of, or activities relating to, or incidental to, the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural or forest products having a domestic or foreign market.

Section 1-5: Relationship to Comprehensive Plan

- (A) **Applicability.** As a condition of adopting and applying zoning regulations, the Town of Pembroke shall adopt and reasonably maintain a comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. The Town's comprehensive plan is intended to guide coordinated, efficient, and orderly development throughout the Town's corporate limits based on an analysis of present and future needs. Planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. The planning process shall include opportunities for citizen engagement in plan preparation and adoption. In addition to a comprehensive plan, the Town may prepare and adopt such other plans as deemed appropriate. This may include, but is not limited to, land use plans, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans. If adopted pursuant to the process set forth in this section, such plans shall be considered in review of proposed zoning amendments.

(B) Comprehensive Plan Contents. A Comprehensive Plan may, among other topics, address any of the following as determined by the Town:

- (1) Issues and opportunities facing the Town, including consideration of trends, values expressed by citizens, community vision, and guiding principles for growth and development.
- (2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks.
- (3) Employment opportunities, economic development, and community development.
- (4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure.
- (5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels.
- (6) Recreation and open spaces.
- (7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands.
- (8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality.
- (9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources.
- (10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

(C) Adoption and Effect of Plans. Plans shall be adopted by the Town Council with the advice and consultation of the Planning Board. Adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by Article 4, Part I. Plans adopted under NCGS 160D may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including, but not limited to, the plans required by G.S. 113A-110. Plans adopted under NCGS 160D shall be advisory in nature without independent regulatory effect. Plans adopted under NCGS 160D do not expand, diminish, or alter the scope of authority for development regulations adopted under NCGS 160D. Plans adopted under NCGS 160D shall be considered by the Planning Board and Town Council when considering proposed amendments to zoning regulations as required by Sections 4.4 and 4.5.

If a plan is deemed amended by Section 4.5 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed. *(Amended 8/2/2021)*

Section 1-6: North Carolina State Building Code

The Town of Pembroke Building Code with appendices and the North Carolina State Building Code are incorporated herein by reference, and serve as the basis for Building Inspector authority to regulate building construction. This Ordinance is not intended to conflict with or supersede the North Carolina State Building Code regulations. In addition, the Town's minimum housing code is also incorporated herein by reference. All quasi-judicial procedures prescribed in Article 4, Part VI apply to these codes/ordinances. *(Amended 8/2/2021)*

Section 1-7: Prerequisite to Final Subdivision Plat Recordation

After the effective date of this Ordinance, each individual subdivision plat of land within the Town's planning jurisdiction shall be approved by the Town of Pembroke Town Council or the Administrator.

Any final plat, either major or minor, shall be recorded with the Register of Deeds within six (6) months from the date of approval by the Administrator or Town Council. If the final plat is not recorded within this period, it shall expire. The plat may be resubmitted for review, and it shall be reviewed against the Ordinance in effect at that time.

Final plats that have been officially approved by the Administrator prior to adoption of this Ordinance, but not recorded in the Robeson County Register of Deeds Office, shall be deemed grandfathered from this deadline.

Section 1-8: Fees

- (A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for all development approvals, zoning amendments, variances, changes to Zoning Ordinance text and map, appeals, and other administrative relief. The amount of the fees charged shall be as set forth in the Town's budget or as established by resolution of the Town Council filed in the office of the Town Clerk. *(Amended 8/2/2021)*
- (B) Fees established in accordance with Subsection (A) shall be paid upon submission of a signed application or notice of appeal.

Section 1-9: Conflicts with Other Regulations

Interpretation and application of the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general

welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties.

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

When the requirements of this UDO, made under the authority of NCGS 160D, require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of NCGS 160D shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of NCGS 160D, the provisions of that statute or local ordinance or regulation shall govern. *(Amended 8/2/2021)*

Section 1-10: Severability

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentence, clauses, or phrases of this Ordinance since the same would have been enacted without the incorporation into this Ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

Section 1-11: Computation of Time

- (A) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
- (B) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

Section 1-12: No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions

- (A) Subject to Article 8 of this Ordinance (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.

(B) For purposes of this section, the “use” or “occupancy” of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 1-13: Required Yards Not to be Used by Buildings

The minimum yards or other open spaces required by this Ordinance for each and every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building, except as may be set forth in Section 11-1, Note 9.

Section 1-14: Relationship of Building to Lot

In no case shall there be more than one principal building and its customary accessory buildings on a lot except in the case of an approved major site development plan of professional, residential, or commercial buildings in an appropriate zoning district, i.e., school campus, shopping center, and industrial park. *(Amended 9/2/2014)*

Section 1-15: Street Access

No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a business district or in a planned project in a residential district, a building may be erected adjoining a parking area or dedicated open space which has access to a street used in common with other lots.

Section 1-16: Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yard or lots created after the effective date of this Ordinance shall meet at least these minimum requirements.

Section 1-17: Property Dedicated for Private Use

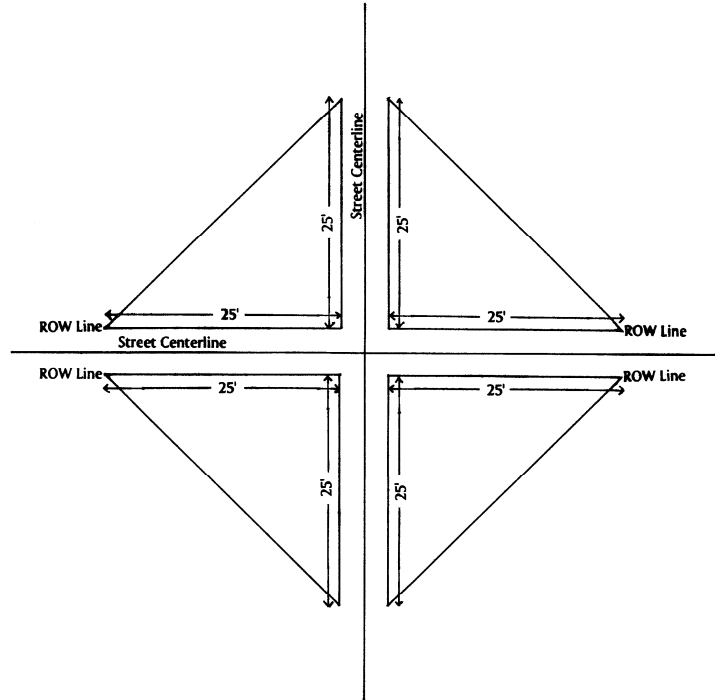
Any property dedicated for private ownership, including but not limited to property owners' association ownership, for any use permitted by this Ordinance is not the maintenance responsibility of the Town of Pembroke. *(Amended 8/2/2021)*

Section 1-18: Business Uses of Manufactured Homes and Trailers

No permanent manufactured home, permanent manufactured office, or permanent trailer shall be used in any manner for business or commercial purposes except when used for a sales office on a manufactured home sales lot.

Section 1-19: Corner Visibility

No planting, fence, sign, or other obstruction to visibility of vehicles shall be erected, planted, maintained, or allowed to exist in any district within the range of two and one-half (2-1/2) feet to ten (10) feet above the centerline grades of the intersecting streets in the triangular area bounded by the street right-of-way lines of such corner lots and a line joining points along these street lines twenty-five (25) feet from the point of intersection. Parcels located in the C-1 district are exempt from this requirement.



Section 1-20: Driveways

No portion of any residential driveway intersection with a Town public street shall be closer than twenty (20) feet to the corner of any intersection, measured along the right-of-way line. In commercial and industrial zones, this distance shall be thirty (30) feet. The width of any driveway intersection with the public street shall not exceed thirty (30) feet at its intersection with curb and street line. Driveway connections to the State of North Carolina Department of Transportation controlled streets must be requested from and approved by DOT on its standard form. Driveways that have double lane ingress and egress (4-lanes) shall be a minimum 60 feet width at intersection with curb and street line.

Section 1-21: Curb Cuts

Construction of curb cuts for purposes of ingress and egress to property abutting a Town public right-of-way shall be approved by the Administrator. The North Carolina Department of Transportation is the approval authority where said curbs affect access to State Highways. Provision for all access work done on state highway right-of-way is subject to approval by the DOT.

Section 1-22: Issued Building and/or Development Permits

The provisions contained herein shall not affect buildings, structures, and uses for which building and/or development permits were issued prior to the passage of this Ordinance, provided that the permit is not revoked and the activities for which the outstanding permits were issued are begun within six (6) months of the date this Ordinance is adopted. Outstanding development permits not used within six months shall be null and void. *(Amended 8/2/2021)*

Section 1-23: Standards for Effluent and Emissions

All effluents and emissions into the air or surface or ground waters from new development permitted by this Ordinance must be in conformity with applicable federal, state, county, or Town health and environmental quality regulations.

Section 1-24: Areas Subject to Inundation

All areas subject to inundation shall meet the required land use control measures set forth by the Federal Insurance Administration, U.S. Department of Housing and Urban Development, and the Town's Flood Damage Prevention regulations, Article 20 of this Ordinance.

Section 1-25: Sedimentation Control

All land-disturbing activities shall meet the requirements of the Sedimentation and Pollution Control Act of 1973, as amended.

All developments one acre or more shall have an approved erosion control plan. All developments shall contain erosion on site.

Section 1-26: Development Approvals Run with the Land

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approval made pursuant to this Ordinance attach to and run with the land. *(Amended 8/2/2021)*

Section 1-27: Refund of Illegal Fees

If the Town of Pembroke is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the Town shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence. *(Amended 8/2/2021)*

Section 1-28: Split Jurisdiction

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the Town of Pembroke and Robeson County may by mutual agreement and with the written consent of the landowner assign exclusive planning and development regulation jurisdiction for the entire parcel to either the Town or the County. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Robeson County register of deeds within 14 days of the adoption of the last required resolution. *(Amended 8/2/2021)*

Section 1-29: Pending Jurisdiction

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date. *(Amended 8/2/2021)*

Section 1-30: Effective Date

The provisions in this Ordinance were originally adopted and became effective on May 4, 2009, and includes amendments through August 2, 2021.