

# ARTICLE 9. ZONING DISTRICTS AND ZONING MAP

## PART I. ZONING DISTRICTS.

### Section 9-1: Establishment of Zoning Districts, and the Purpose Thereof

For the purpose of this Ordinance, the Town of Pembroke and its extraterritorial jurisdiction are divided into the following classes of zones:

- (A) R-20 Residential District. This district is established as a district in which the principal use of land is for very low residential density and agricultural purposes. The regulations of this district are intended to protect the agricultural sections of the community from an influx of uses likely to render them undesirable for farms and future, and to ensure that residential developments dependent upon private wells and septic tanks will occur at sufficiently low densities to ensure a healthful environment.
- (B) R-10 Residential District. This district is established in which the principal uses of land are for single-family and two-family residences. The regulations of this district are intended to foster medium residential development, and to stabilize existing residential areas by limiting the occurrence of conflicting uses in such residential areas, to prevent unduly dense development in areas not receiving any or only partial public or semi-public water services, and to enhance the prospects for future residential development in an orderly manner.
- (C) R-8 Multiple-Family Dwelling District. The purpose of this district is to create and protect areas in which residential, two-family dwelling (duplex) and multi-family dwelling uses can be and are compatible through their proper arrangement to achieve a healthful living environment for the residents of the district while at the same time preventing the development of blight and slum conditions. This district is limited to those sections of the community in which the mixing of such uses has been found necessary and desirable for the buffering of residential or commercial or industrial uses, or for the maintenance or creation of an area compatible and useful with the adjoining areas to the end that the buildings will be located and constructed in a manner which reflects an appropriate appearance and aesthetic taste.
- (D) O&I Office and Institutional District. This district is established primarily for office and institutional uses which have limited contact with the general public, and which cause no offensive noises, odors, smoke, fumes or other objectionable conditions. This district is usually adjacent to the residential districts. Provisions are made for yards, buffers, off-street parking, and off-street loading.
- (E) C-1 Central Business District. This district is designed to accommodate those retail and office uses which are characteristic of the major business center of the town.

- (F) C-2 Neighborhood Business District. This district is established in which the principal use of land is for commercial and service uses to serve the surrounding residential districts.
- (G) C-3 Highway Business District. This district is intended for the use of those businesses that are properly and necessarily located along major highways. Business uses permitted in this district are those retail and service facilities that provide goods and services for the traveling public.
- (H) I Industrial District. This district is intended for location of warehousing, mixed industrial-heavy commercial type uses. The purpose is to promote and protect both existing industrial activities and potential sites where urban services are available, and which are considered suitable for continued or future industrial use; to prohibit uses of land which would substantially interfere with the continuation of uses permitted in the district; and to promote the operation of well-planned and maintained industrial facilities.
- (I) OS Open Space District. This district is established in which the primary use of land is predominantly reserved for flood control, public recreation, community facility site, natural or man-made bodies of water, forests, and other similar open space uses. In promoting the general purposes of this chapter, the specific intent of this division is as follows:
- (1) To encourage the preservation of, and continued use of, the land for conservation purposes;
  - (2) To prohibit residential, commercial, and industrial use of the land, and to prohibit any other use which would substantially interfere with the preservation of this district; and
  - (3) To encourage the discontinuance of uses that would not be permitted as uses in the district.
- (J) Watershed Protection Overlay District. The regulations applicable in this district are established under Article 25 of this Ordinance. *(Amended 6/5/2017)*
- (K) Overlay Zoning Districts. *(Amended 6/4/2018)*
- (1) C-1 Central Business District Design Guidelines Overlay 1 (CDO1). An overlay district established to provide building and site development requirements for development within the area of the C-1 zoning district as depicted on the zoning map. The design guideline requirements are in addition to and supersede the UDO requirements for all articles and sections of the UDO.
  - (2) C-1 Central Business District Design Guidelines Overlay 2 (CDO2). An overlay district established to provide building and site development requirements for development within the area of the C-1 zoning district as depicted on the zoning map. The design guideline requirements are in addition to and supersede the UDO requirements for all articles and sections of the UDO. These design requirements

are intended to be consistent with the Town of Pembroke Downtown Revitalization Master Plan Design Guidelines adopted by the Town on October 3, 2016.

- (L) Conditional Zoning District. The conditional zoning district (CZD) allows a site to be developed with a mixture of land uses according to an approved overall site plan. For example, a large tract may be developed with a mix of single-family and multi-family housing, with part of the site also devoted to commercial and office uses. The CZD allows for greater flexibility in dimensional standards (such as lot sizes and setbacks) upon approval of an overall master plan for the entire development. The district does not require a rigid separation of different land uses. Uses are limited to the uses identified in Article 10 Table of Permitted Uses. All of the site-specific standards and conditions, including a site plan, are incorporated into the zoning district regulations for the CZD. Approval of the site plan will establish all zoning requirements for the subject property. A CZD district shall not be less than three (3) acres in area.

This negotiated approach to a legislative decision allows maximum flexibility to tailor regulations to a particular site and project. But it also has great potential for abuse - both in terms of impacts on individual landowners seeking approval and their neighbors and on the public interests zoning is supposed to promote. Thus, special restrictions have been placed on conditional zoning. Conditional Zoning Districts may only occur at the owner's request and cannot be imposed without the owner's agreement. The individual conditions and site-specific standards that can be imposed are limited to those that are needed to bring a project into compliance with town ordinances and adopted plans and to those addressing the impacts reasonably expected to be generated by use of the site. The town must assure that all of the factors defining reasonable spot zoning are fully considered and that the public hearing record reflects that consideration.

Conditional zoning provides important opportunities to carefully tailor regulations to address the interest of the landowner, the neighbors, and the public. The town may use conditional zoning when it concludes that a particular project should be approved but that the standards in the comparable conventional zoning district(s) are insufficient to protect neighbors or public interests (perhaps because the conventional zoning allows other uses not suitable for the site or dimensional standards inadequate to preserve the neighborhood). Conditional zoning often allows a developer to proceed with a project in a way that addresses site-specific concerns of neighbors and the Town of Pembroke. The petitioner must consent in writing to all conditions imposed by the conditional zoning. *(Amended 8/2/2021)*

## **PART II. OFFICIAL ZONING MAP.**

### **Section 9-2: Zoning Map is a Part of this Ordinance**

The planning area is hereby divided into districts whose locations and boundaries are shown on the official zoning map for the Town of Pembroke, which is hereby adopted by reference and declared to be a part of this Ordinance.

The map shall be identified by the signature of the Mayor, attested by the Town Clerk, and bearing the official seal of the Town of Pembroke under the following words: "This is to certify that this is the official zoning map referred to in Article 9, Part II of the Unified Development Ordinance for the Town of Pembroke, North Carolina." The date of adoption and most recent revision date shall also be shown.

Duly adopted zoning district maps shall be maintained for public inspection in the office of the Town Clerk. Current and prior zoning maps may be maintained in paper or digital format approved by the Town.

This Ordinance may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by state and federal agencies. Where zoning district boundaries are based on these maps, said boundaries are automatically amended to remain consistent with changes in the officially promulgated state or federal maps. A copy of the currently effective version of any incorporated maps shall be maintained for public inspection as provided above. *(Amended 8/2/2021)*

### **Section 9-3: Replacement of the Official Zoning Map**

In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret, the Town Council may, by ordinance, adopt a new official zoning map which shall be the same in every detail as the map it supersedes. The new map shall bear the seal of the Town under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted and referred to in Article 9, Part II of the Unified Development Ordinance for the Town of Pembroke, North Carolina." The date of adoption of the new official zoning map shall also be shown.

Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment. *(Amended 8/2/2021)*

### **Section 9-4: Zoning Map Interpretation *(Amended 9/2/2014)***

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the UDO Administrator shall employ the following rules of interpretation.

- (A) Centerline. Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.
- (B) Edge Line. Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated roadbed or utility easement.
- (C) Lot Line. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, the following requirements shall apply:
- (1) Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.
  - (2) Whenever a single lot greater than two acres in size is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.
- (D) Town Limits. Boundaries indicated as approximately following Town limits shall be construed as following the Town limits.
- (E) Watercourses. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
- (F) Extensions. Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, Town limits, county lines, or extraterritorial boundaries shall be so construed.
- (G) Scaling. In the case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.
- (H) Except for subsection 9-4(C) above, where the UDO Administrator determines that physical features existing on the ground or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are at variance with those shown on the Official

Zoning Map, the Board of Adjustment shall have the authority to interpret zoning district boundaries.

**Section 9-5: Maintenance of the Official Zoning Map**

If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other items portrayed on the zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the Town Council. No amendment to this Ordinance which involves matter portrayed on the official zoning map shall become effective until after such change has been made on said map.

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this Ordinance and state law. Any unauthorized change of whatever kind by any person shall be considered a violation of this Ordinance and punishable as provided under Section 1.8.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the Town Clerk, shall be the final authority as to the zoning status of land and water areas, buildings, and other structures in the Town. *(Amended 8/2/2021)*

NOTE: See Article 4 for Amendment Criteria.

**PART III. APPLICATION OF GENERAL REGULATIONS. *(Amended 8/2/2021)***

**Section 9-6: Only One Main Building, One Main Use on Lot, and Orientation of a Building**

In all districts, every main building hereafter erected or altered shall be located on a separate lot, as defined in this Ordinance, and in no case shall there be more than one main building and permitted accessory buildings on the lot nor more than one main use (e.g., commercial, industrial or residential) per building and lot. This requirement shall not apply to uses that are permitted in the Table of Permitted Uses within the same zoning district and located in the same building, nor to motels or manufactured home parks, nor to major site development plans approved by the Planning Board, nor to a bona fide farm use. *(Amended 3/4/2024)*

**Section 9-7: Lot Subdivision**

No lot shall hereafter be so reduced in area as to cause any open space required by this Ordinance to be less in any dimension than is herein required by the minimum yard requirements of the zone in which the lot in question is situated.

**Section 9-8: Obstruction of Public Rights-of-Way**

It shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the Town any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground. In addition, it shall be unlawful for any person to take any action whatsoever within any public right-of-way which creates a hazardous condition or safety hazard or which otherwise interferes with or obstructs in any manner the passage of persons or vehicles upon or within said public rights-of-way or which obstructs, interferes with, or hinders lawful parking within any public right-of-way.

**Section 9-9: Existing Encroachments on Rights-of-Way**

In the event that the Town of Pembroke Town Manager determines that there exists any encroachment, obstacle, vegetation, or other condition within a public right-of-way which interferes with the free passage of persons or vehicles within said right-of-way, or which interferes with or hinders lawful parking within said right-of-way, or which otherwise creates a hazard to the public, the Town Manager shall attempt to identify the person(s) responsible for said obstacle or encroachment. Upon identification, the code enforcement officer shall notify in writing said responsible person(s) who shall have 14 days from the date of notification to remove said encroachment or condition. In the event that the responsible party fails to remove said obstacle or encroachment within the time allowed, the Town shall promptly remove said obstacle or encroachment and shall charge the cost of said removal to the party responsible for said obstacle, encroachment, or condition. In the event that the code enforcement officer is not able to identify the responsible party, or if the condition or encroachment creates an imminent and immediate danger to the public, the Town may summarily remove said encroachment or other condition within the right-of-way without notice.