



# TOWN OF PEMBROKE

## UNIFIED DEVELOPMENT ORDINANCE

Adopted by the Town of Pembroke Town Council: May 4, 2009,  
includes amendments through March 4, 2024

Prepared by:



# Town of Pembroke Unified Development Ordinance

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# 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refers to or cites a section of the North Carolina General Statutes (NCGS) and that section is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.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**

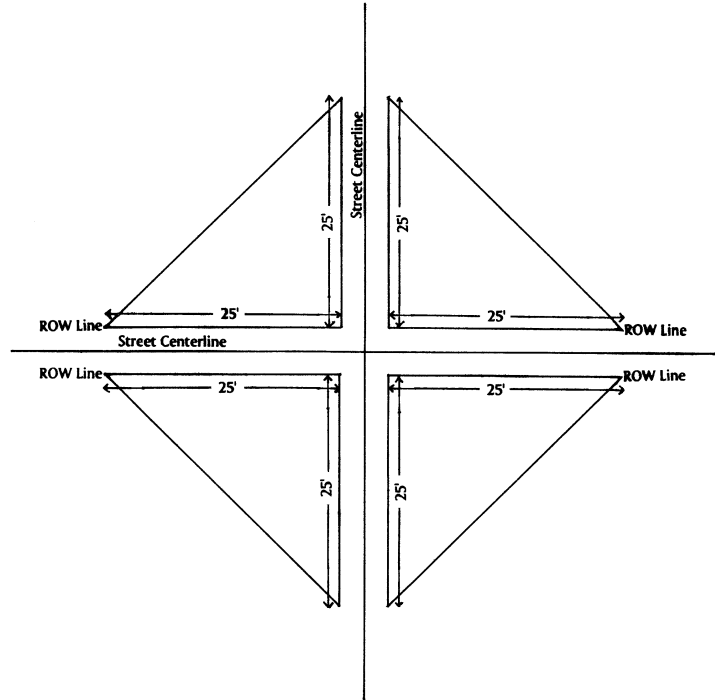
Any property dedicated for private ownership, including but not limited to property owners' association ownership, for any use permitted by this Ordinance is not the maintenance responsibility of the Town of Pembroke. *(Amended 8/2/2021)*

**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.

## **ARTICLE 2. BASIC DEFINITIONS AND INTERPRETATIONS**

### **Section 2-1: Word Interpretation**

For the purposes of this Ordinance, certain words shall be interpreted as follows. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

- (A) As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- (B) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- (C) Words used in the present tense include future tense.
- (D) The word “person” includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- (E) The words “may” and “should” are permissive.
- (F) The words “shall” and “will” are always mandatory and not merely directive.
- (G) The word “used for” shall include the meaning “designed for.”
- (H) The words “used” or “occupied” shall mean “intended, designed, and arranged to be used or occupied.”
- (I) The word “lot” shall include the words “plot,” “parcel,” “site,” and “premises.”
- (J) The word “structure” shall include the word “building.”
- (K) The word “street” includes the word “alley,” “road,” “cul-de-sac,” “highway,” or “thoroughfare,” whether designated as public or private.
- (L) The word “includes” shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (M) The word “Town Councilman” shall include “Town Council” of the Town of Pembroke, North Carolina.
- (N) The word “director” shall mean the Town Manager or his designee.
- (O) The words “Zoning Board,” “Zoning Commission,” or “Planning Commission” shall mean the “Town of Pembroke Planning Board.”

- (P) The word “Town” shall mean the “Town of Pembroke,” a municipal corporation of the State of North Carolina.
- (Q) The words “map,” “zoning map,” and “Pembroke Zoning Map” shall mean the “Official Zoning Map for the Town of Pembroke, North Carolina.”
- (R) The words “Board of Adjustment” shall mean the “Town of Pembroke Board of Adjustment.”

**Section 2-2: Definitions of Basic Terms**

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Ordinance.

Abandoned Vehicle.

A motor vehicle that:

- (1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on property owned or operated by the Town for longer than 24 hours; or
- (3) Is left on private property without the consent of the owner, occupant, or lessee thereof longer than two hours; or
- (4) Is left on any public street or highway for longer than seven days.

Abutting.

A property which directly touches another piece of property.

Accessory Apartments.

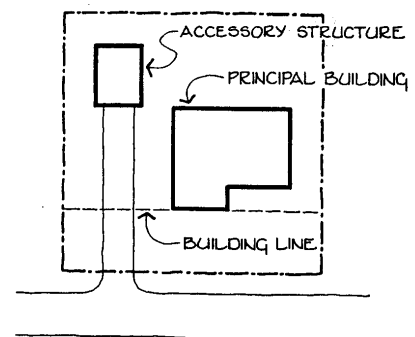
A self-contained unit incorporated within an existing structure for a single family.

Accessory Building, Structure, or Use.

A building, structure, or use incidental to, and on the same lot as, a principal use.

Addition (to an existing building).

An extension or increase in the floor area or height of a building or structure.



Administrative Decision.

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D or town development regulations. Also referred to as ministerial decisions or administrative determinations. *(Amended 8/2/2021)*

Administrative Hearing.

A proceeding to gather facts needed to make an administrative decision. *(Amended 8/2/2021)*

Administrator.

The Administrator for the Town of Pembroke.

Adult Business.

Any place defined as an “Adult Establishment” as defined by North Carolina General Statute 14-202.10 as such statute may be amended from time to time, including Adult Cabarets, and except the definition of “Massage Business” shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult Business specifically includes, however, any Massage Business where “massages” are rendered by any person exhibiting “Specified Anatomical Areas” and/or where “massages” are performed on any client’s “Specified Anatomical Areas.” “Specified Anatomical Areas” are those defined by North Carolina General Statute 14-202.10 as such statute may be amended from time to time.

Agricultural Vending Machine.

A freestanding structure that stores and distributes feed for recreational use for animals such as deer, cattle, poultry, goats, and horses. *(Amended 6/6/2016)*

Agriculture.

The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, forestry, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

Agritourism.

Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting. *(Amended 8/5/2019)*

Alley.

A minor right-of-way privately or publicly owned, primarily for service access to the back or side of properties.

Alterations.

The word “alteration” shall include any of the following:

- (1) Any addition to the height or depth of a building or structure;
- (2) Any change in the location of any of the exterior walls of a building or structure;
- (3) Any increase in the interior accommodations of a building or structure.

Ancillary Sales.

Where a grocery store, supermarket, convenience store or similar market uses no more than two percent of its gross floor area, or 200 square feet, whichever is less, for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes, or tobacco. For any grocery store, convenience market, retail kiosk, of similar use consisting of 250 square feet or less, "ancillary sale" shall mean where no more than five (5) square feet are used for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes, or tobacco. *(Amended 9/4/2018)*

Antenna.

Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications service. *(Amended 11/4/2013)*

Apartment.

A room or suite of one or more rooms, each of which has kitchen facilities and is designed or intended to be used, as an independent unit, on a rental basis.

Appeal.

A request for a review of the administrator's interpretation of any provision of this Ordinance or a request for a variance.

Applicable Codes.

The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons. *(Amended 10/2/2017)*

Application, Telecommunication Facilities.

A request that is submitted by an applicant to the Town for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, Town utility pole, or wireless support structure. *(Amended 10/2/2017)*

Approval Authority.

The Town Council of the Town of Pembroke, the Board of Adjustment or other board or official designated by Ordinance as authorized to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan.

As-Built Plan.

Plans reflecting actual field conditions which may include the construction plans with any changes identified and shown on the plan.

Assembly.

A joining together of completely fabricated parts to create a finished product.



Assembly Hall.

A building or portion of a building in which facilities are provided for civic, educational, political, religious, entertainment, or social purposes. Food preparation facilities to serve events at the assembly hall may be provided but not to function as a restaurant to serve the general public. (Amended 4/3/2017)

Assisted Living Residence.

Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of GS 131E-102. Effective October 1, 1995, there are two types of assisted living residences: adult care homes and group homes for developmentally disabled adults. Effective July 1, 1996, there is a third type, multi-unit assisted housing with services.

- (1) Adult Care Home. An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes.
- (2) Multi-unit Assisted Housing with Services. An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multi-unit assisted housing with services programs are required to register with the Division of Facility Services and to provide a disclosure statement. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following requirements:
  - (a) Emergency response system;

- (b) Charges for services offered;
- (c) Limitations of tenancy;
- (d) Limitations of services;
- (e) Resident responsibilities;
- (f) Financial/legal relationship between housing management and home care or hospice agencies;
- (g) A listing of all home care or hospice agencies and other community services in the area;
- (h) An appeals process; and
- (i) Procedures for required initial and annual resident screening and referrals for services.

Continuing care retirement communities, subject to regulation by the Department of Insurance under Chapter 58 of the General Statutes, are exempt from the regulatory requirements for multi-unit assisted housing with services programs.

Attached Dwelling Unit for Individual Ownership (Townhouse).

A dwelling unit having a common or party wall with another dwelling unit. Each attached dwelling unit is characterized by its own subdivided lot of record which is conveyed with the dwelling unit when purchased.

Automated Teller Machine (ATM).

An automated device that performs banking or financial functions at a financial institution or at a location remote from the controlling financial institution as accessory to primary use. *(Amended 6/6/2016)*

Automobile Detailing Shop.

A facility which provides automobile-related services including, but not limited to applying paint protectors, interior and exterior cleaning and polishing as well as installation of aftermarket accessories such as tinting, auto alarms, spoilers, sunroofs, headlight covers, and similar items. However, engine degreasing or similar automobile cleaning services shall not be included under this definition. *(Amended 8/7/2023)*

Automobile Off-Street Parking (Commercial Lot).

Any building or premises, except a building or premises described as a private garage, used for the storage of motor vehicles for the public or private businesses.

Automobile Repair Shop.

A building or other structure where the following uses and activities are permitted: major mechanics, body work, straightening of body parts, along with all uses and activities of an automotive care center.

Automobile Wash.

A building or structure where chain conveyors, blowers, steam cleaners, and other mechanical devices are employed for the purpose of washing motor vehicles. *(Amended 8/7/2023)*

Automotive Care Center.

Three or more automotive care uses planned and constructed as a single unit, where the following uses and activities associated with each would be permitted:

- (1) Auto parts store
- (2) Muffler shop
- (3) Transmission shop
- (4) Tune-up shop
- (5) Lubrication shop
- (6) Auto trim and detail shop
- (7) Tire store with service (including alignment)
- (8) Brake shop

Uses permitted do not include major mechanical and body work, straightening of body parts, storage of automobiles not in operational condition, or other work involving noises, glare, fumes, smoke, or other characteristics to an extent greater than normally found in facilities of this type. An automotive care center is not a garage for the general repair of automobiles, or a body shop, but does include an automotive trim shop.

Base Station.

A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics. *(Amended 11/4/2013)*

Bed and Breakfast Inn.

A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises (including boarding home(s) and tourist home(s)).

Block.

A piece of land bounded on one or more sides by streets or roads.

Board of Adjustment.

A semi-judicial body, composed of representatives from the Town of Pembroke, which is given certain powers under and relative to this Ordinance.

Bona Fide Farm.

Agricultural activities as set forth in NCGS 160D-903. Sufficient evidence that the property is being used for bona fide farm purposes includes the following: (1) a farm sales tax exemption certificate issued by the Department of Revenue; (2) a copy of the property tax listing showing that the property is eligible for participation in the present-use-value property program pursuant to NCGS 105-277.3; (3) a copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; or (4) a forestry management plan. *(Amended 8/5/2019, 8/2/2021)*

Brewpub.

A restaurant-brewery that sells 25% or more of its beer on-site and operates significant food services. The beer is primarily for sale in the restaurant and bar but allows for some take away sales. *(Amended 3/7/2022)*

Buffer Strip.

A planted strip which shall be a minimum of five (5) feet in width, shall be composed of evergreen shrubs, and/or trees such that at least two (2) rows of coverage are provided from the ground to a height of six (6) feet within six (6) years and foliage overlaps. The five (5) feet required for the buffer strip shall be in addition to all normal yard requirements of this Ordinance.

Buildable Area.

The portion of a lot remaining after required yards have been made.

Building.

Any structure built for support, shelter, or enclosure for any occupancy or storage. *(Amended 6/4/2018)*

- (1) Large Building. A building having 7,000 square feet or more of gross enclosed floor area.
- (2) Small Building. A building having less than 7,000 square feet in enclosed floor area.

Building, Accessory.

See accessory structure.

Building, Commercial.

Any building used for business purposes.

Building, Detached.

A building having no party or common wall with another building except an accessory building or structure.

Building Frontage.

The distance expressed in linear feet of the horizontal dimension of a building wall that is parallel and adjacent to one (1) or more of the qualifying areas as follows: (a) a public or private street; (b) a common parking area in the case of a planned center; (c) a public parking area; or (d) a public access walkway.

Building, Height of.

The vertical distance from the average finished grade (prior to the addition of any fill) of the building lot to the highest point of the building. The average grade will be based on the condition of the lot prior to the date of adoption of this Ordinance.

Building Inspector.

The person, officer, and his authorized representatives, whom the Town Council have designated as their agent for the administration and enforcement of the Town building codes and minimum housing code.

Building Line.

A line parallel to the street right-of-way which intersects the nearest point of the building to the street right-of-way.

Building Line Minimum.

A line parallel to the street right-of-way which establishes the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, eaves, gutters and similar fixtures, and the street right-of-way line, when measured perpendicularly thereto, such minimum distance from the street right-of-way line as specified in Article 11, "Table of Area, Yard, Height, and Lot Coverage Requirements."

Building, Main.

A building in which the principal use of the lot on which the building is situated is conducted.

Building Site.

Any lot, or portion thereof, or two (2) or more contiguous lots, or portions thereof, of a parcel of land upon which a building or buildings may be erected in conformance with the requirements of the Town of Pembroke Zoning Ordinance.

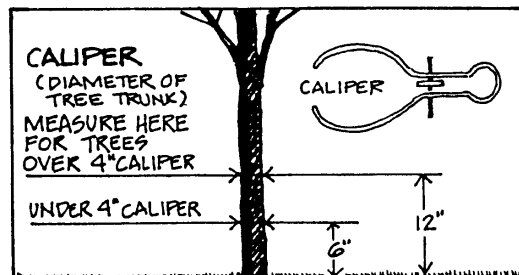
Bulk Storage System.

A facility containing storage tanks, pipe network, power, and control systems which allow dry bulk materials to be aerated and handled as required. Normally used to store materials which are consumed in relatively large quantities (i.e., barite, bentonite, and cement).

Caliper.

A measurement of the diameter of a tree trunk taken to the following standards:

- (1) New nursery (to be installed) and nonregulated (existing on-site) trees: trees up to and including four (4) inches in diameter shall be measured six (6) inches above ground level. For trees above four (4) inches in diameter, the caliper measurement shall be taken twelve (12) inches above ground level.



- (2) Regulated on-site trees: the caliper of regulated trees shall be measured four and one-half (4-1/2) feet above average ground level.

Certificate of Occupancy/Compliance.

A statement, signed by the Building Inspector or his authorized agents, setting forth that the building, structure or use complies with the zoning ordinance, and that the same may be used for the purpose stated herein.

Certiorari.

An appellate proceeding which brings into Superior Court or other appropriate forum the record of administrative, judicial, or quasi-judicial actions for the purposes of either reexamining the action taken by the inferior body to determine the appropriateness of said action or to obtain further information in the pending case.

Certify.

Whenever this Ordinance requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other document.

Chemical Storage Facility.

A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive product.

Child Care Home.

A home for not more than nine (9) orphaned, abandoned, dependent, abused, or neglected children, together with not more than two (2) adults who supervise such children, all of whom live together as a single housekeeping unit.

Child Care Institution.

An institutional facility housing more than nine (9) orphaned, abandoned, dependent, abused, or neglected children.

Church or Place of Religious Worship.

An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Circulation Area.

That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

Club, Private (For Profit).

Buildings and facilities owned or operated for profit by a corporation, association, person, or persons for a social or recreational purpose, and requiring membership. *(Amended 6/4/2018)*

Club, Public or Private (Nonprofit).

An incorporated or unincorporated association for civic, social, cultural, fraternal, literary, political, recreational or like activities operated on a nonprofit basis for the benefit of its members, and recognized as a nonprofit organization by the State of North Carolina. *(Amended 6/4/2018)*

Collocation.

The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, Town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term “collocation” does not include the installation of new utility poles, Town utility poles, or wireless support structures. *(Amended 10/2/2017)*

Commercial Amusement Use.

Any use which provides entertainment, amusement, or recreation activities for commercial gain. This definition shall not include special events or functions customarily sponsored by or associated with schools, churches, nonprofit organizations, civic groups, fraternal orders, and charitable institutions.

Communications Facility.

The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service. *(Amended 10/2/2017)*

Communications Service.

Cable service as defined in 47 USC § 522(6), information service as defined in 47 USC § 153(24), telecommunications service as defined in 47 USC § 153(53), or wireless services. *(Amended 10/2/2017)*

Communications Service Provider.

A cable operator as defined in 47 USC § 522(5); a provider of information service, as defined in 47 USC § 153(24); a telecommunications carrier, as defined in 47 USC § 153(51); or a wireless provider. *(Amended 10/2/2017)*

Comprehensive Plan.

The comprehensive plan, land use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the Town Council. *(Amended 8/2/2021)*

Conditional Zoning.

A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment. *(Amended 8/2/2021)*

Condominium.

A dwelling unit in which the ownership of the occupancy rights to the dwelling unit is individually owned or for sale to an individual and such ownership is not inclusive of any land.

Construction Plat.

A plan with supporting data for a proposed subdivision, developed for the purpose of establishing the layout and provision of roads and utilities.

Contractor, General.

One who is engaged in one or more aspects of building construction and/or land development through a legal agreement.

Contractor, Trades.

One who accomplishes work or provides facilities under contract with another and specifically engages in a specialized trade, such as plumbing, heating, wiring, sheet metal and roofing work, etc.

Convenience Store.

A one-story, retail store containing less than 4,000 square feet of gross floor area that is designed and stocked to sell primary food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”). The sale of food prepared on-site for consumption either off- or on-site is considered an accessory and incidental use. It is designed to attract and depends upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the “Fast Fare,” “7-11,” and “Pantry” chains.

County Commissioners.

The Board of Commissioners of Robeson County, North Carolina.

Coverage.

An area determined in square footage.

Curb.

A structural element at the edge of an existing or proposed street or other way, generally at a higher elevation than the adjacent edge of roadway, installed to deter vehicles and water from leaving the roadway, to otherwise control drainage, to delineate the edge of existing or future roadways or driveways, to present a more finished appearance to the street, to assist in the orderly development of the roadside, and to contribute to the stability and structural integrity of the pavement.

Curtain Wall.

A continuous, uniform foundation enclosure constructed of brick or concrete blocks and that is unpierced except for required ventilation and access.

Cutoff Lighting.

As defined by the Engineering Society of North America, cutoff lighting is a lighting fixture that projects all of its light in a downward direction. Full cutoff lighting fixtures emit no upward component of light while providing precise controlled illumination to an area. *(Amended 11/2/2020)*



Day Care Center.

Any childcare arrangement that provides day care on a regular basis for more than four (4) hours per day for more than five (5) children of preschool age.

Day Care Facility (Adult).

The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. The following are exempt from this definition: (1) those that care for three people or less; (2) those that care for two or more persons, all of whom are related by blood or marriage to the operator of the facility; and (3) those that are required by other statutes to be licensed by the Department of Health and Human Services.

Day Support Facility.

A day support facility is a facility licensed by the NC Division of Medical Assistance as primarily a group service that provides assistance to the beneficiary(ies) with acquisition, retention, or improvement in self-help, socialization, and adaptive skills. Day Supports are furnished in a non-residential setting, separate from the home or facility where the beneficiary resides. Day Supports focus on enabling the beneficiary to attain or maintain his or her maximum functional level and is coordinated with any physical, occupational, or speech therapies listed in the Individual Support Plan. Day Supports may include prevocational activities. *(Amended 8/4/2014)*

Decision-Making Board.

A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this UDO. *(Amended 8/2/2021)*

Dedication.

A gift by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Designer.

A professional who is permitted to prepare plans and studies required by this chapter.

Detention Facility.

A structure designed and constructed for the collection and storage of surface water for subsequent gradual discharge.

Determination.

A written, final, and binding order, requirement, or determination regarding an administrative decision. *(Amended 8/2/2021)*

Develop.

The construction, landscaping, clearing projects or any other project which in any manner alters the natural structure of the land mass.

Developed Land Use Conditions.

The land use conditions that would be permitted according to the current official Town Zoning Maps.

Developer.

A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property. *(Amended 8/2/2021)*

Development.

Unless the context clearly indicates otherwise, the term means any of the following:

- (1) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- (2) The excavation, grading, filling, clearing, or alteration of land.
- (3) The subdivision of land as defined in NCGS 160D-802.
- (4) The initiation or substantial change in the use of land or the intensity of use of land. *(Amended 8/2/2021)*

Development Approval.

An administrative or quasi-judicial approval made pursuant to NCGS 160D that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to NCGS Chapter 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued. *(Amended 8/2/2021)*

Development Plan.

A detailed drawing(s) containing specific information regarding proposed development within the Town. *(Amended 8/2/2021)*

Development Regulation.

A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulations, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to NCGS Chapter 160D, or a local act or charter that regulates land use or development. *(Amended 8/2/2021)*

Dimensional Nonconformity.

A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Dish Antenna (or Earth Station).

An accessory structure and shall mean a combination of (1) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; (2) a low-noise amplifier which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and (3) a coaxial cable whose purpose is to carry the signals into the interior of the building.

Dish Antenna (or Earth Station) Height.

That distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the vase which supports the antenna.

Dish Antenna (or Earth Station) Setback.

The distance measured from the center mounting post supporting the antenna.

Disposal.

The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

District.

Any section of the Town of Pembroke and its extraterritorial jurisdiction in which zoning regulations are uniform.

Drip Line.

A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

Drive-in Facility.

An establishment at which employees provide curbside service to customers and at which the customer does not customarily leave his vehicle; or accommodations through special equipment or construction from which a person may receive a service or place an order. Self-service gas pumps are excluded from this definition.

Driveway.

That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

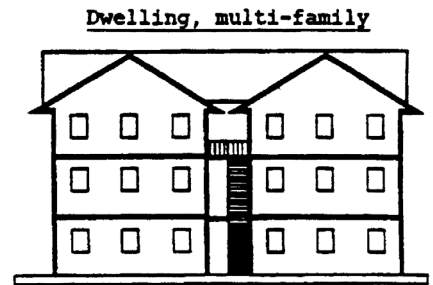
Dwelling.

Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances

belonging thereto or usually enjoyed therewith. The term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose. *(Amended 8/2/2021)*

Dwelling, Multiple Family.

A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

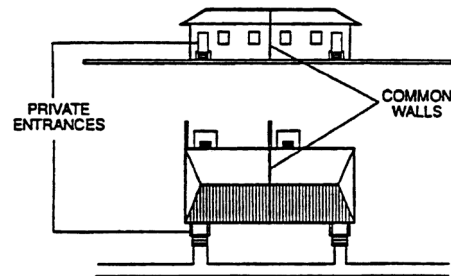


Dwelling, Single-Family.

A detached building designed for or occupied exclusively by one family.

Dwelling, Two Family (Duplex).

A detached residential building containing two dwelling units, designed for occupancy by not more than two families. Units must share a common wall.



Dwelling Unit.

A room or combination of rooms designed for year-round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family. Units located within motels or hotels or travel trailers shall not be included as dwelling units. *(Amended 8/2/2021)*

E-cigarette.

Any electronically actuated device or inhaler meant to simulate cigarette smoking that uses a heating element to vaporize a liquid solution, popularly referred to as a "juice," and that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation. The juice used in e-cigarettes typically contains nicotine, and for this reason e-cigarettes and their juice can be classified as both tobacco products and tobacco paraphernalia. *(Amended 9/4/2018)*

Easement.

A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Eligible Facilities Request.

A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification. *(Amended 11/4/2013)*

Equipment Compound.

An area surrounding or near the base of a wireless support structure within which a wireless facility is located. *(Amended 11/4/2013)*

Erect.

Build, construct, rebuild, or reconstruct, as the same are commonly defined.

Essential Site Improvements.

Any construction or reconstruction of site development feature required by local, state, or federal regulations, ordinances, or laws, such as underground drainage, off-street parking, driveways, retention areas or similar improvements required for the intended use of the site, which cannot be accommodated on the site without removal of regulated trees.

Evidentiary Hearing.

A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under NCGS Chapter 160D. *(Amended 8/2/2021)*

Existing Land Use Conditions.

The land use conditions existing at the time the design plans are submitted for approval, including previously approved upstream developments.

Existing Manufactured Home Park or Manufactured Home Subdivision.

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before January 5, 2004, the effective date of the initial floodplain management regulations adopted by the Town. *(Amended 9/3/2019)*

Expansion to an Existing Manufactured Home Park or Subdivision.

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

Extraterritorial Jurisdiction.

The area beyond the corporate limits within which the planning and zoning regulations of the Town apply in accordance with state law. Such area is delineated on the official zoning map for the Town of Pembroke.

Fabrication.

The process and/or assemblage of various components into a complete or partially completed commodity. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw material such as metal ores, lumber and rubber, etc., are excluded.

Fall Zone.

The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards. *(Amended 11/4/2013)*

Family.

An individual or two (2) or more persons related by blood to the third degree lineally or the fourth degree collaterally, marriage, or adoption living together in a dwelling unit; or a group of not more than four (4) persons, one (1) or more of whom is not related by blood as described above, marriage, or adoption to the other. A family may include five (5) or fewer foster children placed in a family foster home licensed by the State of North Carolina, and six (6) or fewer handicapped persons placed in a family care home licensed by the State of North Carolina.

Family Care Home.

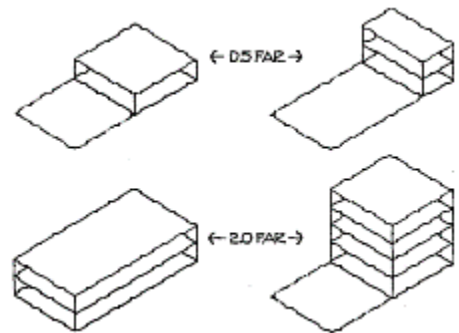
An adult care home having two to six residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground level accesses to the upper story.

Farmers Market.

An establishment primarily engaged in the retail sale of fresh fruits and vegetables. Such uses are typically found in public or municipal markets.

FAR (Floor Area Ratio).

The maximum square foot amount of total floor area including all stories and all uses permitted for each square foot of land area.



Fence.

A continuous opaque or perforated barrier constructed of wood, stone, steel, or wire or other similar material. (Amended 9/2/2014)

Fence, Screen.

A continuous, opaque, unperforated barrier extending from the surface of the ground to a uniform height of six (6) feet constructed of wood, stone, steel or similar material. (Amended 9/2/2014)

Fence, Security.

A continuous barrier extending from the surface of the ground to a uniform height of six (6) feet constructed of wood, stone, steel, wire or other similar material.

Fill.

Any material used to raise the elevation of the surface of the land, excluding a grade base and paving.

Fine Arts.

Individual art pieces, not mass-produced, consisting of one or more of the following: paintings, drawings, etchings, sculptures, ceramics, inlays, needlework, knitting, weaving and/or craftwork of leather, wood, metal or glass.

Flea Market.

A commercial operation held on a regular periodic basis and patronized by individual entrepreneurs who transport a variety of merchandise to a common geographical area for the purpose of sale or trade to the general public. This definition does not include sporadic and infrequent yard sales held in residential areas.

Flood Damage Prevention Ordinance Definitions.

For the purposes of Article 20, Flood Damage Prevention, the following items, phrases, and words shall have the meaning herein:

- (1) Accessory Structure (Appurtenant Structure). A structure, which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds, and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
- (2) Alteration of a Watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard, or change the direction and/or velocity of the riverine flow of water during conditions of the base flood. *(Amended 9/3/2019)*
- (3) Appeal. A request for a review of the floodplain administrator's interpretation of any provision of Article 20.
- (4) Area of Shallow Flooding. A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. *(Amended 9/3/2019)*
- (5) Area of Special Flood Hazard. See "Special Flood Hazard Area (SFHA)."
- (6) Area of Future-Conditions Flood Hazard. The land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology. *(Amended 8/2/2021)*
- (7) Basement. Any area of the building having its floor subgrade (below ground level) on all sides.
- (8) Base Flood. The flood having a one (1) percent change of being equaled or exceeded in any given year.

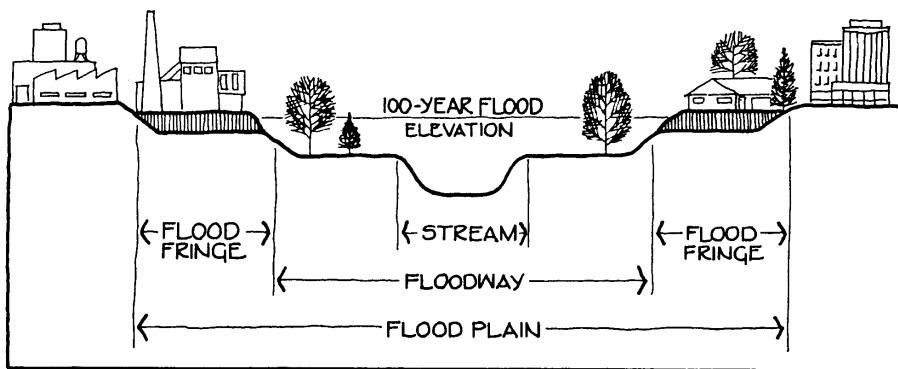
- (9) Base Flood Elevation (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area," it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard," establishes the "Regulatory Flood Protection Elevation." *(Amended 8/2/2021)*
- (10) Building. See "Structure."
- (11) Design Flood. See "Regulatory Flood Protection Elevation." *(Amended 9/3/2019)*
- (12) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- (13) Development Activity. Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures. *(Amended 9/3/2019)*
- (14) Digital Flood Insurance Rate Map (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. *(Amended 9/3/2019)*
- (15) Elevated Building. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. *(Amended 8/2/2021)*
- (16) Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- (17) Existing Building and Existing Structure. Any building and/or structure for which the "start of construction" commenced before the effective date of the initial date of the floodplain management regulations adopted by a community, dated January 5, 2004. *(Amended 9/3/2019, 8/2/2021)*
- (18) Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (a) the overflow of inland or tidal waters; and/or
  - (b) the unusual and rapid accumulation of runoff of surface waters from any source.



- (19) Flood Boundary and Floodway Map (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).
- (20) Flood Hazard Boundary Map (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.
- (21) Flood Insurance. The insurance coverage provided under the National Flood Insurance Program.
- (22) Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. See also DFIRM. *(Amended 8/2/2021)*
- (23) Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
- (24) Flood Prone Area. See "Floodplain."
- (25) Floodplain or Flood Prone Area. Any land area susceptible to being inundated by water from any source.
- (26) Floodplain Administrator. The individual appointed to administer and enforce the floodplain management regulations.
- (27) Floodplain Development Permit. Any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.
- (28) Floodplain Management. The operation of an overall program of corrective and preventative measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- (29) Floodplain Management Regulations. This Ordinance and other zoning ordinances, subdivision regulations, building codes, health, regulations, special purpose ordinances, and other applications of police power which control development in

flood-prone areas. This term describes federal, state, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

- (30) **Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.
- (31) **Flood Resistant Material.** Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials. *(Amended 9/3/2019)*
- (32) **Floodway.** The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. *(Amended 9/3/2019)*



- (33) **Floodway Encroachment Analysis.** An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program. *(Amended 9/3/2019, 8/12/2021)*

- (34) Flood Zone. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
- (35) Freeboard. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The freeboard plus the Base Flood Elevation establishes the “Regulatory Flood Protection Elevation.”  
(Amended 8/2/2021)
- (36) Highest Adjacent Grade. The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
- (37) Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:
- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
  - (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
  - (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
  - (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

- (38) Lowest Adjacent Grade. The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building. *(Amended 9/3/2019)*
- (39) Lowest Floor. The subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Article 16.
- (40) Map Repository. the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository. *(Amended 8/2/2021)*
- (41) Market Value. The building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (Actual Cash Value), or adjusted tax assessed values.
- (42) Non-Conversion Agreement. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed. *(Amended 8/2/2021)*
- (43) Non-Encroachment Area. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report. *(Amended 8/2/2021)*
- (44) Post-FIRM. Construction or other development for which the "start of construction" occurred on or after January 19, 2005, the effective date of the initial Flood Insurance Rate Map. *(Amended 9/3/2019)*

- (45) Pre-FIRM. Construction or other development for which started before the “start of construction” occurred before January 19, 2005, the effective date of the initial Flood Insurance Rate Map. *(Amended 9/3/2019)*
- (46) Principally Above Ground. At least 51% of the actual cash value of the structure is above ground.
- (47) Reference Level. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, or A99. *(Amended 9/3/2019)*
- (48) Regulatory Flood Protection Elevation. The “Base Flood Elevation” plus the “Freeboard.” In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade. *(Amended 9/3/2019)*
- (49) Remedy a Violation. To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
- (50) Repetitive Loss. Flood-related damages sustained by a structure on two (2) separate occasions during any ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.
- (51) Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.)
- (52) Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in Article 20.
- (53) Structure. A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.
- (54) Substantial Damage. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two (2) separate occasions during a ten

(10) year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred. See definition of “substantial improvement.” *(Amended 9/3/2019)*

(55) Substantial Improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or improvement of a structure, taking place during any one-year period for which the cost equals or exceeds fifty percent (50%) of the market value of the structure, before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (a) any correction of existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, (b) any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 20-3(E) of this Ordinance. *(Amended 9/3/2019)*

(56) Technical Bulletin and Technical Fact Sheet. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

(57) Variance. A grant of relief from the requirements of this Article.

(58) Violation. The failure of a structure or other development to be fully compliant with the town’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Article 20 is presumed to be in violation until such time as that documentation is provided.

- (59) Water Surface Elevation (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- (60) Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Floor.

The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Floor Area.

The total square footage on all floors within a building.

Floor Area, Gross.

The number of square feet of total floor area bounded by the exterior faces of a structure, plus the number of square feet of unenclosed space devoted to the conduct of the use, excluding basements and unenclosed porches, balconies, and terraces, unless used in conjunction with the use, such as for outdoor eating, merchandising, storage, assembly, or similar uses, and excluding off-street parking and loading areas.

Forestry.

A woodland area where all of the following occur:

- (1) the growing of trees;
- (2) the harvesting of timber, leaves, or seeds;
- (3) the regeneration of either timely replanting of trees or natural generation in accordance with a forest management plan acceptable to the Division of North Carolina Forest Resources;
- (4) the application of "Best Management Practices," including the NC Department of Environment and Natural Resources, "Forest Practice Guidelines Related to Water Quality," and all successor documents.

Frontage.

All property abutting on one side of a street measured along the street line.

Fuel Pump Island.

Any device or group of devices used for dispensing motor fuel or similar petroleum products to the general public.

Functionally Dependent Facility.

A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or

passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

GS.

North Carolina General Statute.

Garage Apartment.

A detached accessory or subordinate building to an existing single-family dwelling containing living facilities for not more than one family and having sufficient enclosed area for at least one (1) parked automobile.

Garage, Private.

A building or space used as an accessory to or a part of the main building permitted in any residential district, that provides storage space for motor vehicles and in which no business, occupation or service for profit is in any way conducted.

Garage, Public.

Any building or premises, except those described as a private garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired, or kept for hire or sale.

Gate.

A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier and screen as a part of the fence in which it is attached.

Gateway.

A primary means of access or entry. *(Amended 8/5/2019)*

Glare.

The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on factors such as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted. *(Amended 11/2/2020)*

Governing Body.

The Town Council or County Board of Commissioners. The term is interchangeable with the terms "board of aldermen" and "town/city council" and shall mean any governing board without regard to the terminology employed in charters, local acts, other portions of the NC General Statutes, or local customary usage. *(Amended 8/2/2021)*



Government Offices and Buildings.

An office of a governmental unit or agency that provides administrative and/or direct services to the public such as, but not limited to, employment offices, public assistance offices, motor vehicle licensing, and registration services. *(Amended 2/7/2022)*

Governmental Body Wayfinding.

Architectural or design elements that aid orientation and identification of locations/destinations. *(Amended 8/5/2019)*

Governmental Campus.

The grounds of a governmental school, hospital, or institution landscaped property exceeding 100 acres in single ownership and including multiple structures. *(Amended 8/5/2019)*

Greenway.

A linear park network left in its natural state, except for the introduction of trails to be used by pedestrians and bicyclists.

Gross Site Area.

The total square footage of the proposed development as determined by actual on-site survey.

Guest Lodging.

A premises in which rooms are rented, with or without board, on a fee basis to permanent or transient guests; provided all accessory services, such as dining rooms, shall be available to such guests only, and not open to the general public.

Guideline.

An objective.

Habitable Floor.

Any floor for living purposes, which includes working, sleeping, eating, cooking, or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

Half Street.

A street whose centerline coincides with a subdivision plat boundary, with one-half (½) the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

Halfway House.

A home for not more than nine (9) persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, eleven (11) of whom live together as a single housing unit.

Handicapped Home.

A residence within a single dwelling unit for at least six (6) but not more than nine (9) persons who are physically or mentally handicapped, together with not more than two (2) persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

Handicapped Institution.

An institutional facility housing and providing care or assistance for more than nine persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

Handicapped Person.

A person with a temporary or permanent physical, emotional or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in GS Section 122C-3(11)b.

Hazardous Waste Management Facility.

A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

Health Spa.

A commercial enterprise, private club, or business established for the purpose of providing an indoor facility for physical exercise with the use of athletic equipment and accessory services. The term "health spa" includes private exercise clubs, figure salons, or health clubs.

Historic Area.

That area designated by the Town of Pembroke, and which is delineated upon a map adopted by the Town Council and on file at the Pembroke Town Clerk's Office.

Historic Structure.

Any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program;" or
- (4) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the NC Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Home Care Unit.

A facility meeting all the requirements of the State of North Carolina for boarding and care of not more than five (5) persons who are not critically ill and do not need professional medical attention, to include homes for the aged.

Home for the Aged.

A boarding home with more than six (6) beds meeting all of the requirements of the State of North Carolina for the boarding and care of persons who are not critically ill and who do not need regular professional medical attention.

Home Occupation.

An incidental use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services. The term “home occupation” shall not be deemed to include a tourist home.

Hotel (Motel, Inn).

A building providing sleeping accommodations commonly available on a daily basis for pay to transient or permanent guests or tenants, in six (6) or more rooms. Dining rooms, restaurants or cafes, if existing, shall be conducted in the same building or buildings in connection therewith.

Ice Vending Machine.

An exterior freestanding, fully automated structure that delivers ice and filtered water to the customer through a self-service vending process. (Amended 6/6/2016)

Impervious Surface.

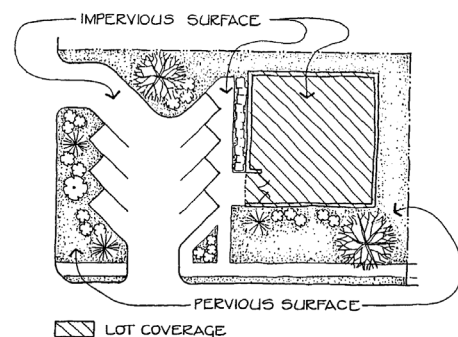
Any material that significantly reduces and prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roof, patios, balconies, decks, streets, parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surface.

Infiltration.

The passage or movement of water into the soil sub-surface.

Improved Landscape.

Gardens, parks, parking lots, or any other proposed outside improvements including any planned vegetation, public street furniture, masonry walls, fences, light fixtures, steps and pavements, or other appurtenant features.



Improvements.

The addition of any building, accessory building, parking area, loading area, fence, wall, hedge, lawn or mass planting (except to prevent soil erosion) to a lot or parcel of property.

Inspector.

The Building Inspector for the Town of Pembroke.

Intensive Livestock Operations.

Any enclosure, pen, feedlot, building, or group of buildings intended to be used or actually used to feed, confine, maintain or stable cattle, horses, sheep, goats, turkeys, chickens, swine, or any combination thereof, with at any time a total of 100 animal units or more present, where their dietary needs are met primarily by means other than grazing.

Intermediate Care Home.

A facility maintained for the purpose of providing accommodations for not more than seven (7) occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Intermediate Care Institution.

An institution facility maintained for the purpose of providing accommodations for more than seven (7) persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Jail.

A municipal or county operated facility designed for the holding of individuals for trial, contempt, or punishment when the period is not to exceed one hundred and eighty (180) days.

Junk.

Pre-used or unusable metallic parts and other nonmetallic manufactured products that are worn, deteriorated or obsolete, making them unusable in their existing condition, but are subject to being dismantled and salvaged.

Junk Yard.

The use of more than six hundred (600) square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of automobiles or other vehicles or dismantling of such vehicles or machinery or parts thereof.

Junked Vehicle.

A motor vehicle that (1) is partially dismantled or wrecked; (2) cannot be self-propelled or moved in the manner in which it was originally intended to move; (3) is more than five years old and appears to be worth less than \$100.00; or (4) does not display a current license plate when the motor vehicle is required by laws of this state to have such a license plate to operate on public roads, unless stored within an enclosed structure.

Kennel.

A commercial operation that: (a) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (b) engages in the breeding of animals for sale.

Land Area.

The total square footage within the development project property boundary of net buildable area.

Landowner.

The holder of the title in fee simple. Absent evidence to the contrary, the Town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase, to act as his or her agent or representative for the purpose of making applications for development approvals. *(Amended 8/2/2021)*

Landscaping.

Any activity that modifies the visible features of an area of land, including:

- (1) Living elements, such as flora and fauna; or what is commonly called gardening, the art and craft of growing plants with a goal of creating a beauty within the landscape.
- (2) Natural elements such as landforms, terrain shape and elevation, or bodies of water; and
- (3) Abstract elements such as the weather and lighting conditions.

Landscaping requires expertise in horticulture and artistic design. *(Amended 8/5/2019)*

Large Scale Zoning Amendment.

The rezoning of more than fifty (50) parcels. *(Amended 8/2/2021)*

Legislative Decision.

The adoption, amendment, or repeal of a regulation under NCGS Chapter 160D or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of NCGS Chapter 160D, Article 10. *(Amended 8/2/2021)*

Legislative Hearing.

A hearing to solicit public comment on a proposed legislative decision. *(Amended 8/2/2021)*

Levee.

A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Level, Floor.

The bottom portion, inclusive of horizontal sills, of the first living floor of a structure intended for occupancy.

Light Duty Truck.

Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

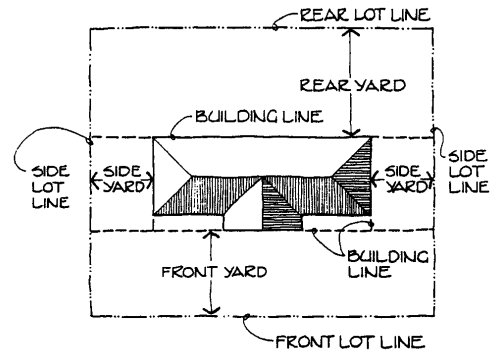
- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.  
*(Amended 9/3/2019)*

Loading and Unloading Area.

That portion of the vehicle accommodation area used to satisfy the requirements of Article 17. It provides space for bulk pickups and deliveries, scaled to delivery vehicles and accessible to such vehicles at all times even when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot.

Land area of defined boundaries in single ownership, set aside for separate use or occupancy, and recorded as such in the office of the Robeson County Register of Deeds.

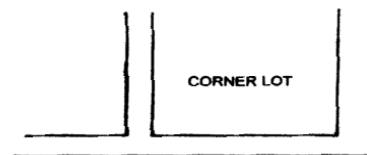
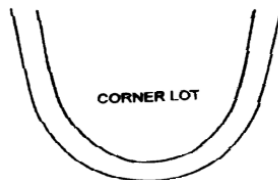


Lot, Area of.

The parcel of land enclosed within the boundaries formed by the property lines, plus one-half of any alley abutting the lot between the boundaries of the lot, if extended.

Lot, Corner.

A lot which occupies the interior angle at the intersection of two or more right-of-way lines. A lot abutting on the right-of-way of a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

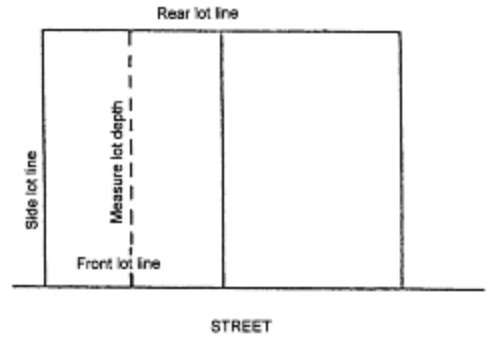


Lot Coverage, Maximum in Percent.

The maximum percent of the lot which may be covered with structures. All yard requirements must be met in addition to lot coverage requirements.

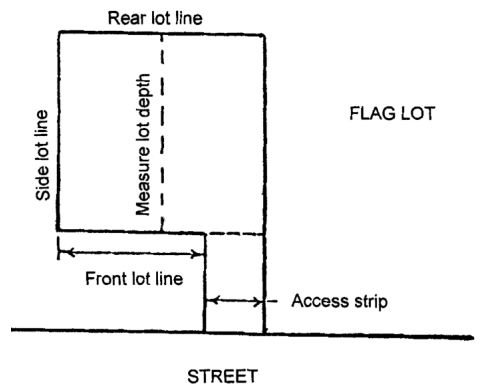
Lot, Depth.

The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. On lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of Article 11 of this Ordinance, the foremost points of the side lot lines shall be measured at the place where the access strip joins the main portion of the lot.



Lot, Flag.

Lots or parcels with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.



Lot, Interior.

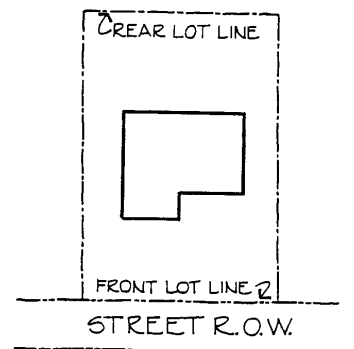
A lot other than a corner lot with only one frontage on a street.

Lot Line.

Any boundary of a parcel of land.

Lot Line, Front.

- (1) If a lot has one property line which is coterminous with a street right-of-way line, such line shall constitute the front lot line;
- (2) If a lot has two property lines which are also street right-of-way lines abutting different streets and those two (2) property (street right-of-way) lines form an angle between 80 degrees and 100 degrees, then the shorter of those two (2) lines shall constitute the front property line; if both lines are equal, the front property line shall be determined by the property owner if a front property line has not been designated on the final plat (minimum building lines are construed to designate the front lot line);
- (3) If a lot is not encompassed by provision (a) or (b) and no front property line is designated on the final plat, the front property line shall be designated by the Board of Adjustment.



Lot Line, Rear.

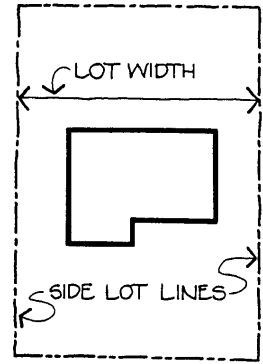
The property line(s) which is (are) opposite the front property line. If no property line is deemed to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line; however, the rear yard setback shall be maintained from the point (apex) on the property's perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be a line perpendicular to a straight line connecting said apex and the midpoint of the front lot line.

Lot Line, Side.

A boundary line which is not defined as front or rear lot line.

Lot, Nonconforming.

A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of this Ordinance.



Lot of Record.

A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Robeson County prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

Lot, Reversed Frontage.

A lot on which the frontage is at right angles or approximately right angles (interior angles less than one hundred thirty-five [135] degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot, or a through lot.

Lot, Single-Tier.

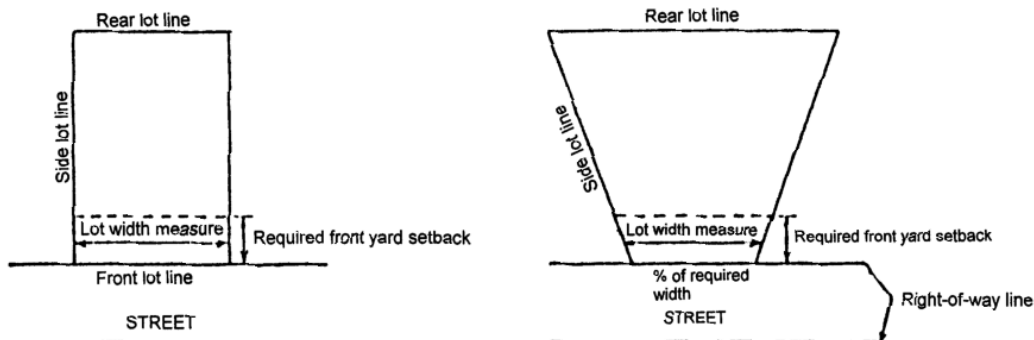
A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Lot, Through or Double Frontage.

A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Lot Width.

The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect the right-of-way line, or for lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of Article 11 of this Ordinance, at the place where the access strip joins the main portion of the lot) shall not be less than eighty percent (80%) of the required lot width, except in the case of the turning circle of cul-de-sacs where the eighty percent (80%) requirement shall not apply.





Major and/or Multi-Unit Development.

Development consisting of:

- (1) structures on a tract of two [2] acres or more, or
- (2) nonresidential structures having a total floor area of ten thousand (10,000) square feet or more.

Manufactured Home.

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

Manufactured Home (Mobile Home) Class A.

A double- or triple-wide manufactured home that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- (1) The home has a length not exceeding four times its width;
- (2) The pitch of the home’s roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- (3) The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- (4) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and
- (5) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Class A manufactured homes are permitted within the Town’s R-20 zoning district and are allowed in the R-8 zoning district with a special use permit. *(Amended 9/5/2023)*

Manufactured Home (Mobile Home) Class B.

A single-wide manufactured home that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home. Class B manufactured homes are a permitted use within the Town’s R-20 district.

Manufactured Home (Mobile Home) Class C.

Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home. Class C manufactured homes are not permitted within Pembroke’s planning jurisdiction.

Manufactured Home Park or Subdivision.

A parcel, or contiguous parcels, of land divided into two (2) or more manufactured home lots for rent or sale.

Manufactured Home/Recreational Vehicle Space.

A plot of land within a MH/RV park designed for the accommodation of a single manufactured home/recreational vehicle in accordance with the requirements set forth in this section.

Manufactured Home/Recreational Vehicle Stand.

That portion of the manufactured home/recreational vehicle space designed for and used as the area occupied by the MH/RV proper.

Marina, Commercial.

Any waterfront structure or development commercially providing permanent or temporary harboring or storing for two (2) or more boats (pleasure and/or commercial) and providing marina sales including but not limited to retail sales for fuel, repairs, convenient foodstuffs, restaurants, boats, engines, and accessories.

Maturing Tree, Large.

Trees which are six (6) feet or more in height at the time of planting.

Maturing Tree, Small.

Trees which are three (3) feet or more in height at the time of planting.

Micro Wireless Facility.

A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches. *(Amended 10/2/2017)*

Mixed Use.

A proposed development that includes primary non-residential and primary residential uses on the same development site. *(Amended 2/5/2018)*

Modular Home.

A factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, bears a seal or label issued by the Department of Insurance pursuant to GS 143-139.1, and is placed on a permanent foundation and used for residential purposes.

More Intensive Use.

A use that will have a greater impact on the surrounding area than the previous use, including activities which generate more traffic, require more employees or service deliveries, or utilize more square footage than the previous use existing on the site.

Motor Vehicle.

All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Multifamily Development.

A single building on a single lot or tract containing more than two (2) dwelling units.

Natural Feature.

Any outside landscape feature on the site such as trees, shrubs, or rock formations.

Net Acreage, Acres, Land Area, Square Footage of Land Area.

Land area with streets, right-of-ways, driveways which serve as access to more than two (2) dwelling units or uses, and major transmission line easements not included in its measurement.

Net Buildable Area.

The total area within the project property boundary less:

- (1) all easement for storm drain or utilities;
- (2) highway and street rights-of-way;
- (3) sediment basins and water retention ponds;
- (4) wetlands, defined by CAMA and/or US Corps of Engineers;
- (5) water and wastewater treatment facilities;
- (6) local or state designated historic sites; and
- (7) water areas including seasonal ponds.

New Construction.

- (1) Any development occurring on property utilized for governmental, commercial, or residential subdivision purposes for which a building permit is required.
- (2) For floodplain management purposes, structures for which the “start of construction” commenced on or after January 5, 2004, the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures. *(Amended 9/3/2019)*

New Manufactured Home Park.

A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after October 21, 1996.

Nonconforming Building or Development.

Any legally existing building or development which fails to comply with the provisions of the Ordinance.

Nursing Home.

A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

Official Maps or Plans.

Any maps or plans officially adopted by the Pembroke Town Council.

Open Space.

An area (land and/or water) generally lacking in manmade structures and reserved for the enjoyment of residents of a Planned Unit Development, or other group project. Common open spaces may contain accessory structures, and improvements necessary or desirable for religious, education, non-commercial, recreational, or cultural uses.

OSR (Open Space Ratio).

The total square footage not covered by manmade structures.

Outparcels.

A separate building(s) or structure(s) not physically connected to the principal building. *(Amended 4/2/2018)*

Overhead Canopy.

Any structure placed over, around, or near a fuel pump island, drive-up bank teller facility, or similar use, and intended to provide lighting and/or protection from the elements for facility users.

“Park Model” Recreational Vehicle.

A manufactured home typically built-in accordance with the construction requirements of HUD National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. but because of their limited size they are not required to be labeled by the HUD manufacturing housing program. Since these park model type units are not under the jurisdiction of the HUD program, they are labeled and sold as recreational vehicles.

Parking Area, Aisles.

A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking Facility.

Any area, either open or enclosed, structural or natural, for the storage of a vehicle or vehicles. Each parking facility shall have an approved means of ingress and egress. A parking lot is a subclassification of a parking facility.

Parking Lot.

An open area, outside of the public right-of-way, for the storage of a vehicle or vehicles. The term “parking area” shall be included in this definition. Each parking lot shall have an approved means of ingress and egress.

Parking Space, Off Street.

For the purpose of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. No required off-street parking shall be located on any public right-of-way.

Patio Home.

A single-family detached or semi-detached unit built on a small lot which may be enclosed by walls which provide privacy.

Perimeter Landscape Strip.

A planted strip of land having a minimum width of five feet adjacent to and encircling a parking facility.

Person.

Any individual, partnership, firm, association, joint venture, public or private corporation, trust estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. *(Amended 8/2/2021)*

Personal Property.

Property owned, utilized, and maintained by an individual or members of his or her residence, and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Planning Board.

A commission appointed by the Town Council and by the Robeson County Board of Commissioners for the following purposes:

- (1) to develop and recommend long-range development plans and policies;
- (2) to advise the Town Council in matters pertaining to current physical development and zoning for the town's planning jurisdiction.

Planting Strip or Area.

A ground surface free of concrete, asphalt, stone, gravel, brick, or other paving material, aside from walkways, which is required or used for landscaping purposes.

Plat.

A map or plan of a parcel of land which is to be, or has been, subdivided.

Predevelopment.

The conditions that existed prior to the proposed project, site plan, or subdivision being in place.

Principal Building, Use or Structure.

The main use of a lot or the building or structure in or on which the main use of the lot takes place.

Private Driveway.

A roadway serving two or fewer lots, building sites, or other division of land, and not intended to be public ingress or egress.

Private Street.

An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with GS 136-102.6.

Processing.

Any operation changing the nature of material or material's chemical composition or physical properties; does not include operations described as fabrication.

Property.

All real property subject to land use regulation by the Town. The term includes any improvements or structures customarily regulated as part of real property. *(Amended 8/2/2021)*

Property Clearing.

The removal of regulated trees from undeveloped property for the purpose of timber sales, value enhancement, or other non-developmental purposes.

Pruning Standards.

Generally accepted standards for pruning as defined in the current edition of Pruning Standards by the American Society of Consulting Arborists.

Public Safety and/or Nuisance.

Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or a river, bay, stream, canal, or basin.

Public Sewage Disposal System.

A system serving two (2) or more dwelling units and approved by the Robeson County Health Department and the North Carolina Department of Environment and Natural Resources, Environmental Management Division.

Public Water Supply System.

Any supply furnishing potable (drinkable) water for ten or more residences or businesses or a combination of residences and businesses. Approval by the Sanitary Engineering Division, State Board of Health, Department of Human Resources, is required.

Quasi-Judicial Decisions.

A decision involving the finding of facts regarding a specific application of a development regulation and that request the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board. *(Amended 8/2/2021)*

Recreation Area or Park.

An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

Recreational Vehicle.

A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; (d) not designed for use as a permanent primary dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use; and (e) is fully licensed and ready for highway use. *(Amended 9/3/2019)*

Recreational Vehicle Parks.

Any single parcel of land upon which two (2) or more recreational vehicles, occupied for sleeping purposes, are located regardless of whether or not a charge is made for such purposes. Recreational Vehicle Parks are referred to in this Ordinance as "RV Park(s)."

Redevelopment.

Renovation of an existing structure or structures which totals at least 60 percent of the original structure.

Register of Deeds.

The Robeson County Register of Deeds.

Regulated Tree.

The subsurface roots, crown, and trunk of:

- (1) Any self-supporting woody perennial plant such as a large shade or pine tree, which usually has one main stem or trunk, and has a measured caliper as follows:
  - (a) hardwood tree - eight (8) inches, such as oak, maple, etc.
  - (b) pine tree - twelve (12) inches, such as a long leaf pine
- (2) Any small flowering tree, such as dogwood, with a measured caliper of at least four (4) inches.
- (3) Any tree having several stems or trunks, such as crepe myrtle, and at least one defined stem or trunk with a measured caliper or at least two (2) inches.

Rehabilitation.

Returning a property to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Rehabilitation Facility.

A residential (provision of living quarters for seven (7) or more residents) or nonresidential facility utilized by participants in programs providing guidance, counseling or therapy. This definition does not include a facility providing rehabilitation services to psychotics, severely mentally handicapped individuals or persons who have demonstrated a known pattern of violence (this criterion does not exclude those convicted of violent offenses per se, only those whose behavior patterns are such that they may frequently resort to violence).

Remove (Including Removing and Removal).

The cutting down of any live or dead regulated tree and all other acts which cause the death or destruction of any regulated tree.

Reservation.

A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

Residential Care.

Establishments primarily engaged in the provision of residential, social, and personal care for children, the aged, and special categories of persons with some limits on ability for self-care, but where medical care is not a major element; such as adult day care facility, home for the aged and infirm, and other similar residential care uses not otherwise defined in this section.

Residential Hotel.

A building or group of buildings providing lodging for persons, with or without meals, and intended and use for the accommodation of transient lodgers in suites designed in such a fashion that reflects the intended use for transient lodgers and not for permanent residential accommodation. Suites may have one or more rooms in addition to bathrooms, water closet compartments, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. Kitchen area separate from the living or sleeping areas shall be provided and cooking may be done only in the kitchen area. The definition of residential hotels shall not include housing units defined in this section, but may include services ordinarily provided by hotels, such as maid, desk, and laundry services.

Restaurant.

An establishment where food and/or beverages are prepared, served, and consumed, and whose design and principal method of operation determines its classification as follows:

- (1) Standard: (1) Customers are normally provided with an individual menu and served their food and beverages by a restaurant employee at the same table or counter where the items are consumed; or (2) a cafeteria-type operation where food and beverages generally are consumed within the restaurant building. Establishments



which occasionally serve food to events such as weddings, social gatherings, or entertainment are not considered restaurants. *(Amended 4/3/2017)*

- (2) Carry-out: (1) Foods and/or beverages are usually served in edible containers or in paper, plastic, or other disposable containers by an employee at a standing counter or drive-in window; and (2) consumption is normally off the premises, but may be allowed within a motor vehicle parked on the premises, or at other facilities on the premises outside the principal building.
- (3) Fast Food: Same as “carry-out,” but includes allowing consumption within the principal building.

Retail.

Sale of a commodity, [the sale being] to the ultimate consumer and [the commodity being] not customarily subject to sale again.

Retention Pond Facilities.

A permanent structure that provides for the storage of runoff and is designed to maintain a permanent pool of water.

Right-of-Way.

A strip of land, owned publicly or privately, which affords the principal means of access to abutting property.

Roof Line.

The top edge of the roof or the top edge of the parapet, whichever forms the top line of the building silhouette, but not including penthouses or equipment structures.

Sales Office, Off Premises (Branch).

In addition to maintaining inventories of goods; physically assembling, sorting, and grading goods in large lots; breaking bulk; delivery; and various types of promotion, such as advertising, a wholesaler or distributor may establish offices and other supportive areas for the use of personnel primarily employed for off-premises sales and other administrative or managerial needs. On-premises retail sales as the principal use are not included in this classification. Off-street parking for this portion of the building shall be calculated independently of any other use of the same structure.

Sales Office, Temporary.

An office established within the boundaries of a subdivision or development which is used for the promotion and sales of real property solely within that subdivision or development.

Salvage Operation or Yard.

Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances, and related machinery.

School.

Any public or private institution for the teaching of children.

Screening.

The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, vegetation, or other natural or man-made visual barriers.

Search Ring.

The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure. *(Amended 11/4/2013)*

Service Station.

A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, grease, and accessories and the minor repair of automobiles, excluding body work, overhauling, and painting.

Setback.

The minimum required distance existing between the abutting street right-of-way line (if no street right-of-way line is involved, the subject property line) and the minimum building line as specified in Article 11, "Table of Area, Yard, Height, and Lot Coverage Requirements."

Shielded Fixture.

Outdoor light fixtures shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, i.e., a shoebox-type fixture or a cutoff fixture as defined by the Illuminating Engineering Society of North America. The fixtures almost always have a flat, horizontally oriented lens and opaque (usually metal) sides. A luminaire mounted in a recessed fashion under a canopy or other structure so that the surrounding structure effectively shields the light in the same manner is also considered fully shielded for the purposes of this UDO. *(Amended 11/2/2020)*

Shopping Center, Major.

Two or more commercial establishments, planned and constructed, as a single unit with off-street parking and loading facilities provided on the property with a total building area of twenty-five thousand (25,000) square feet or greater.

Shopping Center, Minor.

Two or more commercial establishments, planned and constructed, as a single unit with off-street parking and loading facilities provided on the property with a total building area less than twenty-five thousand (25,000) square feet.

SIC Manual, Standard Industrial Classification Manual.

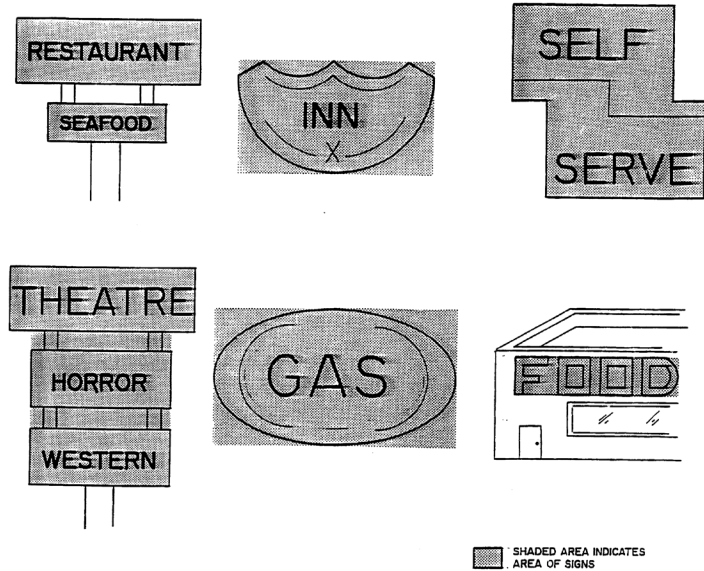
A book put out by the federal government which classifies establishments by the type of activity in which they are engaged. Uses listed in this chapter are classified according to SIC groupings.

Sign.

Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names or trademarks by which anything is made known, such as the designation of an individual, firm, association, profession, business commodity or product, which are visible from any public way and used to attract attention.

Sign, Area.

The surface area of a sign shall be computed as including the entire area visible from any one point, within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign including lattice work, wall work, and individual letters and spaces between letters comprising part(s) of the sign. Computations of sign area shall include only one side of a double-faced sign structure. If a sign has two sides joined at an angle of greater than 60°, the surface of both sides of the sign shall be included in the computation of area.



Sign, Business Identification.

Any sign which advertises an establishment, service, commodity or activity conducted upon the premises where such sign is located.

Sign, LED Lighting.

LEDs, or light-emitting diodes, are semiconductor devices that produce visible light when an electrical current pass through them. LEDs are a type of Solid-State Lighting (SSL), as are organic light-emitting diodes (OLEDs) and light-emitting polymers (LEPs). (Amended 6/26/2017)

Sign, Freestanding.

A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign. A sign that stands without supporting elements, such as a “sandwich sign,” is also a freestanding sign.



Sign, Monument.

Any sign with the base of the sign permanently attached to the ground and not attached to any building or pole(s) advertising a single use or multiple uses. The design of the monument sign is to advertise single or multiple offerings in the building, group of buildings, or development area. Individual business within multi-tenant facilities are not permitted freestanding signs and shall have their signage located on a monument sign. (Amended 6/4/2018)

Sign, Off-Premises.

A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

Sign, Portable.

Any sign not exceeding fifty (50) square feet in billboard area and not permanently attached to the property on which it is located.

Sign, Temporary.

A display, informational sign, banner, or other advertising device constructed of cloth, canvas, fabric, wood, or other temporary material, with or without a structural frame (including banners), and intended for a limited period of display, including decorative displays for holidays or public demonstrations. A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or is intended to remain on the location where it is erected or placed for a period of not more than fifteen (15) calendar days prior to and/or following the associated circumstance, situation, or event. *(Amended 1/4/2016)*

Sign, Wind.

Signs composed of nylon, canvas, or plastic material which are decorative and do not contain commercial advertising or logos. These signs may include windsocks, wind vanes, banners, pennants, and flags.

Site Development Plan. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision. *(Amended 8/2/2021)*

Site Plan, Major. All site plans not meeting the requirements for a minor site plan. *(Amended 3/5/2018)*

Site Plan, Minor. Includes the following:

- (1) Replacement of building(s) on the original building(s) footprint without any other site plan revisions and which also complies with items (3) through (9), if applicable.
- (2) Buildings or additions with an aggregate enclosed square footage of less than 2,000 square feet.
- (3) Buildings or additions involving land disturbance of less than one (1) acre.

- (4) Multi-family development involving fewer than ten (10) dwelling units;
- (5) Parking lot expansions which comply with this Ordinance with no increase in enclosed floor area;
- (6) Revision to landscaping, signage, or lighting which comply with the requirements of this Ordinance;
- (7) Accessory uses which comply with the requirements of this Ordinance;
- (8) Site plans which do not require a variance or modification of the requirements of this Ordinance, and otherwise comply with this Ordinance; and
- (9) Site plans which do not require easement dedication or street construction. *(Amended 3/5/2018)*

Site Specific Development Plan.

A plan of development submitted to the Town to obtain one of the following zoning or land use permits or approvals:

- (1) Final Subdivision Plat,
- (2) Special Use Permit, or
- (3) Conditional Zoning District. *(Amended 8/2/2021)*

Notwithstanding the foregoing, a document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall not constitute a site-specific development plan.

Skirting.

A continuous, uniform foundation enclosure constructed of vinyl, or metal fabricated for such purpose and that is unpierced except for required ventilation or access.

Small Wireless Facility.

A wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.
- (2) All other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet. For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures. *(Amended 10/2/2017)*

Smoke Shop and Tobacco Store.

Any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes, or tobacco as an ancillary sale shall not be defined as a "smoke shop and tobacco store" and shall not be subject to the restrictions of this Ordinance. *(Amended 9/4/2018)*

Solar Collector (Accessory).

Any solar device that absorbs and accumulates solar radiation for use as a source of energy. The device may be roof-mounted or ground-mounted as an accessory use. *(Amended 8/2/2021)*

Solar Energy.

Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector. *(Amended 8/2/2021)*

Solar Energy System.

A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating. Solar energy systems may include, but not be limited to, solar farms and any of several devices that absorb and collect solar radiation for use as a source of energy as an accessory use. *(Amended 8/2/2021)*

Solar Farm.

An area of land designated for use for the sole purpose of deploying photovoltaic power and generating electric energy. *(Amended 8/2/2021)*

Solid Waste Disposal Facility.

Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid Waste Disposal Site.

Any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Congregate Facilities.

Congregate facilities characterized by a clientele composed of persons who do not possess personal automobiles to assist them in their daily transportation throughout the Town and its vicinity. Such facilities may include indigent care, shelter, and housing facilities, hotels, and other similar facilities.

Special Events.

Circuses, fairs, carnivals, festivals, or other types of special events that (i) run for longer than two (2) days but not longer than fourteen (14) days, (ii) are intended to or likely to attract substantial crowds, and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located. Commodity sales may be conducted only as an accessory to the special event. The annual Lumbee Homecoming event, conducted by the Lumbee Regional Development Corporation, is exempt from this definition. *(Amended 4/3/2017)*

### Special Use.

A use permitted in a particular zoning district by the Town Council after having held a public hearing and determined that the use in a specified location complies with certain findings of fact as specified in this Ordinance. *(Amended 8/2/2021)*

### Special Use Permit.

A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions. *(Amended 8/2/2021)*

### Spot Zoning.

The zoning of a relatively small area of land differently from the way the majority of the surrounding land is zoned. Spot zoning is legal only if the government establishes that it is reasonable. Reasonableness is determined by considering the size of the area; any special conditions or factors regarding the area; the consistency of the zoning with the land use plan; the degree of change in the zoning; the degree it allows uses different from the surrounding area; and the relative benefits and detriments for the owner, the neighbors, and the surrounding community. The Town of Pembroke should consider the following factors in deliberating any potential spot zoning:

- (1) The Size and Nature of the Tract. The larger the area of spot zoning the more likely it is to be reasonable. Singling out an individual lot for special zoning treatment is more suspect than creating a zoning district that involves multiple parcels and owners. Special site characteristics, such as topography, availability of utilities, or access to rail or highways, can be important in this analysis.
- (2) Compatibility with Existing Plans. If a clear public policy rationale for the different zoning treatment is set out in the local government's adopted plans, that evidences a public purpose for the zoning. By contrast, a zoning action that is inconsistent with a plan may indicate special treatment that is contrary to the public interest and thus be unreasonable.
- (3) The Impact of the Zoning Decision on the Landowner, the Immediate Neighbors, and the Surrounding Community. An action that is of great benefit to the owner and only a mild inconvenience for the neighbors may be reasonable, while a zoning decision that significantly harms the neighbors while only modestly benefitting the owner would be unreasonable.
- (4) The Relationship between the Newly Allowed Uses in a Spot Rezoning and the Previously Allowed Uses. The degree of difference in the existing surrounding land uses and the proposed new use is also important. The greater the difference in allowed uses, the more likely the rezoning will be found unreasonable. For example, in an area previously zoned for residential uses, allowing slightly higher residential density may be reasonable while allowing industrial uses would be unreasonable.

- (5) Ownership. In order to constitute spot zoning, the area to be rezoned must be owned by a single owner. *(Amended 1/4/2016)*

Standard.

A mandatory requirement.

Standing.

The following persons shall have standing to file an appeal:

- (1) Any person possessing any of the following criteria:
  - (a) An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restrictions, or covenant in the property that is the subject of the decision being appealed.
  - (b) An option or contract to purchase the property that is the subject of the decision being appealed.
  - (c) An applicant before the decision-making board whose decision is being appealed.
- (2) Any other person who will suffer special damages as the result of the decision being appealed.
- (3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.
- (4) A local government whose decision-making board has made a decision that the Town Council believes improperly grants a variance from or is otherwise inconsistent with the property interpretation of a development regulation adopted by that Board.  
*(Amended 8/2/2021)*

Start of Construction.

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include



land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Storage.

A deposition of commodities or items for the purpose of future use or safekeeping.

Storage, Open.

The keeping of any goods, junk, material, merchandise, or vehicles in the same place (yard) for a period of more than 24 hours in an unroofed area or any type of shed which does not have four sides.

Storage, Self-Service.

A building consisting of individual, small, self-contained units that are leased or owned for the storage of goods and wares.

Story.

That portion of a building between the surface of any floor and the floor or roof above it. The following are considered stories:

- (1) Mezzanine, if it extends one-third of the total floor area of the story immediately below it;
- (2) Penthouse, if it exceeds one-third of the total area of the roof;
- (3) Basement, if subdivided and used for dwelling or business purposes.

Street.

A public thoroughfare which affords access to abutting property and is recorded as such in the office of the Robeson County Register of Deeds. The following classifications apply:

- (1) Superhighway. Major thoroughfares consisting of interstates, freeways, expressways, or parkway links that are characterized by limited access control.
- (2) Major Arterial. A major street in the Town's street system that serves as an avenue for the circulation of traffic into, out, or around the Town and carries high volumes of traffic. It is designed to carry more than twelve thousand (12,000) but less than twenty-four thousand (24,000) trips per day.
- (3) Minor Arterial. A major street in the Town's street system that serves as an avenue for the circulation of traffic into, out, or around the Town and carries high volumes of traffic. It is designed to carry more than five thousand (5,000) but less than twelve thousand (12,000) trips per day.

- (4) Collector. A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It is designed to carry more than two thousand five hundred (2,500) but less than five thousand (5,000) trips per day. Typically, a collector is able to serve, directly or indirectly, between two hundred and fifty (250) and five hundred (500) dwelling units.
- (5) Subcollector. A street whose principal functions are both to carry traffic between minor and local streets and collectors, or to join two collectors, or a collector and an arterial, and to serve abutting properties. It is designed to carry more than five hundred (500) but less than two thousand five hundred (2,500) trips per day. Typically, a subcollector is able to serve, directly or indirectly, between fifty (50) and two hundred fifty (250) dwelling units.
- (6) Local Road. A street whose sole function is to provide access to abutting properties. It is designed to carry more than one hundred fifty (150) but less than five hundred (500) trips per day. Typically, a local road is able to serve, directly or indirectly, between fifteen (15) and fifty (50) dwelling units.
- (7) Minor Street. A street whose sole function is to provide access to abutting properties. It is designed to carry one hundred fifty (150) or less trips per day. Typically, a minor street serves fifteen (15) or fewer dwelling units.
- (8) Alley. A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Street Line.

The right-of-way boundary of a street.

Street Yard.

The area of a parcel immediately adjacent to a street right-of-way and reserved for planting. Street yards must be at least eight (8) feet in width, extend along the entire length of the adjacent street right-of-way, and meet the requirements contained in Article 11 of this Ordinance.

Structure.

Anything constructed, placed, or erected, the use of which requires location on the land, or attachment to something having a permanent location on the land. Among other things, structures include buildings, manufactured homes, fences, signs, swimming pools, and tennis courts. *(Amended 8/2/2021)*

Subdivider.

Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision.

All divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions when one or more of those divisions is created for the purpose, whether immediate or future, of sale or building development, and all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition and are not subject to any regulations enacted pursuant to this Ordinance:

- (1) 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 contained herein;
- (2) the division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (3) the public acquisition by purchase of strips of land for the widening or openings of streets or for public transportation system corridors;
- (4) the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards contained in Article 11 of this Ordinance.
- (5) 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 NC General Statutes. *(Amended 8/5/2019)*

Subdivision, Family.

A subdivision containing no more than eight lots for the purpose of conveying the resulting parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within three degrees of collateral kinship to the grantor. Degrees of kinship shall be computed in accordance with NCGS Section 104A-1. Lots can be conveyed as a gift, as settlement of the property owner's estate, or for a nominal consideration. This term also includes the conveyance of a lot or tract for the purpose of dividing lands among the tenants in common, all of whom, by intestacy or by will, inherited the land from a common ancestor. *(Amended 6/1/2015)*

Subdivision, Major.

All subdivisions shall be considered major subdivision except those defined as minor subdivisions.

Subdivision, Minor.

A minor subdivision is a tract to be subdivided which is a cemetery or five (5) acres or less in size, and five or fewer lots result after subdivision *(Amended 9/2/2014):*

- (1) all of which front on an existing approved street;
- (2) not involving any new public streets, right-of-way dedication, or prospectively requiring any new street for access to interior property;
- (3) not requiring drainage improvements or easements to serve the applicant's property or interior properties;
- (4) not involving any utility extensions; and
- (5) not requiring any easements, other than rear and side lot line easements.

Substantial Modification.

The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. *(Amended 11/4/2013)*

- (1) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- (3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

Substantially Improved Existing Manufactured Home Park.

Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads which equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, construction, or improvement commenced.

Telecommunication Tower.

A tower facility, including, but not limited to, radio and television transmission towers or similar utilities, microwave towers, and mobile telephone or radio towers. This term shall not include radio transmission facilities for use by ham radio operators or two-way local radio facilities for business or governmental purposes that are under 100 feet in height and that, at a height of fifty feet above the base, have a maximum horizontal measurement of eighteen inches nor shall it include any tower erected by a public authority for public safety or emergency service communication purposes.

Telecommunications Facility.

A communications tower or antenna and any associated accessory structures and equipment.

Telephone Communication Facility, Unattended.

A windowless structure containing electronic telephone equipment that does not require regular employee attendance for operating.

Temperature Controlled. Having the temperature regulated by a heating and/or cooling system, built-in or appliance. *(Amended 9/3/2019)*

### Temporary Health Care Structure.

The following definitions shall apply:

- (1) Activities of Daily Living. Bathing, dressing, personal hygiene, ambulation, or locomotion, transferring, toileting, and eating.
- (2) Caregiver. An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.
- (3) First or Second Degree Relative. A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
- (4) Mentally or Physically Impaired Person. A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
- (5) Temporary Family Health Care Structure. A transportable residential structure, providing an environmental facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and NCGS 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted. *(Amended 8/2/2021)*

### Temporary Uses.

Any use intended for temporary and limited duration, operated as an accessory to a principal use. The maximum frequency of such temporary use shall not exceed two (2) occurrences within any twelve-month period and the maximum duration of such temporary use shall be seven (7) days. For purposes of this definition, the duration of each separate occurrence shall be measured on continuous days. Such use shall be subject to applicable location, setback, parking, land use and other standards for the district. Christmas tree sales, fireworks sales, carnivals and nonprofit organizations are exempt from the frequency and duration provisions of this Ordinance. Temporary uses shall be exempt from the vegetation and parking lot surface improvement standards, provided however, where the director of planning due to extended duration or frequency of operation finds that the use requirements shall apply. No temporary use may omit any noise, odors, dust, fumes, glare, or vibration or cause traffic or other safety issues that could be detrimental to adjoining properties or surrounding areas.

### Thoroughfare Plan.

The official major thoroughfare plan of Pembroke, North Carolina, as adopted by the Pembroke Planning Board and the North Carolina Department of Transportation.

Tobacco.

Any preparation of the nicotine-rich leaves of the tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body. *(Amended 9/4/2018)*

Tobacco Paraphernalia.

Any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances as may be defined in the North Carolina General Statutes. Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia. *(Amended 9/4/2018)*

Tobacco Product.

Any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this Ordinance, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose. *(Amended 9/4/2018)*

Tower.

Any structure whose principal function is to support antenna.

Towing Service, Automotive or Truck.

A commercial enterprise, business or company established to tow or remove motor vehicles from one location to another. A towing service includes the temporary storage of motor vehicles at its site, but under no circumstances shall any motor vehicle remain on the premises of a towing service for more than twenty-four (24) hours unless stored within an enclosed structure or the tow service is located in an industrial district. Such services shall comply with all ordinances of the Town.

Town.

The Town of Pembroke, North Carolina.

Town Council.

The Town Council of the Town of Pembroke.

Town Right-of-Way.

A right-of-way owned, leased, or operated by the Town, including any public street or alley that is not a part of the State highway system. *(Amended 10/2/2017)*

Town Utility Pole.

A pole owned by the Town in the Town right-of-way that provides lighting, traffic control, or a similar function. *(Amended 10/2/2017)*

Townhouse.

A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation *(Amended 11/4/2013)*. All townhouse developments shall be subject to multiple family dwelling provisions of this chapter, with the following exceptions:

- (1) All townhouse developments shall comply with the multiple family density requirements of Article 11 of this Ordinance; this standard can be met by individual lot area, by provision of common open space, or by a combination of lot area and common open space.
- (2) No unit shall be connected on more than two (2) sides by common walls.
- (3) All yard dimensional requirements shall apply to the property lines of the entire development. No individual unit shall be required to meet the yard dimensions.

Tract.

A tract is a piece of land whose boundaries have been described or delineated by a legal instrument or map recorded in the office of the Robeson County Register of Deeds.

Tract Area.

The total acreage/square footage of the entire tract being developed.

Trees, Large.

Large trees shall be of a species having an average minimum height of fifteen (15) feet and a minimum mature crown spread of twenty (20) feet. At the time of planting, the tree shall have a minimum caliper of two inches measured at four (4) feet above ground.

Trees, Small.

Small trees shall be of a species having an average minimum height of eight (8) feet and a minimum mature crown spread of twelve (12). At the time of planting, the tree shall have a minimum caliper of two (2) inches measured at four (4) feet above ground.

Use.

The purpose for which land or structure thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Use, Accessory.

A use incidental to and customarily associated with the use-by-right and located on the same lot with the use-by-right, and operated and maintained under the same ownership with the operation of the use-by-right.

Use-By-Right.

A use which is listed as an unconditionally permitted activity in this Ordinance.

Use, Nonconforming.

A use of building or land that does not conform with the regulations of the district in which the building or land is situated.

Use, Non Farm.

Any use of property which is not encompassed by the definition of a farm as so defined in this Ordinance.

Utility Pole.

A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting or wireless services. *(Amended 10/2/2017)*

Variance.

A grant of relief to a person from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

Vegetation Screen.

Evergreen trees, including, but not limited to, evergreen shrubs or plants with a minimum height of six (6) inches when planted, which reach a height of at least six (6) feet and have adjoining canopies within five (5) years.

Vested Right.

The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS Chapter 160D-108 or under common law. *(Amended 8/2/2021)*

Violation of Unified Development Ordinance.

Failure of a structure, use, lot, situation, or other development to be fully compliant with the requirements of this Ordinance.

Visible.

Capable of being seen without visual aid by a person of normal visual acuity.

Warehouse.

A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade to be again removed or reshipped.



Water Supply Watershed Protection Regulation Definitions. (Amended 6/5/2017)

For the purposes of Article 25, Water Supply Watershed Protection Regulations, the following items, phrases, and words shall have the meaning herein:

- (1) Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.
- (2) Best Management Practices. A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.
- (3) Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
- (4) Built-Upon Area. Built-upon areas shall include that portion of a development project that is covered by impervious and partially impervious cover including buildings, pavement, gravel areas (e.g., roads, parking lots, paths), recreation facilities (e.g., tennis courts), etc. NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious.
- (5) Cluster Development. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this Ordinance, planned unit developments and mixed-use development are considered as cluster development.
- (6) Critical Area. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.
- (7) Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

- (8) Discharging Landfill. A facility with liners, monitoring equipment, and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.
- (9) Existing Development. Those projects that are built, or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance based on criteria established under Article 22, Vested Rights.
- (10) Hazardous Material. Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CW A (oil and hazardous substances).
- (11) Industrial Development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.
- (12) Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the NC General Statutes. For the purposes of this Ordinance, this term does not include composting facilities.
- (13) Land Disturbing Activity. Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Regulations do not apply to the following land disturbing activities: agriculture, forestry, and mining.
- (14) Nonconforming Lot of Record. A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.
- (15) Protected Area. The area adjoining and upstream of the critical area of a WS-IV watershed. The boundaries of the protected areas are defined as within five (5) miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within ten (10) miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.
- (16) Residential Development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc., and customary home occupations.

- (17) Residuals. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under the authority of the Environmental Management Commission.
- (18) Single-Family Residential. Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.
- (19) Toxic Substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.
- (20) Variance. A permission to develop or use property granted by the Board of Adjustment relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this Ordinance.
- (21) Variance, Major. A variance from the minimum statewide watershed protection rules that results in any one or more of the following:
- (a) the relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option;
  - (b) the relaxation, by a factor greater than five (5) percent, of any buffer, density or built-upon area requirement under the high density option;
  - (c) any variation in the design, maintenance, or operation requirements of a wet detention pond or other approved stormwater management system.
- (22) Variance, Minor. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density, or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low density option.
- (23) Vested Right. The right to undertake and complete the development and use of property under the terms and conditions established by the local government.
- (24) Water Dependent Structure. Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boathouses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

- (25) Watershed. The entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

Water Tower.

A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water. *(Amended 11/4/2013)*

Wholesale.

Sale of a commodity for resale to the public for direct consumption.

Wind Farm.

An electricity-generating facility whose main purpose is to supply electricity to the electrical grid, consisting of one or more wind turbines and other accessory structures and buildings including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities, which has a rated capacity of greater than 100 kW. *(Amended 8/2/2021)*

Wind Energy Generator (Accessory).

A single system consisting of a single wind turbine, a tower, and associated control or conversion electronics designed to supplement other electricity sources as an accessory use to existing buildings or facilities, which has a rated capacity of not more than 100 kW. *(Amended 8/2/2021)*

Wind Power.

Power that is generated in the form of electricity by converting the rotation of wind turbine blades into electrical current by means of an electrical generator. *(Amended 8/2/2021)*

Wind Turbine.

A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer. *(Amended 8/2/2021)*

Wind Turbine Height.

The distance measured from grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation. *(Amended 8/2/2021)*

Wireless Facility.

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.

- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna. *(Amended 10/2/2017)*

Wireless Infrastructure Provider.

Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services. *(Amended 10/2/2017)*

Wireless Provider.

A wireless infrastructure provider or a wireless services provider. *(Amended 10/2/2017)*

Wireless Services.

Any services, using licensed or unlicensed wireless spectrum, including the use of WI-FI, whether at a fixed location or mobile, provided to the public using wireless facilities. *(Amended 10/2/2017)*

Wireless Services Provider.

A person who provides wireless services. *(Amended 10/2/2017)*

Wireless Support Structure.

A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure. *(Amended 10/2/2017)*

Yard.

A required open space unoccupied and unobstructed by a structure or portion of a structure; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front.

A yard extending the full width of the lot and situated between the right-of-way line and the front line of the principal structure or use projected to the side lines of the lot. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lines would have met without such rounding. The foremost points of the side lot lines in the case of lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of Article 11 of this Ordinance shall be measured at the place where the access strip joins the main portion of the lot. However, nothing may be placed in the access strip that is not permitted by this Ordinance to be placed in a front yard. Front and rear yard lines shall be parallel.

Yard, Rear.

An area extending across the full width of the lot and lying between the rear lot line and a line parallel thereto at a distance therefrom as required in the applicable district.

Yard, Side.

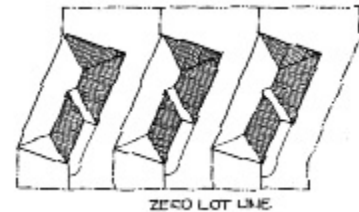
An area extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and a line parallel thereto and a distance therefrom as required in the various districts.

Yard Sale.

The sale of miscellaneous used items commonly associated with residential use. Yard sales shall not be for the sale of primarily a single commodity. A yard sale shall be limited to a period of no more than two consecutive days. The term "yard sale" does not include agricultural products grown off site or non-agricultural temporary uses/sales. *(Amended 4/3/2017)*

Zero Lot Line Housing Unit.

A single-family detached housing unit placed on a lot such that a windowless wall is placed on one side property line and the footage required for two (2) side yards is placed on the other side property line as the total side yard requirement for the lot.



Zoning Compliance.

A certification by the Administrator or his authorized agents that a course of action to use or occupy a tract of land or a building, or to erect, install or alter a structure, building or sign situated in the extraterritorial jurisdiction of the Town, fully meets the requirements of this Ordinance.

Zoning Map Amendment or Rezoning.

An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the Town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the Town, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments where there are not changes in the boundaries of the zoning district or land uses permitted in the district. *(Amended 8/2/2021)*

## **ARTICLE 3. ADMINISTRATIVE MECHANISMS**

### **PART I. PLANNING AND ZONING BOARD**

#### **Section 3-1: Membership and Vacancies**

The planning board shall consist of seven (7) members. Five (5) members shall be citizens and residents of the town and shall be appointed by the Town Council. Two (2) members shall be citizens and residents of the extraterritorial jurisdiction of the town as described pursuant to GS § 160D-307 et seq. and shall be appointed by the county Board of Commissioners. The county representation must be proportional based on the population for residents of the ETJ area. The population estimates for this calculation must be updated following each decennial census. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. Faithful attendance at the meetings of the board is considered a prerequisite for the maintenance of membership on the board. A vacancy shall exist on the board if a member is absent from twenty-five (25) percent or more of the board's meetings within a twelve (12) month period of time and said vacancy may be declared and filled by the Town Council. All appointed members shall, before entering their duties, qualify by taking an oath of office. *(Amended 9/2/2014, 8/2/2021)*

#### **Section 3-2: Rules of Conduct**

Members of the Board may be removed for cause, including violation of any rule stated below:

- (A) Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board. Absence from four (4) regularly scheduled Board meetings during any one calendar year shall be considered cause for a recommendation to the Town Council of dismissal from the Board.
- (B) No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided however, that members may receive and/or seek information pertaining to the case from any other member of the Board, or staff prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board.
- (C) Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board's determination of that case. Violation of this rule shall be cause for dismissal from the Board.
- (D) Members shall serve at the pleasure of the Town Council. *(Amended 8/2/2021)*

**Section 3-3: Meetings**

- (A) Meetings of the Planning and Zoning Board will normally occur on an as-needed basis, at a date and place designated by the Board and shall be open to the public. A quorum shall consist of four (4) members of the Board. *(Amended 8/2/2021)*
- (B) All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Section 3-2. A vote of a majority of the members present and voting shall decide issues before the Board.
- (C) Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call such a meeting upon a recommendation of the Board. During a special meeting, no other business may be considered except that which was specified by advanced notice. The Clerk shall notify all members of the Board in writing not less than five (5) days in advance of such special meeting. Notice of time, place, and subject of such meeting shall be published in a newspaper having general circulation in the Town of Pembroke when possible in accordance with NCGS 160D. *(Amended 8/2/2021)*
- (D) The order of business at regular meetings shall be as follows:
  - (1) Call to Order;
  - (2) Approval of Minutes of Previous Meetings;
  - (3) Approval of the Agenda;
  - (4) Public Input;
  - (5) Unfinished Business;
  - (6) New Business;
  - (7) Announcements;
  - (8) Adjournment.
- (E) The petitioner or applicant who is on the agenda may withdraw the petition or application at anytime; but if a motion is pending to make a recommendation to grant or deny, such motion shall have precedence.
- (F) The Board shall render its decisions in the form of a recommendation on any properly filed petition or application within sixty (60) days after its first planning board meeting following submittal and shall transmit a signed copy of the decision to the Administrator to submit to the Town Council for consideration. The sixty (60) day time period will not begin until the petitioner has furnished the Administrator with all required permits. The decision shall be in the form of a letter signed by the Chairperson and Clerk and attached to the minutes. Such letter shall indicate the reasons for the Board's determination and its findings.



**Section 3-4: General Powers and Duties (Amended 4/4/2022)**

It shall be the duty of the Planning Board, in general, to:

- (A) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.
- (B) Prepare, review, maintain, monitor, and periodically update and recommend to the Town Council a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis. *(Amended 8/2/2021)*
- (C) Facilitate and coordinate citizen engagement and participation in the planning process. *(Amended 8/2/2021)*
- (D) Develop and recommend to the Town Council policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner. *(Amended 8/2/2021)*
- (E) Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area.
- (F) Keep the Town Council and the general public informed and advised as to these matters.
- (G) Make recommendations for the timely implementation of programs to meet the goals and policies as adopted in the comprehensive plan.
- (H) Perform any other duties which may be lawfully assigned to it.
- (I) Advise the Town Council concerning the implementation of plans, including, but not limited to, review and comment on proposed zoning text and/or map amendments as required by Article. *(Amended 8/2/2021)*
- (K) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Council may direct. *(Amended 8/2/2021)*

**Section 3-5: Basic Studies**

As background for its comprehensive plan and any ordinances it may prepare, the Planning Board may gather maps and aerial photographs of manmade and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the community, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts. The Planning Board may make studies as to the community's social, economic, as well as its physical needs. In addition, the Planning Board may make, cause to be made, or obtain special studies on the location, condition, and adequacy of specific facilities, which may include but

are not limited to studies of housing; commercial and industrial facilities; parks, playgrounds, and recreational facilities; public and private utilities; and traffic, transportation, and parking facilities. All town officials shall, upon request, furnish to the Planning Board such available records or information as it may require in its work. The board or its agents may, in the performance of its official duties, enter upon lands and make examinations or surveys and maintain necessary monuments thereon.

**Section 3-6: Comprehensive Plan**

- (A) The comprehensive plan, with the accompanying maps, charts, and descriptive matter, shall be and show the Planning Board's recommendations to the Town Council for the development of such territory, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities, or terminals; and the most desirable patters of land use within the area.
- (B) The plan and any ordinances or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the town and its environs which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements and the improvement of the community social and economic attributes.

**Section 3-7: Zoning Ordinance**

- (A) The Planning Board shall prepare and submit to the Town Council for its consideration and possible adoption a zoning ordinance for the control of the height, area, bulk, location, and use of buildings and premises in the area, in accordance with the provisions of GS 160D-702 et seq. *(Amended 8/2/2021)*
- (B) The Planning Board may initiate, from time to time, proposals for amendment of the zoning ordinance, based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the Town Council concerning all proposed amendments to the zoning ordinance.

**Section 3-8: Subdivision Regulations**

- (A) The Planning Board shall review, from time to time, the need for regulations for the control of land subdivision in the area and submit to the Town Council its recommendations, if any, for adoption or revision of such regulations.
- (B) In accordance with such regulations, the Planning Board shall review and make recommendations to the Town Council concerning all proposed plats of land subdivision.

**Section 3-9: Urban Renewal**

The Planning Board shall make findings and recommendations concerning urban renewal projects in the area, as provided by GS 160A-500 et seq.

**Section 3-10: Public Facilities**

The Planning Board shall review with the Town Manager and other town officials and report as recommendations to the Town Council upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, and on the establishment of building lines, mapped street lines, and proposals to change existing street lines. However, in the absence of a recommendation from the Planning Board, the Town Council may, if it deems wise, after the expiration of thirty (30) days from the date on which the questions has been submitted in writing to the Planning Board for review and recommendation, take final action.

**Section 3-11: Miscellaneous Powers and Duties**

- (A) The Planning Board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the comprehensive plan. Before adopting any such plan, it shall hold at least one (1) public hearing thereon.
- (B) The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.
- (C) Members or employees of the Planning Board, when duly authorized by the Planning Board, may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation, and the Planning Board may, by formal and affirmative vote, pay, within the Planning Board's budget, the reasonable traveling expenses incident to such attendance.

**Section 3-12: Annual Report of Activities and Analysis of Expenditures and Budget Request for Ensuing Fiscal Year**

- (A) The Planning Board shall, in May of each year, submit in writing to the Town Council a written report of its activities, and analysis of the expenditures to date for the current fiscal year, and for review and approval, its requested budget of funds needed for operation during the ensuing fiscal year.
- (B) The Planning Board is authorized to receive contributions from private agencies and organizations or from individuals, in addition to any sums which may be appropriated for its use by the Town Council. It may accept and disburse such contributions for special purposes or projects, subject to any specified conditions which it deems acceptable, whether or not such projects are included in the approved budget.
- (C) The Planning Board is authorized to appoint such committees and employees, and to authorize such expenditures as it may see fit, subject to limitations of funds provided for the Planning Board by the Town Council in the town's annual budget.

**Section 3-13: Advisory Council and Special Committees**

- (A) The Planning Board may seek the establishment of an unofficial advisory council and may cooperate with this council to the end that its investigations and plans may receive fullest consideration, but the board may not delegate to such advisory council any of its official prerogatives.
- (B) The Planning Board may set up special committees to assist in the study of specific questions and problems.

**PART II. BOARD OF ADJUSTMENT**

**Section 3-14: Creating the Zoning Board of Adjustment *(Amended 11/4/2013, 8/12/2021)***

Under the authority of the NCGS Section 160D-302, the Pembroke Town Council (five members who are citizens and residents of the Town) serves as and performs any and all duties of the Board of Adjustment in addition to its other duties. In addition, two additional members who are citizens and residents of the ETJ shall be appointed by the county Board of Commissioners. The county representation must be proportional based on the population for residents of the ETJ area. The population estimates for this calculation must be updated following each decennial census. All appointed members shall, before entering their duties, qualify by taking an oath of office.

**Section 3-15: Meetings/Officers *(Amended 11/4/2013, 8/2/2021)***

The Board shall elect one of its members as Chairman and another as Vice-Chairman who shall serve for one (1) year, with eligibility for re-election. The Town Clerk shall serve as secretary to the Board of Adjustment. The Board shall draw up and adopt the rules of procedures under which it will

operate. All meetings of the Board shall be held at a regular place and time and shall be open to the public. The Chairman shall have the authority to call a special meeting if he deems such a meeting to be necessary. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses (see Section 6-3). All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action.

**Section 3-16: Power and Duties** *(Amended 11/4/2013, 8/2/2021)*

The Board of Adjustment shall have the following powers and duties:

- (A) To hear and decide requests for variances and appeals of decisions of administrative officials charged with enforcement of this Ordinance. As used in this section, the term “decision” includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development. If any board other than the Board of Adjustment is assigned decision-making authority for any quasi-judicial matter, that board shall comply with all of the procedures and the process applicable to a Board of Adjustment in making quasi-judicial decisions.
- (B) To make interpretations of the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions as arise in the administration of the Unified Development Ordinance.
- (C) To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties.
- (D) To request the Town Council to consider matters within the purview of the Council.
- (E) To hear and decide any other matter as required by the provisions of this Ordinance.
- (F) To adopt rules consistent with this Ordinance or the North Carolina General Statutes governing the organization of the Board and proceedings before the Board.

**Section 3-17: Quorum and Voting**

- (A) Quorum. A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular Board membership (excluding vacant seats). A quorum is necessary for the board to take official action. A member who has withdrawn from the meeting without being excused as provided in subsection (B)(3) shall be counted as present for purposes of determining whether a quorum is present. *(Amended 11/4/2013, 8/2/2021)*

(B) Voting.

- (1) The concurring vote of four-fifths of the Board (excluding vacant seats) shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- (2) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (3) or has been allowed to withdraw from the meeting in accordance with subsection (4).
- (3) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances.
  - (a) If the member has a direct financial interest in the outcome of the matter at issue; or
  - (b) If the matter at issue involves the member's own official conduct; or
  - (c) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
  - (d) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
- (4) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
- (5) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- (6) A roll call vote shall be taken upon the request of any member. *(Amended 8/2/2021)*

**PART III. ADMINISTRATIVE STAFF**

**Section 3-18: Authorization**

In accordance with NCGS Section 160D-402, the Town may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce this Ordinance. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the Administrator. *(Amended 8/2/2021)*

**Section 3-19: Duties**

Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to NCGS Chapter 160D; determining whether applications for development approvals are complete; receipt and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order to adequately enforce the laws and development regulations under the Town's jurisdiction. A development regulation may require that designated staff members take an oath of office. The Town of Pembroke shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this UDO. The administrative and enforcement provisions related to building permits set forth in Article 11 of NCGS Chapter 160D shall be followed for those permits. *(Amended 8/2/2021)*

**Section 3-20: Alternative Staff Arrangements**

The Town may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purchase.

In lieu of joint staff, the Town Council may designate staff from any other city or county to serve as a member of its staff with the approval of the Board of the other city or county. A staff member, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered an agent of the Town. The Town Council may request the governing board of the second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the Town's jurisdiction, and they shall thereupon be empowered to do so until the Town officially withdraws its request in the manner provided in NCGS 160D-202.

The Town may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who

is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The Town shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the Town as it does for an individual who is an employee of the Town. The company or individual with whom the Town contracts shall have errors and omissions and other insurance coverage acceptable to the Town. *(Amended 8/2/2021)*

**Section 3-21: Financial Support**

The Town may appropriate for the support of the staff for any funds that it deems necessary. It shall have the power to fix reasonable fees for support, administration, and implementation of programs authorized by this Ordinance and all such fees shall be used for no other purposes. When an inspection, for which the permit holder has paid a fee to the Town, is performed by a marketplace pool Code-enforcement official upon request of the Insurance Commissioner under NCGS 143-151.12(9)a, the Town shall promptly return to the permit holder the fee collected by the Town for such inspection. This applies to the following inspections: plumbing, electrical systems, general building restrictions and regulations, heating and air-conditioning, and the general construction of buildings. *(Amended 8/2/2021)*

**PART IV. TOWN COUNCIL**

**Section 3-22: Powers and Duties**

- (A) The Town Council, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Article 12 of this Ordinance. *(Amended 8/2/2021)*
- (B) In considering proposed changes in the text of this Ordinance or in the zoning map, the Town Council acts in its legislative capacity and must proceed in accordance with the requirements of Article 5.
- (C) Unless otherwise specifically provided in this Ordinance, in acting upon special use permit requests or in considering amendments to this Ordinance or the zoning map, the Town Council shall follow the regular voting and other requirements as set forth in other provisions of the town code. *(Amended 8/2/2021)*
- (D) The Town Council, in considering the approval of a site-specific development plan (as defined in Article 4, Part II, Vested Rights and Permit Choice), shall follow the procedural requirements set forth in Article 12 for the issuance of a special use permit. *(Amended 8/2/2021)*
- (E) To adopt temporary moratoria on any Town development approval required by law (see Article 4, Part IV). *(Amended 8/2/2021)*



**PART V. CONFLICTS OF INTEREST (Amended 8/2/2021)**

**Section 3-23: Governing Board**

A Town of Pembroke Town Council member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Council member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

**Section 3-24: Appointed Boards**

Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

**Section 3-25: Administrative Staff**

- (A) No staff member shall make a final decision on an administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person, or such other staff person as may be designated by this Ordinance.
- (B) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

**Section 3-26: Quasi-Judicial Decisions**

A member of any board exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed *ex parte* communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

**Section 3-27: Resolution of Objection**

If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter, and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

**Section 3-28: Familial Relationship**

For purposes of this Part, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

## ARTICLE 4. LEGISLATIVE PROCEDURES

### PART I. AMENDMENTS *(Amended 8/2/2021)*

#### Section 4-1: **Process for Adoption of Development Regulations**

- (A) Hearing with Published Notice. Before adopting, amending, or repealing any ordinance or development regulation authorized by NCGS Chapter 160D, the Town Council shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (B) A development regulation adopted pursuant to NCGS Chapter 160D shall be adopted by ordinance.
- (C) No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the town.

#### Section 4-2: **Notice of Hearing on Proposed Zoning Map Amendments**

- (A) Mailed Notice. This Ordinance provides for the manner in which zoning regulations and the boundaries of zoning districts are determined, established, and enforced, and from time to time may be amended, or changed, in accordance with the requirements of this Part. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addressed listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of the town’s ETJ, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.
- (B) Optional Notice for Large Scale Zoning Amendments. The first-class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the town elects to use the expanded published notice provided for in this subsection. In this instance, the town may elect to make the mailed notice provided for in subsection (a) of this section or, as an alternative, elect to publish notice of

the hearing as required by Section 20.1, provided that each advertisement shall not be less than on-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

- (C) Posted Notice. When a zoning map amendment is proposed, the town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the town shall post sufficient notices to provide reasonable notice to interested persons.
  
- (D) Actual Notice. Except for town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the town that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under NCGS 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with NCGS 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the town that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

**Section 4-3: Citizen Comments**

Subject to the limitations of this Ordinance, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Town Council. If the proposed change is the subject of a quasi-judicial proceeding under NCGS Chapter 160D-705 or any other statute, the Town Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Board shall not disqualify any member of the Board from voting.

**Section 4-4: Planning Board Review and Comment**

- (A) Zoning Amendments. Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulations or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

- (B) Review of Other Ordinances and Actions. Any development regulations other than a zoning regulation that is proposed to be adopted pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the Planning Board for review and comment. Any other action proposed to be taken pursuant to NCGS Chapter 160D may be referred to the Planning Board for review and comment.
- (C) Plan Consistency. When conducting a review of proposed zoning text or map amendments pursuant to this section, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council. If a zoning map amendment qualifies as a “large-scale rezoning” under NCGS 160D-602(b), the Planning Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendations made.
- (D) Separate Board Required. Notwithstanding the authority to assign duties of the Planning Board to the Town Council as provided by this Ordinance, the review and comment required by this section shall not be assigned to the Town Council and must be performed by a separate board.

#### **Section 4-5: Town Council Statement**

- (A) Plan Consistency. When adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Council that at the time of action on the amendment the Board was aware of and considered the Planning Board’s recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional application or fee for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency amendment is not subject to judicial review. If a zoning map amendment qualifies as a “large scale rezoning” under Section 20.2(b), the Town Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- (B) Additional Reasonableness Statement for Rezonings. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed

rezoning shall be approved by the Town Council. This statement of reasonableness may consider, among other factors, (i) the size, physical condition, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment, (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a “large-scale rezoning” under Section 20.2(b), the Town Council statement on reasonableness may address the overall rezoning.

- (C) Single Statement Permissible. The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

**Section 4-6 through 4-10 Reserved.**

**PART II. VESTED RIGHTS AND PERMIT CHOICE** *(Amended 8/2/2021)*

**Section 4-11: Findings**

Town approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. Therefore, it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, secure reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation.

**Section 4-12: Permit Choice**

If an application made in accordance with local regulation is submitted for a development approval required pursuant to this Ordinance and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. This section applies to all development approvals issued by the State and by local governments. The duration of vested rights created by development approvals are as set forth in Section 20.11.

**Section 4-13: Process to Claim Vested Right**

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the UDO Administrator, who shall make an initial determination as to the existence of the vested right. The UDO Administrator’s determination may be appealed under G.S. 160D-405. On appeal the existence of a vested right shall be reviewed de novo. In lieu of seeking such a

determination, a person claiming a vested right may bring an original civil action as provided in G.S. 160D-405(c).

**Section 4-14: Types and Duration of Statutory Vested Right**

Except as provided by this section and subject to Section 20.15, amendments to this Ordinance shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to this Ordinance so long as one of the approvals listed in this subsection remains valid and unexpired. Each type of vested right listed below is defined by and is subject to the limitations provided in this section and the cited statutes. Vested rights established under this section are not mutually exclusive. The establishment of vested right under one subsection does not preclude vesting under one or more other subsections or by common law principles.

- (A) Six-Months – Building Permits. Pursuant to NCGS 160D-1110, a building permit expires six (6) months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of twelve (12) months after work has commenced.
  
- (B) One Year – Other Local Development Approvals. Pursuant to NCGS 160D-403(c), unless otherwise specified by this section, statute, or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site-specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law.
  
- (C) Two to Five Years – Site Specific Vesting Plans.
  - (1) Duration. A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the town. The town may provide that rights regarding a site-specific vesting plan shall be vested for a period exceeding two years, but not exceeding five years if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. This determination shall be made in the discretion of the town and shall be made following the process specified by subsection (c)(3) below for the particular form of a site-specific vesting plan involved.
  
  - (2) Relationship to Building Permits. A right vested as provided in this subsection shall terminate at the end of the applicable vesting period which respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of NCGS 160D-1110 and 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this section exists.

- (3) Requirements for Site-Specific Vesting Plans. For the purposes of this section, a “site-specific vesting plan” means a plan submitted to the town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as may be used by the town. Unless otherwise expressly provided by the town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. The Town of Pembroke uses existing development approvals, such as a preliminary plat, a special use permit, or a conditional zoning, to approve a site-specific vesting plan. A variance shall not constitute a “site specific vesting plan,” and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.
- (4) Process for Approval and Amendment of Site-Specific Vesting Plans. If a site-specific vesting plan is based on an approval required by a local development regulation, the town shall provide whatever notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting established by this subsection. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS 160D-602 shall be held. The town may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The town shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the town’s decision approving the plan or such other date as determined by the Town Council upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the town as follows: Any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.
- (D) Seven Years – Multi-Phase Developments. A multi-phased development shall be vested for the entire development with the Unified Development Ordinance in place at the time a site plan approval is granted for the initial phase of the multi-phased development. This right shall remain vested for a period of seven years from the time a site plan approval is granted



for the initial phase of the multi-phased development. For the purposes of this subsection, “multi-phased development” means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

- (E) Indefinite – Development Agreements. A vested right of reasonable duration may be specified in a development agreement approved under Part III of this Article.

**Section 4-15: Continuing Review**

Following approval or conditional approval of a statutory vested right, the town may make subsequent reviews and require approvals by the town to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The town may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

**Section 4-16: Exceptions**

- (A) A vested right, once established as provided for by subsections 20.14(b) and (c), precludes any zoning action by a local government that would change, alter, impair prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except:
- (1) With the written consent of the affected landowner;
  - (2) Upon findings, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, and safety, and welfare if the project were to proceed as contemplated in the approved vested right;
  - (3) To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant’s fees incurred after approved by the town, together with interest as is provided in Section 1.13. Compensation shall not include any diminution in the value of the property that is caused by such action;
  - (4) Upon findings, after notice and an evidentiary hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the town of the vested right; or

- (5) Upon the enactment or promulgation of a State or Federal law or regulation that precludes development as contemplated in the approved vested right, in which case the town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.
  
- (B) The establishment of a vested right under subsections 20.14(b) and (c), shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by the town including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.
  
- (C) Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change or impair the authority of the town to adopt and enforce development regulation provisions governing nonconforming situations or uses.

**Section 4-17: Miscellaneous Provisions**

- (A) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a vested right under this section, all successors to the original landowner shall be entitled to exercise such rights.
  
- (B) Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

**Section 4-18 through 4-20 Reserved.**

**PART III. DEVELOPMENT AGREEMENTS *(Amended 8/2/2021)***

**Section 4-21: Authorization**

- (A) In accordance with NCGS 160D-1002, the Town of Pembroke finds:
  - (1) Development projects often occur in multiple phases over several years, requiring a long-term commitment of both public and private resources.
  
  - (2) Such developments often create community impacts and opportunities that are difficult to accommodate within traditional zoning processes.

- (3) Because of their scale and duration, such projects often require careful coordination of public capital facilities planning, financing, and construction schedules and phasing of the private development.
  - (4) Such projects involve substantial commitments of private capital which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.
  - (5) Such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.
  - (6) To better structure and manage development approvals for such developments and ensure their proper integration into local capital facilities programs, the town needs flexibility to negotiate such developments.
- (B) The town may enter into development agreements with developers, subject to the procedures of this Part. In entering into such agreements, the town may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.
- (C) This Part is supplemental to the powers conferred upon the town and does not preclude or supersede rights and obligations established pursuant to other law regarding development approvals, site-specific vesting plans, phased vesting plans, or other provisions of law. A development agreement shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of the town's development regulations. When the Town Council approves the rezoning of any property associated with a development agreement executed and recorded pursuant to this Part, the provisions of Section 20.5 apply.
- (D) Development authorized by a development agreement shall comply with all applicable laws, including all ordinances, resolutions, regulations, permits, policies, and laws affecting the development of property, including laws governing permitted uses of the property, density, intensity, design, and improvements.

**Section 4-22: Definitions**

The following definitions apply in this Part:

- (A) Development. The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or

activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

- (B) Public Facilities. Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

**Section 4-23: Approval of Town Council Required**

- (A) The Town of Pembroke may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the Town Council following the procedures specified in Section 20.23.
- (B) The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the town. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

**Section 4-24: Size and Duration**

The Town of Pembroke may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size. Development agreements shall be of a reasonable term specified in the agreement.

**Section 4-25: Public Hearing**

Before entering into a development agreement, the town shall conduct a legislative hearing on the proposed agreement. The notice provisions of Section 20.2 applicable to zoning map amendments shall be followed for this hearing. The notice for the public hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

**Section 4-26: Content and Modification**

- (A) A development agreement shall, at a minimum, include all of the following:
  - (1) A description of the property subject to the agreement and the names of its legal and equitable property owners.

- (2) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
  - (3) The development uses permitted on the property, including population densities, and building types, intensities, placement on the site, and design.
  - (4) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.
  - (5) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.
  - (6) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.
  - (7) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- (B) A development agreement may also provide that the entire development or any phase of it be commenced or completed within a specified period of time. If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to Section 20.28 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement.
- (C) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.
- (D) The development agreement also may cover any other matter, including defined performance standards, not inconsistent with this Ordinance. The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the local

government pursuant to G.S. 160D-804 shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

- (E) Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to Section 20.23 or as provided for in the development agreement.
- (F) Any performance guarantees under the development agreement shall comply with Section 4.38.

**Section 4-27: Vesting**

- (A) Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.
- (B) Except for grounds specified in Section 20.28(e), the town may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.
- (C) In the event State or Federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the town may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the development agreement.
- (D) This section does not abrogate any vested rights otherwise preserved by law.

**Section 4-28: Breach and Cure**

- (A) Procedures established pursuant to Section 20.23 may require periodic review by the UDO Administrator or other appropriate officer of the town, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement.
- (B) If the town finds and determines that the developer has committed a material breach of the agreement, the town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach.
- (C) If the developer fails to cure the material breach within the time given, then the town unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by Section 5.1.

- (D) An ordinance adopted pursuant to Section 4-23, or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. Nothing in this Article shall be construed to abrogate or impair the power of the town to enforce applicable law.
- (E) A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement.

**Section 4-29: Amendment or Termination**

Subject to the provisions of Section 4-26(e), a development agreement may be amended or terminated by mutual consent of the parties.

**Section 4-30: Change of Jurisdiction**

- (A) Except as otherwise provided by this Article, any development agreement entered into by the town before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the town assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.
- (B) The town, in assuming jurisdiction, may modify or suspend the provisions of the development agreement if the town determines that the failure of the town to do so would place the residents of the territory subject to the development agreement or the residents of the town, or both, in a condition dangerous to their health or safety, or both.

**Section 4-31: Recordation**

The developer shall record the agreement with the Robeson County Register of Deeds within 14 days after the town and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

**Section 4-32: Applicability of Procedures to Approve Debt**

In the event that any of the obligations of the town in the development agreement constitute debt, the town shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the town, with any applicable constitutional and statutory procedures for the approval of this debt.

**Section 4-33 through 4-35 Reserved.**

**PART IV. MORATORIA.** *(Amended 8/2/2021)*

**Section 4-36: Authority**

In accordance with NCGS 160D-107, the Town of Pembroke may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

**Section 4-37 through 4-40 Reserved.**



## ARTICLE 5. APPEALS, VARIANCES, INTERPRETATIONS

### Section 5-1: Appeals (Amended 11/4/2013, 8/2/2021)

- (A) Standing. Any person who has standing as defined in Article 2 or the town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with Town Clerk when delivered to the Town Hall, and the date and time of filing shall be entered on the notice by the town staff.
- (B) Judicial Challenge. A person with standing may bring a separate and original civil action to challenge the constitutionality of the Ordinance or that it is ultra vires, preempted, or otherwise in excess of statutory authority without filing an appeal under Section 5-1.
- (C) Notice of Decision. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (D) Time to Appeal. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In absence of evidence to the contrary, notice pursuant to NCGS Chapter 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- (E) Record of Decision. The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (F) Stays. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed, unless the official who made the decision certifies to the Board of Adjustment, after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for development

approvals to use such property; in these situations, the appellant or Town may request and the Board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

- (J) Alternative Dispute Resolution. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The Ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

**Section 5-2: Variances (Amended 11/4/2013, 8/2/2021)**

- (A) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the administrator in the planning department. Applications shall be handled in the same manner as applications for development approvals in conformity with the provisions of Article 12.
- (B) When unnecessary hardships would result from carrying out the strict letter of the Ordinance, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:
  - (1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
  - (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  - (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
- (C) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

- (D) A variance may be issued for an indefinite duration or for a specified duration only.
- (E) The nature of the variance and any conditions attached to it shall be entered on the face of the development permit, or the development permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

**Section 5-3: Interpretations**

- (A) The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Administrator, they shall be handled as provided in Section 5-1.
- (B) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with administrator in the planning department. The application shall contain sufficient information to enable the board to make the necessary interpretation.
- (C) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following map boundary rules shall apply:
  - (1) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
  - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - (3) Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following such jurisdictional boundaries.
  - (4) Boundaries indicated as approximately following the center of railroad lines shall be construed to be midway between the main track or tracks.
  - (5) Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such centerlines.
  - (6) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and if the shoreline is changed either naturally or as permitted by law, such a boundary shall be construed as moving with the actual shoreline.

- (7) Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted survey practices.
- (8) Boundaries indicated as parallel to or extensions of natural or manmade features indicated in subsections 1 through 7 above shall be so construed.
- (9) Distances not specifically indicated shall be determined by the scale of the official zoning map.

Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Article 6 of this Ordinance.

- (D) Interpretations of the location of floodway and floodplain boundary lines may be made by the Administrator as provided in Article 20.

**Section 5-4: Requests to be Heard Expeditiously (Amended 11/4/2013)**

As provided in Section 6-1, the Board of Adjustment shall hear and decide all applications, appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Article 6, and obtain the necessary information to make sound decisions.

**Section 5-5: Burden of Proof in Appeals and Variances**

- (A) When an appeal is taken to the Board of Adjustment in accordance with Section 5-1, the administrator shall have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- (B) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 5-2(B), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

## ARTICLE 6. QUASI-JUDICIAL PROCEDURES

### Section 6-1: Hearing Required on Appeals and Applications *(Amended 8/2/2021)*

- (A) Before making a decision on an appeal or an application for a variance or special use permit, interpretation, or a petition from the planning staff to revoke a special use permit, the Board of Adjustment or the Town Council, as the case may be, shall hold a hearing on the appeal or application.
- (B) Subject to Subsection (C), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments. All persons presenting evidence or arguments shall be sworn in by the Chairman prior to the presentation of any evidence or arguments (see Section 6-3 (B)). The oath may be administered by the Chairperson, any member acting as Chairperson, or the Clerk to the Board.
- (C) The Board of Adjustment or Town Council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (D) Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.
- (E) The required application fee and all supporting materials must be received by the Administrator before an application is considered complete and a hearing scheduled.

### Section 6-2: Notice of Hearing *(Amended 8/2/2021)*

The administrator shall give notice of any hearing required by Section 6-1 as follows:

- (A) Notice of evidentiary hearings conducted pursuant to this Article shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the town must rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. *(Amended 11/4/2013)*

The Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

- (B) In the case of variances and special use permits, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one (1) time not less than 10 nor more than 25 days prior to the hearing. *(Amended 11/4/2013)*
- (C) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

**Section 6-3: Administrative Materials** *(Amended 8/2/2021)*

The Administrator shall transmit to the Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Board prior to the hearing if at the same time they are distributed to the Board, a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board at the hearing.

**Section 6-4: Presentation of Evidence** *(Amended 11/4/2013, 8/2/2021)*

The applicant, the Town, and any person who would have standing to appeal the decision as defined in Article 2 shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary hearing issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board. The Board Chair shall rule on any objections and the Chair's ruling may be appealed to the full Board. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

**Section 6-5: Appearance of Official; New Issues** *(Amended 8/2/2021)*

The official who made the decision or the person currently occupying that position if the decisionmaker is not longer employed by the Town, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

**Section 6-6: Oaths (Amended 8/2/2021)**

All persons who intend to present evidence to the decision-making board, rather than arguments only, shall be sworn in. The Chairman of the Board or any member acting as Chairman and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

**Section 6-7: Subpoenas (Amended 8/2/2021)**

The board making a quasi-judicial decision under this Article, through the Chairman, or in the Chairman's absence anyone acting as Chairman, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Town, and any persons with standing as defined in Article 2 may make a written request to the Chairman explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairman shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chairman shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chairman may be immediately appealed to the full decision-making board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the decision-making board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

**Section 6-8: Modification of Application at Hearing**

- (A) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Town Council or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- (B) Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

**Section 6-9: Record (Amended 8/2/2021)**

- (A) A record shall be made of all hearings required by Section 6-1, and such recordings shall be kept as provided by state law. Accurate minutes shall also be kept of all such proceedings. A transcript may be made, but is not required.
- (B) Whenever practicable, all documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town in accordance with NCGS 160A-1402.

**Section 6-10: Appeals in Nature of Certiorari (Amended 8/2/2021)**

When hearing an appeal pursuant to NCGS 160D-947 or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in NCGS 160D-1402(k).

**Section 6-11: Voting (Amended 8/2/2021)**

The concurring vote of four-fifths of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

**Section 6-12: Decision and Judicial Review (Amended 11/4/2013, 8/2/2021)**

- (A) The Board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the Board may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards, and be approved by the Board and signed by the Chairman or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board or such other office or official as this Ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify to the Town that proper notice has been made and the certificate shall be deemed conclusive in the absence of fraud.
- (B) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. Appeals shall be filed within the times specified in NCGS 160D-1405(d).

**Section 6-13: Rehearings (Amended 8/2/2021)**

When an application involving a quasi-judicial procedure/petition is denied by the Town Council or Board of Adjustment, reapplication involving the same property, or portions of the same property, may not be submitted unless the petitioner can demonstrate a substantial change in the proposed use, conditions governing the use of the property, or conditions surrounding the property itself.



## **ARTICLE 7. ENFORCEMENT AND REVIEW**

### **Section 7-1: Notices of Violation (Amended 8/2/2021)**

When the Administrator determines work or activity has been undertaken in violation of the Unified Development Ordinance or other local development regulations or any State law delegated to the Town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation shall be posted on the property. The Administrator shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1123 or GS 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to Section 5.1, Appeals.

### **Section 7-2: Stop Work Orders (Amended 8/2/2021)**

Whenever any work or activity subject to regulation pursuant to this Ordinance or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Town that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by NCGS 160D-1112 and 160D-1208, a stop work order may be appealed pursuant to Section 5.1. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

### **Section 7-3: Remedies (Amended 8/2/2021)**

- (A) Any development regulation adopted pursuant to NC General Statutes Chapter 160D may be enforced by any remedy provided in NCGS 160A-175. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this UDO or of any development regulation or other regulation made under authority of NCGS Chapter 160D, the town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion,

maintenance, use, or development; to restrain, correct, or abate the violation; to prevent any illegal act, conduct, business, or use in or about the premises.

- (B) When a development regulation adopted pursuant to authority conferred by NCGS Chapter 160D is to be applied or enforced in any area outside the planning and development regulation jurisdiction of the town, the town and the property owner shall certify that the application or enforcement of the town UDO is not under coercion or otherwise based on representation by the town that the town's development approval would be withheld without the application or enforcement of the town UDO outside the jurisdiction of the town. The certification may be evidenced by a signed statement of the parties on any development approval.
- (C) In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated by the Town of Pembroke is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the UDO, the town or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object. Such remedies shall be in addition to any others authorized by this UDO for violation of this Ordinance.

**Section 7-4: Permit Revocation (Amended 8/2/2021)**

- (A) A development approval (zoning, sign, special use, or variance permit) may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the permit-issuing board.
- (B) Before a development approval may be revoked, all of the notice and hearing and other requirements of Article 6 shall be complied with. The notice shall inform the development approval recipient of the alleged grounds for the revocation.
- (C) Before a development approval may be revoked, the administrator shall give the permit recipient ten (10) days notice of intent to revoke the development approval and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefor.
- (D) No person may continue to make use of land or buildings in the manner authorized by any development approval after such permit has been revoked in accordance with this Ordinance.

## **ARTICLE 8. NONCONFORMING SITUATIONS**

### **Section 8-1: Continuation of Nonconforming Situations and Completion of Nonconforming Projects**

Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections 8-2 through 8-6 of this section.

Nonconforming projects may be completed only in accordance with the provisions of Section 8-6 of this section.

### **Section 8-2: Nonconforming Lots**

- (A) When a nonconforming lot can be used in conformity with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made a use by right. Otherwise, the nonconforming lot may be used only in accordance with a permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that (a) the proposed use is one permitted by the regulations applicable to the district in which the property is located, and (b) the property can be developed as proposed without any significant negative impact on the surrounding property or the public health, safety, or welfare. In issuing the permit authorized by this paragraph, the Board may allow deviations from applicable dimensional requirements (such as setback lines and yard size minimums) if it finds that no reasonable use of the property can be made without such deviations.
- (B) Whenever this Ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without hereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of the paragraph (1) of this section.

### **Section 8-3: Extension or Enlargement of Nonconforming Situations**

- (A) Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.
- (B) Subject to paragraph (D) of this subsection, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section 8-6 of this Ordinance (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

- (C) Subject to Section 8-6 of this Ordinance (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming, if 10 percent or more of the earth products had already been removed at the effective date of this Ordinance.
- (D) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.
- (E) Physical alternation of structures or the placement of new structures on open land are unlawful if they result in:
- (1) An increase in the total amount of space devoted to a nonconforming use;
  - (2) Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or
  - (3) The enclosure of previously unenclosed areas, even though those areas were previously used in connection with the nonconforming activity. An area is unenclosed unless at least 75 percent of the perimeter of the area is marked by a permanently constructed wall or fence.
- (F) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation -- i.e., work estimated to cost more than 60 percent of the appraised value of the structure to be renovated (and not required by the partial or total destruction of a structure [see paragraph H]) -- may be done pursuant to a permit issued by the Board of Adjustment. The Board of Adjustment shall issue such a permit if it finds that the work will not result in a violation of any other paragraphs of this section (particularly paragraph E) or make the property more incompatible with the surrounding neighborhood.
- (G) Notwithstanding paragraph (E), any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. In particular, a manufactured home may be replaced with a larger manufactured home, and a "single-wide" manufactured home may be replaced with a "double-wide." This paragraph is subject to the limitations stated in Section 8-5 on abandonment and discontinuance of nonconforming situations.

- (H) A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:
- (1) The total amount of space devoted to a nonconforming use may not be increased, except that a larger, single-family residential structure may be constructed in place of a smaller one and a larger manufactured home intended for residential use may replace a smaller one;
  - (2) The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building;
  - (3) The reconstructed building may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity. An area is unenclosed unless at least 75 percent or more of the perimeter of the area is marked by a permanently constructed wall or fence.
- (I) Except for single-family residential structures (including manufactured homes), if the estimated cost of the reconstruction work exceeds 10 percent of the appraised value of the structure, the work may be done only after issuance of a permit by the Board of Adjustment. The Board shall issue the use permit if it finds that the work will be done in accordance with this paragraph and that the reconstructed building will not make the property more incompatible with the surrounding property than it was before the destruction occurred.

**Section 8-4: Change in Kind of Nonconforming Use**

- (A) A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.
- (B) A nonconforming use may be changed to another nonconforming use only in accordance with a use permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the application is made for the permit.

**Section 8-5: Abandonment or Discontinuance of Nonconforming Situations**

- (A) When a nonconforming use is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes, except as provided in paragraph (B) of this subsection.
- (B) The Board of Adjustment may issue a use permit to allow a nonconforming use that has been discontinued for more than 180 consecutive days to be reinstated if it finds that (1) the

nonconforming use has been discontinued for less than two years, and (2) the discontinuance resulted from factors that, for all practical purposes, were beyond the control of the person maintaining the nonconforming use.

- (C) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the district in which the property is located, unless the Board of Adjustment issues a use permit to allow the property to be used (for a conforming purpose) without correcting the nonconforming situation. The Board shall issue such a use permit if it finds that (1) the nonconforming situation cannot be corrected without undue hardship or expense, and (2) the nonconforming situation is of a minor nature that does not adversely affect the surrounding property or the general public to any significant extent.
- (D) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a manufactured home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that manufactured home for 180 days terminates the right to replace it.
- (E) When a structure or operation made nonconforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the 180-day period for purposes of this subsection begins to run at the effective date of this Ordinance.

**Section 8-6: Completion of Nonconforming Projects**

- (A) All work on any nonconforming project shall cease on the effective date of this Ordinance, and all permits previously issued for work on nonconforming projects shall be revoked as of that date. Thereafter, work on nonconforming projects may begin, or may be continued, only pursuant to a use permit issued by the Board of Adjustment (except as provided in paragraph (B) of this section). The Board shall issue such a use permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this Ordinance and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the Board shall be guided by the following:
  - (1) All expenditures made pursuant to a validly issued and unrevoked building or development permit shall be considered as evidence of reasonable reliance on the

land use law that existed before this Ordinance became effective. *(Amended 8/2/2021)*

- (2) Except as provided in subparagraph (1) of this paragraph, no expenditures made more than 180 days before the effective date of this Ordinance shall be considered as evidence of reasonable reliance on the land use law that existed before this Ordinance became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.
  - (3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made expenditure to acquire a potential development site if the property obtained is just as valuable under the new classification as it was under the old, or the expenditure can be recovered by resale of the property.
  - (4) An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (a) the total estimated cost of the proposed project, and (b) the ordinary business practices of the developer.
  - (5) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.
  - (6) Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the Board may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The Board may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (a) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development; and (b) the developer had legitimate business reasons for making expenditures.
- (B) The requirements of paragraph (A) of this section shall not apply to a nonconforming project if the Building Inspector has issued a building permit, special use permit, development permit, variance permit, or a preliminary or final subdivision plat has been approved prior to the effective date of this Ordinance. *(Amended 8/2/2021)*
- (C) The Board of Adjustment shall not consider any application for a use permit authorized by paragraph (A) of this subsection that is submitted more than 60 days after the effective date of this Ordinance, unless it waives this requirement for good cause shown.
- (D) If the Board of Adjustment issues a use permit pursuant to paragraph (A) of this section, it may attach such reasonable conditions to the use permit as it finds necessary to reduce the

extent to which the nonconforming project is incompatible with the surrounding neighborhood. In particular, the Board may require that work on the nonconforming project be continuously maintained, if possible, and that the project be completed as expeditiously as possible.

- (E) The Building Inspector shall send copies of this subsection to the owners (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be under construction. This notice shall be sent by certified mail not less than fifteen days before the effective date of this Ordinance.
- (F) The Board of Adjustment shall establish expedited procedures for hearing applications for special use permits under this subsection. These applications shall be heard, whenever possible, before the effective date of this Ordinance, so that construction work is not needlessly interrupted. *(Amended 8/2/2021)*
- (G) When it appears from the developer's plans or otherwise that the nonconforming project was intended to be or reasonably could be completed in stages, segments or other discreet units, the Board of Adjustment shall not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to allow the developer to recoup and obtain a reasonable rate of return on the expenditures he has made in connection with that nonconforming project.



# 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.

## **ARTICLE 10. TABLE OF PERMITTED USES**

Districts in which particular uses are permitted as a use-by-right are indicated by "P." Uses not specifically listed in the Table of Permitted Uses are prohibited.

Districts in which particular uses are permitted as a special use upon approval of the Town Council are indicated by "S." See the Table of Regulations for Special Uses, Section 12-18, for details of each special use. *(Amended 8/2/2021)*

Districts in which particular uses are prohibited are indicated by a blank.

Any land use listed in the Table of Permitted Uses that incorporates or utilizes a drive-in facility must have its site design plan and proposed traffic circulation and parking plan approved by the Town of Pembroke. Those plans must be approved prior to construction of the drive-in facility.

Minimum zoning district area (acreage) requirements are defined in Article 11, Table of Area, Yard, and Height Requirements.



TABLE OF PERMITTED USES (Amended 1/7/2013; 6/4/2018; 8/2/2021)

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
ACCESSORY BUILDINGS AS LIVING QUARTERS (see Note 4)		S	S	S								
ACCESSORY NON-PROFIT TEMPORARY RECREATIONAL VEHICLE PARKING (see Note 40) (Amended 8/5/2019)					S							
ACCESSORY STRUCTURES/BUILDINGS (see Note 4)		P	P	P	P	P	P	P	P			
ACCESSORY USES Incidental to any permitted use (see Note 4)		P	P	P	P	P	P	P	P			
ADULT BUSINESSES (see Note 5)									S			
AGRICULTURAL AND FORESTRY USES	11	P							P			
AGRICULTURAL VENDING MACHINE (see Note 29) (Amended 6/6/2016)								S				
AGRITOURISM (Amended 8/5/2019)		P										
ALCOHOLIC BEVERAGES (PACKAGE RETAIL SALES)						P						
ANIMAL HOSPITALS/ VETERINARIANS	541940							P				
ANIMAL KENNELS/BOARDING FACILITIES including accessory grooming	812910/ 112990							P				
ANTIQUA SHOPS	453310					P						
APPLIANCE STORES						P		P				
APPLIANCE REPAIR STORES								P				
ART GALLERIES	541430					P						

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
ART GOODS STORES						P						
ASSEMBLY HALLS (see Note 30) (Amended 4/3/2017)								S				
ASSISTED LIVING RESIDENCE		P										
AUTOMATED TELLER MACHINE (ATM) (Amended 6/6/2016)					P	P	P	P	P			
AUTOMOBILE AND TRUCK DEALERS	441110								P			
AUTOMOBILE DETAILING SHOP (see Note 7A) (Amended 8/7/2023)	811192					S		P				
AUTOMOBILE JUNKYARDS AND WRECKING YARDS (see Note 6)	493190								S			
AUTOMOBILE PARTS AND SUPPLY STORE (Amended 6/4/2018)	441310							P	P			
AUTOMOBILE RENTING AND LEASING (Amended 6/4/2018)	532111/ 532112								P			
AUTOMOTIVE REPAIR (see Note 33) (Amended 8/3/2020)						S		P	P			
AUTOMOBILE SALES (Amended 11/7/2016; 6/4/2018)	811111							P	P			
AUTOMOBILE SERVICE STATIONS (see Note 7)	447190						P	P	P			
AUTOMOBILE WASH (see Note 7A) (Amended 8/3/2015; 8/7/2023)	811192							P				
BAKERY PRODUCTS, CANDY, CONFECTIONARY MANUFACTURING	311821					P		P				
BANKS, without drive-in facilities						P	P	P				

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
BANKS, with drive-in facilities						P	P	P				
BARBER OR BEAUTY SHOPS	812111/ 812112				P	P	P	P				
BARBER SCHOOLS						P						
BED AND BREAKFAST	721199	P		P	P			P				
BICYCLE SHOP						P						
BILLIARD AND POOL HALLS						P		P				
BONA FIDE FARMS and their customary appurtenances		P	P	P					P	P		
BOOK STORES						P						
BOWLING ALLEYS	713950					P		P				
BREW PUB AS A PART OF A MIXED-USE DEVELOPMENT (see Note 35) (Amended 3/7/2022)					S	S						
BUILDING MATERIALS SALES AND STORAGE	444190							S	P			
BUILDINGS, GOVERNMENTAL		P	P	P	P	P	P	P	P			
BUS STATIONS	485113							P				
BUSINESS, ARTS, AND PROFESSIONAL SCHOOLS					P	P						
CAMERA SHOP						P						
CAR WASHES (see Note 7A) (Amended 8/3/2015)	811192							P				
CARPET AND RUG DEALERS	442210					P						
CARPET AND UPHOLSTERY CLEANERS	561740							P	P			

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
CATERING ESTABLISHMENTS	722320					P	P	P				
CEMETERIES (see Note 8)	812220	P		P						P		
CHURCHES/PLACES OF WORSHIP (Including rectories, parsonages, manses, parish houses, and nunneries.)	813110	P	P	P	P	S						
CIVIC AND FRATERNAL MEETING HALLS	813110	S		S	P							
CLOTHING AND FINISHED FABRIC PRODUCTS	4481					P						
CLUBS, PRIVATE (FOR PROFIT) (See Note 38) (Amended 6/4/2018)								S				
CLUBS, PUBLIC OR PRIVATE (NONPROFIT), including meeting hall, lodge, and athletic facility (Amended 6/4/2018)		P			P							
COMMUNITY CENTERS		P	P	P	P	P						
COMMERCIAL AMUSEMENT USE (See Note 44) (Amended 2/7/2022)								P				
COLLEGES		S	S	S	S	P						
CONTRACTORS, BUILDING (with storage)	233210							P	P			
CONTRACTORS, EQUIPMENT								P	P			
CONTRACTORS, HEAVY CONSTRUCTION	234990							P	P			
CONTRACTORS, SPECIAL TRADES (no storage)						P		P	P			
CONVALESCENT, NURSING, AND REST HOMES	623110	P		P	P							
CONVENIENCE FOOD STORES, BUT NOT INCLUDING CAR WASHES	445120						P	P				

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
CONVENIENCE STORES WITH GAS PUMPS ( <i>Amended 1/2/2018</i> )								P	P			
COUNTRY CLUBS	721310	P	P	P	P							
DAY CARE FACILITIES -ADULT (see Note 9)	624120	P		P	P							
DAY CARE FACILITIES -CHILD	624410	P	P	P	P							
DAY CARE, HOME -CHILD		P	P	P	P							
DAY SUPPORT FACILITY (see Note 9A) ( <i>Amended 8/4/2014</i> )								S				
DENTAL CLINICS, OFFICES, AND LABORATORIES					P							
DRUG STORES						P	P	P				
DRY GOODS						P						
DWELLING, MULTI-FAMILY AND TOWNHOUSES (R-8/O&I, see Section 13.2; C-1, see Note 45) ( <i>Amended 6/26/2017; 2/7/2022</i> )	233220			P	S	S						
DWELLING, SINGLE-FAMILY	233210	P	P	P								
DWELLING, TWO FAMILY ( <i>Amended 8/3/20, 4/4/22</i> )		P	S	P								
ELECTRICAL AND ELECTRICAL MACHINERY, EQUIPMENT AND SUPPLIES	4218					P						
FAMILY CARE HOME (see Note 9)	621610	P	P	P	P							
FARMER'S MARKET	445230							P	P			
FARM MACHINERY SALES						P						
FEED AND SEED SALES						P						

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
FENCE (See Note 25) (Amended 9/2/2014)		P	P	P	P	P	P	P	P	P		
FENCE, SECURITY (See Note 25) (Amended 9/2/2014)								P	P			
FERTILIZER MANUFACTURER OR SALE									P			
FINANCIAL INSTITUTIONS, without drive-in facilities	522120					P						
FINANCIAL INSTITUTIONS, with drive-in facilities						P						
FLEA MARKETS/VENDOR MARKETS	453310							P	P			
FLOOR COVERING AND HOUSE ACCESSORIES SALES						P						
FLORAL AND GIFT SHOPS	453110				P	P						
FOOD STORES (GROCERY)	445110					P		P				
FOOD TRUCKS (see Note 34) (Amended 4/3/2017)						P		P				
FUNERAL HOMES	812210				P			P				
FURNITURE AND FIXTURES	337215					P						
FURRIERS/FUR STORAGE						P						
GAS PUMPING STATIONS (unmanned, credit cards only) (see Note 7)									P			
GENERAL MERCHANDISE STORES								P				
GIFT SHOP						P	P	P				
GOLF COURSES, PRIVATE NONCOMMERCIAL AND ACCESSORY USES (But not including golf driving ranges, pitch and putt or miniature golf courses.)	713910	P	P	P						P		
GOLF COURSES, PUBLIC		P	P	P						P		

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
GOVERNMENT OFFICES AND BUILDINGS <i>(Amended 2/7/2022)</i>					P	P	P	P	P			
GRANNY PODS/TEMPORARY HEALTH CARE STRUCTURES <i>(see Note 27) (Amended 11/3/2014)</i>		P	P	P	P							
GREENHOUSES AND PLANT NURSERIES	1114	P										
HARDWARE STORES	444130					P						
HEALTH CLUBS						P	P	P				
HOBBY GOODS STORE						P						
HOME OCCUPATIONS <i>(see Note 10)</i>		P	P	P								
HOSPITALS	622110			P				P				
ICE VENDING MACHINE <i>(see Note 29) (Amended 6/6/2016)</i>								S				
INDUSTRIAL RESEARCH OFFICES AND LABORATORIES	541710								P			
INDUSTRIAL PARKS									P			
JEWELRY STORE						P						
LAUNDRY AND DRY-CLEANING ESTABLISHMENTS <i>(see Note 11)</i>	812320						P	P				
LAUNDRY PICK-UP FACILITIES	812320					P	P	P				
LAWN AND GARDEN STORES	4442							P	P			
LEATHER PRODUCTS <i>(no tanning or production)</i>	448320					P						
LIBRARIES					P	P						

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
MANUFACTURED HOME, CLASS A on individual lot (see Note 46) (Amended 9/5/2023)		P		S								
MANUFACTURED HOME, CLASS B on individual lot		P										
MANUFACTURED HOME PARK	531190	S										
MANUFACTURING (assembling and processing industries provided that all operations are conducted within an enclosed structure and that there is no outside storage except in the rear yard)	31-33								P			
MANUFACTURING, PROCESSING, OR WAREHOUSING OR TRANSPORTATION USE OR PUBLIC USE OR UTILITY (see Note 12)									P			
MEDICAL CLINICS, OFFICES, AND LABORATORIES (see Note 13)		S			P			P				
MIXED USE (see Note 35) (Amended 2/5/2018)					S	S						
MOTELS/HOTELS	721110					P		P				
MOTORCYCLE SALES AND SERVICES	441221					P						
MOVERS, VAN LINES, AND STORAGE	484210							P				
MUSEUMS						P						
MUSIC, ART, AND DANCE SCHOOLS						P						
MUSICAL EQUIPMENT SALES						P						
NATURE OBSERVATION POINTS/PRESERVES									P			
NC LICENSED MASSAGE THERAPISTS (see Note 41) (Amended 3/1/2021)			S		P	P	P	P				

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.



PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
NEWSPAPER PRINTING AND PUBLISHING SERVICES	511130					P						
NEWSSTANDS, MAGAZINE STANDS						P						
OFFICE, COMPUTING AND ACCOUNTING MACHINES (SALES)	421420					P	P	P				
OFFICE, (PROFESSIONAL, BUSINESS, FINANCIAL AND MEDICAL) <i>(Amended 2/7/2022)</i>	621				P	P	P	P				
OFFICES (PRIMARY USES, NOT ACCESSORY)	621				P	P	P	P				
OPEN SPACE LAND										P		
OPTICIANS AND OPTICAL GOODS					P	P	P	P				
OUTDOOR SALES, SERVICE, OR STORAGE AREAS									P			
OUTPATIENT HEALTH SERVICE/ADMINISTRATIVE OFFICE					P	P	P	P				
OUTLET STORES FOR INDUSTRIAL ESTABLISHMENTS (see Note 14)									P			
PACKAGE DELIVERY SERVICES, COMMERCIAL	492210								P			
PAINT STORE						P						
PARKING LOTS	812930					P		P		P		
PARKING STRUCTURES AND UNDERGROUND PARKING GARAGES						P		P		P		
PARKS AND RECREATION AREAS		P	P	P	P	P				P		
HIGHWAY ORIENTED OUTDOOR PLACES OF RECREATION AND ENTERTAINMENT NOT TO INCLUDE DRIVE-IN THEATERS								P				

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
PAWNSHOP OR USED MERCHANDISE STORE (see Note 28) <i>(Amended 5/2/2016)</i>	522298					S		P				
PET STORE						P						
PHOTOGRAPHERS	541922				P	P	P	P				
PLAYGROUNDS		P	P	P	P	P						
PLUMBING FIXTURES SALES						P						
POTTERY AND RELATED PRODUCTS	327112							P				
PRINTING AND PUBLISHING	323110					P						
PUBLIC SAFETY STATIONS SUCH AS FIRE STATIONS, POLICE STATIONS, AND RESCUE SQUADS <i>(Amended 5/4/2020)</i>				P				P				
PUBLIC UTILITY STORAGE OR SERVICE YARDS						P	P		P			
PUBLIC UTILITY SUBSTATIONS/SWITCHING STATIONS (see Note 15)		P	P	P	P	P		P	P			
PUMP STATIONS, MUNICIPALLY OWNED (see Note 15)		P	P	P	P	P	P	P	P			
RADIO, TELEVISION, AND RADAR TOWERS (see Note 16)		S							P			
RADIO, TELEVISION STATIONS, STUDIOS, AND OFFICES						P		P				
RADIO AND TELEVISION SUPPLIERS AND REPAIR SHOPS						P		P				
RAILROADS (see Note 17)		S	S	S	S	S	S	S	S	S		

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
RECREATION BUILDINGS AND FACILITIES FOR RESIDENTIAL DEVELOPMENTS		P	P	P								
RESTAURANTS AND DRIVE-IN RESTAURANTS	722110					P	P	P	P			
RESTAURANTS AND CAFETERIAS primarily for employees, patients, or students located in same building as another use and having no outside advertising or drive-in facilities						P		P				
RESTAURANTS WITH NON-FOOD SERVICE-RELATED ENTERTAINMENT as an accessory use (see Note 35) <i>(Amended 3/7/2022)</i>					S	S	S	S	S			
RETAIL ESTABLISHMENTS NOT MENTIONED ELSEWHERE, BUT NOT INCLUDING CONVENIENCE STORES, CAR WASHES, SERVICE STATIONS, NOR MOTOR VEHICLE FUEL PUMPS.	Depends on Type					P						
RETAIL OR WHOLESALE BUSINESS, EDUCATIONAL, MEDICAL, DENTAL, OPTICAL ESTABLISHMENT, OR SERVICE ESTABLISHMENT (see Note 18)						P						
RETIREMENT/ELDERLY FACILITIES					P	P		P				
ROOMING AND BOARDING HOUSES					P			P				
SCHOOLS, PUBLIC AND PRIVATE - Elementary and/or secondary school meeting all requirements of the compulsory education laws of the state, and not providing residential accommodations.	611110	P	P	P	P							
SHOE STORE, AND REPAIR						P		P				
SOLAR ENERGY GENERATING FACILITY, ACCESSORY (See Note 26b) <i>(Amended 8/2/2021)</i>		P	P	P	P	P	P	P	P			

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
SOLAR FARMS (See Note 26) (Amended 11/7/2016)									S			
SHOPPING CENTERS AND MALLS								P				
SMOKE SHOPS AND TOBACCO STORES (see Note 39) (Amended 9/4/2018)								S				
SPECIAL EVENTS (see Note 31) (Amended 4/3/2017)		S						S				
SPORTING GOODS STORE						P						
SUPERMARKETS								P				
SWIMMING POOLS, PRIVATE NONCOMMERCIAL AND ACCESSORY USES		P	P	P								
TAILORS/DRESSMAKERS AND MILLINERY SHOPS								P				
TATTOO PARLOR (see Note 24)								S				
TAXI STANDS	485310					P		P				
TELECOMMUNICATION FACILITIES	513340	S	S	S	S	S	S	S	S			
TEMPORARY OFFICE UNITS (see Note 19)		P	P	P	P	P	P	P	P			
TEMPORARY SALE OF AGRICULTURAL PRODUCTS GROWN OFF-SITE (see Note 32) (Amended 4/3/2017)								P				
TENNIS COURTS, PRIVATE NONCOMMERCIAL AND ACCESSORY USES		P	P	P								
THEATERS (INDOOR)						P		P				
THEATERS, DRIVE-IN (see Note 20)								S				
TOWING SERVICES	448410							P	P			

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

PERMITTED USES	ICS*	R-20	R-10	R-8	O&I	C-1	C-2	C-3	I**	OS	CDO1****	CDO2****
TOY STORE						P						
TRANSPORTATION NETWORKS										P		
US POSTAL SERVICES	491110					P	P	P	P			
VETERANS OUTREACH CENTER								P				
WAREHOUSING USES, INCLUDING MINI-STORAGE (Amended 8/7/2023)	493110							P	P			
WHOLESALE MERCHANTS	813910					P		P	P			
WHOLESALE STORAGE OF GASOLINE OR BULK TERMINAL PLANTS (see Note 21)	486210								P			
WIND ENERGY GENERATING FACILITY, ACCESSORY (See Note 42) (Amended 8/2/2021)		P	P	P	P	P	P	P	P			
WIND FARMS (See Note 43) (Amended 8/2/2021)		S							S			

\*ICS - North American Industry Classification System. See Note 1.

\*\*See Note 2.

\*\*\*See Note 3.

\*\*\*\*Uses will be the same as those allowed in the underlying zoning district. See Notes 36 and 37.

## **Section 10-1: Notes to the Table of Permitted Uses**

Note 1. The Standard Industrial Classification Codes indicated in Article 10, Table of Permitted Uses are for reference purposes only, and do not mean that all uses under a specified code heading as provided in the Standard Industrial Classification Manual are permitted or special uses in the applicable zone.

Note 2. Site Development and Operations Standards within the Industrial District.

- (A) Any industrial use may be permitted as a special use providing it can meet local, state and federal environmental requirements with regard to emissions into the air, water or public sewer systems within the town planning area. Such industries shall obtain the necessary permits from applicable agencies, such as the county health department or the North Carolina Department of Environment and Natural Resources.
- (B) Parking, access, and circulation lanes between the principal building and the street(s) shall be surfaced with blacktop, concrete or brick and shall be separated from required yards or open areas by continuous curbing or some other acceptable method (decorative fencing, hedge, planter, etc.) which will define and separate vehicular areas from required yards and pedestrian traffic.
- (C) Paved parking areas may encroach into fifty percent (50%) of the width of any required yard. Gravel or unimproved parking areas shall comply with all minimum yard requirements.
- (D) Outdoor storage, display, operations, or service areas, when proposed in conjunction with a special or special use permit request, shall not encroach into any required yard unless specifically authorized under the terms of the special use permit.
- (E) It is recommended that in these districts, as much of each tract as possible be left in a natural or enhanced state of vegetation. Removal of existing viable natural vegetation shall be discouraged.
- (F) Landscaping between the street and the principal building on the site shall be required to meet the landscaping requirements of Article 15 of this Ordinance. *(Amended 8/2/2021)*

Note 3. Land Use Within the Planned Unit Development. All uses listed in the Table of Permitted Uses as a use-by-right in the PUD district shall be specified to be developed on certain sites within the PUD district at the time of the approval of the preliminary plan. Commercial activities shall be permitted only as a major site development plan.

Note 4. Accessory Uses or Structures. A use or a structure on the same lot with, but of a nature customarily incidental and subordinate to the principal use or structure and which contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building or use being served. No tent, mobile home, camper, travel trailer, nor any other temporary, portable, or removable trailer, container, vehicle, or structure of any kind may be considered an accessory use or accessory structure, whether or not the wheels, axles, and/or tongue have or has been removed and whether or not the container, structure, or vehicle as described herein has been placed on a foundation, except as hereinafter described. Provided, however, that structures such as storage sheds, garden sheds, and similar structures shall be considered accessory buildings, even though they may be capable of being lifted or disassembled and removed from the property. Further provided, that a trailer, tent, or similar container, structure, or vehicle may be placed on property on a temporary basis for promotional or other business or charitable related purposes, but such use shall not continue for more than six months.

No accessory building or use shall be erected in any required front or side yard or within ten (10) feet of any lot line or any other building. Well or pump houses may be exempt from this requirement upon recommendation of the Robeson County Health Department. No accessory building or use may be erected or installed on any lot where a principal building does not exist. For parcels less than one (1) acre in size, the total square footage of all accessory structures shall not exceed 50% of the square footage of the primary structure. For parcels one (1) acre or greater in size, the total square footage of all accessory structures shall be no more than 75% of the square footage of the primary structure. In no case shall there be more than three (3) accessory structures located upon one parcel of land. Accessory building numbers limitation on property are exempt if the property is identified as having a farm tax identification number. The side and rear setbacks for farm property shall be the same as other accessory buildings. *(Amended 3/4/2024)*

Accessory buildings may be used for living quarters in the R-20 district for the immediate family and for domestic servants, on finding by the Robeson County Health Department that all regulations for healthful housing in terms of light, air, sanitary facilities, and minimum space are being met.

In the O&I, C-1, C-2, and C-3 districts, storage sales, service, or display of goods outside of buildings shall not be permitted.

Note 5. Adult Businesses.

- (A) No such business shall be located within 2,000 feet of any other sexually oriented business, as measured in a straight line from property line to property line.
- (B) No such business shall be located within 1,000 feet of a church, public or private elementary or secondary school, child day care or nursery, public park, residentially used or residentially zoned property, or any establishment with an on-premise ABC license, as measured on a straight line from property line to property line.
- (C) There shall be no more than one adult oriented business on the same property or in the same building, structure, or portion thereof.

- (D) No other principal or accessory use may occupy the same building, structure, property, or portion thereof of any adult oriented business.
- (E) Except for signs as permitted under Article 18 of this Ordinance, there shall be no other advertisements, displays, or other promotional materials visible to the public from pedestrian sidewalks, walkway, or vehicular use areas.
- (F) No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.
- (G) No person shall permit any viewing booth in an adult mini motion picture theater to be occupied by more than one person at any time.

Note 6. Junk Yards and Automobile Wrecking Yards. Junkyards along interstate and primary highways shall meet the requirements of the Junkyard Control Act of 1967. Automobile wrecking yards and similar types of used material industries must be conducted within a structure or on a lot enclosed by a solid fence at least six feet in height, provided that the Town council finds that such wrecking yard will not have injurious effect on the public interest or welfare.

Note 7. Automobile Service Stations and Gas Pumping Stations. Automobile service stations and gas pumping stations shall be permitted uses in the C-3 and I zoning districts and special uses in the C-2 and PUD zoning districts provided the following conditions are met:

- (A) The service station is limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries, and automobile accessories directly related to motor vehicles; to washing, polishing and servicing motor vehicles, only to the extent of installation of the above-mentioned items; and to selling at retail the items customarily sold by service stations.
- (B) The service station shall not overhaul motors, provide upholstery work, auto glass work, painting, welding, bodywork, tire recapping, or auto dismantling.
- (C) The service station shall provide a screen planting and/or fence along the property lines that abut residential properties. Lighting facilities shall be arranged and of such nature that nearby residential properties are not disturbed.
- (D) Service stations shall extinguish all floodlights at the close of daily operation or 11:00 p.m., whichever is earlier.

Automobile service stations located within the town shall have no gasoline or oil pumps located within twelve (12) feet of any street right-of-way line. Outside the town, no such pump shall be located within fifteen (15) feet of any street right-of-way line. *(Amended 8/2/2021)*



Note 7A. Automobile Washes/Automobile Detailing Shops. (Amended 8/3/2015; 8/7/2023)

- (A) All automobile washes/automobile detailing shops shall comply with the Town of Pembroke Sewer Use Ordinance.
- (B) All vacuuming and compression machines located outside of the enclosed building shall be of a design that does not exceed a noise level reading of 45 dB(A), as measured from the property line.
- (C) Drying, vacuuming, and detailing areas may not be placed closer than 25 feet to a residential property line.
- (D) Enclosed trash storage facilities shall be provided on the site.
- (E) Open bay wash facilities, if used, shall be sited parallel to the adjacent street. Openings to wash bays shall not face rights-of way.
- (F) Walls facing streets shall incorporate at least 51 percent glazing.
- (G) No outside storage is permitted.
- (H) Hours of operation for automobile detailing shops located in the C-1 zoning district shall be 8:00 AM to 8:00 PM.
- (I) No overnight parking of vehicles shall be permitted in the front of the property.

Note 8. Cemeteries. Cemeteries shall be permitted on finding that sufficient space is provided for off-street parking and that surrounding residential properties are not impaired.

Note 9. Adult Care Homes/Family Care Homes. As defined by G.S. 168-21 for handicapped persons, shall not be located within a one-half (½) mile radius of an existing adult/family care home.

Note 9A. Day Support Facility. (Amended 8/4/2014)

- (A) Day Support Facilities may include prevocational services. The following criteria differentiate between prevocational and vocational services:
  - (1) Prevocational services are provided to persons who are not expected to join the general work force or participate in transitional sheltered workshops within one (1) year of service initiation.
  - (2) If compensated, the beneficiary may, on average, receive less than 50 percent of minimum wage.

- (3) Services include activities that are not directed at teaching job-specific skills but at underlying habilitative goals (e.g., attention span, motor skills, attendance, and task completion).
  - (4) Day Supports may not be used for the provision of vocational services (e.g., sheltered workshop performed in a facility). Vocational services which assist beneficiaries in learning to perform real jobs are to be provided in community settings and not in licensed facilities. Prevocational skills development where beneficiaries obtain the underlying habilitation skills required for obtaining a job may be provided in the licensed day support setting.
- (B) Occupancy by the staff and/or clientele must not exceed occupancy limits established by the Robeson County Fire Marshal.
  - (C) Off-street parking must be provided in accordance with Article 17.

Note 10. Home Occupations. Shall be permitted only as an incidental use and are limited to the following:

- (A) Art gallery or the office or studio of a physician, artist (not inclusive of a studio of a commercial photographer), general or trades contractor, musician, insurance agent, lawyer, real estate broker, instruction in music or dancing, tutoring of academic subjects, teacher or other like professional person residing on the premises.
- (B) Workshops not conducted for profit.
- (C) Customary home occupations such as millinery, dressmaking, laundering, or pressing and tailoring conducted by a person residing on the premises.
- (D) Single operator beauty shop or barber shop.
- (E) Pet grooming services without the boarding of animals or operation of kennels. The outside containment of animals is prohibited.
- (F) Any home occupation not complying with these regulations shall be prohibited.

And provided, furthermore, the home occupations listed above shall be permitted subject to the following limitations:

- (A) No exterior display of products.
- (B) No mechanical equipment shall be installed or used except such that is normally used for domestic or professional purposes and which does not cause noises or other interference in radio and television reception.

- (C) No accessory buildings or outside storage shall be used in connection with the home occupation.
- (D) Not over twenty-five (25) percent of the total floor area or five hundred (500) square feet, whichever is less, shall be used for a home occupation.
- (E) Only one employee may be employed by the home occupation who is not a resident of the dwelling.

Note 11. Laundry and Dry-Cleaning Establishments. Such establishments shall be permitted when only oil, gas, or electricity is used for heat. Screening and filtering devices shall be used to prevent the emission of smoke, dust, fumes, odors, or steam into the atmosphere. The facilities must have less than 2,000 square feet of floor space.

Note 12. Manufacturing, Processing, or Warehousing or Transportation Use or Public Use or Utility. Includes offices associated with these uses, which is (are) enclosed in a building and does not and will not emit smoke, odor, dust, fumes, glare, noise, vibrations, nuclear waste, or radioactivity, from the building in which it is located, except acid manufacture, cement, lime, gypsum, or plaster of paris manufacture, distillation of bones, explosives manufacture or storage, fat rendering, fish or fertilizer plant, garbage, waste parts, dead animal reduction or dumping, gas manufacture, glue manufacture, stockyards or slaughter of animals, tannery, or pulp manufacture. Any manufacturing, processing, warehousing, or transportation use or public use or utility including offices associated with these uses which involves outdoor storage, service, operations, emits or will emit smoke, odor, dust, fumes, glare, noise, vibrations, nuclear waste, or radioactivity, from the building in which it is located or involves bulk storage of combustible materials or is among the uses listed as exceptions in the list above shall be special uses. *(Amended 8/2/2021)*

Note 13. Medical Clinics, Offices, and Laboratories. The dimensional requirements of the O&I District shall apply to these developments.

Note 14. Outlet Stores for Industrial Establishments. In the I district shall be considered as accessory uses, provided that such stores shall be limited to ten (10) percent of the gross floor area of the buildings containing the industrial establishment or 2,500 square feet, whichever is less.

Note 15. Public Utility Substations/Switching Stations and Pumping Stations. Public utility substations or pumping stations shall be permitted when authorized by the Town Council on finding that such installations will be housed in buildings that harmonize with the character of the neighborhood and will have adequate side yards, fences and other safety devices to protect the public safety and welfare.

Note 16. Radio, Television, and Radar Towers. All structures, except fences, shall be set back from all property lines by at least one foot for every foot of structure height. See Article 23 for more information and requirements.

Note 17. Railroads. Existing railroads may continue to be operated and maintained in residential districts, but no new railroad construction shall be established except when so authorized by the Town Council on finding that the appearance and property values of the district will be protected and public safety is not impaired.

Note 18. Retail or Wholesale Business, Educational, Medical, Dental, Optical Establishment, or Service Establishment. Excluding warehousing, or public use or utility, or place of worship or assembly, which is enclosed in a building and does not and will not emit smoke, odor, dust, fumes, glare, noise, radiation, or vibration from the building in which it is located, and does not and will not involve bulk storage of volatile materials or other fire hazards, and which does not have a drive-in window, except that commercial amusement uses are a special use even if they meet these conditions. Establishments of the types listed above which have outdoor sales, service, or storage areas, drive-in windows, or would emit smoke, odor, dust, fumes, glare, noise, radiation, or vibration from the building in which they are located or involve possible fire hazards, shall be special uses unless otherwise indicated in the Table of Permitted Uses. *(Amended 8/2/2021)*

Note 19. Temporary Uses. The Board shall consider the effects of the use on adjacent properties and shall set a time limit on the temporary use.

Note 20. Drive-In Theaters.

- (A) No part of any theater screen, projection booth or other building shall be located closer than 500 feet to any residential district or closer than 50 feet to any property line or public right-of-way; and no parking space shall be located closer than 100 feet to any residential district.
- (B) The theater screen shall not face a major street or highway and reserved parking space off the street is provided for patrons awaiting admission in an amount of not less than 30% of the vehicular capacity of the theater.

Note 21. Wholesale Storage of Gasoline or Bulk Terminal Plants. No above ground storage tank shall be closer than 50 feet to any property lines, and the uses must conform with the state and local regulations governing the storage of combustible fuels.

Note 22. Sidewalks. Sidewalks must be constructed for any new or substantially improved property located in the C-1, C-2, C-3, or O&I zoning districts and contiguous to NC 711.

- (A) Any new or substantially improved commercial, institutional, or multi-family projects shall construct a sidewalk along the entire width of the property parallel to the State street within the right-of-way. Substantially improved properties shall mean those properties that construct an addition to an existing building that costs over 50% of the assessed value of the existing building.
- (B) All sidewalk improvements shall be a minimum of eight feet in width and constructed with the approval of the North Carolina Department of Transportation in accordance with their design specifications.

- (C) The Planning Board reserves the right to waive or modify the requirements within this section if extenuating site circumstances or conditions are present.

Note 23. Open Storage and Display. No material goods shall be offered for sale outside of a building in connection with any use permitted in the C-3 district, with the exception of automobiles, manufactured homes, and living plants. No material or goods shall be stored in front of a building. Storage is permitted in the side yard if such use is adequately screened.

Note 24. Tattoo Parlors. Tattoo Parlors may be permitted as a Special Use in the C-3 zoning district provided that:

- (A) The tattoo parlor may not be located or operated within five hundred (500) feet of:
- (1) A church, synagogue, or regular place of worship;
  - (2) A public or private elementary or secondary school;
  - (3) A public library;
  - (4) A boundary of any residential district;
  - (5) A publicly owned park, beach, beach access, or other recreation area or facility;
  - (6) A licensed day care center;
  - (7) An entertainment business that is oriented primarily towards children.
- (B) For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a tattoo parlor is to be conducted, to the nearest property line of the premises of any use listed in (A) above.
- (C) Tattoo parlors must comply with the following:
- (1) Hours of operation must be limited to 8:00 AM to 2:00 AM (Monday through 2 AM Sunday). Such establishment shall not be open from 2:01 AM Sunday until 8:00 AM on Monday.
  - (2) Must be fully licensed by the state of North Carolina.
  - (3) All necessary parking must be provided on-site.
  - (4) Parking lot must be lighted to meet the requirements of Article 19, Lighting Ordinance. *(Amended 1/7/2013, 8/2/2021)*

Note 25. Fences and Walls. *(Amended 9/2/2014)*

(A) General.

- (1) No fence or wall shall impede the visual locating of 911 emergency street addresses.

- (2) No fence or wall shall block pedestrian access from doors or windows. Fences must have a clearance of at least two feet (from building walls, except where fences project from or to a building wall).
- (3) Fences or walls shall not alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch.
- (4) A finished side shall face off-site.
- (5) No portion of a wall or fence constructed after the date of adoption of this UDO, may encroach on an adjoining property line.
- (6) The following height limits for fences and walls shall apply within all zoning districts:
  - (a) Within front yards including the side property line(s) of the front yard, the maximum height for any fence shall be four (4) feet.
  - (b) Within any side or rear yard, the maximum height for any fence or wall shall be six (6) feet. In the C-3 and I districts, the maximum height for a security fence shall be eight (8) feet.
  - (c) Fence and wall height limits shall not apply to electric/gas substations, water/sewer treatment plants or facilities, municipal water storage facilities, or waste treatment facilities.
  - (d) Fence height limits shall not apply to chain link fences surrounding tennis courts or ball field backstops. Fences for private tennis courts shall be within the required setbacks for accessory uses in that zoning district.
  - (e) Fence height shall be measured along the grade of the adjacent property.
- (7) Additional wall or fence requirements applicable to a particular activity or use may be specified elsewhere in this Ordinance. Except where specifically modified (such as a specific height requirement), this Section shall take priority.

(B) Placement.

- (1) Fences or walls may not be located within the required site triangle.
- (2) When located in between the structure and a street, the fence or wall may be placed anywhere between the edge of the structure and the street right-of-way or easement line.

- (3) Along all other boundaries, the fence may be placed anywhere between the edge of the structure and the property line.
- (4) Fences may be located within a required easement, subject to any additional restrictions imposed by the easement agreement. However, the property owner shall remain solely liable for any repair or replacement if any portion of the fence is damaged during maintenance or construction activities within the easement by the easement owner or their agent.
- (5) Walls may not be placed within a required easement unless specifically allowed by the easement agreement.

(C) Fences.

- (1) The following types of fences are permitted in all zoning districts:
  - (a) Ornamental iron;
  - (b) Chain link;
  - (c) Vinyl or similar material; and
  - (d) Wood or similar material.
- (2) The following types of fences are prohibited in all zoning districts:
  - (a) Fences constructed primarily of barbed or razor wire, when not for the purpose of enclosing livestock in a R-20 district.
  - (b) Fences carrying electrical current, when not for the purpose of enclosing livestock in a R-20 district;
  - (c) Fences constructed in whole or in part of readily flammable material such as paper, cloth, or canvas;
  - (d) Fences topped with barbed wire or metal spikes except those serving an institution requiring a security fence or for public safety purposes.

(D) Walls.

- (1) Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, exposed aggregate concrete, brick, stone, or architectural block in a structurally safe and attractive condition.
- (2) Alternative walls may be permitted with the approval of the UDO Administrator if such alternative walls provide a similar level of opacity to that of the listed materials and are in keeping with the architecture of the development. No walls of exposed, painted-only, plain concrete cinder block shall be permitted.
- (3) No wall shall be located within any required drainage, utility or similar easement.

(E) Retaining Walls. Retaining walls up to four feet in height may be located within required yards.

(F) Maintenance. Any fence or wall which, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, constitutes a hazard or endangers any person, animal or property is hereby deemed a nuisance. If such conditions exist, the UDO Administrator shall require the owner or occupant of the property upon which the fence or wall is located to repair, replace or demolish the fence causing the nuisance.

Note 26. Solar Farms. (Amended 11/4/2013)

No parcel or parcels of land may be used as a Solar Farm and no Solar Farm shall be permitted, constructed, operated, or maintained except in accordance with the following standards:

- (A) Safety Fencing. All Solar Farms shall be fenced around the exterior of the Solar Farm with an opaque or semi opaque fence of earth tone colors which shall be at least six (6) feet in height and which shall additionally have at least three (3) strands of barbed wire run above such six (6) feet. The fencing and barbed wire required hereunder shall be maintained in good condition. The fencing and barbed wire requirements specified hereunder shall continue notwithstanding the fact that a Solar Farm is no longer operational and shall remain so until such Solar Farm is dismantled.
- (B) Gates and Locks. All gates to the fences of all Solar Farms shall be at least six (6) feet in height and which shall have three (3) strands of barbed wire above the top of the gate. Such gates shall be equipped with locks and shall remain locked at all times except when the owner and/or designee is/are using the gate for ingress and/or egress and is/are otherwise present. Such gates shall remain notwithstanding the fact that a Solar Farm is no longer in operation.
- (C) Setbacks. Every Solar Farm shall be set back at least fifty (50) feet from all property lines of the parcel upon which the Solar Farm is to be located; further, fifty (50) feet from the right of



way of any public road; and finally all setbacks herein shall be measured from the exterior of the fencing and gates which are required around the perimeter of all Solar Farms.

(D) Environment. The Solar Farm shall comply with all North Carolina Department of Environment and Natural Resources (NCDENR) permitting requirements for stormwater management and sedimentation and erosion control.

(E) Evergreen Vegetative Buffer.

(1) A continuous evergreen buffer shall be present and maintained at all times around the perimeter of the exterior of the fencing and gates which are required around the perimeter of all Solar Farms.

(2) The evergreen vegetative buffer shall be composed of evergreen trees or shrubs and shall be a minimum of four (4) feet in height when planted and not less than six (6) feet at maturity, and spaced not more than ten (10) feet apart.

(F) Miscellaneous Items.

(1) Nothing herein is intended to prohibit the installation and use of Solar collectors that gather Solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a residential property. The term “residential property” means property where the predominant use is for residential purposes.

(2) The owner of the Solar Farm equipment placed upon a parcel as well as the owner of the land upon which it is located are responsible for compliance with terms of this Ordinance.

Note 26b. Solar Energy Generating Facility, Accessory.

Solar collectors shall be permitted as an accessory use to new or existing structures or facilities in accordance with Article 10, subject to the following standards:

(A) Roof-Mounted Solar Systems. The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

(1) Pitched Roof Mounted Solar Systems. For all roof-mounted systems other than a flat roof, a drawing shall be submitted showing the location of the solar panels.

(2) Flat Roof Mounted Solar Systems. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.

- (B) Ground-Mounted Solar Systems. Ground-mounted solar collectors (accessory) shall meet the minimum zoning setback for the zoning district in which it is located, except that it may be located within the front yard setback in the R-20, O&I, C-3, and I zoning districts when the system does not exceed six (6) feet in height and screening shall be required consistent with Article 15.
- (C) Approved Solar Components. Electric solar system components shall have a UL listing.
- (D) Compliance with Building and Electrical Codes. All solar collector systems shall be in conformance with the International Building Code with North Carolina amendments.
- (E) Compliance with Other Regulations. All solar collector systems shall comply with all other applicable regulations.

Note 27. Granny Pods/Temporary Health Care Structures. (Amended 11/3/2014, 8/2/2021)

Granny pods/temporary health care structures shall be permitted as an accessory use in accordance with the Table of Permitted Uses, subject to the following standards:

- (A) Placing a temporary health care structure on a permanent foundation shall not be required or permitted.
- (B) The Town shall consider a temporary health care structure used by a caregiver in providing care for a mentally and physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.
- (C) The Town shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.
- (D) Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections 7.45.2 and 7.45.3 of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.
- (E) Any person proposing to install a temporary family health care structure shall first obtain a permit from the Town. The Town may charge a fee in accordance with the Town's fee schedule. The Town may not withhold a permit if the applicant provides sufficient proof of

compliance with this section. The Town may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the Town of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.

- (F) Notwithstanding subsection 7.45.9 of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Article 11 of the NCGS, as if the temporary family health care structure were permanent real property.
- (G) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- (H) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.
- (J) The Town may revoke the permit granted pursuant to subsection 7.45.5 of this section if the permit holder violates any provision of this section or G.S. 160A-202. The local government may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.
- (K) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

Note 28. Pawnshops or Used Merchandise Store. (Amended 5/2/2016, 8/2/2021)

Pawnshops or used merchandise stores shall be allowed as a special use in the C-1 zoning district in accordance with the Table of Permitted Uses, subject to the following standards:

- (A) Distance separation between pawnshops and separation between pawnshops and tattoo parlors shall be 500 feet.
- (B) Direct access to a major thoroughfare must be provided.
- (C) Hours of operation shall be 9:00 am to 7:00 pm.
- (D) No outside display of merchandise or outside storage shall be allowed.

Note 29. Agricultural/Ice Vending Machines. (Amended 6/6/2016)

Agricultural vending machines and ice vending machines shall be permitted in accordance with the Table of Permitted Uses, subject to the following standards:

- (A) The structure cannot exceed twenty (20) feet in height.
- (B) Minimum parking shall be four (4) paved, marked parking spaces and one marked loading space for customers. Paved parking shall be connected to a street right-of-way by a twelve (12) foot wide access driveway.
- (C) Security lighting must be provided to illuminate the structure and parking/loading/driveway space to a minimum of 0.2 footcandles during nighttime hours.
- (D) If an agricultural vending machine or ice vending machine is located on a parcel as the sole use of the parcel, it shall be considered the principal use and comply with all yard and setback requirements for a principal use (see Article 11).
- (E) An agricultural vending machine or ice vending machine may be located as an accessory use with a convenience food store with or without a car wash, convenience stores with gas pumps, and feed and seed stores. All setbacks for accessory structures must be complied with (see Article 11). The accessory use must be located closer to the front yard street right-of-way than the front line of the principal structure.

Note 30. Assembly Halls. (Amended 4/3/2017, 8/2/2021)

- (A) If alcohol is dispensed for any event at an assembly hall, all applicable alcohol beverage permits must be secured and provided to the town.
- (B) If any events or activities conducted at the assembly hall result in two (2) or more violations of Town of Pembroke nuisance ordinances or Town, Robeson County, or North Carolina police are called to the site for intervention within any three hundred sixty-five (365) day period of time, the special use permit will be revoked.
- (C) Plans for security and public safety must be submitted with the special use permit application.
- (D) Assembly halls cannot be membership only enterprises; must be open to the general public for use and/or rental use.
- (E) Assembly halls cannot be used for alcohol sales when fees are charged for entry to an event.

Note 31. Special Events. (Amended 4/3/2017, 8/2/2021)

- (A) In deciding whether a permit for a special event should be denied for any reason specified in Section 12-17, or in deciding what additional conditions to impose, the permit-issuing authority shall ensure that, (if the special event is conducted at all):
- (1) The hours of operation allowed shall be compatible with the uses adjacent to the activity.
  - (2) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
  - (3) The applicants shall guarantee that all litter generated by the special event be removed at no expense to the town.
  - (4) The permit-issuing authority shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.
  - (5) The zoning permit shall be issued for a specific number of calendar days, not to exceed fourteen (14) calendar days.
- (B) In cases where it is deemed necessary, the permit-issuing authority may require the applicant to post a bond to ensure compliance with the conditions of the special use permit.
- (C) If the permit applicant requests the town to provide extraordinary services or equipment or if the Town Manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the town a fee sufficient to reimburse the town for the costs of these services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the cost incurred.

Note 32. Temporary Sale of Agricultural Products Grown Off-Site. (Amended 4/3/2017)

For purposes of this section, agricultural products are defined as products obtained primarily through farming or agricultural activities, including but not limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, firewood, and pine straw; bees and beekeeping products; seafood; dairy products; any USDA-recognized agricultural product. The sale of agricultural products is exempt from non-agricultural temporary uses/sales regulations. For purposes of this section, processed or prepared food products of any kind and items fabricated/manufactured from agricultural products shall not be considered as agricultural products. Additionally:

- (A) As well as locations listed above, the temporary sale of agricultural products may occur from a vacant lot or as accessory to an existing commercial use. Agricultural products may not be sold on public right-of-way.
- (B) A zoning permit is not required.
- (C) The temporary sale of agricultural products may be accomplished from a vehicle, trailer, or shipping container.
- (D) The temporary sale of agricultural products shall be allowed on an individual parcel or site for no more than 30 total days per calendar year.
- (E) Yard sales are excluded from the Note 32 regulations.

Note 33. Automotive Repair. *(Amended 8/3/2020, 8/2/2021)*

Automotive repair may be permitted as a Special Use in the C-1 zoning district provided that:

- (A) There will not be any outside storage of automotive parts or supplies, including tires.
- (B) All automotive repair work will be performed inside of the principal structure.
- (C) Automotive repair will not include the painting of vehicles.
- (D) Automotive repair uses may not be located closer than 500 linear feet as measured in a straight line distance from the closest points of the parcel lines on which the automotive repair uses would be located.
- (E) The automotive repair special use must comply with all UDO requirements.

Note 34. Food Trucks. *(Amended 4/3/2017)*

Food trucks shall be permitted in accordance with the Table of Permitted Uses, subject to the following standards:

- (A) Exceptions to the Process.
  - (1) Food trucks may conduct sales while parked on a public street when the Town Council has approved a temporary street closing for a Town-sponsored or civic event such as a street festival/ fair.
  - (2) Food trucks may operate on a private property for a maximum of twenty (20) days, three individual weekend events, or both each fiscal year (July 1 - June 30) when utilizing a temporary event permit. The zoning permit for location on private property must specify a schedule of the month(s), day(s), and year(s) of operation

including any individual weekend events. The UDO Administrator must be notified in writing by the property owner of any changes to the schedule.

- (B) Food Truck Location. Food trucks must be located at least 100 feet from the front door of any restaurant and outdoor dining area and at least 50 feet from any permitted mobile food vending cart location. Additionally, food trucks must be parked at least 15 feet from any fire hydrant, and 5 feet away from any driveway, sidewalk, utility box or vault, handicapped ramp, building entrance or exit, or emergency call box. These minimum distance requirements are all measured in a straight line from the closest point of the proposed food truck location to the closest point from the buffered point, or in the case of a restaurant measured from the closest point of the restaurants main entrance. If a zoning permit is issued and a restaurant subsequently opens within 100 feet (measured from the restaurants main entrance) of the approved food truck location, the food truck may continue to operate until the permit expires.
- (C) Zoning Permit. The zoning permit must be signed by the property owner, and completed and submitted along with a site plan or plot plan. If a property owner has a property large enough to accommodate more than one food truck, only one zoning permit is required to be submitted showing the location of all food trucks. The plot plan must show the limits of the property, the location(s) of the proposed food truck, and label adjoining uses on neighboring properties. The applicant must also submit a NC Department of Agriculture Permit, a copy of the vehicle or trailer registration, and proof of compliance with the Robeson County Health Department regulations.
- (D) Parking. Food trucks may not occupy any required parking stall for the primary use while the primary use is open to the public. Food trucks and the primary use may share parking spaces when having separate hours of operation. Parking stalls that are overflow or extra according to the regulations in the UDO may be used to park a food truck; however, parking stalls leased to another business or adjacent use may not be used unless the food truck is operating under separate hours of operation. Food trucks may not park in handicapped accessible parking spaces, nor can they park in access or drive aisles. The approved location for the parking trucks, as shown on the zoning permit, must be physically marked. The food truck parking space can be marked with paint, tape or other easily identifiable material. Food trucks may not be parked in an approved location after hours of operation.
- (E) Hours of Operation. Food trucks may operate between the hours of 6 a.m. and 3 a.m., unless the food truck is located within 150 feet of a property with a single- or two-family residential dwelling. When located within 150 feet of this residential dwelling, the hours of operation shall be between 7 a.m. and 10 p.m. This measurement is taken from the property line of the residential dwelling in a straight line to the closest point of the approved food truck location.
- (F) Prohibitions. Food trucks may not use audio amplification or freestanding signage. All equipment associated with the food trucks must be located within three (3) feet of the food truck. The food truck operator is responsible for disposing of all trash associated with the operation of the food truck. Town trash receptacles may not be used to dispose trash or waste. All areas within five (5) feet of the food truck must be kept clean. Grease and liquid

waste may not be disposed in tree pits, storm drains, the sanitary sewer system or public streets. Food trucks are all subject to the Town-wide noise ordinance.

(G) Maximum Number of Trucks Per Property.

- (1) Maximum of two (2) food trucks on lots of one-half acres or less.
- (2) Maximum of three (3) food trucks on lots between one-half acre and 1 acre.
- (3) Maximum of four (4) food trucks on lots greater than 1 acre.
- (4) Outdoor seating associated with a food truck is only permitted on lots at least two acres in size or greater.

Note 35. Mixed Use. (Amended 2/5/2018, 8/2/2021)

(A) Mixed Use Defined. The Mixed-Use option is provided to allow flexibility in development requirements such as setbacks, density, permitted uses, and the like, to accommodate the unique physical, economic, design, or other characteristics of a development without compromising the essential standards needed for the protection of the public interest. Mixed use developments require a special use permit, as specified in Article 12, in which the primary use of land is a mix of residential and small-scale commercial uses such as retail, office, service and entertainment establishments. By providing housing close to nonresidential uses and grouping multiple destinations, such mixed-used development reduces vehicle usage and creates a compact high-quality, pedestrian-oriented environment. The district is subject to flexible standards intended to encourage an appropriate scale and balance of uses and development to ensure district development is compatible with surrounding uses. Uses may be either vertically integrated within a single building or horizontally-integrated within separate buildings on the same site. A mix of permitted uses is allowed within the same building or on the same lot or as separate uses on individual parcels. This development pattern is characterized by overlapping patterns of use and activities, and clearly defined, human scale external spaces, where citizens can live, conduct business, and meet freely with others. Development within the mixed-use special use shall be in accordance with the standards set forth herein.

(B) Performance Standards. The UDO Administrator and Town Council will work cooperatively within the applicant in determining the appropriate performance standards for Mixed Use developments. The standards of the zoning district, or districts, in which the Mixed Use is located, provide general guidance in determining the standards, with consideration given to the specific characteristics and needs of the individual project. Ultimately, all performance standards such as density, permitted uses, parcel dimensional requirements, lighting, landscaping, parking, signage, etc., shall be specifically established by the Town Council through issuance of the special use permit. The conditions specified by the special use permit shall be compatible with the surrounding area and the objectives of this UDO. Creative design concepts are encouraged to minimize impacts on infrastructure and to support



environmental protection. The mixed use shall comply with Article 24, Subdivisions, and Article 25, Watershed Supply Watershed Protection Regulations. Site plans area required in accordance with Section 12-13. *(Amended 4/4/2022)*

(C) Permitted Uses. The following uses may be established as permitted uses in a mixed-use development. Any use that is not listed in this section is expressly prohibited from being located within a mixed-use development.

- (1) Alcoholic beverages (package retail sales)
- (2) Antique shops
- (3) Art galleries
- (4) Art goods stores
- (5) Assisted living residence
- (6) Automated teller machine (ATM)
- (7) Banks, without drive-in facilities
- (8) Barber or beauty shops
- (9) Book stores
- (10) Brewpub *(Amended 3/7/2022)*
- (11) Business, arts, and professional stores
- (12) Camera shop
- (13) Churches/places of worship
- (14) Civic and fraternal meeting halls
- (15) Clothing and finished fabric products
- (16) Colleges
- (17) Convenience food stores, but not including car washes
- (18) Dental clinics, offices, and laboratories
- (19) Drug stores
- (20) Dwelling, multi-family and townhouses
- (21) Dwelling, single-family
- (22) Dwelling, two family
- (23) Fence
- (24) Floral and gift shops
- (25) Food trucks
- (26) Gift shop
- (27) Granny pods/temporary healthcare structures
- (28) Health clubs
- (29) Hobby goods store
- (30) Home occupations
- (31) Jewelry store
- (32) Laundry pick-up facilities
- (33) Leather products (no tanning or production)
- (34) Libraries
- (35) Medical clinics, offices, and laboratories
- (36) Museums
- (37) Music, art, and dance schools

- (38) Musical equipment sales
- (39) Newsstands, magazine stands
- (40) Office, computing, and accounting machines (sales)
- (41) Office (professional, business, financial government, and medical)
- (42) Opticians and optical goods
- (43) Outpatient health service/administrative office
- (44) Paint store
- (45) Parking lots
- (46) Parking structures and underground parking garages
- (47) Pet store
- (48) Photographers
- (49) Playgrounds
- (50) Pottery and related products
- (51) Printing and publishing
- (52) Recreation buildings and facilities for residential developments
- (53) Restaurants and cafeterias
- (54) Restaurants with non-food service-related entertainment as an accessory use  
*(Amended 3/7/2022)*
- (55) Shoe store and repair
- (56) Sporting goods store
- (57) Swimming pools, private noncommercial and accessory uses
- (58) Tailors/dressmakers and millinery shops
- (59) Temporary office units
- (60) Tennis courts, private noncommercial and accessory uses
- (61) Toy store

(D) Mixed Use Special Use Design Standards. The Mixed-Use Special Use shall be developed in a way that it is functionally and structurally compatible with the Pembroke community and is a pedestrian friendly area. All building design shall encourage that consideration be given to the following:

- (1) Special attention shall be given to entrances; they may be set back from the primary facade as long as they are clearly visible from the street. Building entrances and exits shall be well lit to provide visibility and promote safety. Buildings that occur at the intersection of roadways shall angle the entrance toward the corner of the street whenever possible.
- (2) All roof- and wall-mounted mechanical, electrical, communications, and service equipment, including satellite dishes and vent pipes, shall be screened from public view by parapets, walls, fences, dense evergreen foliage, or by other suitable means.
- (3) The non-single-family residential components within a mixed-use development shall comply with Article 16, Building Design Standards.
- (4) Street furniture, outdoor eating areas, and sitting areas may be incorporated at the ground floor.

- (5) The outdoor storage of merchandise or other goods or equipment is prohibited.

Note 36. CDO1 Design Guidelines. (Amended 6/4/2018, 8/2/2021, 5/2/2022)

The following design guidelines are depicted by graphics and supplemental narrative in Appendix III of this UDO. Appendix III provides graphic representation of the intent of these design guidelines.

(A) Site Design Guidelines.

- (1) Placement of Structures. Buildings must meet the property line at the back of the sidewalk, and must meet the structures on either side to form a street "wall." The only exceptions to this would be for significant civic buildings (such as Town Hall or a Church), platted alley rights-of-way, mid-block pedestrian connections between parking and the street, and for the creation of spaces that enhance the public environment, such as pocket parks and outdoor dining areas. Such exceptions should be reviewed and approved by the Board of Adjustment.
- (2) Off-Street Parking. Parking must be located to the rear of buildings or in a side yard behind the front building line. Access to parking should be from the rear or from side streets or alleys. Parking must be screened from the street and sidewalks with a 30-36" hedge or masonry wall, or with a taller fence of masonry or metal pickets. In no case should parking be screened with solid materials taller than 36" because of the need for security and surveillance. Parking must be set back a minimum of 5' from all property lines.
- (3) Service Areas. Service areas must be screened from public view, including loading areas, trash receptacles, mechanical equipment, and dumpsters. Enclosures near buildings must be constructed of materials similar to the building, and must be high enough to completely block views from street level. Service areas must be paved with concrete or asphalt.
- (4) Storage Areas. Areas used to store vehicles, equipment, or materials must be screened with a masonry wall, hedge, or fence with landscaping of sufficient height and density to block views from street level.
- (5) Pedestrian Access. Parking areas for commercial businesses must have clearly marked and well-lit pedestrian access from parking to public sidewalks and building entries (see Article 19).
- (6) Rear Entries. If residential units occur in the upper floors of commercial buildings, entries adjacent to parking areas are required. In large developments, rear entries and interior or exterior passageways to the primary streets are encouraged.

- (7) Driveways. Wherever possible, driveways should be consolidated within a property or combined to provide access to two or more adjacent properties.
- (8) "Drive-Through" Businesses are Discouraged in the Downtown. New businesses that rely solely on drive-through traffic will not be allowed in the CDO1 overlay district.
- (9) Adjacent Residential Uses. Where commercial uses abut residential areas consisting primarily of detached or attached homes, an approved 6' masonry or wooden fence must be installed.
- (10) Fencing and Screening Materials. (a) Double staggered row of approved hedge material; (b) Landscaped beds acting as screens with approval and appropriate ongoing maintenance, (c) Masonry piers and low foundation with metal pickets (for parking areas only, not storage areas), (d) Masonry or split-face block walls for screening, (e) Approved wooden privacy fencing (in the rear of properties only), (f) Poured concrete, broken face block or light stucco finish look.

Prohibited screening and fencing materials include the following: Chain or chain link (except temporary installations at construction sites); unfinished pipe railings; split rail, stockade, picket, or other suburban/rural styles of fencing; prefabricated wooden fencing; prefabricated PVC fencing; or unfinished concrete block.

(B) Commercial Architectural Guidelines. The architecture of new structures within the Central Business District must enhance the existing architecturally or historically significant buildings that will remain. New construction must be "traditional" in character, while reflecting the time period of its creation. The traditional multi-story "storefront" structure should be the predominant building type in the CDO1 overlay district.

- (1) Placement of Structures. New or replacement structures must front on the sidewalk in line with existing structures, with exceptions for public space and significant buildings as noted in Section (A) above.
- (2) Massing and Height. Buildings taller than three (3) stories will require a special use permit. When designing taller buildings that will be sited near buildings that are higher than 3 stories; the taller buildings must not overwhelm the shorter buildings. This can be accomplished by such architectural design elements as setbacks of the taller portion of the building at the three-story or higher level, and articulation and massing that allows light to reach surrounding buildings and the street.
- (3) Materials. Approved materials for the Downtown District include:

- (a) Siding Materials.
- Brick. Brick used in new construction shall not be painted. Brick may be painted in the rehabilitation of existing buildings.
  - Stone, cast stone or architectural concrete
- (b) Trim or Accent Materials.
- Split-face concrete masonry
  - Ceramic tile in appropriate colors
  - Wood (e.g., accent material such as paneled storefronts)
  - Metal framing (NOTE: aluminum storefront framing systems must be designed with careful consideration of proper proportions of the framing members in order to be successful)
  - Cast or wrought iron
  - Smooth textured stucco
  - Sheet metal (parapet wall copings, etc.)
  - Fabricated millwork (Fiberglass or structural foam)
- (c) Glazing Materials.
- Clear glass, glass block
  - Textured, faceted, or stained glass as an accent
- (d) Roofing Materials.
- Standing-seam metal roofs
  - Slate
  - Clay tile
  - Membrane roofing (built-up roofing, single-ply roofing, etc.) screened by parapets at front and side
- (e) Awnings.
- Fabric awnings
  - Composite material with review and approval
  - Awning material must meet district fire codes
  - Awnings must be self-supported (e.g., no support poles)
  - Awning areas may not be enclosed with plastic or fabric sheeting on the public right-of-way
  - Awnings may extend no farther than 5' unless by exception and with review
- (f) Prohibited Materials.
- "Mirrored" or opaque glass
  - Colored glass (other than stained glass accents as seen in historic commercial facades)
  - Wood shakes or shingles

- Heavily textured stucco
- Imitation stone texturing (formstone)
- Clapboard sidings, whether wood or alternative materials
- Backlit canopies or awnings
- Plastic awnings

- (4) Building Scale and Proportion. Building facades in the CD01 overlay district must have windows that have a vertical emphasis, i.e., windows that are taller than they are wide. Windows must be organized into regularly spaced patterns within the wall surface. The building facade should be broken into vertical and horizontal "panels" through the use of pilasters or other surface textures.
- (5) Building Elements. The following descriptions provide standards for various components which may be used.
- (a) Upper Floor Windows. Acceptable window types include single-hung and double-hung. Additional configurations such as casement sash or fixed windows may be acceptable if configured with a horizontal rail that mimics the proportions of double-hung sash. Windows may have further dividing members, but such divisions shall be either "true divided light" construction or permanent exterior grilles. Interior grilles alone or grilles set between the panes of double glazing are not acceptable. Windows must be constructed of wood or wood clad in prefinished metal.
- (b) Storefronts. The first-floor storefront must be composed of large expanses of glazed openings. These allow for the display of merchandise in retail uses, but area also appropriate for other uses such as restaurants or offices. Features such as transoms allow for natural light to penetrate deeply into the building. The use of awnings can shade these large glass areas and allow for the introduction of appropriate colors to enliven the pedestrian experience. Framing for storefront glazing should be wood or metal. Metal framing must be a minimum of 2" wide.
- (c) Doors. Doors used on commercial structures must follow the traditional format for "commercial" doors. The use of door configurations more typically found on residential structures such as paneled doors or "cross-buck" doors is not appropriate when visible from the public right-of-way. If aluminum storefront doors are used, only the "wide stile" type of door is appropriate. "Narrow" or "medium" stile aluminum doors may not be used for primary entrances. Metal and wood framing for storefront glazing must be a minimum of 2" wide.
- (d) Shutters. The size and shape of shutters must correspond to the size and shape of the window opening. Shutters can be mounted to operate, or if

mounted in a fixed position, should be placed immediately adjacent to the window jamb. Wood and architectural composites are acceptable materials for shutters. PVC plastic is prohibited.

- (e) Equipment and Technology. Mechanical equipment must be located on the roof or at the rear of buildings if ground mounted equipment is used. Ground mounted equipment shall be screened and rooftop equipment shall not be visible from the street. The roof parapet, roof, or roof forms may serve as an effective screen. Television antennae, satellite dishes, and similar equipment must be located so as not to be visible from the street.

Note 37. CDO2 Design Guidelines. (Amended 6/4/2018, 8/2/2021, 5/2/2022)

The following design guidelines are depicted by graphics and supplemental narrative in Appendix IV of this UDO. Appendix IV provides graphic representation of the intent of these design guidelines.

(A) Site Design Guidelines.

- (1) Off-Street Parking. Parking shall be located to the sides and rear of buildings, if possible. Access to parking may be from the front, side streets, or from the rear. If practical, parking should be shared. Parking for small buildings must be screened from public streets and sidewalks on all sides with a 30-36" hedge or masonry wall, with approved landscaping. Large buildings can use the 30-36" wall or hedge, a taller fence of masonry and metal pickets, or a combination of walls and landscaping. In no cases should parking be screened from the street with solid materials taller than 36" (except deciduous trees). Parking must be set back a minimum of 5' from all property lines, and 10' if the property abuts a residential use. Lighting must comply with Article 19.
- (2) Service Areas. Service areas must be screened from public view, including loading areas, trash receptacles, mechanical equipment, and dumpsters. Enclosures near buildings should be of similar materials, and must be high enough to completely block views from street level. Enclosures further from buildings should be of approved masonry or wood fencing.
- (3) Storage Areas. Areas used to store vehicles, equipment, or materials must be screened with a masonry wall, hedge, or fence with landscaping of sufficient height and density to block views from street level. Screening with chain link in any form is not permitted.
- (4) Pedestrian Access. Sidewalks must be provided along Third Street at a minimum width of 4 feet. There must be direct pedestrian access from public sidewalks to buildings. In large parking areas, design consideration should be given to the provision of crosswalks, sidewalks, and other elements to ensure pedestrian safety.

- (5) Rear Entries. For large buildings with parking in the rear, the rear entrance may be the main entrance, but a floor-through lobby to the front is required.
- (6) Driveways. Wherever possible, driveways must be consolidated within a property or combined to provide access to two or more adjacent properties. Driveways from the main thoroughfares are limited to one if the frontage is less than 100', or two if more than 100'; three will be permitted only by special use permit. Driveway width shall not exceed 30' for two-way traffic, 20' for one way traffic. Driveways must not exceed one per 100' of frontage on any side street except where there is frontage on one side only, when two driveways will be permitted.
- (7) "Drive-Through" Businesses. Businesses must be designed with drive-in structures on the side or rear of the building with screening. Drive-through windows are not allowed between the building and the front lot line. Access and egress must be configured to minimize disruption of pedestrian movement.
- (8) Adjacent Residential Uses. Where commercial uses abut residential areas, a 10' setback from parking or structures to property lines are required, and a 6' masonry or approved wooden fence must be installed. Where the parking area to be screened is two bays or more in size, the planting of small trees along the setback is also required to provide more effective screening of residential properties.
- (9) Signage. Only monument signs are permitted as a freestanding sign. Existing signs that do not conform must be removed when any change in ownership or use of the property takes place.
- (10) Fencing and Screening Materials. The following fencing and screening materials are permitted: (a) Brick, (b) Split face block finished with stone or masonry caps and/or bands, (c) Double staggered row of approved hedge material, (d) Landscaped beds acting as screens with approval and appropriate ongoing maintenance, (e) Metal pickets in dark colors with or without masonry piers or foundation walls (for perimeter and parking areas only, not storage areas) If used to screen parking, landscaping materials 30-36" high should be planted in front of or behind the fence to screen the lower portion of parked vehicles, (f) Approved wooden privacy fencing in the rear of properties only), (g) Poured concrete or light stucco finish look, (h) prefabricated wooden fencing may be used only with review and approval of the Board of Adjustment on the side and rear of properties to screen parking from adjacent uses.

Prohibited screening and fencing materials include the following: Chain or chain link (except temporary installations at construction sites or where not visible from the street); split rail, stockade, wood picket, or other suburban/rural styles of fencing; or unfinished concrete block.



- (11) Equipment and Technology. Mechanical equipment must be located on the roof or at the rear of buildings if ground mounted equipment is used. Careful selection of rooftop equipment locations will allow the roof parapet, roof, or roof forms to serve as an effective screen. Television antennae, satellite dishes, and similar equipment must be located so as not to be visible from the street.

(B) Architectural Guidelines for Large Buildings.

- (1) Placement of Structures. New structures must be located in compliance with the Site Design Guidelines in subsection (A) above.

- (2) Massing and Height. Heights allowed are specified in Article 11, page 11-1. The taller buildings must not overwhelm the shorter buildings. Light should reach surrounding buildings and the street.

- (3) Materials. Recommended materials include:

(a) Construction Materials.

- Brick in approved range of colors (for the predominant exterior material). Brick used in new construction shall not be painted.
- Stone, cast stone or architectural concrete
- Wood on upper stories of residential structures

(b) Trim or Accent Materials.

- Split-face concrete masonry
- Ceramic tile in appropriate colors
- Metal framing (aluminum glass framing systems or curtain wall systems)
- Cast or wrought iron
- Smooth textured stucco
- Sheet metal (parapet wall copings, etc.)
- Fabricated millwork (Fiberglass or structural foam)
- Stone veneer

(c) Glazing Materials.

- Clear glass, glass block
- Textured, faceted, or stained glass as an accent

(d) Roofing Materials.

- Standing-seam metal roofs
- Slate or synthetic slate
- Composition shingles (Standard 3-tab shingles and shingles that are imitations of wood shingles or shakes are inappropriate. Heavy weight shingles are preferred.)

- Membrane roofing at low-slope areas (built-up roofing, single-ply roofing, etc.)

(e) Prohibited Materials.

- "Mirrored" or opaque glass
- Colored glass
- Wood shakes or shingles
- Heavily textured stucco
- Imitation stone texturing (formstone)
- Clapboard sidings, whether wood or alternative materials, except in the upper stories of medium-density housing
- Backlit canopies or awnings
- Plastic awnings

(4) Building Scale and Proportion. In order to better relate to the pedestrian, the ground floor of buildings two stories or more must be articulated differently from the stories above. This may be accomplished by the use of a different material, by the addition of more detail in the ground floor wall surface, by varying the color or pattern of the material, or by combinations of these techniques. Transparency at the entrance or lobby area is required in order to welcome the public.

(5) Building Elements.

(a) Wall Surfaces. Walls shall be predominantly constructed of masonry materials. Scale and interest can be introduced through the use of contrasting materials or the introduction of features such as horizontal bands. Openings (such as windows) must be emphasized through the use of lintels and sills of contrasting materials or of different masonry coursing. Upper stories of medium-density residential buildings utilize wood and siding to introduce a more "domestic" quality to the architecture.

(b) Windows. Windows must be constructed of wood, wood clad in prefinished metal, or from aluminum or other materials appropriate to the use.

(c) Shutters. Shutters cannot be used on commercial or other large buildings.

(d) Roofs/Cornices. Because large commercial buildings will be among the larger buildings in the CDO2 area, they will be more visually prominent. Sloping roofs, either gabled or hipped, are required. Flat roofs may be allowed with a special use permit.

(e) Equipment and Technology. Mechanical equipment must be located at the rear of buildings in well-screened enclosures. Television antennae, satellite dishes, and similar equipment must be located so as not to be visible from the street.

(C) Architectural Guidelines for Small Buildings.

- (1) Placement of Structures. New or replacement small buildings must be set back from the right-of-way 5-20', with the intermediate space used for sidewalks or landscaping with walks to the door.
- (2) Massing and Height. Small buildings require the following percentage of transparency: at least 45% on the first level, at least 26% on the upper levels. If the buildings are to be used for office or residential, only 26% on each level is required, but welcoming entries and lobbies with a larger percentage of transparency are encouraged.
- (3) Materials. Recommended materials include:
  - (a) Construction Materials.
    - Brick in approved range of colors (for the predominant exterior material). Brick used in new construction shall not be painted.
    - Stone, cast stone or architectural concrete
    - Split-face block used in conjunction with brick
    - Light stucco finish
    - Wood on for smaller-scale townhouses and condos if zoning allows.
  - (b) Trim or Accent Materials.
    - Ceramic tile in appropriate colors
    - Wood (e.g., accent material such as paneled storefronts and entries)
    - Metal framing (NOTE: aluminum storefront framing systems must be designed with careful consideration of proper proportions of the framing members in order to be successful)
    - Cast or wrought iron
    - Sheet metal (parapet wall copings, etc.)
    - Fabricated millwork (Fiberglass or structural foam)
  - (c) Glazing Materials.
    - Clear glass, glass block
    - Textured, faceted, or stained glass as an accent
  - (d) Roofing Materials.
    - Standing-seam metal roofs
    - Slate or synthetic slate
    - Composition shingles (Standard 3-tab shingles and shingles that are imitations of wood shingles or shakes are inappropriate. Heavy weight shingles such as "Slateline" by GAF, "Grand Manor" or "Carriage House" by Certainteed are appropriate.)

- Membrane roofing at low-slope areas (built-up roofing, single-ply roofing, etc.)
- (e) Awnings.
- Fabric awnings
- (f) Prohibited Materials.
- "Mirrored" or opaque glass
  - Colored glass
  - Wood shakes or shingles
  - Heavily textured stucco
  - Imitation stone texturing (formstone)
  - Clapboard sidings, whether wood or alternative materials at the ground level or except with review and approval
  - Backlit canopies or awnings
  - Plastic awnings
- (4) Building Scale and Proportion. Building facades must have windows that have a vertical emphasis, i.e., windows that are taller than they are wide (except storefronts, see below). Windows must be organized into regularly spaced patterns within the wall surface.
- (5) Building Elements.
- (a) Windows. Acceptable windows for the CDO2 overlay district are single-hung or double-hung (except storefronts, see below). A wide variety of contemporary window types constructed from a range of materials can be used. Additional configurations such as casement sash or fixed windows may be acceptable. Windows may have further dividing members, but such divisions shall be either "true divided light" construction or permanent exterior grilles. Interior grilles alone or grilles set between the panes of double glazing are not acceptable. Windows may be constructed of wood, clad in vinyl or prefinished metal, or from aluminum.
- (b) Storefronts/Building Fronts on Retail Buildings Only. On commercial/retail buildings, the first-floor storefront must be composed of large expanses of glazed openings (45% or more). The use of awnings can shade these large glass areas. Metal framing for storefront glazing must be a minimum of 2" wide.
- (c) Doors. Doors used on commercial structures must follow the traditional format for "commercial" doors. The use of door configurations more typically found on residential structures such as paneled doors or "cross-buck" doors is not appropriate when visible from the public right-of-

way. "Narrow" or "medium" stile aluminum doors may not be used for primary entrances.

- (d) Shutters. The size and shape of shutters must correspond to the size and shape of the window opening. Shutters can be mounted to operate, or if mounted in a fixed position, must be placed immediately adjacent to the window jamb. Wood and synthetic millwork are acceptable materials for shutters.
- (e) Awnings. Fabric awnings are permitted. Backlit or plastic awnings are not permitted.
- (6) Equipment and Technology. Mechanical equipment must be located on the roof or at the rear of buildings if ground mounted equipment is used. Many buildings require satellite dishes for business or entertainment purposes. Television antennae, satellite dishes, and similar equipment must be located so as not to be visible from the street.
- (7) In the CDO2 overlay district, this subsection (C) Architectural Guidelines for Small Buildings does not apply to accessory structures which comply with building code requirements and are less than 500 square feet in enclosed area.

Note 38. Private Clubs (For Profit). (Amended 6/4/2018, 8/2/2021)

- (A) If alcohol is dispensed/sold at a private club, all applicable alcohol beverage permits must be secured and provided to the town.
- (B) If any activities conducted at the private club result in two (2) or more violations of Town of Pembroke nuisance ordinances or Town, Robeson County, or North Carolina police are called to the site for intervention within any three hundred sixty-five (365) day period of time, the special use permit will be revoked.
- (C) Plans for security and public safety must be submitted with the special use permit application.
- (D) There must be a minimum of one thousand five hundred (1,500) feet of separation between all private clubs (for profit) measured in a straight line between the two closest points of the parcels on which the private clubs (for profit) are located.
- (E) Outside Activities Conducted at a Private Club.
  - (1) Outside activities must be subordinate to the primary indoor activities.

- (2) The hours of operation allowed shall be compatible with the uses adjacent to the activity and established by the special use permit.
- (3) The amount of noise generated shall not disrupt the activities of the adjacent land uses.
- (4) The applicants shall guarantee that all litter generated by the outside activity be removed at no expense to the town.
- (5) All parking required to accommodate an outside activity must be accommodated on-site.
- (6) All outside activity areas shall be enclosed by a six (6) foot high opaque fence.
- (7) There must be controlled access provided by the fencing to the outside activity areas, not including parking.

Note 39. Standards for Smoke Shops and Tobacco Stores. *(Amended 9/4/2018, 8/2/2021)*

- (A) Notwithstanding any other provision of this title to the contrary, smoke shops and tobacco stores shall be a specially permitted use only in the C-3 Highway Business District, subject to the regulations contained in this section.
- (B) All smoke shops and tobacco stores wishing to operate within the C-3 district after the effective date of this Ordinance must obtain a special use permit (CUP).
- (C) Additional zoning and land use standards for smoke shops and tobacco stores shall be as follows:
  - (1) Smoke shops and tobacco stores shall not be located within three hundred (300) feet, measured property line to property line, from a school (public or private), family day care home, child care facility, youth center, community center, recreational facility, park, church or religious institution, hospital, or other similar uses where children regularly gather.
  - (2) Smoke shops and tobacco stores shall not be located within five hundred (500) feet, measured property line to property line, from another smoke shop and tobacco store.
  - (3) It is unlawful for a smoke shop and tobacco store to knowingly allow or permit a minor, not accompanied by his or her parent or legal guardian, to enter or remain within any smoke shop or tobacco store.

- (4) Smoke shops and tobacco stores shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sig shall be placed in a conspicuous location near each public entrance to the smoke shop and tobacco store. It shall be unlawful for a smoke shop and tobacco store to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.
- (D) Standard conditions of approval for any special use permit shall, at a minimum, include the following:
  - (1) No smoking shall be permitted on the premises at any time.
  - (2) No sales may be solicited or conducted on the premises by minors.
  - (3) No self-service tobacco, tobacco product, or tobacco paraphernalia displays shall be permitted.
  - (4) No distribution of free or low-cost tobacco, tobacco products or tobacco paraphernalia, as well as coupons for said items, shall be permitted.
  - (5) These special use permit requirements do not apply to ancillary sales.
- (E) The display, sale, distribution, delivery, offering, furnishing, or marketing of e-cigarettes or any other tobacco products or tobacco paraphernalia, regardless of square footage, is subject to the restrictions of this Ordinance and shall not constitute "ancillary sale" under any circumstances.
- (F) Smoke shops and tobacco stores that are legally existing on the effective date of this Ordinance may continue to operate as legal nonconforming uses and shall not be required to obtain a special use permit. However, any change or expansion of the legal nonconforming use may require compliance with this Ordinance and a special use permit.

Note 40. Accessory Non-Profit Temporary Recreational Vehicle (RV) Parking Standards. (Amended 8/5/2019)

- (A) All non-profits must have 501(c)(3) status.
- (B) All RV(s) shall be located on the 501(c)(3) primary building property.
- (C) A vacant RV shall not be located on the parcel for longer than fourteen (14) continuous calendar days.
- (D) An individual RV may not be located on the property for more than sixty (60) days in any one calendar year.
- (E) There shall be no more than four (4) RV paved parking pads.
- (F) All parking pads shall be forty (40) feet by twenty (20) feet in area.
- (G) All parking pads shall have direct access to an existing off-street parking lot.
- (H) All RV parking pads shall be used for the sole purpose of providing temporary housing for individuals providing voluntary service to the 501(c)(3) non-profit for support which directly serves the 501(c)(3) facilities.
- (I) Each RV parking pad shall have individual connection to the Town of Pembroke water and sewer systems.

- (J) Each RV parking pad shall have individual electric service connections.
- (K) There shall be a five (5) foot separation between individual RV parking pads.
- (L) RV parking pads shall not be located in a required yard.
- (M) RV Parking pads shall be located to the rear of the primary building footprint.
- (N) All RV parking pad areas shall be lighted.
- (O) A six (6) foot high opaque fence shall be provided between the RV parking pad areas and any adjacent residentially zoned or used area(s).
- (P) The 501(c)(3) non-profit shall provide the Town of Pembroke Town Manager with the North Carolina or other state license plate number for each RV parked on an approved RV parking pad.

Note 41. NC Licensed Massage Therapists. (Amended 3/1/2021)

- (A) The hours of operation should be limited to 7:00 am to 8:00 pm.
- (B) Signage must comply with Section 18-4(B) of the UDO.
- (C) Off-street parking must be provided as required by Article 17 of the UDO.
- (D) Exterior lighting shall be limited to safety/security lighting wall mounted fixtures for building entrance and exits.
- (E) The NC licensed massage therapist may only be located in an accessory building which existed on May 4, 2009.

Note 42. Wind Energy Generating Facility, Accessory. (Amended 8/2/2021)

Wind energy generating facilities (accessory) designed to supplement other electricity sources shall be permitted as an accessory use in accordance with the Table of Permitted Uses, subject to the following standards:

- (A) A wind energy generator (accessory) shall be setback from all property lines a distance equal to one linear foot for every foot of height of the highest structure that is part of the facility or the minimum setback for the zoning district, whichever is greater.
- (B) A wind turbine may not be located between the front wall of the primary structure and the street.
- (C) Rotor blades on wind turbines shall maintain at least twenty-four (24) feet of clearance between their lowest point and the ground.
- (D) Maximum height of wind turbines shall be consistent with the requirements of the underlying zoning district. The height shall be measured from the ground to the highest point of the prop.



(E) Installation and Design.

- (1) The installation and design of the wind energy generator (accessory) shall conform to applicable industry standards, including those of the American National Standards Institute.
- (2) All electrical, mechanical, and building components of the wind energy generator (accessory) shall be in conformance with the International Building Code with North Carolina amendments.
- (3) Any on site transmission or power lines shall, to the maximum extent possible, be installed underground.
- (4) Attachment to a building of any kind shall be prohibited.

(F) The visual appearance of wind energy generator (accessory) shall:

- (1) Be constructed of a corrosion resistant material that will not fade, show rust spots, or otherwise change the appearance as a result of exposure to the elements and be a non-obtrusive color such as white, off white, or gray.
- (2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
- (3) Landscaping, buffering, and screening shall be provided in accordance with Article 15.

(G) Any wind energy generator (accessory) that is not functional shall be repaired by the owner within a three (3) month period or be removed. In the event that the town becomes aware of any wind energy system that is not operated for a continuous period of three (3) months, the town will notify the landowner by certified mail and provide thirty (30) days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the town deems the timetable for corrective action as unreasonable, the town shall notify the landowner and such landowner shall remove the turbine within thirty (30) days of receipt of said notice. Any disturbed earth shall be graded and re seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(H) Compliance with Other Regulations. All wind energy generators shall comply with all other applicable regulations.

Note 43. Wind Farm. (Amended 8/2/2021)

Wind Farms developed as a principal use shall be permitted in accordance with the Table of Permitted Uses, subject to the following:

(A) Setbacks.

Wind Energy Facility Type	Minimum Lot Size	Minimum Setback Requirements <sup>1</sup>			Maximum Height from Grade (including blades)
		Occupied Buildings (Subject Property) <sup>2</sup>	Property Lines <sup>2</sup>	Public/ Private Right-of-Way <sup>2</sup>	
Wind Farm	5 Acres	1.0	1.0	1.5	250 Ft.

<sup>1</sup>Measured from the center of the wind turbine base to the property line, right-of-way, or nearest point on the foundation of the occupied building. <sup>2</sup>Calculated by multiplying required setback number by wind turbine height.

(B) Height. Two hundred fifty feet (250') maximum.

(C) Ground Clearance. Rotor blades on wind turbines must maintain at least twenty-four feet (24') of clearance between their lowest point and the ground.

(D) Visibility. Wind farms must be set back at least 150 feet from any residential district; no energy generating equipment may be located within 150 feet of any public right-of-way; and a continuous screen of evergreen vegetation intended to be at least ten (10) feet high and three (3) feet thick at maturity must screen all adjacent properties and roadways.

(E) Interconnection Agreement. All wind farms are required to enter into an interconnection agreement with the town prior to connection.

(F) Wind Farm Facility Noise, Shadow Flicker, and Electromagnetic Interference.

(1) Audible sound from a Wind Turbine shall not exceed fifty-five (55) dBA, as measured at any occupied building of a Non-Participating Landowner.

(2) Shadow flicker at any occupied building on a Non-Participating Landowner's property caused by a Wind Energy Facility located within 2,500 feet of the occupied building shall not exceed thirty (30) hours per year.

(3) Wind turbines may not interfere with normal radio and television reception in the vicinity. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

(G) Application Requirements.

- (1) Provide identification and location of the property on which the proposed wind farm will be located.
- (2) Submit a site plan denoting the dimensions of the parcel, proposed wind farm location (arrangement of turbines and related equipment), distance from the proposed area to all property lines, and location of the driveway(s). No portion of the wind farm area may encroach into the required setbacks and any buffer area(s).
- (3) The site plan should also show the location of required buffers.
- (4) Provide the representative type and height of the wind turbine in the form of horizontal and vertical (elevation) to scale drawings, including its generating capacity, dimensions and respective manufacturer, and a description of ancillary facilities.
- (5) Provide evidence of compliance with applicable Federal Aviation Administration regulations.
- (6) State and Local Stormwater permits may be required based upon ground cover.
- (7) If applicable, the applicant must apply and receive from the North Carolina Department of Transportation (NCDOT) a driveway permit, or submit documentation from NCDOT that the existing site access is acceptable for the required use prior to final project approval.
- (8) An applicant for a Wind Farm special use permit shall include with the application an analysis of the potential impacts of the wind power project, proposed mitigative measures, and any adverse environmental effects that cannot be avoided, in the following areas:
  - (a) Demographics including people, homes, and businesses.
  - (b) Noise.
  - (c) Visual impacts.
  - (d) Public services and infrastructure.
  - (e) Cultural and archaeological impacts.
  - (f) Recreational resources.
  - (g) Public health and safety, including air traffic, electromagnetic fields, and security and traffic.
  - (h) Hazardous materials.
  - (i) Land based economics, including agriculture, forestry, and mining.
  - (j) Tourism and community benefits.
  - (k) Topography.
  - (l) Soils.

- (m) Geologic and groundwater resources.
- (n) Surface water and floodplain resources.
- (o) Wetlands.
- (p) Vegetation.
- (q) Avian impact assessment that includes an indication of the type and number of birds that are known or suspected to use a project site and the area surrounding that site.
- (r) Wildlife.
- (s) Rare and unique natural resources.

(9) An applicant for Wind Farm special use permit shall state in the application whether a Certificate of Public Convenience and Necessity for the system is required from the North Carolina Utilities Commission and, if so, the anticipated schedule for obtaining the certificate. The town may ask the Utilities Commission to determine whether a Certificate of Public Convenience and Necessity is required for a particular wind power project for which the town has received an application. The town shall not approve a project requiring a certificate unless and until such certificate is issued by the Utilities Commission. If a certificate is not required from the Utilities Commission, the permit shall include with the application a discussion of what the applicant intends to do with the power that is generated.

(H) Installation and Design.

- (1) The installation and design of the wind generation facility shall conform to applicable industry standards, including those of the American National Standards Institute.
- (2) All electrical, mechanical, and building components of the wind generation facility shall be in conformance with the International Building Code with North Carolina Amendments.
- (3) Any on site collection and distribution lines shall, to the maximum extent possible, be installed underground.
- (4) Attachment to a building of any kind shall be prohibited.

(I) Visual Appearance.

- (1) The wind turbine shall be constructed of a corrosion resistant material that will not fade, show rust spots or otherwise change the appearance as a result of exposure to the elements, and be a non-obtrusive color such as white, off white or gray; and
- (2) The wind turbine shall not be artificially lit, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

- (J) Maintenance. Any wind generation facility that is not functional shall be repaired by the owner within a 6-month period or be removed. In the event that the town becomes aware of any wind farm that is not operated for a continuous period of 6 months, the town will notify the landowner by certified mail and provide 30 days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the town deems the timetable for corrective action as unreasonable, the town shall notify the landowner, and such landowner shall remove the turbine(s) with 180 days of receipt of said notice. Any disturbed earth shall be graded and re seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- (K) Decommissioning.
- (1) The applicant must remove the wind generation facility if, after the completion of the construction, the wind generation facility fails to begin operation, or becomes inoperable for a continuous period of one (1) year.
  - (2) The one-year period may be extended upon a showing of good cause to the Town of Pembroke Town Council.
  - (3) Applicants proposing development of a Wind Farm must provide to the town a form of surety equal to 125% of the entire cost, as estimated by the applicant and approved by the Town Attorney, either through a surety performance bond, irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution designated as an official depository of the town, to cover the cost of removal in the event the applicant is unable to perform any required removal and the town chooses to do so. Following initial submittal of the surety, the cost calculation shall be reviewed every 12 months by the applicant and adjusted accordingly based upon the estimated decommissioning costs in current dollars. The adjustment must be approved by the town. Failure to comply with any requirement of this paragraph shall result in the immediate termination and revocation of all prior approvals and permits; further, the Town of Pembroke shall be entitled to make immediate demand upon, and/or retain any proceeds of, the surety, which shall be used for decommissioning and/or removal of the Wind Farm, even if still operational.

Note 44. Commercial Amusement Use. (Amended 2/7/2022)

- (A) Hours of operation shall be 9:00 AM to 10:00 PM.
- (B) Arcade/video games for gaming or for any financial rewards paid as a result of a video game operation are not permitted. All video/arcade operations shall comply with applicable state statutes.

Note 45. Multi-Family and Townhouse Development in the C-1 Zoning District. (Amended 2/7/2022)

- (A) Minimum Lot Area. As required by the zoning district in which the development is located, see Article 11, Table of Yard, Area, Height, and Lot Coverage Regulations.
  
- (B) Parking. As specified in Article 17 of this Ordinance.
  
- (C) Placement of Buildings.
  - (1) There shall be maintained at least 16 linear feet of open space between individual and unattached buildings in a residential development.
  
  - (2) Any group of buildings forming a courtyard shall have at least 25% of the perimeter of such courtyard open for access by emergency vehicles.
  
  - (3) Where the length of a street exceeds 200 feet and where there exists six or more dwelling units, an area must be provided for the turnaround of fire-fighting vehicles on a paved or graveled surface. This area shall not be used for parking and shall subscribe a circular area having a paved radius of 35 feet or shall have a configuration which provides comparable turnaround space.
  
  - (4) All fire hydrants, whenever possible, should be located adjacent to the paved roadways suitable for transporting fire-fighting vehicles. Hydrants shall be located no more than 50 feet from any building. Hydrants shall be located at entrance and exit ways, and additional hydrants shall be located so that each building and portion thereof will be within 350 feet of a hydrant. If buildings have standpipes and sprinkler systems, one hydrant shall be located within 75 feet of each standpipe and sprinkler connection system. All hydrants must be served by a water main of sufficient size. In no case shall the minimum size main be less than six inches in diameter.
  
  - (5) All building locations shall be approved by the Planning Board.
  
- (D) Design Standards.
  - (1) Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations.
  
  - (2) The features and spaces should enhance the building and center as integral parts of the community. The use of such features as plazas, patios, and courtyards should be used when practical.
  
  - (3) The maximum density will be established during the Special Use Permit review.
  
  - (4) Maximum impervious coverage ratio shall be 60%.

Note 46. Manufactured Home, Class A. (Amended 9/5/2023)

Manufactured Home, Class A dwelling units developed in an R-8 zoning district must obtain a special use permit. Additionally, a certificate of occupancy will not be granted unless the lot and unit meet the following requirements:

- (A) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.
- (B) All units must be located on ground above the base flood elevation and graded to prevent water from ponding.

# ARTICLE 11. TABLE OF AREA, YARD, HEIGHT, AND LOT COVERAGE REQUIREMENTS

*(Amended 11/4/2013)*

DISTRICT	MINIMUM LOT SIZE		MINIMUM YARD REQUIREMENTS				
	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Front (feet)*	Side (feet)*	Rear (feet)*	Maximum Height (feet)	Maximum Lot Coverage (%)**
<u>R-20 Residential-Agriculture</u> (excludes medical clinics)	20,000	100	40	15	30	35	20
<u>R-8 Multiple-Family Dwelling</u> <u>(Dwelling Units)**</u>			30	15	30	50	Refer to Section 13-2 (H)(1)-(5)
-With water AND sewer	8,000	80	(40 along state primary and secondary roads)				
-With water OR sewer	15,000	100					
-Without water and sewer	20,000	100					
<u>R-8 Multiple-Family Dwelling</u> <u>(Other Uses)**</u>	25,000	150	35	18	25	50	Refer to Section 13-2 (H)(1)-(5)
<u>R-8 Multiple-Family Dwelling</u> <u>(Public Safety Station)</u> <i>(Amended 5/4/2020)</i>	25,000	100	40	12	25	50	50
<u>R-8 Multiple-Family Dwelling</u> <u>(Townhouses)</u>	1,500	18	10	0***	15	35	75
<u>R-10 Residential (Dwelling</u> <u>Units)</u>			30	15	30	35	20
-With water AND sewer	10,000	80	(40 along state primary and secondary roads)				
-With water OR sewer	15,000	100					
-Without water and sewer	20,000	100					
<u>R-10 Residential (Other Uses)</u>	25,000	150	35	18	25	35	50
<u>Office and Institutional</u>			30	12	20	50	30
-With water AND sewer	10,000	80					
-With water OR sewer	15,000	100					
-Without water and sewer	20,000	100					
<u>Office and Institutional (Multi-</u> <u>Family Conditional Use)</u>			30	12	20	50	Refer to Section 13-2 (H)(1)-(5)
-With water AND sewer	10,000	80					
<u>PUD Planned Unit</u> <u>Development</u>	(Determined by zoning district designations on approved PUD plan)						



DISTRICT	MINIMUM LOT SIZE		MINIMUM YARD REQUIREMENTS				
	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Front (feet)*	Side (feet)*	Rear (feet)*	Maximum Height (feet)	Maximum Lot Coverage (%)**
<u>C-1 Central Business</u>	None	25 at the front lot line	(See Note 1)	None required. (See Note 2)	10 where there is no alley. (See Note 3)	50	No maximum
<u>C-1 Central Business (Multi-Family Special Use)</u> <i>(Amended 2/7/2022)</i>	N/A	25 at the front lot line	(See Note 1)	None required. (See Note 2)	10 where there is no alley. (See Note 3)	50	Refer to Section 10-1, Note 45
<u>C-2 Neighborhood Business</u>	6,000, if served by public water	50	20	None required, unless the lot abuts a residentially zoned lot. (See Note 4)	20	50	No maximum
<u>C-3 Highway Business</u>	20,000 without public water and sewer, otherwise no requirement		50	15 for corner lots. No other side yards are required unless the lot abuts a residentially zoned lot. (See Note 5)	25	35 (See Note 6)	No maximum
<u>Industrial</u>	30,000	150 at front setback line	25, measured from the street ROW.	15, except where the lot abuts a residentially zoned lot where it shall be 50'	20, except where the lot abuts a residentially zone lot where it shall be 75'	35	No maximum
<u>Open Space</u>	None	None	None	None	None	None	No maximum

\*Measured from the property line. On corner lots, the side yard, on that side of the lot abutting the side street shall not be less than 20 feet or 40 feet on a highway or state primary aid street. Accessory buildings on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance specified for front yards of lots fronting on such side streets.

\*\*The total ground area covered by the principal building and all accessory buildings shall not exceed these requirements.

\*\*\*Building end units shall have a 10 foot side yard. *(Amended 11/4/2013)*

## **Section 11-1: Notes to the Table of Area, Yard, Height, and Lot Coverage Requirements**

Note 1. The minimum front yard depth shall be the average of the front yard depths established by buildings on one or both adjoining side lots. In all cases there shall be sufficient setback from the street curb line to provide space for a minimum 12' sidewalk.

Note 2. However, a buffer is required when a site abuts a residential use or district.

Note 3. A rear yard is not required where a public alley abuts the rear property line.

Note 4. When the lot abuts a residentially zoned lot, the side yard shall be 12'. Where there are side yards provided in other cases they shall be 5'.

Note 5. In cases where a side yard is not required but provided, it shall be 5'. *(Amended 1/3/2022)*

Note 6. No building can exceed 50 feet in height unless the required side yards in each lot where a structure is located are increased by one foot for every two feet that the structure exceeds 50 feet, and the required rear yard increased one foot for every three feet that the structure exceeds 50 feet. *(Amended 11/4/2013)*

Note 7. All multi-family and townhouse development located in the R-8, Multiple-Family Dwelling and the O&I, Office and Institutional Districts must comply with Section 13-2, Regulations for Multi-Family Development, including Apartments, Townhouses, and Condominiums, in addition to the requirements of this Article. *(Amended 2/7/2022)*

Note 8. Church steeples and belfries, chimneys, water tanks or water towers, fire towers, flag poles, spires, monuments, and similar structures and necessary mechanical appurtenances are not subject to the height limit regulations contained in this article.

Note 9. Where through lots occur, the required front yard shall be provided on both streets. Architectural features such as open or enclosed fire escapes, steps, outside stairways, balconies and similar features, necessary mechanical devices, and uncovered porches may not project more than four (4) feet into any required yard. Sills, cornices, eaves, gutters, buttresses, ornamental features, and similar items may not project into any required yard more than thirty (30) inches. Following adoption of this Ordinance, the subdivision of through lots is prohibited.

Note 10. Cemetery Subdivision Lot Size Exemption. Cemeteries and individual cemetery plot(s) may be platted or approved as minor subdivisions and recorded that do not meet the minimum lot size of the zoning district; however, the cemetery shall comply with all other zoning district restrictions. Where there is not reasonable access to individual lots, an 18-foot easement for ingress and egress may be established. *(Amended 9/2/2014)*

## ARTICLE 12. ZONING AND SPECIAL USE PERMIT APPROVAL

### Section 12-1: Permits Required *(Amended 8/2/2021)*

- (A) Subject to Article 18 (Regulations for Signs), the use made of property may not be substantially changed, substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:
- (1) A development permit issued by the administrator.
  - (2) A special use permit issued by the Town Council.
  - (3) Floodplain development permit.
  - (4) Watershed protection permit. *(Amended 6/5/2017)*
- (B) Development permits, special use permits, and sign permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in Section 12-13, all development shall occur strictly in accordance with such approved plans and applications.
- (C) Physical improvements to land to be subdivided may not be commenced except in accordance with a special use permit issued by the Town Council.
- (D) A development permit, special use permit, or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal and shall be accompanied by a signed affidavit designating such agent), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All such permits issued with respect to tracts of land in excess of one acre (except sign permits and development permits for single-family and two-family residential uses) shall be recorded in the Robeson County Registry after execution by the record owner as provided in Section 12-11.

### Section 12-2: No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled *(Amended 8/2/2021)*

Issuance of a special use or development permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter building or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in Section 12-10, the intended use may not be commenced, no building may be occupied, and in the case of

subdivisions, no lots may be sold until all of the requirements of this Ordinance and all additional requirements imposed pursuant to the issuance of a special use permit have been complied with. Section 12-2 does not apply to the presale of subdivision lots as provided for in Section 24-20. (Amended 6/5/2017)

**Section 12-3: Who May Submit Permit Applications (Amended 8/2/2021)**

- (A) Applications for zoning, special use, or sign permits or subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
- (B) The administrator may require an applicant to submit evidence of his authority to submit the application in accordance with Subsection (A) whenever there appears to be a reasonable basis for questioning this authority.

**Section 12-4: Applications To Be Complete (Amended 8/2/2021)**

- (A) All applications for zoning, special use, or sign permits must be completed before the permit-issuing authority is required to consider the application.
- (B) An application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.
- (C) The administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this Ordinance, such as applications for development permits to construct single-family or two-family houses, or applications for sign permits, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

**Section 12-5: Staff Consultation After Application Submitted (Amended 8/2/2021)**

- (A) Upon receipt of a formal application for a zoning or special use permit, or subdivision plat approval, the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable requirements of this Ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

- (B) If an application is for a special use permit or subdivision plat approval, the administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

**Section 12-6: Development Permits (Amended 8/2/2021)**

- (A) A completed application form for a development permit shall be submitted to the administrator by submitting an application.
- (B) The administrator shall issue the development permit unless he finds, after reviewing the application, that:
- (1) The requested permit is not within his jurisdiction according to the Table of Permissible Uses, or
  - (2) The application is incomplete, or
  - (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance (not including those requirements when a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article 8, Nonconforming Situations).
- (C) If the administrator determines that the development for which a development permit is requested will have or may have substantial impact on surrounding properties, he shall, at least 10 days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within 150 feet of the lot that is the subject of the application, informing them that:
- (1) An application has been filed for a permit authorizing identified property to be used in a specified way,
  - (2) All persons wishing to comment on the application should contact the administrator by a certain date, and
  - (3) Persons wishing to be informed of the outcome of the application should send a written request for such notification to the administrator.

**Section 12-7: Authorizing Use or Occupancy Before Completion of Development Under Development Permit (Amended 8/2/2021)**

In cases when, because of weather conditions or other factors beyond the control of the zoning-permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning-permit recipient to comply with all requirements of this Ordinance prior to commencing the intended

use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the administrator to ensure that all of the requirements of the Ordinance will be fulfilled within a reasonable period (not to exceed 12 months) determined by the administrator. Upon completion of development, a certificate of zoning compliance shall be issued by the Administrator prior to the issuance of a certificate of occupancy. *(Amended 6/5/2017)*

**Section 12-8: Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use Permits** *(Amended 8/2/2021)*

- (A) In cases when, because of weather conditions or other factors beyond the control of the special use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Article before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the permit-issuing board may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this section are concerned) if the permit recipient provides a performance bond or other security satisfactory to the board to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 12 months).
- (B) When the developer proposes in the plans submitted to install amenities beyond those required by this Article, the Council may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:
  - (1) A performance bond or other security satisfactory to the Council is furnished;
  - (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;
  - (3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 7-4 (Penalties and Remedies for Violations) and Section 7-5 (Permit Revocation).
- (C) With respect to subdivisions in which the developer is selling only undeveloped lots, the Council may authorize final plat approval and the sale of lots before all the requirements of this Article are fulfilled if the subdivider provides a performance bond or other security satisfactory to the Council to ensure that all of these requirements will be fulfilled within not more than 12 months after final plat approval.

**Section 12-9: Completing Developments in Phases**

- (A) If a development is constructed in phases or stages in accordance with this section, then, subject to Subsection (C), the provisions of Section 12-2 (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and Section 12-10 (exceptions to Section 12-2) shall apply to each phase as if it were the entire development.
- (B) As a prerequisite to taking advantage of the provisions of Subsection (A), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this Article that will be satisfied with respect to each phase or stage.
- (C) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:
  - (1) If the improvement is one required by this Article then the developer may utilize the provisions of Section 12-9(A) or (C).
  - (2) If the improvement is an amenity not required by this Article or is provided in response to a condition imposed by the Council, then the developer may utilize the provisions of Section 12-9(B).

**Section 12-10: Expiration of Permits (Vested Right Provisions are provided in Article 4, Part II)**  
*(Amended 8/2/2021)*

- (A) Zoning, special use, and sign permits shall expire automatically if, within six (6) months after the issuance of such permits, the use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use.
- (B) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 12-11.

**Section 12-11: Effect of Permit on Successors and Assigns** *(Amended 8/2/2021)*

- (A) Zoning, special use, and sign permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land

or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

- (1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and;
  - (2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit is obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in Subsection (b)) of the existence of the permit at the time they acquired their interest.
- (B) Whenever a zoning or special use permit is issued to authorize development (other than single-family or two-family residences) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Robeson County Registry by the Town of Pembroke and indexed under the record owner's name as grantor.

**Section 12-12: Amendments to and Modifications of Permits**

- (A) Insignificant deviations from the permit (including approved plans) issued by the Town Council, the Board of Adjustment, or the administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernable impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (B) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (C) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Town Council or Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.



- (D) The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections (A), (B), and (C).
- (E) A developer requesting approval of changes shall submit a written request for such approval to the administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

**Section 12-13: Reconsideration of Council/Board Action (Amended 8/2/2021)**

- (A) Whenever (i) the Town Council disapproves a special use permit application, or (ii) the Board of Adjustment disapproves an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:
  - (1) Circumstances affecting the property that is the subject of the application have substantially changed, or
  - (2) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the administrator within the time period for an appeal to superior court (see Section 7-6). However, such a request does not extend the period within which an appeal must be taken.
- (B) Notwithstanding Subsection (A), the Town Council or Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

**Section 12-14: Applications to be Processed Expeditiously**

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the town shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this Ordinance.

**Section 12-15: Maintenance of Common Areas, Improvements, and Facilities (Amended 8/2/2021)**

The recipient of any zoning, special use, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so

that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

**Section 12-16: Special Use Permits Objectives and Purpose** *(Amended 8/2/2021, 4/4/2022)*

Special uses add flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where those uses would not otherwise be applicable. By means of controls exercised through the special use permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any bad effects they might have on surrounding properties. Approval of a special use permit is made the duty of the Town of Council.

The uses for which special use permits are required are listed in the chart accompanying this section, along with a detailed description of the procedures which must be followed in the approval of each such permit. Uses specified in this section shall be permitted only upon the issuance of a special use permit.

**Section 12-17: Procedure for Special Use Permit Granted by the Town Council** *(Amended 1/4/2016, 8/2/2021, 4/4/2022)*

Special use permits may be issued by the Administrator, after approval by the Town Council, for the uses as designated in the table of regulations for special uses. The petition for a special use permit and the accompanying plans shall be submitted to the Administrator at least three weeks prior to the regular monthly Town Council meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it as specified in this section. The Town Council shall give notice of a public hearing ten days prior to the date of the public hearing (see Section 6-2). Town Council consideration of special use permits are quasi-judicial decisions approved by a simple majority vote. Quasi-judicial decision must be conducted in accordance with Article 6. At the quasi-judicial public hearing, all directly affected persons shall be permitted to testify (see Sections 6-3 through 6-6). The Town Council shall consider the application and may approve or deny the requested special use permit.

The special use permit, if approved, shall include approval of plans as may be required. In approving the permit, the Town Council shall find as a specific finding of fact and reflect in their minutes that the permit will comply with the following four facts:

- (A) That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
- (B) That the use meets all required conditions and specifications;
- (C) That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and

- (D) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located. The special use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by GS 160A-382(b).

In approving the special use permit, the Town Council may impose reasonable and appropriate conditions and safeguards upon the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The applicant/landowner must consent in writing to all conditions imposed by the special use permit. Conditions and safeguards imposed under this subsection shall not include requirements for which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the town, including without limitation, taxes, impact fees, building design elements within the scope of NCGS 160D-702(b), driveway related improvements in excess of those allowed in NCGS 136-18(29) and 160A-307, or other authorized limitations on the development or use of land. All specific conditions shall run with the land and shall be binding on the original applicant for the special use permit, the heirs, successors, and assigns. In order to ensure that such conditions and requirements for each special use permit will be fulfilled, the petitioner for the special use permit may be required to enter into a contract with the Town of Pembroke providing for the installation of the physical improvements required as a basis for the issuance of the special use permit. Performance of said contract shall be secured by cash or surety bond which will cover the total estimated cost of the improvements as determined by the Town of Pembroke; provided, however, that said bond may be waived by the Town Council within its discretion.

If the Town Council denies the permit, they shall enter the reason for its action in the minutes of the meeting at which the action is taken.

No appeal may be taken to the Board of Adjustment from this action of the Town Council in granting or denying a special use permit. Any such action by the Town Council shall be considered as the equivalent of action on a proposed zoning amendment and shall be reviewable only in the same manner as action on a proposed amendment.

In addition to the conditions specifically imposed by the Town Council, special uses shall comply with the height, area, and parking regulations of the zone in which they are located.

In the event of failure to comply with the plans approved by the Town Council or with any other conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction nor a certificate of compliance under this special use permit shall be issued, and the use of all completed structures shall immediately cease and such completed structures not thereafter be used for any purpose other than a use-by-right as permitted by the zone in which the property is located.

Where plans are required to be submitted and approved as part of the application for a special use permit, modifications of the original plans may be authorized by the Town Council.

**Following approval of the special use permit, an additional more detailed site plan may be required in accordance with Article 13 Site Development Plans and Design Requirements.**

**Section 12-18: Table of Regulations for Special Uses (Amended 8/2/2021, 4/4/2022)**

Detailed regulations for each special use are set forth in this section.

Use – For the uses listed in Article 10, Table of Permitted Uses, the following information must be submitted with the request for special use permit approval in the districts specified:

Minimum Lot Area: See Table of Yard, Area, and Height Requirements.

Buffering: As specified in Article 16 of this Ordinance, buffering shall be required by the Town Council.

Plans are required and must show:

- (A) Plans Required. The application shall be accompanied by a site plan drawn to scale, and necessary supporting text which shall include the following information:
- (1) Name, address, and phone number of the property owner or his or her agent, and the tax parcel number of the property. The property owner or his or her authorized agent are the only two parties who may initiate a request for a special use permit.
  - (2) A boundary survey and vicinity map, showing the property's total acreage, zoning classification(s), general location in relation to adjoining streets, railroads and/or waterways, date and north arrow.
  - (3) The owner's names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties.
  - (4) Proposed use of all land and structures including the number of residential units, if applicable.
  - (5) Proposed number and location of all structures, their approximate area and their approximate exterior dimensions, including building height.
  - (6) All existing easements, reservations and rights-of-way.
  - (7) Delineation of areas located within a regulatory floodplain, as shown on the official Federal Emergency Management Act (FEMA) flood hazard boundary maps for the county.

- (8) Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.
- (9) The location and description of all proposed signage.
- (10) Description/definition of how the property is classified on the Town of Pembroke Comprehensive Plan Future Land Use Map.

(B) Additional Information.

- (1) In the course of evaluating the proposed special use, the Town Council may request additional information from the applicant. A request for any additional information may stay any further consideration of the application by the Town Council until the requested information is received and evaluated.
- (2) This information may include, but shall not be limited to, the following:
  - (a) Stormwater drainage plan.
  - (b) Existing and proposed topography at five-foot contour intervals or less.
  - (c) The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.
  - (d) Proposed design/exterior appearance of structures to ensure general consistency with adjacent properties/structures.
  - (e) Lighting plan, inclusive of wattage and illumination.
  - (f) An environmental impact statement which contains the following information:
    - (i) A cover sheet which provides, in summary form, a description of the proposed project;
    - (ii) A statement of purpose and need of the project;
    - (iii) For projects proposed by public entities, a list of alternatives of the proposed project;
    - (iv) A succinct description of the environment affected by the project;

- (v) A discussion of short- and long-term consequences of the project on the environment including any adverse environmental impacts which cannot be avoided; and
- (vi) A list of means which could be employed to mitigate any negative effects on the environment caused by this project.
- (g) A description of all screening and landscaping required by these regulations and/or proposed by the applicant.
- (h) Proposed phasing, if any, and approximate completion time for each phase and the complete project.

Other Requirements: The Town Council may provide additional requirements as it deems necessary in order to make the proposed project more compatible with adjacent areas and existing or proposed traffic patterns.

# **ARTICLE 13. SITE DEVELOPMENT PLANS AND DESIGN REQUIREMENTS** *(Amended 3/5/2018)*

## **Section 13-1: Introduction**

Site development plans are required for the following projects: (1) all multi-family development, (2) all non-single-family development involving the construction of a building having 800 square feet or more of enclosed floor area, (3) any development involving the disturbance of one acre or more of land area, (4) all manufactured home parks, (5) any new development in the CDO1 or CDO2 overlay districts, or (6) conditional zoning districts (see Section 9.1(L)). *(Amended 6/4/2018, 8/2/2021)*

Major site development plans (inclusive of manufactured home parks) must be approved by the Pembroke Town Council, upon recommendation of the Pembroke Planning Board. Major site development plans (inclusive of manufactured home parks) shall be submitted to the Administrator at least 21 days prior to the regular Planning Board meeting at which it is to be reviewed. All major site plans shall be reviewed by the UDO Administrator or their designee prior to submittal to the Planning Board. Major site development plans must comply with Article 16 Building Design Standards.

Minor site development plans shall be approved by the UDO Administrator and may be submitted to the UDO Administrator at any time.

## **Section 13-2: Regulations for Multi-Family Development, including Apartments, Townhouses, and Condominiums**

All multi-family and townhouse development located in the R-8, Multiple-Family Dwelling and the O&I, Office and Institutional districts must comply with the provisions below. *(Amended 2/7/2022)*

- (A) Minimum Lot Area. As required by the zoning district in which the development is located, see Article 11, Table of Yard, Area, Height, and Lot Coverage Regulations.
- (B) Parking. As specified in Article 17 of this Ordinance.
- (C) Open Space (Recreation) Area. Open space areas shall be provided for all apartments and condominium developments with over five dwelling units. The spatial distribution and number of individual open space areas within the development shall be determined by the Planning Board on the basis of the spatial arrangement of the dwelling units, topography, and other physical features. Swimming pools including their accessory areas shall not constitute any part of the open space requirements.

All open space shown on the site development plan shall be recorded in the Robeson County Register of Deeds office and shall be conveyed by the following method.

By leasing or conveying title including beneficial ownership to a corporation, association, or other legal entity, the terms of such lease or other instruments of conveyance must include provisions suitable to the town for guaranteeing:

- (1) The continued use of land for the intended purposes;
- (2) Continuity of proper maintenance for those portions of open space land requiring maintenance;
- (3) When appropriate, the availability of funds required for such maintenance;
- (4) Adequate insurance protection; and
- (5) Recovery for loss sustained by casualty, condemnation, or otherwise.

Furthermore, the applicant shall file in the Robeson County Register of Deeds office at the time of site development approval, legal documents which shall produce the above guarantees and in particular, will provide a method for reserving the use of open space for the use and enjoyment of the residents of the development.

(D) Timing. Proposed schedule of development including stages likely to be followed.

(E) Sketch Design Plan. Prior to the filing of an application for approval of the site development plan, the developer shall submit to the Administrator a sketch design of the proposed development. The sketch design shall be submitted at any time prior to the submittal of a site development plan. The developer shall discuss ideas and thoughts pertaining to the new development and also become familiar with the ordinances affecting the land being developed. Included in the sketch design plan indicating the proposed development layout shall be a sketch vicinity plan, including scale, which shows the development in relation to the surrounding areas. Structures shall be appropriate in scale and appearance to avoid sharp contrast with the character of the town and the surrounding area. This procedure does not require formal application or fee.

The sketch plan should contain or be accompanied by the following information:

- (1) The proposed name and location of the development.
- (2) The name and address of the owner and the developer.
- (3) The total acreage in the tract to be developed.
- (4) The tentative street and plat arrangement.
- (5) The approximate rights-of-way, rights-of-way designation (public or private), easements, and lot lines.
- (6) The existing and proposed uses of land throughout the development.
- (7) Surface and subsurface drainage of the development.
- (8) The zoning classification of the tract.
- (9) Sites, if any, for parks and/or open spaces.
- (10) Acreage in parks and other land uses.
- (11) Sketch vicinity map showing relationship between the development and the surrounding area.
- (12) Existing and proposed utilities.

(F) Site Development Plan. A site development plan, accompanied by the appropriate fee from the schedule of fees, drawn to scale shall contain the following information:

- (1) The names of the development, owner(s), and developers;



- (2) The exact boundary lines of the development by lengths and bearings and the location of intersecting boundary lines and adjoining lands, along with the total acreage of the tract;
- (3) Scale denoted both graphically and numerically;
- (4) The plans for utility layouts, including sewers, storm sewer, water distribution lines, natural gas, telephone and electric service, connections to existing systems or plans for individual water supply systems and sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, gate valves, daily estimated sewer flow figures (NOTE: Type of construction materials and brand of appurtenances will require approval from the Town of Pembroke);
- (5) Street names, if applicable;
- (6) The location, purpose, and dimensions of areas to be used for uses other than residential (i.e., parks, easements, etc.);
- (7) Minimum building setback lines;
- (8) The names of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);
- (9) The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths and areas to be dedicated to public or property owner's use with a statement of the purpose of each;
- (10) Right-of-way lines, and pavement widths of all streets and the location and width of all adjacent streets and easements.
- (11) Property lines, buildings, or other structures, water courses, railroads, bridges, culverts, storm drains (both on the land to be subdivided and on the land immediately adjoining), corporate limits, and extraterritorial jurisdiction limits;
- (12) Sufficient engineering data to determine readily, and to be reproducible on the ground, every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute;
- (13) The accurate locations and descriptions of all monuments, markers, and control points;
- (14) The deed or master restrictions, proposed articles of incorporation and by-laws of property owner's association, or any other similar covenants;
- (15) The date of the survey and plat preparation;
- (16) North arrow and declination;
- (17) The name and location of any property within the planned development, or within any contiguous property, that is listed in the US Department of Interior's National Register of Historic Places; likewise any property that has been designated by local ordinance as a "historic property" pursuant to GS Chapter 160A, Article 19, Part 3A;
- (18) The name(s), address(es), telephone number(s) of the owner(s), registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision and the registration number(s) and seal(s) of the professional engineer(s) and registered surveyor(s);
- (19) Flood hazard areas according to FEMA flood insurance rate map;

- (20) Topographic information showing vertical contour every two feet;
- (21) Show boundaries of flood hazard areas based on current federal flood hazard maps;
- (22) Total number of multi-family dwellings and total number of dwelling units;
- (23) Total residential floor area in the development;
- (24) Total number of floors in each building/structure;
- (25) Total height of each building/structure;
- (26) Total open space area(s);
- (27) Total number of parking spaces;
- (28) All proposed landscaping including planting details as specified in Article 15 of this Ordinance.

(G) Placement of Buildings.

- (1) There shall be maintained at least 16 linear feet of open space between individual and unattached buildings in a residential development.
- (2) Any group of buildings forming a courtyard shall have at least 25% of the perimeter of such courtyard open for access by emergency vehicles.
- (3) Where the length of a street exceeds 200 feet and where there exists six or more dwelling units, an area must be provided for the turnaround of fire-fighting vehicles on a paved or graveled surface. This area shall not be used for parking and shall subscribe a circular area having a paved radius of 35 feet or shall have a configuration which provides comparable turnaround space.
- (4) All fire hydrants, whenever possible, should be located adjacent to the paved roadways suitable for transporting fire-fighting vehicles. Hydrants shall be located no more than 50 feet from any building. Hydrants shall be located at entrance and exit ways, and additional hydrants shall be located so that each building and portion thereof will be within 350 feet of a hydrant. If buildings have standpipes and sprinkler systems, one hydrant shall be located within 75 feet of each standpipe and sprinkler connection system. All hydrants must be served by a water main of sufficient size. In no case shall the minimum size main be less than six inches in diameter.
- (5) All building locations shall be approved by the Planning Board.

(H) Design Standards.

- (1) Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations.
- (2) The features and spaces should enhance the building and center as integral parts of the community. The use of such features as plazas, patios, and courtyards should be used when practical.
- (3) Maximum number of dwelling units per acre shall be 13. With the issuance of a special use permit, the maximum number of dwelling units per acre may be increased to not more than 20 dwelling units per acre. The applicant must demonstrate to the town's satisfaction that any increase can be accommodated by the town's water and sewer systems, storm drainage, street system, and general town services including

fire and police protection. Any such increase shall not result in exceeding Section 13-2(H)(4) and (5). *(Amended 8/2/2021)*

- (4) Minimum OSR shall be 40% (may include front, rear, and side yard setbacks).
- (5) Maximum impervious coverage ratio shall be 60%.

### **Section 13-3: Manufactured Home Park Regulations and Site Development Plan Requirements**

- (A) **Compliance.** All manufactured home parks existing on the effective date of this Ordinance are required to comply with all applicable procedures and requirements of this Ordinance. Any manufacture home park failing to comply with the applicable provisions of this Ordinance is hereby declared to be a nonconforming use of land. All complying manufactured home parks shall continuously satisfy the general requirements of this Ordinance. Failure to meet continuously each of the general requirements shall be grounds for revocation of the certificate of occupancy/compliance for any conforming manufactured home park.

No person shall begin construction of a manufactured home park or make any addition to a manufactured home park that either alters the number of sites for manufactured homes within the park or affects the facilities required therein until he first secures a permit authorizing such construction or addition. The construction or addition shall be in accordance with plans and specifications submitted with the application to the Pembroke Planning Board. The application will be reviewed by the Pembroke Planning Board, the Administrator, the Code Enforcement Department, the Public Works and Public Utilities Departments, and when applicable, the Robeson County Health Department. All applications for a manufactured home park construction permit will be accompanied by six prints.

- (B) **Sketch Design Plan.** Prior to the filing of an application for approval of the site development plan, the developer shall submit to the Administrator a sketch design of the proposed development. The sketch design shall be submitted at any time prior to the submittal of a site development plan. The developer shall discuss ideas and thoughts pertaining to the new development and also become familiar with the ordinances affecting the land being developed. Included in the sketch design plan indicating the proposed development layout shall be a sketch vicinity plan, including scale, which shows the development in relation to the surrounding areas. Structures shall be appropriate in scale and appearance to avoid sharp contrast with the character of the town and the surrounding area. This procedure does not require formal application or fee.

The sketch plan should contain or be accompanied by the following information:

- (1) The proposed name and location of the development.
- (2) The name and address of the owner and the developer.
- (3) The total acreage in the tract to be developed.
- (4) The tentative street and plat arrangement.
- (5) The approximate rights-of-way, rights-of-way designation (public or private), easements, and lot lines.

- (6) The existing and proposed uses of land throughout the development.
- (7) Surface and subsurface drainage of the development.
- (8) The zoning classification of the tract.
- (9) Sites, if any, for parks and/or open spaces.
- (10) Acreage in parks and other land uses.
- (11) Sketch vicinity map showing relationship between the development and the surrounding area.
- (12) Existing and proposed utilities.

- (C) Conformance with Regulations. It shall be unlawful for any person to construct or engage in the construction of any manufactured home park or make any addition or alteration to an existing mobile home park within the jurisdiction of this Ordinance unless a site development plan of the manufactured home park has been approved in accordance with this Section. No new manufactured home park or manufactured home park addition shall be occupied until a Certificate of Occupancy has been issued by the Administrator.

The Pembroke Administrator may, after due notice, subject to the right of appeal, suspend or revoke a Certificate of Occupancy for failure to maintain the park in compliance with the provisions of this Ordinance. The Certificate of Occupancy may be revoked for a specific section of a manufactured home park which is in violation and occupancy allowed to continue in portions of the park which are in conformity with the Certificate of Occupancy.

The Pembroke Administrator and his designee, as well as the Robeson County Health Department may conduct as many inspections of manufactured home parks as are deemed necessary to ensure the maintenance of applicable standards.

- (D) Contents of the Site Development Plan. The site development plan shall be drawn at a scale not more than 100 feet to the inch and shall show the following on one or more sheets:

- (1) Title information shall include: name of park, name of developer, scale, date, and name of surveyor.
- (2) Small scale location diagram showing all roads in the vicinity and the relationship of the site to major roads.
- (3) Dimensions and bearings of exterior property lines.
- (4) Topography information as deemed necessary by inspectors.
- (5) Location of any flood hazard areas as defined by Corps of Engineers which is located on property adjacent to the proposed manufactured home park.
- (6) Roads in vicinity (access roads and adjacent roads).
- (7) Manufactured homes spaces well defined.
- (8) Surface water drainage plans.
- (9) All structures in the park site (present or proposed).
- (10) Recreation areas.
- (11) Method of surfacing roads within the park.
- (12) Location and intensity of area lights, riser diagrams, and typical connections to manufactured homes, or a statement indicating that the power companies will be responsible for design and installation of the electric system.

- (13) Source of water and water distribution system. If water source is a well, it shall meet the appropriate county and/or state agencies.
- (14) Sanitary sewerage. If a private sewerage collection and disposal system is used, plans and specifications approved by appropriate County and/or State Agencies.
- (15) Proposed provisions for storm drainage (including retention pond facilities, when applicable), approved by the Administrator.
- (16) All proposed landscaping including plant details as specified in Article 15 of this Ordinance.
- (17) Developer should meet with the County Environmental Health Department, County Soil Scientist, and the Pembroke Planning Director to discuss his proposed development.

(E) Review of Site Development Plans. After site development plan(s) for a manufactured home park have been properly submitted to the Pembroke Planning Board, the following agencies shall be responsible for reviewing the proposed plans.

- (1) Planning Board. The Pembroke Planning Board shall review the site development plan(s) for manufactured home parks. This agency shall be responsible for the review of the following to determine if the proposed design is in accordance with the approved sketch plan and the requirements of this Ordinance.
- (2) Robeson County Health Department. When septic tank or individual wells are required, the Health Department permit shall be submitted with the application for approval of a Manufactured Home Park site development plan. The Health Department shall be responsible for the review of the following to determine if they are in accordance with the minimum health standards and regulations.
  - (a) Source of water and water distribution system;
  - (b) Sanitary sewerage system; and
  - (c) Adequate lot size.
- (3) Should any agency find deficiencies in the review of the site development plans of a proposed manufactured home park, that agency shall notify the developer of the park to correct such deficiencies. Each agency shall notify the Planning Department after approving the plans of a proposed park. The Planning Department, after receiving notification of approval from all agencies involved in the review of a proposed manufactured home park, shall notify the developer of the proposed park that preliminary approval has been granted for the construction of the park.

(F) Issuance of Construction Permit and Certificate of Compliance.

- (1) After approval of the site development plans for a manufactured home park by the town and county agencies concerned, the Administrator is authorized to issue a construction permit and the Code Enforcement Officer may issue any required building permits. The intent of this permit is to enable the execution of the plan in the field and shall not be construed to entitle the recipient to offer spaces for rent or lease or to operate a park as defined in this Ordinance.

- (2) During this phase, all field work shall be in accordance with the approved plans. It shall be the responsibility of the developer to inform the various agencies as to the progress of field work so that timely inspections may be made.
- (3) The Administrator is authorized to issue a Certificate of Compliance after the installation of the number of spaces the developer wishes to initially install. In no case shall the Certificate of Compliance be issued for less than the minimum spaces required by this Ordinance. The Certificate of Compliance will be issued only after the Administrator is satisfied that all work has been executed as outlined in that section of the approved plans and in accord with the intent and spirit of this Ordinance. Should additional spaces be added to a park that has preliminary plans approved, a Certificate of Compliance for the additional spaces will be necessary before such spaces are offered for rent or lease.
- (4) Upon receipt of the Certificate of Compliance, the permittee is duly authorized to operate and maintain his park in any way that is not contrary to the provisions of the permit. However, should the Administrator find at any time subsequent to the issuance of the permit that the park is operating in violation of the terms of this Ordinance or of special conditions set forth in the permit, the Administrator shall revoke the Certificate of Compliance and further operations of the park without a Certificate of Compliance shall be cause for legal action.

(G) Manufactured Home Park Site Development.

- (1) If wells or septic tanks are required, the amount of land for each manufactured home space shall be determined by the Robeson County Health Department after an investigation of soil conditions, the proposed method of sewerage disposal, and proposed water system. However, in no case shall the size of a manufactured home space be less than the following:
  - (a) Lot sizes with public water and sewer shall be: 6,000 square feet when streets are paved with curb and gutter; 8,000 square feet when streets are paved with no curb and gutter; curb and gutter requirements will be waived only upon proof of extraordinary conditions during the special use permit hearing.
  - (b) Lot sizes with central water and individual septic tanks shall be: 20,000 square feet with paved streets.
  - (c) Lot sizes with individual wells and individual septic tanks shall be: 25,000 square feet.
  - (d) Minimum lot width of 50 feet on public water and sewer, central well. Minimum lot width of 75 feet on individual well, individual septic tank.

All manufactured home parks shall be located on an undivided tract of land not less than three acres in size.

- (2) Parking space sufficient to accommodate at least two automobiles shall be located on each manufactured home space.
- (3) The manufactured home park shall not be located in a flood hazard area based on the Town's current federal flood hazard maps. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. All ditch banks shall be sloped and seeded.
- (4) There shall be at least 20 feet clearance between manufactured homes including manufactured homes parked end to end. No manufactured home shall be located closer than 20 feet of any exterior boundary line of the park, no closer than 15 feet to the edge of any interior street right-of-way, or closer than 10 feet to any manufactured home space (lot) boundary line.
- (5) The manufactured home park shall have a buffer which complies with Article 15 of this Ordinance.
- (6) Existing manufactured home parks which provide manufactured home spaces having a width or area less than that described above may continue to operate with spaces of existing width and area, but in no event shall any such nonconforming manufactured home park be allowed to expand unless such extension meets the requirements of this Ordinance.
- (7) Each manufactured home space shall be graded, the graded areas grassed to prevent erosion, and provide adequate storm drainage (including retention pond facilities, when applicable) away from the manufactured home. Each manufactured home space shall abut upon an improved paved interior drive. The dimensions of all manufactured home spaces shall be shown.
- (8) Interior Drives. All manufactured home spaces shall abut upon an interior drive of no less than 36 feet in right-of-way, which shall have unobstructed access to a public street or highway, it being the intent of this section that manufactured home spaces shall not have unobstructed access to public streets or highways except through said interior drive. Interior drives shall be privately owned and maintained. All interior drives shall be graded to their full right-of-way and shall have a road of at least 20 feet in width. Minimum improvements shall be a compacted base of four inches of #7 ABC stone. Roads shall be maintained with paved surface of 2" of asphalt. Graded and stabilized road shoulders and ditches shall be provided. Standing water shall not be permitted.
  - (a) Cul-de-sacs. Any interior drive designed to be closed shall have a turnaround at the closed end with a minimum right-of-way diameter of 100 feet. The entire right-of-way of such turnaround shall be graded and usable for the turning of motor vehicles. Cul-de-sacs shall not exceed 600 feet in length.

- (b) Access to the manufactured home park must be via a public road and not located in a flood hazard area. The following street and parking standards shall be complied with:
- (i) Maintenance of such streets shall be provided by the owner or operator of the park, who will be required to post a bond for the first year's maintenance, amount and terms to be determined by the Town Council.
  - (ii) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees. Where a street intersects a public street or road, the design standards of the NC Department of Transportation shall apply.
  - (iv) Proposed streets, which are obviously in alignment with others, existing and named, shall bear the assigned name of the existing streets. In no case shall the name of proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of a suffix: Street, Avenue, Boulevard, Drive, Place, Court, etc. New manufactured home park names shall not duplicate or be similar to any existing manufactured home park name in the County. Street name signs that are in compliance with current Town policy are required and may be purchased for the Town.
  - (v) A minimum of two automobile parking spaces surfaced with a minimum of four inches of gravel shall be provided on each manufactured home space and shall not be located within any public right-of-way or within any street in the park.
  - (vi) All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed in the front of the manufactured home on the driveway side with four inch lettering.
  - (vii) When more than five rural mail boxes are used for mail delivery, the approval of the local Post Office Department and the District Highway Engineer shall be required.
  - (viii) Each manufactured home park in a community's flood prone area shall have an evacuation plan indicating alternate vehicular access and escape routes. All manufactured homes to be placed in flood prone areas shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top ties at each of the four corners



of the manufactured home with two additional ties per side at intermediate locations.

- (10) Intersections. Drives shall intersect as nearly as possible at right angles, and no drive shall intersect at less than 75 degrees. Where an interior drive intersects a public right-of-way, the design standards of the North Carolina Department of Transportation shall apply.
  - (11) Spaces Numbered. Each manufactured home space shall be identified by a permanent number which shall not be changed. All space numbers must be shown on the site development plan. The appropriate number of each manufactured home space must be permanent and visibly displayed on the space. Each number shall be placed on a concrete, wood, metal, or any permanent post and conspicuously located on the lot.
  - (12) Signs for Identification of Manufactured Home Parks. Permanent identification sign(s) shall be required for every manufactured home park. The size of the signs shall be as follows: Not more than two signs with a total maximum area of 48 square feet and a total minimum area of 12 square feet. Signs must be located on the park property within 50 feet of the entrance and at least 10 feet off the front property line. Signs must be located a minimum of five feet from any side property lines. Only indirect non-flashing lighting may be used for illumination, and the sign must be constructed in such a manner as to prevent a direct view of the light source from any public road right-of-way.
- (H) Sanitary Facilities, Water Supply, Sewerage, Electricity, Lighting, and Refuse Collection Facilities.
- (1) Each manufactured home space shall be equipped with plumbing and electrical connections and shall be provided with electrical current in sufficient amount to safely meet the maximum anticipated requirements of a manufactured home.
  - (2) Water, sewerage, and electricity. Each manufactured home space shall be provided with and shall be connected to sanitary sewerage and water supply systems. Wells and septic tanks shall be approved by the Robeson County Health Department.
  - (3) Lighting. All electrical wiring shall be installed in accordance with the National Electrical Code and shall be approved only by the electrical inspector. Distribution lines shall be installed underground. All lighting shall be installed in compliance with Article 19 of this Ordinance. Underground lines shall be placed at least 18 inches below the ground surface where possible and at least one foot radial distance from water, sewer, gas, or communications lines. Electrical systems of manufactured home developments shall be calculated on the basis of at least 100 amps (at 120/140 volts) for each manufactured home. The point of electrical connection for a manufactured home shall be within an area of the manufactured home stand and approximately 40 feet from the front of the manufactured home and

approximately four feet from either side of the manufactured home. Where other utilities and fixtures prevent the location of electrical connections shall be made with due regard to uniformity, safety, and convenience. Exterior lighting shall be provided for all streets, walkways, buildings, and other facilities subject to nighttime use. The average illumination level in manufactured home parks shall be at least three tenths (0.3) footcandle, and a minimum level of one tenth (0.1) footcandle shall be maintained on all streets. Potentially hazardous locations such as street intersections and walkways shall be individually illuminated with a minimum level of six tenths (0.6) footcandle.

- (4) Refuse collection facilities. The park owner is responsible for seeing to refuse collection. All refuse shall be collected at least once/week or more if the need is indicated. When manufactured home parks are located in the Town of Pembroke town limits, the applicable sanitation regulations shall be complied with.

(I) Manufactured Home Stands and Anchors.

- (1) The area of the manufactured home stand shall be improved to provide an adequate foundation for the placement and anchoring of the manufactured home, thereby securing the structure against uplift, sliding, rotation, and/or overturning.
- (2) Each manufactured home owner shall provide anchorage in accordance with the North Carolina Regulations for Manufactured Homes.
- (3) Any manufactured home placed in a manufactured home park after adoption of this Ordinance shall have skirting.

(J) Service, Administration, and Other Buildings.

- (1) Within a manufactured home park, one manufactured home may be used as an administrative office. Other administrative and service buildings housing sanitation and laundry facilities or any other such facilities shall comply with all applicable ordinances, codes, and statutes regarding buildings, electrical installations, plumbing, and sanitation systems.
- (2) All service buildings, commercial structures, and the grounds of the park shall be maintained in a clean condition and kept free from any condition that will menace the health of any occupant or the public or constitute a nuisance.

- (K) Structural Additions. All structural additions to manufactured homes other than those which are built into the unit and designed to fold out or extend from it shall be erected only after a building permit is obtained, and such additions shall conform to the North Carolina Building Code, and shall meet the standards of special regulations adopted with respect to such additions. The building permit shall specify whether such structural additions may remain permanently, must be removed when the manufactured home is removed, or must be removed within a specified length of time after the manufactured home is removed.

Structural alterations existing at the time of passage of this Ordinance shall be removed within 30 days after the manufactured home which they serve is moved unless attached to another manufactured home on the same site within that period.

- (L) Storage. Storage of a manufactured home or recreational vehicle is prohibited.
- (M) Management. In each manufactured home park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities and equipment in a clean, orderly, safe, and sanitary condition.
- (N) Manufactured Home Park. It shall be the duty of the operator of a manufactured home park to keep an accurate register containing a record of all registered occupants. The operator shall keep the register available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.
- (O) Sales in Manufactured Home Parks.
  - (1) It shall be unlawful to sell on a commercial basis manufactured homes or trailers within manufactured home parks.
  - (2) It shall be unlawful to sell a manufactured home space(s) within the manufactured home parks.
  - (3) Except for accessory uses, it shall be unlawful to operate any business within a manufactured home park.
- (P) Landscaping and Screening Requirements. Refer to Article 15, Buffer Strips and Landscaping.

#### **Section 13-4: Commercial/Industrial Site Development Plans**

The following regulations shall apply to a non-single-family development as specified in Section 13-1, which is located in the O-I, C-1, C-2, C-3, PUD or I zoning district.

- (A) Parking. As specified in Article 17 of this Ordinance.
- (B) Loading. As specified in Article 17 of this Ordinance.
- (C) Screening and Fencing. As specified in Article 15 of this Ordinance.
- (D) Lots Fronting on a Public Street. The Planning Board may approve plans with lots within the interior of a business site development plan project provided that the Board finds that adequate access is assured by the design of the development.

- (E) Minimum Yard Requirements. All exterior lot lines located along the perimeter of the business site development plan shall satisfy the standards listed within Article 11, "Table of Area, Yard, Height and Lot Coverage Requirements."
- (F) Plans are required and must show:
- (1) Structures. Location and approximate size of all existing and proposed structures within the site, and all buildings and structures within 500 feet, in addition to public or private easements or rights-of-way adjoining or intersecting such property.
  - (2) Circulation. As specified in Article 17 of this Ordinance.
  - (3) Signs. The applicable zone sign regulations shall apply in accordance with Article 18 of this Ordinance.
  - (4) Timing. Proposed schedule of development, including stages likely to be followed.
  - (5) Other Site Plan Requirements.
    - (a) Size and location of all signs.
    - (b) Size and location of all fences, walls, and hedges.
    - (c) Proposed provision for storm drainage (including retention pond facilities, when applicable), and sanitary sewerage, approved by the Administrator.
    - (d) Proposed solid waste storage facilities.
    - (e) Proposed water system. Hydrants shall be located within 300 feet of any building or portion thereof. Where possible, such hydrants shall be located at least 50 feet from any building. If buildings have standpipes and sprinkler systems, one hydrant shall be located within 75 feet of each standpipe and sprinkler system connection.
    - (f) Types of surfacing, slope, grade and cross-section of driveways, sidewalks, malls, etc.
    - (g) Profiles of publicly maintained water and sewer lines.
    - (h) Profiles, cross-sections and slopes of on-site and off-site ditches carrying water runoff.
    - (i) Erosion and sedimentation control plan.
    - (j) Lighting plan, inclusive of wattage and illumination, in accordance with Article 19 of this Ordinance.
    - (k) Installation of curb and gutter may be required in conformance with the storm water control ordinance.
    - (l) Depict traffic control devices.
    - (m) Parking area shall have a stabilized surface with parking space and traffic lanes clearly marked. Points of access and egress shall consist of driveways or roadways at least 20 feet in width and shall be set back a sufficient distance from highway intersections to minimize traffic hazards, inconvenience, and congestion.
    - (n) All plans and construction details must meet the current specifications of the Town of Pembroke.

(6) Placement of Buildings.

- (a) Exterior walls of unattached buildings shall be located no closer than a distance equal to the height of the taller building.
- (b) Any courtyard created by the placement of the buildings shall have at least 25% of its perimeter open for access by emergency vehicles.

**ARTICLE 14. RESERVED FOR FUTURE USE.**

*(Amended 8/2/2021)*

## ARTICLE 15. BUFFER STRIPS AND LANDSCAPING

### Section 15-1. Buffer Strips

Whenever a buffer strip is required by this Ordinance, such strip shall meet the specifications of this Section, unless different specifications are given in the Section where the buffer strip is required:

- (A) A buffer strip shall consist of a planted strip which shall be a minimum of five feet in width, shall be composed of evergreen bushes, shrubs, and/or trees such that at least two rows of coverage are provided from the ground to a height of six feet within six years and foliage overlaps. A buffer strip may also be constructed of stone, block, brick, or other suitable building material, with a minimum height of six (6) feet. The five feet required for the buffer strip shall be in addition to all normal front, rear, and side yard setback requirements of this chapter. Tree spacing - large maturing trees shall be planted maximum 40' on center. Small maturing trees shall be permitted only where utility lines prevent large maturing trees; planted maximum 30' on center. Minimum tree size at time of planting shall be 2" or more in diameter measured 6" above ground level, minimum height 8 to 10 feet.
- (B) Buffer strips shall be required in the following situations, as well as in any others specified in other sections of this Ordinance: whenever a manufacturing, processing, retail, wholesale trade, or warehousing use or public utility installation is established, a buffer strip shall be provided wherever the lot on which the use is established abuts or is across an easement or right-of-way from land zoned for residential use. Landscape screen may be eliminated in part for shared parking access and connected parking lots.
- (C) All buffer strips shall become part of the lot on which they are located, or in the case of commonly owned land, shall belong to the homeowners' or property owners' association.
- (D) The buffer strip shall be maintained for the life of the development. Maintenance shall be the responsibility of the property owner, or, if the property is rented, the lessee.
- (E) If a natural screen is already in place which will adequately fulfill the purpose of the buffer strip, the Zoning Administrator may, in writing, allow a substitution of all or part of this screen for the buffer strip. Written permission of the Zoning Administrator shall be obtained before removing an existing natural buffer in the location on the required buffer strip.
- (F) Where, because of intense shade or soil conditions, a planting screen cannot be expected to thrive, the Zoning Administrator may, in writing, allow substitution of a well-maintained wall constructed of wood, masonry or other opaque material at least six feet in height.
- (G) Where it is clear that a different buffer will protect neighboring property from harmful effects, the Board of Adjustment or Town Council, for special uses, may modify the buffer up to 5 feet and one row of vegetation. *(Amended 8/2/2021)*

- (H) For special uses, the Council may require a maintenance bond for the buffers, as a condition of approval. *(Amended 8/2/2021)*

**Section 15-2. Tree Planting on Public Property**

The town encourages the planting of trees and other approved vegetation by private individuals, groups, and businesses on public property and along street rights-of-way. However, to obtain maximum benefit from those efforts, all plantings on public rights-of-way or public property owned by the town, its agents, boards, or commissions shall be done in accordance with predetermined guidelines set forth by the Planning Board on a per request basis.

The Town of Pembroke Street Department shall have the authority to maintain trees and shrubbery planted on public rights-of-way or public property owned by the town, its agents, boards, authorities, or commissions. Except by permit, construction activity within the drip line of a tree is prohibited. Activities include, but are not limited to, trenching and grading, storage of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.

**Section 15-3. Trees and Shrubbery in or along Streets and Sidewalks**

- (A) Citizens may plant trees in front of their lots and along the sidewalks adjacent to their property under the supervision of the Zoning Administrator, but no trees shall be planted in the streets, gutters, or ditches of the town. The Zoning Administrator shall notify all persons having trees in front of their lots to have them properly trimmed either by a company engaged in the business of tree trimming or by the property owners themselves following acceptable pruning standards. During normal street right-of-way maintenance by the Public Works Department, all town employees involved in trimming of trees shall operate under the direction of the Zoning Administrator and in accordance with acceptable pruning standards. In addition, all other public service or utility companies shall also follow the guidelines for acceptable pruning standards and shall notify the town prior to maintenance within the jurisdiction.
- (B) The cutting, trimming, destruction, lopping of branches or mutilation in any manner of trees or shrubbery standing along, in or extending over the street right-of-way of any municipal or state-maintained street by any person is hereby prohibited, except when done under the supervision and according to the direction of the Zoning Administrator.



#### **Section 15-4. Parking Facilities Landscaping**

- (A) All parking facilities containing more than four spaces shall submit the site plan required by this Ordinance to the Zoning Administrator for review and approval of the landscaping requirements of this section.
  
- (B) Minimum standards: At least eight (8) percent of the gross paved area of a parking facility shall be landscaped and located in the interior. For purposes of this section, interior shall mean the area within the parking facility curb or pavement and extensions that create a common geometric shape such as a square, rectangle or triangle.
  - (1) Trees and shrubbery planted pursuant to this section shall include at least one tree a minimum of eight (8) feet in height and six (6) shrubs at least eighteen (18) inches in height at planting. At least fifty (50) percent of the trees planted shall be of a shade/canopy species as outlined by the Planning Board.
  
  - (2) In support of the above, the following standards shall apply to interior plantings:
    - (a) All plantings shall be evenly distributed throughout the parking facility.
  
    - (b) All interior plantings shall be curbed or otherwise physically protected.
  
    - (c) Consecutive parking spaces shall incorporate landscape peninsulas no more than fifteen (15) spaces apart and at least the ends of all parking rows. Peninsulas shall contain at least one hundred (100) square feet in area and at least eight (8) feet in width, measured from back of curb/barrier to back of curb/barrier.
  
- (C) For parking facilities containing five (5) to thirty-six (36) spaces or stalls inclusive, a perimeter landscape strip may be provided in lieu of interior landscaping, subject to the following requirements:
  - (1) The minimum width of such strip shall be five (5) feet.
  
  - (2) For every fifty (50) linear feet or fraction thereof the perimeter landscape strip shall contain one (1) canopy tree of at least five (5) feet in height, and a continuous row (at least six) of evergreen shrubs at least eighteen (18) inches in height.
  
  - (3) Where a perimeter landscape strip overlays a street yard or bufferyard required elsewhere in this section, the more stringent requirements shall apply.

All perimeter landscaping strips shall be planted with a combination of live vegetation, groundcover, grass, trees, and/or shrubs. Vegetation planted pursuant to this section shall be selected from the list approved by the Planning Board and shall be maintained to ensure continued growth.

- (D) When a parking facility is within fifty (50) feet of the public right-of-way a perimeter planted strip shall be installed, consisting of a low buffer incorporated into the streetyard.
- (E) The Planning Board may waive all or part of the requirements of this section for any facility which is limited to periodic or intermittent use for vehicular parking, such as parking lots for churches or recreational facilities, provided the facility is completely covered by grass or otherwise presents a landscaped effect.
- (F) The Planning Board may waive the requirements of this section for temporary parking lots when determined that a waiver is necessary to relieve hardship and will not violate the purposes of this section. Any such waiver shall not exceed one year.

#### **Section 15-5. Design Standards**

- (A) Uninterrupted areas of parking lot shall be limited in size. Large parking lots shall be broken by buildings and/or landscape features.
- (B) Parking lots are to be treated as enclosed rooms for cars, with enclosure provided by tree planting and/or building wall(s). For small lots (thirty-six spaces or less), landscaping shall be required at the perimeter. For large lots (more than thirty-six spaces), landscaping shall be at the perimeter and placed to break the lot into parking modules of no more than thirty-six spaces. See Figure 1.
- (C) Parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building. On small lots, this may be achieved by providing a sidewalk at the perimeter of the lot. On larger lots, corridors within the parking area should channel pedestrians from the car to the perimeter of the lot or to the building. These corridors may be delineated by a paving material which differs from that of vehicular areas and planted to provide shade. Small posts or bollards may be included.
- (D) To maintain pedestrian comfort and calm the speed of entering traffic, driveways to parking areas should be no wider than 24 feet. Driveways connecting to state roads shall meet the requirements of the NC Department of Transportation.
- (E) To the extent practicable, adjoining parking lots serving non-residential buildings shall be interconnected.
- (F) All commercial driveway and parking areas shall be paved with asphalt, concrete, or brick pavers except for areas used for overflow, special events, and peak parking. Any non-paved surface used for overflow, special events, and peak parking that cannot be maintained with

healthy, living turf grass or similar ground cover shall be paved with asphalt, concrete, pervious pavement, or brick pavers.

- (G) Dumpsters shall be set on a concrete bed and shall be hidden by an opaque fence or wall of sufficient height to screen the bin and any appurtenances, but not less than 6' in height. Wooden shadow box fences are recommended. Trash containers such as dumpsters shall not be located abutting residential property.
- (H) Lots with less than five (5) parking spaces are not subject to the parking area landscaping provisions of this section.
- (I) Five (5) feet of sidewalk shall be provided along all property lines which are adjacent to a public right-of-way (see Figure 1).
- (J) Overflow Parking. Off-street areas used for special event parking (to accommodate occasional overflow volumes) may be constructed of any dust-free, compacted, pervious ground cover, the owner of the property shall be responsible for the maintenance of such parking in a clean and dust-free condition. Grass and mulch are examples of pervious ground cover; gravel and pavement are examples of impervious surfaces.

#### **Section 15-6. Tree Protection During Construction**

Except by permit, construction activities under the drip line of a tree are prohibited. Activities include, but are not limited to, treating or grading, storage of materials or equipment, passage or heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.

When applying for a permit, the party doing construction work under the drip line of a tree shall submit a plan showing in full detail the method or means by which a tree or trees will be protected during the entire construction process. The plan shall be subject to the approval of the Zoning Administrator or his/her designee. The plan must be approved prior to a permit being issued.

#### **Section 15-7. Maintenance**

- (A) All planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. Any planted material which becomes damaged or diseased or dies shall be replaced by the owner within sixty (60) days of the occurrence of such condition. If, in the opinion of the Zoning Administrator, there are seasonal conditions which will not permit the timely replacement of the vegetation (e.g., too hot or too cool for successful replanting), this requirement may be administratively waived until a time certain.
- (B) Nonliving screening buffers shall be maintained, cleaned, or repaired by the owner of the property on which the buffer is located. Such buffers shall be kept free of litter and advertising.

**Section 15-8. Authority of Public Works Director to Treat or Remove Trees on Private Property**

No foliage shall be allowed to extend from public or private property into any portion of a street right-of-way below a height of eight (8) feet above the grade of the sidewalk at the property line, or, if no sidewalk grade has been established the height shall be measured vertically above the center of the roadway. The Zoning Administrator may cause or order corrective action to prevent any such condition from existing.

**Section 15-9. Pruning Requirements**

A permit is not required for the pruning of trees. However, in order to prevent excessive pruning and topping of trees and to prevent pruning that will be hazardous to the health and natural appearance to the tree, compliance with approved pruning standards is required, and failure to meet these standards is a violation of this section. The Public Works Director shall maintain on file at all times a copy of the current edition of Pruning Standards by the American Society of Consulting Arborists and shall make copies of such standards available for the cost of reproduction upon request.

**Section 15-10. Landscaping Standards – Single-Family Residential Subdivisions**

Where a subdivision is proposed either on unforested land or trees have been removed, new trees shall be planted in accordance with the provisions of this section.

- (A) Along Street Frontage. As a requirement of subdivision approval, the subdivider shall plant trees along the frontage of both sides of all existing and proposed streets in the subdivision. In calculating the number of trees required per lot frontage, tree types have been assigned a value in linear feet based on the average mature canopy spread. The values are twenty-five (25) feet for large trees and fifteen (15) feet for small trees. Approved recreation/open space areas, must have one (1) large tree per street frontage (value of 25 feet).

This coverage must include a combination of trees to allow for mature canopies to cover 50% of lot width.

Example: Total lot width = 100 feet  
Required Canopy Coverage = 50% or 50 feet

Two Large Trees = 50 feet of coverage

One Large Tree + two small trees = 55 feet of coverage

Four small trees = 60 feet of coverage

Upon installation, trees shall be spaced at least fifteen (15) feet apart, but preferably no greater than the spread of the canopy normally achieved by the tree species upon maturity.

Street trees shall be planted within the required front yard setback. Selection and location of trees shall consider existing and future site conditions including, but not limited to, overhead and underground utility lines, vehicular access drives, the location and extent of existing vegetation, and soil suitability.

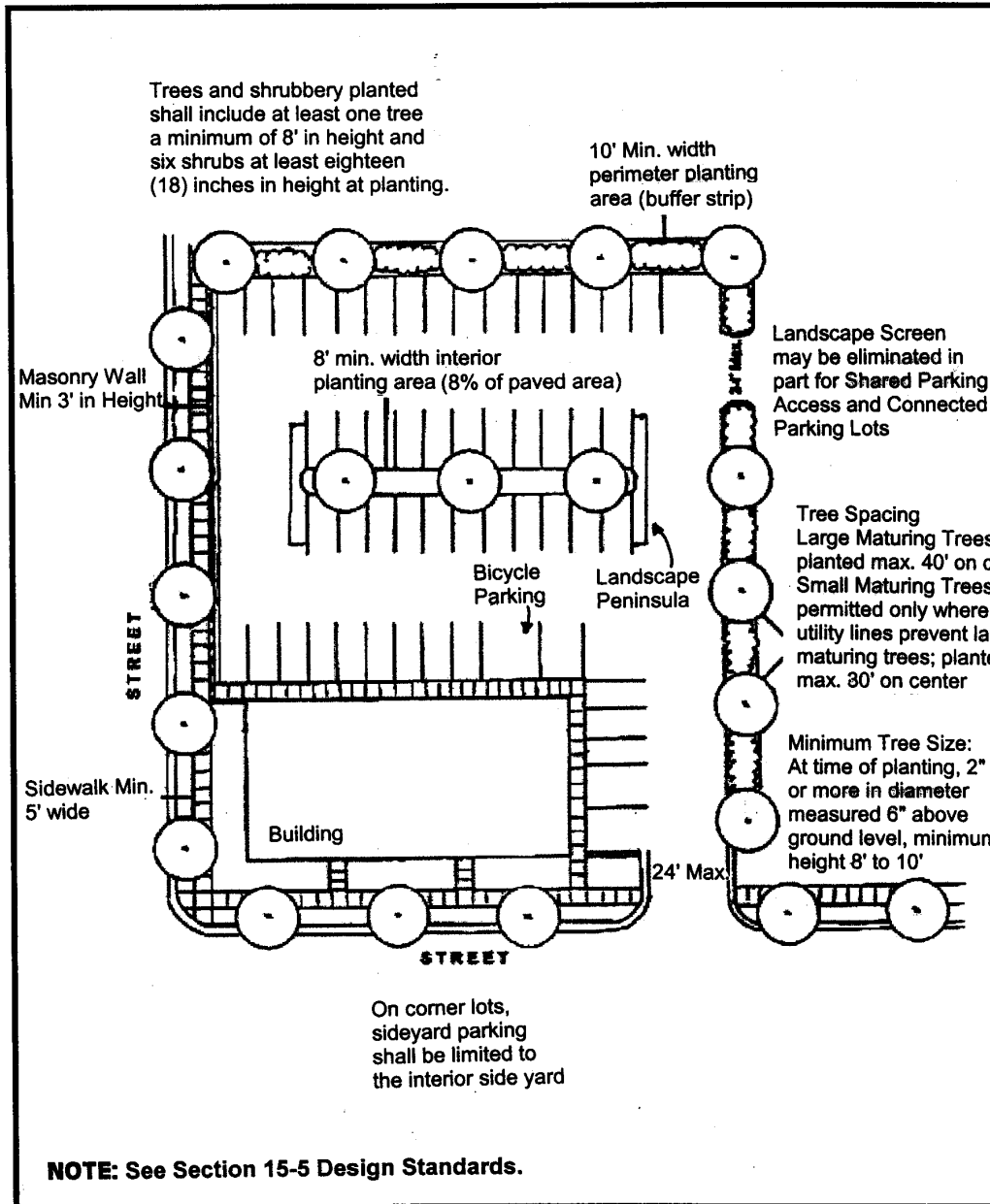
- (B) Tree Types/Plantings. Trees to be planted shall be installed to reflect the natural growth patterns of materials selected. Tree species shall be planted, maintained, and spaced in a manner which permits full spread of the canopy upon maturity and shall be selected from a list of acceptable plant materials approved by the Town of Pembroke Planning Board. The preliminary plat shall show the location and types of proposed or existing trees which satisfy the requirements of this section. Other suitable alternatives may be used if approved by the Administrator. Plantings as required by this ordinance shall not be located in drainage, access or utility easements or under overhead power lines.
- (C) Existing Vegetation. Existing trees which satisfy the requirements of this section may fulfill the requirements of this section.

#### **Section 15-11. Exemptions**

- (A) The Zoning Administrator may waive the requirements of this section during an emergency such as a hurricane, tornado, windstorm, tropical storm, flood, or other act of God.
- (B) If any tree shall be determined to be in a hazardous condition so as to (a) immediately endanger the public health, safety, or welfare, or (b) cause an immediate disruption of public service, the Public Works Director may determine that replacement with additional trees is necessary. In making determinations, the Public Works Director shall utilize such professional criteria and technical assistance as may be necessary.
- (C) This section shall not apply to the following types of property in the manner noted:
  - (1) Except for the construction of single-family residences in subdivisions prior to the recording of a final plat for the subdivision, single-family residences are exempt from this section.
  - (2) Property used for a business primarily engaged in the sale and display of motor vehicles, manufactured housing, boats, recreational vehicles, or similar equipment may have the required landscaping within the streetyard installed at a minimum height of eighteen (18) inches at planting and not exceeding three (3) feet at maturity.

**FIGURE 1**

**Typical Conditions/Corner Lot**



## **ARTICLE 16. BUILDING DESIGN STANDARDS**

### **Section 16-1. Purpose and Intent**

The review and approval of building design is critical to upholding and promoting high quality development throughout the Town. The purpose of this section is to ensure that proposed developments are designed in a way that promotes compatibility throughout the Town, including within residential developments, within non-residential centers, and between residential and non-residential areas. Specifically, the intent of this section is as follows:

- (A) To encourage high quality appearance for developments, thoroughfares, and streets;
- (B) To provide proper standards that ensure a high-quality appearance for Pembroke, and promote good design while also allowing individuality, creativity, and artistic expression;
- (C) To encourage the proper use of the land by promoting an appropriate balance between the built environment and preservation/conservation of open space (note that some places may be appropriate for more urban type development and less open space, such as the downtown and other areas designated in the Comprehensive Plan);
- (D) To preserve and improve property values and protect private and public investment; and
- (E) To preserve and protect the identity and character of Pembroke, and to enhance the business economy.

### **Section 16-2. Applicability**

These standards shall apply to all approved special uses (Article 12) and all permanent structures in a Major Site Development Plan (Article 13) excluding single-family residential dwellings. (*Amended 8/2/2021*)

### **Section 16-3. General Requirements**

- (A) Development within Non-Residential Centers. All proposed buildings within non-residential centers shall be designed to be consistent within the center in terms of architectural design, exterior building materials, colors, and arrangement of buildings and other features. A Statement of Design Compatibility (SDC) shall be required prior to the approval of the first site plan within the development (see Section 16-4).
- (B) Development Outside of Non-Residential Centers. For all other non-residential development located outside of non-residential centers (e.g., buildings on “stand alone” parcels, modifications to existing developments, and infill development), the building design(s) shall be compatible within the subdivision or with adjacent buildings in close

proximity to the proposed building. In such cases, a Statement of Design Compatibility is not required.

- (C) Building Placement. Non-residential buildings that are placed close to public streets to provide a more urban appearance will be permitted, especially within designated activity centers as recommended in the Comprehensive Land Use Plan. Such developments must follow the provisions of this Ordinance, including, but not limited to: building orientation, arrangement, mass, elements, and materials.
- (D) Review Considerations. The Board of Commissioners or Administrator may consider alternative colors and designs for buildings provided that they meet the intent of this section. The Board of Commissioners or Administrator should consider such things as the intensity of the colors, the extent of the design difference, and the spatial separation of each building. Plans or proposals that are not consistent with this Ordinance shall require Board of Commissioners approval. The use of high intensity colors, metallic, or fluorescent pigments is prohibited.

**Section 16-4. Statement of Design Compatibility (SDC)**

A Statement of Design Compatibility (SDC) shall be included with all site plans for buildings within a non-residential center, and shall be submitted with the site plan submission. The Board of Commissioners or Administrator shall consider the SDC as part of the site plan review. The SDC shall include:

- (A) Primary physical characteristics including predominant color(s), exterior materials and architectural features;
- (B) Primary landscape theme (general, not specific);
- (C) Building height;
- (D) Lighting elements (general);
- (E) Other elements which may be relevant to a specific development and how they are compatible with the adjacent sites; and
- (F) Uniform Signage Plan (general).

The SDC shall designate the unifying elements that are to be incorporated within the entire project (including any outparcel) and specifically how these elements are to be used.

**Section 16-5. Criteria for Review of SDC**

- (A) Primary Color(s). A maximum of three predominant colors shall be designated as a primary unifying element (this does not include accent colors). Flexibility may be used to allow



additional colors and/or a range of predominant colors provided that these colors are in the same family of colors (similar to each other). Any color specified as a primary unifying element shall be dominant in the building facade. Color “samples” shall be provided to the staff at the time of site plan review. Colored renderings may be required, but shall not be a substitute for this requirement. In addition to listing the color(s), the SDC shall also describe how and where the color will be used. It is recognized that the same color on a different material may not match exactly.

- (B) Accent Colors. These colors may be used as a secondary unifying element provided they are used throughout the development. Non-illuminated accent bands (e.g., canopies with gas stations and the roof of fast-food buildings) on roofs, canopies, or other features shall be one of the primary colors of the development or be white or earth tone in color.
- (C) Exterior Materials. The dominant material or combination of materials shall be defined. For each building material selected, the color of that material shall also be defined.
- (D) Architectural Features. Architectural features refer to a number of building elements that are repeated throughout the development. These include, but are not limited to: roof lines, canopies, building ornamentation, patterns, and building form. Any architectural feature designated as a unifying element throughout all buildings shall contribute to the identity of the development and not be just a minor architectural detail.
  - (1) Use of Awnings. No awnings/canopies shall be internally lit. All awnings/canopies shall utilize the same design and color throughout the development.
  - (2) Roof Type. Outparcels may use a different roof (e.g., pitch vs. flat) than the main buildings within centers provided that the building on the outparcel is a size where the different roof type does not dominate the center and/or the roof type has a tie to the other buildings (e.g., mansard roofs).
  - (3) Detached Canopies. Detached canopies are subject to the color and roof type requirements, above.
- (E) Landscaping. Plant materials may be used in such a way as to reinforce compatibility depending on the type of plant materials selected and their placement on the site. This previous statement is not intended to limit creative landscape designs within the center, but to promote general compatibility in materials. Drought tolerant or native species (including trees, shrubs, and turf grasses) that do not require extensive watering are strongly recommended.
- (F) Setbacks. Setbacks from a street right-of-way may be an appropriate unifying element where a number of freestanding buildings occur within the development.

- (G) Building Height. A standard height among a group of buildings can usually tie the buildings together visually.
- (H) Lighting. A consistent type of lighting fixture repeated throughout the development as well as a similar wattage, height, type of light produced, and/or color of light are to serve as a unifying element. Light pole height, wattage, pole/fixture/light color should all be the same.

#### **Section 16-6. Recording Requirements**

Where non-residential subdivision plans or residential developments requiring a site plan are approved, no lots shall be recorded without noting the general requirements for design compatibility on the maps for recordation. Owners of properties with non-residential subdivision and site plans which include outparcel lots are strongly recommended to record design compatibility covenants which refer to these requirements on record in the Planning Department. These covenants shall run with the land and be administered by a property owners' association or similar organization.

#### **Section 16-7. Amendment Process**

- (A) The SDC may be amended if the amendments are signed by the owner of the non-residential center or overall project and approved by the Administrator. The Administrator shall review the amendments based on their ability to meet the intent of this Ordinance. The SDC for the main structures of the development shall be approved as part of the first site plan within a development.
- (B) Any revision to the SDC that involves a change in the primary characteristics of an existing development (such as a change in color or addition of a canopy) shall be reviewed and approved by those with the authority to approve plans and all owners of property falling under the SDC governance. Any change in primary or secondary characteristics shall be implemented comprehensively throughout the entire development including outparcels within a reasonable time frame (i.e., less than one year unless otherwise approved by the Administrator). Any approved changes shall meet the criteria of Section 16-5.

# ARTICLE 17. OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

## Section 17-1: Application

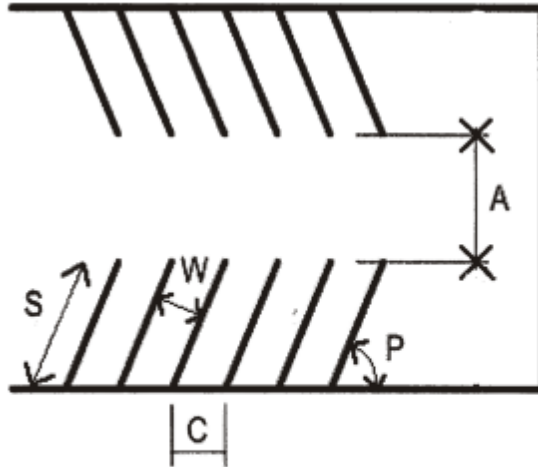
The off-street parking and loading requirements shall apply to all districts shown on the Official Zoning Map of the Town of Pembroke.

## Section 17-2: General

- (A) Off-Street Parking Requirements. There shall be provided at the time of the erection of any building, at the time an existing structure is demolished in order to permit new construction, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this Ordinance. Such parking space may be provided in a parking garage or properly graded open space. All parking areas shall be designed so that ingress to and egress from such area shall be established and maintained, and that all vehicular traffic shall enter and leave the lot by forward motion of the vehicle. No off-street parking or loading shall be permitted in a required yard or open space, except in the case of a single or two-family dwelling. No required off-street parking shall be located on any public right-of-way.
- (B) Minimum Parking Requirements. Each application for a development permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. Required off-street parking area for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this Ordinance are met. No Certificate of Occupancy shall be issued until the parking requirements of this section are met. *(Amended 8/2/2021)*
- (C) Dimensions. Each automobile parking space shall have the following minimum dimensions:

Angle (degrees)	Stall Width (feet)	Curb Length per Car (feet)	Stall Depth (feet)	Aisle Width between parking spaces (feet)
0	9	23	9	12
20	9	26-1/3	14	12
30	9	18	16-1/2	12
45	9	13	19-1/6	12
60	9	10	20-1/2	14-1/2
70	9	9-3/5	20-5/6	23

Angle (degrees)	Stall Width (feet)	Curb Length per Car (feet)	Stall Depth (feet)	Aisle Width between parking spaces (feet)
90	9	9	19	24



P=Parking Angle, degrees  
C=Curb Length, feet  
S=Stall Depth, feet

W=Stall Width, feet  
A=Aisle Width, feet

(D) Parking Lots with More than Four Spaces.

- (1) Surfacing. All such parking lots shall be graded and surfaced with crush and run, blacktop, concrete, brick, or other such surfacing material to ensure a dustless surface condition. Nonresidential uses providing off-street parking for more than 20 vehicles, and all nonresidential uses in the business districts providing off-street parking shall have paved parking lots, with blacktop, concrete, or brick as surfacing material.
- (2) Markings. Each parking stall shall be marked off and maintained so as to be distinguishable.
- (3) Lighting. Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.
- (4) Curb or Bumpers. The required yards shall be set off from parking areas by either continuous curb or one noncontinuous stationary bumper for each parking space abutting on a yard, which curb or bumper shall not be less than five inches or more than two feet high.
- (5) Drainage. Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the

Zoning Administrator may exempt the developer from this requirement, provided that adequate provision is made for drainage.

- (6) Separation of Bumper and Walkways. In the event any parking stall abuts upon a walkway, there shall be a space of three and a half feet between the wheel bumper or curb and the edge of the walkway.
- (7) Entrances and Exits. These shall be provided in accordance with Section 17-4 of this Ordinance.
- (E) Combination of Required Parking Space. The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that ½ of the parking spaces required for churches, theater, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.
- (F) Remote Parking Space. If the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main entrance to such principal use.
- (G) Separation from Walkways, Sidewalks, and Streets. All parking, loading, and service areas shall be separated from walkways, sidewalks, and streets by curbing or other suitable protective device to prevent vehicles from intruding into these areas.
- (H) Handicapped Parking Requirements. Handicapped parking spaces shall meet the following criteria:
  - (1) Handicapped parking spaces shall be in accordance with the regulations set forth by the Americans with Disabilities Act. All handicapped spaces shall be identified by pavement markings and by appropriate signage. Handicapped parking shall be required on all multi-family and nonresidential sites.
  - (2) Handicapped parking spaces shall be located in the closest proximity to major building entrances, but in no event shall such spaces be located more than 100 feet from a major building entrance.
  - (3) Handicapped parking spaces shall be a minimum of eight feet in width by 20 feet in length and shall have an adjacent access aisle that has a minimum width of five feet. Two accessible parking spaces may share a common access aisle.
  - (4) The first one out of every eight accessible parking spaces shall be a van accessible space. Van parking spaces shall have an adjacent access aisle a minimum of eight feet in width and a vertical clearance of at least eight feet along the vehicular route to the parking space.

(5) Handicapped parking will be required on all sites. The minimum number to be provided for all multi-family and nonresidential development is as follows:

- (a) Up to 25 spaces in lot: One handicapped space.
- (b) 26 to 50 spaces in lot: Two handicapped spaces.
- (c) 51 to 75 spaces in lot: Three handicapped spaces.
- (d) 76 to 100 spaces in lot: Four handicapped spaces.
- (e) 101 to 150 spaces in lot: Five handicapped spaces.
- (f) 151 to 200 spaces in lot: Six handicapped spaces.
- (g) 201 to 300 spaces in lot: Seven handicapped spaces.
- (h) 301 to 400 spaces in lot: Eight handicapped spaces.
- (i) Over 400 spaces in lot: Two percent of total spaces.

(I) Landscaping Requirements. See Article 15.

(J) Exceptions. (Amended 10/2/2023)

- (1) The Zoning Administrator may withhold a permit or Certificate of Occupancy if a parking layout not specifically prohibited by this Section would be likely to cause avoidable safety or traffic congestion problems until modification is made. The applicant may appeal the Zoning Administrator's decision to the Board of Adjustment under the normal procedure for an appeal.
- (2) If a peculiar characteristic of an establishment makes the requirements in this Section clearly unrealistic, the Board of Adjustment may grant the applicant a parking modification.
- (3) In the Central Business District, the Zoning Administrator may allow a new use to be established in an existing building even if all parking requirements of this Article cannot be met for the new use, provided that as much off-street parking as can reasonably be provided is provided by the use, and no foreseeable traffic congestion problems will be created.
- (4) Alternative Parking Plan (Special Use Permit Required). It is recognized that the intent of the parking requirements of this Article may be accomplished by alternative methods or applications. Certain uses, due to their nature or operation may be able to propose alternative methods that better serve the use in a more practical manner than what is required by this UDO. Alternative Parking Plans shall be incorporated into the site plan if the developer chooses to utilize this option. Alternative Parking Plans are required to receive Special Use Permit approval from the Town Council. Alternative Parking Plans shall incorporate the following elements:
  - (a) A parking or traffic study conducted and prepared by a North Carolina licensed Professional Engineer that includes parking estimates for the

proposed use, average number of vehicles per day, adjacent uses and parking provided on adjacent uses, evaluation of the use including structure size and type. An explanatory narrative identifying the need for alternative parking;

- (b) Off-site parking agreements with existing adjacent lots, if any, shall be recorded with the Robeson County Register of Deeds. The use of off-site parking on adjacent properties shall not compromise the total number of spaces needed for adjacent uses and cause adjacent uses to no longer comply with the UDO;
- (c) Alternative plans shall incorporate as many elements of Section 17-2 General Requirements as possible. Where not possible, an explanatory narrative as to why the elements cannot be incorporated is required.
- (d) Alternative plans shall not detract from the continuity, connectivity and convenient proximity for pedestrians between or among existing or future uses in the vicinity;
- (e) Alternative plans shall minimize aesthetic visual and aesthetic impacts along transportation corridors where possible and locate parking areas along the rear or side portion of the structure;
- (f) Alternative plans shall minimize visual and aesthetic impacts on any adjacent residential properties;
- (g) Alternative plans shall not create any physical impact on facilities that serve alternative modes of transportation;
- (h) Alternative plans shall not impact natural areas or features of the site.
- (i) Alternative plans shall meet the parking dimension requirements in Section 17-2 (C) Dimensions;
- (j) If the size, type, or use of the development changes resulting in more than a 10% increase in parking needed for the use, the Alternative Parking Plan is required to undergo site plan review and receive approval from the Town Council.

### **Section 17-3: Minimum Parking Requirements**

The minimum number of required off-street parking spaces shall be calculated as follows. In the case of a building or use not expressly provided for, the number of off-street access spaces shall be the same as for a similar use or inclusive category for which space is provided. Where there is more than one use in a single structure, or on a single tract, or two or more instances of the same use, the

minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses, except for shopping centers for which numbers of spaces are expressly provided.

Agricultural - Livestock and Vegetative	One space per 400 square feet of gross floor area.
Art Gallery	One space per each 300 square feet of gross floor area.
Assemblies (Assembly Hall, Armory, Stadium, Coliseum)	One parking space or each four spectator seats (one seat is equal to two feet of bench length).
Auction Sales	One space per two seats or two per 100 square feet of gross leasable area, whichever is greater.
Automatic Teller Machine	Two spaces per machine.
Automobile Laundry/Car Wash, Full Service	One space for each two employees on shift of greatest employment, plus one space for the manager. Plus sufficient space for twelve stacking/queuing spaces per day.
Automobile Laundry/Car Wash, Self Service	Four stacking spaces for each washing stall, plus two drying spaces for each washing stall.
Automobile Parts and Accessory Sales	One space per each 400 square feet of leasable area, plus one space for each employee on the maximum work shift.
Automobile Repair and/or Body Work	One space for each service bay.
Automobile Service Station Operations	1.5 spaces for each fuel nozzle. In addition, one parking space shall be provided for each 50 square feet of usable floor area in the cashier's and office areas. In no instance shall such a facility provide less than five parking spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel.



Bank	One space per each 400 square feet of floor area up to 20,000 square feet, plus one for each 500 square feet of floor area in excess of 20,000 square feet.
Barbering and Hairdressing Services	Two parking spaces per beauty or barber chair.
Bed and Breakfast Inn	One space for every rental room plus one space for every two permanent occupants.
Bicycle Sales and Repair	Three spaces per 1,000 square feet of gross floor area.
Bingo Parlor	One space for three seats (based on design capacity) or one per 100 square feet of total floor area, whichever is greater.
Books and Printed Matter, Distribution	4.5 spaces for every 1,000 square feet of gross floor area.
Bowling Alley	Three spaces per alley plus one space for each 1,000 square feet for any other use associated with the establishment such as restaurant, etc.
Cemetery	One space per full-time employee.
Churches	One parking space for each four seats in the sanctuary.
Clinic Services, Medical and Dental	Four parking spaces for each doctor plus one parking space for each employee.
Day Care Center	One space for each adult attendant and one space for every six children or fraction thereof.
Day Support Facility ( <i>Amended 8/4/2014</i> )	One space for every four persons of approved occupancy (building capacity) plus one space designated for safe and convenient loading and unloading of persons for each 20 persons of approved capacity or portion thereof.

Drive-in Restaurant	One space for each three seats, fifteen spaces for drive-in service, plus one space for each two employees.
Drug and Alcohol Treatment Center	One space per two beds and one space per staff member.
Dry Cleaning and Laundry	One space for each 200 square feet of gross floor area used by the general public.
Dwelling, Single and Two-family	Two parking spaces per dwelling unit.
Dwelling, Multi-family	1.5 spaces for each 1-bedroom unit, 2 spaces for each 2-bedroom unit, 2.5 spaces for all units over 2 bedroom.
Dwelling, Rooming or Boardinghouse	One space for each two rooms, plus one space for the owner or manager if living on the premises.
Eating and Drinking Facilities	One space for each four seats.
Eating and Drinking Facilities, Fast Food <i>(Amended 1/3/2022)</i>	Thirteen spaces per 1,000 square feet of gross floor area. When queuing (stacking) lanes are provided for drive through service, up to fifty (50) percent of the designated queuing spaces may be included in determining compliance with the parking requirement.
Exterminating Services	Three spaces per 1,000 square feet of gross floor area.
Funeral Homes	One parking space for each five seats in the chapel or parlor, plus one for each funeral vehicle.
Golf Course	Twenty-five spaces per nine holes, plus one space per employee on shift of greatest employment.

Health Club/Gymnasium	One space for each 100 square feet of gross floor area.
Home Occupation	Two spaces in addition to residence requirements.
Hospital or Sanitarium Care	Two spaces for each bed.
Industrial and Research uses, warehousing, and very low customer volume wholesaling operations	One space for each employee on the largest shift, plus one space for every administrative office and two spaces for visitors.
Kennel Operations, Care	One space per 400 square feet, but no fewer than four spaces.
Libraries	One space for each 4 seats provided for patron use.
Manufactured Home Parks	Two spaces for each manufactured home plus one visitor parking space for each four manufactured homes.
Motel, Hotel, or Motor Court Operations	One space for every rental room, one space for every two permanent occupants, plus one space for each three employees. (Additional spaces may be required for commercial or business uses in the same building).
Municipal Building	One space for each employee and one space for each five seats in the largest assembly room.
Nursery Operations (Plant)	One space per 1,000 square feet of total sales area.
Nursing Home/Assisted Living	One space per three residents, plus one additional space for each employee.
Offices, General or Professional	One parking space for each 300 square feet of gross floor area.

Post Office	One space for each 400 square feet of gross floor area, plus one space per each two employees on the shift of greatest employment.
Public or Private Clubs and Community Centers	One space for each 200 square feet of gross floor space.
Public Utility Buildings	One space for each employee.
Recreation Center	One space for every 100 square feet of floor area.
Retail and Service Establishments, such as furniture, appliance, household equipment, carpet and hardware stores, repair shops including shoe repair, contractors' showrooms, drapery, paint and wallpaper, upholstery, interior decorator, motor vehicle sales, plant nurseries, etc.	One space for each 500 square feet of gross floor area or fraction thereof, including any outdoor sales area.
All other commercial uses such as retail stores, wholesale outlet stores, department stores, discount stores, drug stores, coin-operated laundries, variety stores	One space for each 200 square feet of gross floor area of fraction thereof, including any outdoor sales area.
Schools, Elementary and Junior High	One parking space for each classroom and administrative office, one additional parking space for each 100 students, plus one space for each bus assigned to the school.
Schools, Junior Colleges, Colleges, and Universities	One space for every six students, based upon the maximum number of students attending classes on the premises at any one time during any 24-hour period.
Schools, Senior High	One parking space for each ten students for which the building was designed, one parking space for each classroom and administrative office, plus one space for each bus assigned to the school.

Shopping Centers (in lieu of individual store parking requirements) up to 150,000 square feet of gross leasable area	Six spaces per 1,000 square feet of gross leasable area or fraction thereof.
Shopping Centers above 150,000 square feet of gross leasable area	Four spaces per 1,000 square feet of gross leasable area or fraction thereof.
Storage, Self-Service ( <i>Amended 10/2/2023</i> )	One space for each 1,200 square feet of gross floor area.
Swimming Pool	Two spaces for every 100 square feet of water area.
Telecommunication Towers	Four spaces per 1,000 square feet.
Theater Productions, Indoor	One space for each four seats in the largest assembly area.
Theater Productions, Outdoor	One space for each 45 square feet of assembly or floor area.
Travel Agency	Four spaces per 1,000 square feet.
Veterinarian	One space per 500 square feet.
Wholesale establishments, warehouses, and other businesses not catering to retail or package trade	One space for every 1,000 square feet of gross floor area.

Special situations which are not covered by the table above shall be handled by the Board of Adjustment. The Board of Adjustment shall make the final determination as to the number of spaces to be required, but shall in all cases give due consideration to the needs therefor.

**Section 17-4: Driveways**

(A) General. After the date of passage of this section, only driveways designed, approved, constructed, and surfaced in accordance with the provisions herein shall be allowed to provide motor vehicle access to or from any property upon which a building has been constructed, reconstructed, or physically altered. All driveways shall be paved with either asphalt or concrete, or with alternative paving material (e.g., concrete pavers, brick,

“turfstone” or similar pervious material) determined to exhibit equivalent wear resistance and load bearing characteristics as asphalt or concrete.

Before a building permit is issued for the construction, reconstruction, or change in use of any building or land used for purposes other than a single or two-family residence, all driveways shall be reviewed and approved by the Administrator. Private driveways serving single-family and two-family dwellings shall not be regulated by the provision of this Ordinance. “Construction, reconstruction, or change in use” refers to those improvements made to the site involving overall structure size or to changes in use which would require the addition of one or more parking spaces under the provision of Article 17, Off-Street Parking and Off-Street Loading Requirements; it is not intended to refer to construction activities which merely involve changes to exterior architectural features (e.g., painting, addition of siding, roofing activities, etc.).

When the use of any driveway has been permanently discontinued, the property owner of that driveway shall, at his expense, replace all necessary curbs, gutters, aprons, sidewalks, and appurtenances thereto, within 60 days of receipt of a written notice from the Administrator.

No driveway shall conflict with any municipal facility such as traffic signal standards, catch basins, fire hydrants, crosswalks, loading zones, bus stops, utility poles, fire-alarm supports, meter boxes, and sewer clean-outs or other necessary structures, except with the express approval of the Director of Public Works. Any adjustments to municipal facilities to avoid such conflicts shall be at the expense of the driveway applicant.

(B) Permit Requirements. A permit must be obtained from the Public Works Director prior to the removal, alteration, or construction of any curb, driveway, gutter, and/or pavement or prior to the performance of any other work in any public or private street. Conditions governing the issuance of such a permit are:

- (1) A continuing indemnity bond with sufficient surety acceptable to the town may be required of the party performing the work. All work must be done in conformity with the standards established herein.
- (2) The town shall be indemnified for any damages it might sustain as a result of the breach of condition above. The damages payable to the town shall be the amount required to make such improvement conform to town standards.

Based on the Town of Pembroke Schedule of Fees, a fee shall be paid to the town at the time the application for a driveway permit is made.

(C) Submission of Plans. Two copies of plans showing the location and dimensions of all proposed improvements shall be filed with the Administrator for approval prior to the issuance of a driveway permit for uses other than single or two-family residential.

All design and construction of driveways shall conform to the requirements of the North Carolina Department of Transportation.

(D) Driveway Location(s).

- (1) A safe means of ingress and egress shall be provided for all parking spaces and driveways for uses other than single and two-family residential and shall be at least 24 feet wide.
- (2) Two driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 50 feet.
- (3) Three driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 150 feet.
- (4) Four or more driveways entering the same street from a single lot shall be prohibited.
- (5) In no case may the total width of all driveways exceed 50% of the total property frontage.
- (6) No driveway (nearest edge) shall be located within 10 feet of a side lot property line except in the case of a shared driveway (single curb/access point) utilized by two or more lots.
- (7) No driveway (nearest edge) shall be located within 25 feet of an intersection on a secondary road and 40 feet on a primary road except in the case where no other lot access to a public street or town-approved private road is available.

(E) Driveway Permit Inspection. Once the driveway permit is duly issued, the supervisor of the driveway construction site shall keep the permit available for on-the-job inspection by authorized personnel of the town. The inspector or other authorized representative of the town shall have the authority to require the immediate stoppage of work not performed either in accordance with the approved plans or under the requirements of this section and may order the nonconforming installations be corrected and/or blocked.

(F) Brick Driveways. Brick driveways will be allowed consisting of smooth, hard-burned clay bricks with an appropriate concrete base conforming to the design standards of the Administrator. In the event repairs are required after brick driveways are installed due to utility replacement or other construction work, the driveway applicant shall pay that portion of the repair cost which exceeds the cost of repair using standard concrete six inches in thickness. Normal maintenance or replacement will be the responsibility of the driveway applicant.

**Section 17-5: Off-Street Loading Requirements**

In any district in which a building hereafter erected is to be occupied by any manufacturing, processing, assembly, wholesaling, retailing, laundering, dry cleaning, or similar activity requiring the receiving or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space. Each such loading space shall be at least 15 feet in width, 30 feet in length, and shall have a height clearance of at least 15 feet.

If there is not more than one delivery and pickup during the hours when a retail trade, office, or institutional establishment is open to patrons, such space may be combined with the existing parking space on the premises. Loading space shall be provided in accordance with the following schedule:

Office and Institutional Uses including Hotels and Motels	One space for each 50,000 square feet of gross floor area or fraction thereof.
Retail Business	One space for each 20,000 square feet of gross floor area or fraction thereof.
Wholesale Trade and Industry	One space for each 10,000 square feet of gross floor area or fraction thereof.
Elementary, Junior High, High Schools, Kindergartens, Nurseries, and Day Care Centers	One space for each 50,000 square feet of gross floor area or fraction thereof, plus a safe place off the street for the loading and unloading of children from automobiles and buses.

The off-street loading space provided shall be permanent and shall not be used for any other purpose.

Exceptions. If a peculiar characteristic of an establishment makes the requirements of this Section clearly unrealistic, the Board of Adjustment may grant the applicant a modification of the loading requirements in regard to that particular establishment.

The Zoning Administrator may allow a new use to be established in an existing building even if all loading requirements of this Section cannot be met for the new use, provided that as much loading space as can reasonably be provided is provided by the use, and traffic or safety hazards will not be created.



## **ARTICLE 18. REGULATIONS FOR SIGNS** *(Amended 1/4/2016)*

### **Section 18-1: Intent**

The intent of this section is, 1) to establish sign standards and restrictions that allow for the legitimate identification of residential, commercial, industrial, and other activities, 2) to provide for the safety of vehicular traffic by limiting visual interference, 3) to facilitate police and fire protection, 4) to protect the general public from injury caused by distracting and improperly placed signs, and 5) to protect property values while at the same time promoting the economic welfare of the Town of Pembroke by encouraging visually appealing and non-distracting forms of information transfer. For definitions relating to this Section refer to Section 2-2.

### **Section 18-2: General Provisions**

(A) Administration. The Administrator shall be responsible for the enforcement of this Section. The Administrator shall administer and enforce the terms and conditions of this Section and all other provisions of laws relating to signs. The duties shall include not only the issuance of permits as required in Subsection (B), but also enforcement of the provisions of this Section.

(B) Permit Requirements.

(1) General Requirements. Except as otherwise provided in Subsection (C) and (D), it shall be unlawful to erect, post, hang, paint, repair, replace, change, or maintain any sign without first obtaining a sign permit. Application for the permit shall be made in writing on forms furnished by the Administrator and signed by the applicant or authorized agent. No permit shall be required, however, for the maintenance requirements of Section 18-7 (Maintenance) hereinafter. Failure to secure a permit shall constitute a violation of this Section.

(2) Plans, Specifications, and Other Data Required. The application shall be accompanied by complete information as required on forms provided by the Administrator and shall include, without being limited to, a site plan and elevation drawings of the proposed sign, a drawing of the building facade indicating the proposed location of the sign, height, dimensions and square footage of the proposed sign and any other data as the Administrator may determine is necessary for review of the application. The Administrator shall not issue a sign permit unless the plans, specifications, and intended use of such sign conform in all respects to the applicable provisions of this Article.

(3) Fees.

(a) Generally. A sign permit fee shall be paid to the Town of Pembroke for each sign permit applied for in accordance with this Article in an amount determined by the Town of Pembroke Schedule of Fees and based on the size

of the sign. This permit fee does not include electrical permit fees, which shall be additional. A sign permit fee shall not be charged for replacing a nonconforming sign with a conforming sign or for bringing a nonconforming sign into conformance with this Article if such action is undertaken voluntarily within one year of the effective date of this Section.

(b) When Fees Payable. Sign permit fees shall be paid upon the application for a sign permit and prior to commencement of any sign construction on the lot where the sign will be located.

(c) Late Fee. Work performed without a permit shall be subject to a late fee as set forth in the Town of Pembroke Schedule of Fees.

(4) Revocation of Permits for Non-Use.

(a) Commencement of Work. If actual work for the permitted sign on the site is not commenced within 60 days from the date of such sign permit or if substantial work for the permitted sign is suspended for a period of 60 consecutive days after issuance of the sign permit, the permit shall automatically become null and void. However, for new construction, the sign permit shall not become null and void until 60 days after the Zoning Compliance Release has been issued.

(b) Extensions of Time. The provisions of subsection (a) above shall not apply when delays are not a result of willful acts or neglect of the persons obtaining the permit. In that event, the Administrator may grant an extension of time within which operations must be started or resumed. All requests for such extensions and approval thereof shall be in writing.

(5) Forfeiture of Fees. When any permit has been revoked under the terms of this Section, the permit fees shall not be refunded. If a sign permit is denied, however, the permit fee will be refunded.

(6) Licenses.

(a) Sign Contractor's License. No person shall engage in the business of erecting or maintaining signs in the Town of Pembroke unless said person has been issued a sign contractor's license which has not expired at the time said work is done. This requirement shall be interpreted to exclude those persons who construct and erect a principal use identification sign when that sign is used at that person's place of business, provided all construction and installation is properly permitted and inspected for compliance with the applicable building codes of the Town of Pembroke and other parts of this Section.

(b) Outdoor Advertising License/Billboards. No person shall erect or maintain off-premises advertising structures in the Town of Pembroke unless said person has been issued an outdoor advertising license which has not expired at the time said work is done. In order to obtain an outdoor advertising license, the licensee must be a licensed sign contractor, as described in paragraph (a) above, and must submit annually upon renewal of this license a listing of all sign structures leased, owned, or maintained by the licensee. Such list shall give the specific location of each sign by reference to ward, sheet, and tax lot number as indicated on the Robeson County tax maps and by reference to the name of the property owner.

(C) Signs Exempt from Permit Requirement. The following signs are allowed in all zoning districts and shall not require a sign permit. However, such signs shall conform to the requirements set forth below as well as to other applicable requirements of this Section.

(1) Directional Signs. Directional signs shall be located on the premises to which directions are indicated. If advertising (name or logo) is used on these signs it shall be computed as part of the total allowable sign area for a lot. Directional signs shall not exceed four square feet per face, two faces per sign, and shall not exceed three feet in height if freestanding or six feet in height if attached to the principal or an accessory structure. The maximum number of signs allowed per lot shall be four. These signs may be internally or externally illuminated.

(2) Incidental Informational Signs. A sign, generally informational, that has a purpose to the use of the subject property on which it is located, such as “no parking,” “entrance,” “loading only,” and other similar directives.

(3) Flags. Flags on a single, straight flagpole provided that:

(a) The flagpole is attached to the ground, building, or other object at only one end; it may not be attached to another pole;

(b) Flags are not hung or stretched between two (2) poles or a pole and another object or the ground;

(c) Flags are attached to the pole (or rope) on one (1) side only and are not weighted on an unattached side;

(d) Flags hung from a horizontal or nearly horizontal, pole and displayed against, or nearly against, a wall, fence, or similar structure are prohibited (this applies only to flags permitted by this paragraph);

(e) More than one (1) flag may fly on a single pole; and

(f) All applicable requirements of Article 18 are complied with.

- (4) Temporary Signs. Temporary signs are signs which relate to/reference specific activities or events of a commercial, noncommercial, or non-profit entity, including political signs.
- (5) Copy Changes and Maintenance. No permit shall be required for copy changes made to a changeable copy sign, menu board, marquee sign, or off-premise sign; provided any such changes do not change the classification of the sign under this Section. No permit shall be required for maintenance where no structural changes are made.
- (6) Construction Signs. Construction signs shall be allowed provided such signs do not exceed one sign per street frontage with a maximum of two signs per construction site. Such signs shall not exceed four square feet in area per display face, two faces per sign for single-family or duplex residential construction or 32 square feet in area per display face for multi-family residential or non-residential construction, and a maximum of eight feet in height. Construction signs shall not be erected prior to the issuance of a building permit and shall be removed within seven days of the issuance of a certificate of compliance. Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the town may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this subsection may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.
- (7) Campus Signage. *(Amended 8/5/2019)*
- (a) The total square footage of signage on a campus may exceed 400 square feet.
- (b) Wayfinding signage is permitted in areas internal to the campus not fronting on a Town of Pembroke-owned right-of-way. All wayfinding signage must be consistent with an overall landscape/architectural design for the campus. Wayfinding signs may be monument or wall signs. Wayfinding signs may be located on the campus on any sidewalk, path, street, driveway, or parking lot.
- (c) Gateway signage may not exceed 700 square feet nor 13 feet in height, including the supporting sign structure. The sign structure does not include decorative fencing or landscape elements which may be attached to the sign structure. Two gateway signs are permitted at the primary campus entrance (one on each side of the entrance).
- (d) Each structure on the campus is allowed to have wall signage for building identification.

(8) Miscellaneous Exemptions.

- (a) Such as handicapped parking space signs; with the operation of equipment or other functional elements such as menu boards, automatic teller machines, gas pumps, vending machines, scoreboards, license plates and similar incidental signs; signs visible only from the premises, markers which are non-commercial in nature.
- (b) Memorial signs, plaques or grave markers, which are noncommercial in nature.
- (c) On-premises directional and instruction signs not exceeding four (4) square feet in area apiece. These signs shall not contain advertising matter.
- (d) All signs located within the interior of a business or operation and not displayed in a window.
- (e) Public interest signs (i.e., historical markers).
- (f) Identification signs not exceeding three (3) square feet in area (one only per premises).
- (g) Address and name signs. Signs or plates on residential structures giving the name and/or address of the occupant.
- (h) Integral decorative or architectural features of buildings or works of arts, provided such features or works of art do not contain advertisements, trademarks, moving parts, or lights.
- (i) Displays, including lighting, erected in connection with the observance of holidays. Such displays shall not be considered as illuminated signs and they shall be removed within ten (10) days following the holiday.
- (j) Signs affixed to windows of vehicles displaying the terms of sale for said vehicles.
- (k) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and information signs, and traffic direction or regulatory signs. *(Amended 8/5/2019)*

**Section 18-3: Signs Prohibited in All Zoning Districts**

The following signs and/or sign features shall not be erected or maintained in any zoning district within the jurisdiction of the Town of Pembroke:

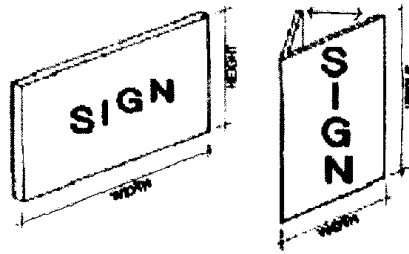
- (A) Signs on Roadside Appurtenances. On- or off-premise signs on roadside appurtenances, including, but not limited to roadside benches, bus stop shelters, planters, utility poles, trees, parking meter poles, and refuse containers, with the exception of commemorative signs or governmental signs.
- (B) Portable or Moveable Display Signs. Portable signs are prohibited with the exception of new businesses and when a business changes ownership. A new business located in the C-1 Central Business, C-2 Neighborhood Business, C-3 Highway Business, I Industrial, or O & I Office & Institutional Zoning Districts is allowed one portable sign no larger than 32 square feet for a period not to exceed 45 days beginning the date their privilege license is issued. If a business changes ownership and is located in the C-1 Central Business, C-2 Neighborhood Business, C-3 Highway Business, I Industrial, or O & I Office & Institutional Zoning Districts and a new privilege license is required, then they are allowed one portable sign no larger than 32 square feet and for a period not to exceed 45 days beginning the date their privilege license is issued. The portable sign must be set back at least 10 feet and all other applicable freestanding sign regulations shall apply.
- (C) Signs Located in the Right-of-Way. Signs, whether temporary or permanent, within any street or highway right-of-way are hereby prohibited, with the exception of governmental signs (provided, however, projecting signs which are allowed under Section 18-4 are not hereby prohibited and signs providing direction to churches, public auditoriums, or properties designated as local or national historic properties, all of which are single-faced and no greater than two square feet in total area per sign and limited to eight feet in height, shall be allowed only by permit issued by the Town of Pembroke and shall be limited to three signs per church, public auditorium, or historic property). In accordance with NCGS 136-32(b), political campaign signs are allowed on state-maintained right-of-way.
- (D) Roof Signs. Signs on the surfaces of a mansard roof and on parapets shall not, however, be hereby prohibited provided the signs do not extend higher than the height restriction for on-premise freestanding signs in the zoning district in which the sign is located and provided that the signs do not extend above the mansard roof or parapet to which they are attached.
- (E) Wind Signs. Wind signs except in conjunction with a community festival or event and except as wind signs are allowed under Section 18-4 hereinafter.
- (F) Off-premise signs in all Residential districts, C-1, C-2, and I Zoning Districts.
- (G) Off-premise signs in national and local historic districts or on national or local historic properties.
- (H) Off-Premise Signs Along Scenic Drives. Off-premise signs designed to be visible from streets designated by the Town Council as “scenic drives” and/or “parkways.”
- (I) Off-premise signs which are within 660 feet of the nearest edge of the right-of-way and visible from the maintained traveled way of the Federal Aid Primary and Interstate System, all as

described in the Federal Highway Beautification Assistance Act of 1979, as amended, and which are constructed or erected on or after the effective date of this Section; provided further, off-premise signs located specifically as described hereinbefore which were erected prior to the effective date of this Section are not prohibited from continuing, notwithstanding their non-conformance with regulations of this Section, other than conformance with the maintenance provisions set forth in Section 18-7 hereinafter.

- (J) Signs of Illusion. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion.
- (K) Signs Resembling Traffic Signals. Signs displaying intermittent light resembling the flashing light customarily used in traffic signals, or used by police, fire, ambulance, or other emergency vehicles, nor shall any sign use the word “stop,” “danger,” or any other words, phrase, symbol, or character in a manner that might be construed as a public safety warning or traffic sign.
- (L) Animated Signs and Flashing Signs.
- (M) Abandoned Signs or Sign Structures.
- (N) Signs Obstructing Access. Signs which obstruct free ingress to or egress from a driveway or a required door, window, fire escape, or other required exit way.
- (O) Sandwich Board Signs except within the C-1 District.

**Section 18-4: On-Premise Signs**

- (A) General Provisions for On-Premise Signs. Following the effective date of this Article, on-premise signs shall not be erected or maintained in any zoning district except in compliance with the provisions set forth in this Section.
  - (1) Computation of Sign Area. The area of a sign shall be considered to be that of the smallest rectilinear figure (but which shall have a continuous perimeter of not more than eight straight lines) which encompasses all lettering, wording, design or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction. The area of a wall or window sign consisting of individual letters or symbols attached to or painted on a surface, building, wall, or window shall be considered to be that of the smallest rectilinear figure (but which shall have a continuous perimeter of not more than eight straight lines) which encompasses all of the letters or symbols and the background and illuminated part of such sign when either or both are designed as an integral part of and related to the sign.



**Single-faced sign**

**Double-faced sign**

The space between one identification sign and one changeable copy sign on a sign post or structure or attached to a building shall not be included in the total square footage if both signs serve a single business located on the lot. The space between two or more changeable copy components of a sign or between two or more permanent copy components of a sign shall be included, however, in the total square footage of sign area allowed.

Where three dimensional figures are used as signs, the area shall be the total of all sides made an integral part of the projected figure used in conveying the intended message.

- (2) Group Development. Any development which is part of a group development shall be governed by Section 18-4(B)(4) hereinafter.
- (3) Encroachment Into Right-of-Way. No part of any sign shall be located on or extended into a public right-of-way except as projecting signs are allowed by this Section.
- (4) Time/Date/Temperature Signs. Time, date, and temperature signs which do not exceed ten square feet per sign face are allowed and shall be included in the allowable sign area, provided, however, if an existing freestanding sign is located on the lot, then the time, date, and temperature sign must be incorporated into the existing freestanding sign. It shall be the responsibility of the owner of such signs to maintain such signs and insure that they are kept accurate. If these conditions are not met, the sign shall be repaired or removed.
- (5) Signs for Nonconforming Uses. Signs for nonconforming uses, where such uses may be continued, shall be allowed, but shall comply with all regulations for signs in the zoning district where such signs are located.
- (6) Illumination. Illuminated signs shall be subject to the following conditions:
  - (a) Any light used for illumination shall be shielded so that the beams or rays of light will not shine into surrounding areas or on the public roadway.



- (b) Neither direct nor reflected light from any light source shall create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares.
  - (c) Bed and Breakfast establishment signs shall not be illuminated from 10:00 pm until 8:00 am.
- (7) Temporary Signs. Temporary signs shall be allowed in all non-residential zoning districts. Temporary signs shall be allowed twice a year per lot. In the event that more than one business is located on a single lot, each business shall be allowed two temporary signs per year. Temporary signs shall be allowed for three days and a sign permit is required. No time extensions shall be granted. No temporary signs shall exceed 32 square feet in total area.
- (8) Inflatable Balloon Sign. One inflatable balloon sign shall be allowed per commercial or industrial zoning district at any one time, limited to once a year per business. This limitation shall not apply, however, to community festivals or events permitted by the Town of Pembroke. Further, inflatable balloon signs shall not be internally illuminated; shall not be higher than 25 feet above grade; and shall not be erected or maintained on a building parapet or roof. The time allowed for these signs shall not exceed 10 days. These signs shall be located on either an attached, tethered, or freestanding structure. The sign and its structure shall not block or inhibit the visibility of vehicular traffic or in any way pose a danger to pedestrians or vehicular traffic or property. The sign may advertise a product, service, or sponsor affiliated with the event or the event itself.
- (10) Visibility. No sign or structure shall be erected or maintained to impede safe and adequate visibility from vehicles or for pedestrians.
- (11) Any business which has street frontage of less than 50 feet along a street shall be allowed one additional freestanding sign on its lot provided that the additional freestanding sign was erected under a valid permit prior to the effective date of this Section and, provided further, that one of the freestanding signs is located more than 200 feet from the street and that both freestanding signs conform with the provisions of this Section.
- (12) Wind Signs. Wind signs shall be permitted in the C-1 District and in commercial major site development plans which are retail shopping centers subject to the following regulations:
- (a) Wind signs shall be limited to one sign per pole, mast arm, or other device and maintained in good condition without fraying, tearing, or fading.
  - (b) Wind signs shall be constructed of nylon, canvas, or plastic material.

- (c) Each wind sign must be at least eight square feet in area and less than 24 square feet in area and all banners on the same lot must be consistent in colors and materials.
- (d) No wind sign may contain a commercial advertising message, name, or logo.
- (e) Clearance over sidewalks shall be a minimum of nine feet and clearance over streets, alleys, or driveways shall be a minimum of 14 feet.

(13) Digital and Computerized Signs. Digital and computerized signs are allowed in instances where other changeable copy signs are allowed. However, the message displayed shall not change more than four times in a 24-hour period.

(14) Banners. Banner signs may be used on a temporary basis to advertise special events such as grand openings. However, the business may use a banner advertisement up to four times per year for not more than 30 days for each occurrence.

(15) Sports Field Signs. Signs are allowed on the outfield fences of a sports field or stadium. However, the sign must face the infield and not extend above the height of the outfield fence.

(B) Residential and Institutional Signage within Residential Zoning Districts. Residential districts contain certain development types that are non-residential, but do not constitute a commercial enterprise. Such developments include but are not limited to: Single-Family Subdivisions, Multi-Family Developments, Manufactured Home Parks, Churches, and Recreational Facilities. One (1) freestanding ground mounted or monument sign per entrance may be utilized providing it does not exceed fifteen (15) square feet, and shall not exceed six (6) feet in height with two faces allowed on the sign. The minimum setback shall be ten (10) feet.

Churches, schools, NC licensed massage therapists, and institutions located in residential zoning districts are allowed one additional freestanding pole or ground sign or attached wall sign, either of which may be only a changeable copy sign, with the total area of the changeable copy sign no greater than 12 square feet per face, with two sign faces per sign and a maximum of six feet in height, with a minimum setback of ten feet. *(Amended 3/1/2021)*

Additionally, home occupation signage shall be permanently fixed to the residence within which the home occupation resides. *(Amended 1/7/2013)*

Temporary signs not exceeding four (4) square feet in area, and three (3) feet in height if freestanding are allowed in all residential districts. The number of these signs is limited to one (1) per one hundred (100) feet, or fraction thereof, of lot frontage of all immediately adjacent public streets. In no event shall there be more than three (3) such signs allowed per lot. The temporary sign may be displayed up to fifteen (15) days prior to and/or following the specific event with which the sign is associated.

(C) Nonresidential On-Premise Signs. The following sign regulations shall be applicable for nonresidential development within the O&I, C-1, C-2, C-3, and I zoning districts. For signage associated with churches, institutional uses, and recreational facilities within residential zoning districts (R-20, R-10 and R-8) the standards defined within Section 18-4(B) shall apply. Any sign not specifically allowed shall be prohibited. *(Amended 4/2/2018)*

<b>O&amp;I AND C-1 DISTRICTS - ALLOWED SIGNAGE</b>				
Permitted Sign Type(s)	Specific Applicability	Maximum Area <sup>1</sup>	Maximum Height	Maximum Number
<b>BUILDING MOUNTED</b>				
Wall <sup>2</sup>	Front facades	1 sq ft for each linear foot of wall frontage or 5% of wall whichever is greater	N/A	N/A
Wall <sup>2</sup>	Secondary to primary signage	½ sq ft for each linear foot of building facing side street and/or interior area of a major/minor shopping center	N/A	N/A
Window	Businesses	25% of first floor total building front façade window and/or door area	N/A	N/A
Projecting <sup>3,4</sup>	Businesses (excluding home occupations)	12 sq ft (total of 24 sq ft)	8 ft	1 per business
Awning <sup>3,4</sup>	Businesses (excluding home occupations)	Copy area of the sign is limited to the drip flap. Logos may be placed on the awning itself.	N/A	1 per business
ID Plaques	Identifies tenants in building	4 sq ft	N/A	1 per business
Temporary Signs <sup>5</sup>	Message neutral	8 sq ft	6 ft	1 per 100' of street frontage; maximum of 3
<b>FREESTANDING</b>				
Monument or Ground Mounted	Per street frontage	30 sq ft	6 ft	1 per business
<b>CAMPUS SIGNAGE</b> <i>(Amended 8/5/2019)</i>				
Wall	Refer to Section 18-2(C)(7)			
Monument	Refer to Section 18-2(C)(7)			
Wayfinding	Refer to Section 18-2(C)(7)			

<sup>1</sup> Combined square footage of all signs shall not exceed 400 sq feet.

<sup>2</sup> Wall signs may project a maximum of 12" from the wall to which it is mounted.

<sup>3</sup> Sign may not protrude above soffit, parapet, or eave line of the building to which it is attached or above the third floor of a building.

<sup>4</sup> Minimum 9 feet above ground or sidewalks or 14 feet over alleyways or driveways; no portion of the sign may extend within 3 feet of the street pavement.

<sup>5</sup> The temporary sign may be displayed up to fifteen (15) days prior to and/or following the specific event with which the sign is associated.

<b>C-2 AND C-3 DISTRICTS - ALLOWED SIGNAGE</b>				
Permitted Sign Type(s)	Specific Applicability	Maximum Area <sup>1</sup>	Maximum Height	Maximum Number
<b>BUILDING MOUNTED</b>				
Wall <sup>2</sup>	Front facades	1 sq ft for each linear foot of wall frontage or 10% of wall whichever is greater <i>(Amended 9/5/2023)</i>	N/A	N/A
Wall <sup>2</sup>	Secondary to primary signage	1 sq ft for each linear foot of wall façade length or 10% of wall, whichever is greater <i>(Amended 9/5/2023)</i>	N/A	N/A
Window	Businesses	25% of first floor total building front façade window and/or door area	N/A	N/A
Projecting <sup>3,4</sup>	Businesses (excluding home occupations)	12 sq ft (total of 24 sq ft)	8 ft	1 per business
Awning <sup>3,4</sup>	Businesses (excluding home occupations)	Copy area of the sign is limited to the drip flap. Logos may be placed on the awning itself.	N/A	1 per business
ID Plaques	Identifies tenants in building	4 sq ft	N/A	1 per business

Number of Outlets	Specific Availability	Maximum Area	Maximum Height	Maximum Number
<b>FREESTANDING <i>(Amended 12/5/2022)</i></b>				
Up to six outlets/businesses	Identifies development name and/or tenants in a major/minor shopping center	100 sq ft	<b>C-2 District:</b> 15 ft. <b>C-3 District:</b> 20 ft, when fronting a major collector, freeway, or principal arterial roadway. 15 feet, along all other roadways.	1 per street frontage
7-14 outlets/businesses	Identifies development name and/or tenants in a major/minor shopping center	125 sq ft	<b>C-2 District:</b> 15 ft. <b>C-3 District:</b> 20 ft, when fronting a major collector, freeway, or principal arterial roadway. 15 feet, along all other roadways.	1 per street frontage
15 or more outlets/businesses	Identifies development name and/or tenants in a major/minor shopping center	125 sq ft	<b>C-2 District:</b> 15 ft. <b>C-3 District:</b> 20 ft, when fronting a major collector, freeway, or principal arterial roadway. 15 feet, along all other roadways.	1 per street frontage
Individual Business	Identifies name of single business	100 sq ft	<b>C-2 District:</b> 8 ft. <b>C-3 District:</b> 20 ft, when fronting a major collector, freeway, or principal arterial roadway. 8 feet, along all other roadways.	1 per street frontage
Temporary Signs <sup>5</sup>	Message neutral	8 sq ft	6 ft	1 per 100' of street frontage; maximum of 3

Number of Outlets	Specific Availability	Maximum Area	Maximum Height	Maximum Number
<b>OUT PARCELS</b>				
N/A	Monument or ground mounted sign	30 sq ft	6 ft	1 per out parcel
<b>MENU BOARDS</b>				
N/A	Only permitted for use at restaurant facilities and must maintain a minimum setback of ten feet from the closest adjacent property line.	36 sq ft per sign face	N/A	1 per drive-thru lane <i>(Amended 9/5/2023)</i>

<sup>1</sup> Combined square footage of all signs shall not exceed 400 sq feet.

<sup>2</sup> Wall signs may project a maximum of 12" from the wall to which it is mounted.

<sup>3</sup> Sign may not protrude above soffit, parapet, or eave line of the building to which it is attached or above the third floor of a building.

<sup>4</sup> Minimum 9 feet above ground or sidewalks or 14 feet over alleyways or driveways; no portion of the sign may extend within 3 feet of the street pavement. *(Amended 1/7/2013)*

<sup>5</sup> The temporary sign may be displayed up to fifteen (15) days prior to and/or following the specific event with which the sign is associated.

<b>I DISTRICT - ALLOWED SIGNAGE</b>				
Permitted Sign Type(s)	Specific Applicability	Maximum Sign Surface Area	Maximum Height	Maximum Number
<b>BUILDING MOUNTED</b>				
Wall <sup>1</sup>	Per building entrance	The total area of all wall signs may not exceed 1 square foot of sign area for each linear foot of building frontage. In no case may the total amount of wall signage exceed 400 square feet.	N/A	2
Window	Per separate business establishment	25% of first floor total building front facade window and/or door area	N/A	N/A
Projecting <sup>2,3</sup>	Per separate business establishment	Not to exceed 12 square feet and may not project more than 5 feet from the building wall <sup>2</sup>	N/A	1
Canopy or Awning <sup>2,3</sup>	Per premises	Copy area of the sign is limited to the drip flap; logos may be placed on the awning itself	N/A	1
ID Plaques	Identifies tenants in building	4 square feet	N/A	1
<b>FREESTANDING</b>				
Monument or Ground Mounted <sup>4</sup>	Per street frontage	Not to exceed 0.25 square feet of sign area per sign for each linear foot of street frontage. Primary sign area shall not exceed 48 square feet of surface area. Signs located on perpendicular streets shall not exceed 24 square feet of surface area.	8 ft	1

I DISTRICT - ALLOWED SIGNAGE				
Permitted Sign Type(s)	Specific Applicability	Maximum Sign Surface Area	Maximum Height	Maximum Number
Freestanding	Per street frontage	Not to exceed 1 square foot of sign area for each linear foot of street frontage. In no case may the total amount of any single sign exceed 200 square feet.	15 ft	1
Temporary <sup>5</sup>	Message neutral	8 sq ft	6 ft	<sup>6</sup>

<sup>1</sup>Wall signs may project a maximum of 12" from the wall to which it is mounted.

<sup>2</sup> Sign may not protrude above soffit, parapet, or eave line of the building to which it is attached or above the third floor of a building.

<sup>3</sup> Minimum 9 feet above ground or sidewalks or 14 feet over alleyways or driveways; no portion of the sign may extend within 3 feet of the street pavement.

<sup>4</sup>Sign shall be located no closer than 10' from property line or street right-of-way.

<sup>5</sup>The temporary signs may be displayed up to fifteen (15) days prior to and/or following the specific event with which the sign is associated.

<sup>6</sup>The number of signs is limited to one (1) per 100 feet, or fraction thereof, of lot frontage of all immediately adjacent public streets.

### **Section 18-5: Off-Premise Signs**

(A) General Provisions for Off-Premise Signs. Following the effective date of this Section, off-premise signs shall not be erected, or maintained in any zoning district except in compliance with the provisions set forth in this Section.

(1) Computation of Sign Area. The area of the sign shall be considered to be that of the smallest rectilinear figure (but which shall have a continuous perimeter of not more than eight straight lines) which encompasses all lettering, wording, frame, design, or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.

Where three dimensional figures are used as or on signs, the area shall be the total of all sides made an integral part of the projected figure used in conveying the intended message.

(2) Encroachment into the Right-of-Way. No part of any sign shall be located on or extended into a public right-of-way.

(3) Illumination. Illuminated signs shall be subject to the following conditions: a) Any light used for the illumination shall be shielded so that the beams or rays of light will not shine directly into surrounding areas or on the public roadway; b) Neither direct nor reflected light from any light source shall create a traffic hazard or distraction to

operators of motor vehicles on public thoroughfares; and c) Off-premise signs may be internally or externally lighted, including LED lighting. *(Amended 6/26/2017)*

- (4) Visibility. No sign or structure shall be erected or maintained to impede safe and adequate visibility from vehicles or for pedestrians.
- (5) Extensions. No extension(s) shall be allowed beyond those dimensions for the sign area as initially permitted.
- (6) Allowance. *(Amended 6/26/2017)*
  - (a) New signs prohibited: No new off-premise signs shall be permitted in the Town of Pembroke, except in the NC 711 Off-Premise Sign Overlay District.
  - (b) Use of lots with non-conforming signs on Federal Aid Primary Highways. Notwithstanding the provisions of this article, any lot located on a Federal Aid Primary Highway and occupied by a non-conforming off-premises sign on the date of the adoption of this ordinance may be used for a conforming use without removal of the non-conforming sign subject to the following:
    - (i) The lot shall not be located in any Residential District or in any District adjacent to a Residential District as defined in this Ordinance.
    - (ii) The proposed conforming use and any construction necessary, therefore, must comply with all applicable regulations specified in this section. No variances or modifications to such regulations shall be permitted because of the maintenance of the sign on the lot.
    - (iii) The construction of the proposed conforming use shall not require the removal of any protected trees because of the maintenance of the sign on the lot.
    - (iv) The base of the sign shall be surrounded by a ten (10) foot buffer except where the existing location of the sign in relation to an existing lot line will not permit the required buffer. The buffer shall be landscaped in accordance with the requirements of Article 15.
    - (v) The sign shall not be modified, reconstructed or relocated except in compliance with the Town Code.
    - (vi) Nothing herein shall affect the amortization period under Section 18-5(A)(8).

Any such non-conforming sign shall be exempt from any requirements for separation from existing or proposed structures on the same lot.

(7) Inspection, Construction, and Maintenance for Off-Premise Signs. (Amended 6/26/2017)

(a) Inspection. The Town Manager shall inspect all off-premise signs periodically to determine that the same are in a safe condition and meet the requirements set forth in this section.

(b) Construction.

(i) Signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electrical Code specifications, provided that no sign, except official traffic signs, shall be installed closer than ten (10) feet horizontally or vertically from any conductor or public utility guy wire.

(ii) All off-premise sign illumination devices shall be in conformance with the North Carolina State Building Code, Volume IV, and all other state and local codes governing illumination. All illumination shall be designed so as to be confined to the sign area of the off-premise sign.

(iii) The backs of all off-premise signs shall be painted in a neutral color to blend in with the surrounding area.

(iv) There shall be no trimming of vegetation on public property or rights-of-way to make any off-premise sign more visible.

(c) Maintenance.

(i) All signs shall be maintained in a state of good repair. Whenever it shall appear to the Town Manager that any sign has been constructed or is being maintained in violation of the terms of this section or is unsafe or unsecured, such sign shall either be made to conform with all sign regulations or shall be removed at the expense of the owner, within ten (10) days after written notification thereof by the Town Manager.

(ii) Removal of obsolete signs. Sign messages which advertise a discontinued activity or use of a building or premises shall be removed within sixty (60) days from the date the activity or use was terminated. Signs advertising events such as shows, displays, festivals, circuses, fairs, athletic contests, dances, fund drives, elections, exhibits, meetings, conventions and the like shall be removed within thirty (30) days after the date of termination of such events.



(8) Nonconforming Off-Premise Signs. Any sign which does not conform to the regulations set forth herein is nonconforming and shall either be removed or brought into compliance with this section within the period of time prescribed herein dating from the effective date of these regulations. *(Amended 6/26/2017)*

(a) Conflict Situations. In situations where two (2) or more signs are spaced in a manner that makes them nonconforming to this article and the removal of one (1) or more signs will render the remaining signs conforming, the following steps shall be taken in remedying the conflict situation:

(i) The Town Manager will ask the owner or owners of all signs involved to provide him with the information necessary for him to determine which signs have realized the highest return on investment ratio and will require (those) signs to be removed to resolve the conflict; or

(ii) If the owner or owners of all the signs involved do not wish to supply the Town Manager with the information called for above, he will deem all of the signs involved in the conflict situation nonconforming and require their removal to resolve the conflict; or

(iii) If one (1) or more affected owners in the conflict situation fail(s) or refuse(s) to comply with the requests for information, then the Town Manager may deem all signs for which he does not have adequate information nonconforming, and require the removal of each such sign for which there is insufficient information to resolve the conflict.

(b) Amortization. Off-premise signs made nonconforming by the provisions of this article shall conform to these requirements within a five and one-half (5 ½) year period after the effective date of this article. Off-premise signs that were nonconforming prior to the adoption of this article shall conform to the regulations existing prior to the adoption of this Ordinance, except when such conformance would conflict with the provisions of this chapter; in such cases, the more restrictive requirements shall be observed.

(B) Off-Premise Signs by Zoning Districts. The following sign regulations shall be applicable within the zoning districts wherein off-premise signs are allowed. Any sign not specifically allowed is prohibited.

In the I zoning district and the NC 711 off-premise sign overlay district, off-premise signs are allowed subject to the restrictions set forth herein. The NC 711 off-premise sign overlay district includes the area of NC 711 within 100 feet of both sides of the NC 711 right-of-way from the intersection with Candy Park Road within both the town's corporate limits and extraterritorial jurisdiction eastward to the town's corporate limit line. Within the overlay district, off-premise signs must be located in either a C-3 or I zoning district. *(Amended 6/26/2017)*

- (1) Size. No off-premise signs shall exceed 150 square feet per directional flow of traffic (300 square feet total per sign structure).

A maximum of four faces per sign structure is allowed, positioned either back to back or v-shaped, such that only two faces are allowed per side. Both sides of a double-faced or v-shaped sign shall be of equal size. In no case shall there be more than two faces per directional flow of traffic.

- (2) Height. The top of the off-premise sign must be a minimum and a maximum of 25 feet in height. *(Amended 6/26/2017)*

- (3) Spacing.

(a) Outside of the NC 711 off-premise overlay districts, the minimum distance between any two sign structures shall be 1,000 linear feet on either side of the same street. Within the NC 711 overlay districts, the minimum distance between any two sign structures shall be 500 linear feet on either side of NC 711. *(Amended 6/26/2017)*

(b) No off-premise sign shall be located within a 200 foot radius of a school or place of worship. *(Amended 6/26/2017)*

(c) No off-premise sign shall be located within 75 feet of any intersection.

(d) No off-premise sign shall be located within a 100 foot radius of residentially zoned property.

(e) No off-premise sign shall be located within 100 feet of any building or on-premise sign. *(Amended 6/26/2017)*

- (4) Setback. Minimum setback distances shall be as follows:

(a) for sign area of 0 to 75 square feet per face - 10 feet.

(b) for sign area of 76 to 150 square feet per face - 20 feet.

For all sign sizes, the minimum setback distances from all other property lines shall be ten feet.

- (5) On-Premise Signs. In the event that an off-premise sign which is located on the same lot as an on-premise freestanding sign, the on-premise freestanding sign is subject to Section 18-4 hereinbefore.

**Section 18-6: Supplemental Sign Standards for the O&I, C-1, C-2, and C-3 Districts**

Sign standards for specific business operations are in addition to the general standards outlined in this Article and recognize the different types of traffic, use and need of signs for the assistance of the traveling public and the prosperity of business owners and employees through the attraction, retention, and furtherance of commerce throughout the town. Retail and restaurants establishments may avail themselves of the maximum signage allowable under Section 18-5 and additionally may supplement such maximum via the standards of this subsection. These standards do not apply to the Industrial district.

- (A) Sandwich Board Sign. Limited to one sign per business. Signs shall be limited to a maximum height of four (4) feet and a maximum length of three (3) feet. Folding and double-faced signs shall be considered one (1) sign. Sandwich board signs shall not be located on any public right-of-way, except that where the edge of the right-of-way is the face of the building and where such building abuts a public sidewalk, such signage may be allowed as a right-of-way encroachment. Sign placement shall not impede movement on the sidewalk.
- (B) Banners. Limited to one banner per business. Banners shall be limited to a maximum height of six (6) feet and a maximum length of ten (10) feet. Banners shall contain the imprint or logo of the business in which the banner is intended. No additional logos, joint advertising or insignia shall be permitted.
- (C) Temporary Advertisement Flags. Limited to two flags per business, but no more than six (6) flags at one time per approved major or minor site plan. Commercial advertisement flags no greater than ten (10) feet in height and no greater than four (4) feet in width and, on a temporary basis, shall be permitted and shall contain the imprint or logo of the business in which the flag is intended, no additional logos, joint advertising, or insignia shall be permitted. In a Planned Unit Development, the location of commercial advertisement flags shall be on the premises of the business or in a common pedestrian ingress area immediately in-front or adjacent to the primary pedestrian entrance of the business, in no case shall the commercial advertisement flag be placed further than ten (10) feet from said primary pedestrian entrance. No commercial advertisement flag shall be placed in the vehicular zone including parking areas, driveways, or vehicular ways. Placement of flags shall not impede ingress/egress to the building.
- (D) Sale/Event/Holiday Signs. For no more than thirty (30) days annually, special signage for sales/events/holidays may be placed by a business on premises with the issuance of a permit. Such signs shall be of one of the categories above with the following supplemental standard: for each item in this subsection, the quantity of signs shall double.
- (E) Daily Specials. Daily, restaurants and food service establishments may be permitted one (1) additional sandwich sign subject to the standards of subsection (A). The heading of such sign shall read in addition to any such text as deemed prudent by the business: Open for Business, Daily Specials.

### **Section 18-7: Maintenance**

To ensure that signs are erected and maintained in a safe and aesthetic manner, it shall be unlawful for any sign designed to be visible from any public street or highway within the jurisdiction of the Town of Pembroke to be erected or maintained by any person, other than by a sign contractor properly licensed under Section 18-2(B) or by a designated representative of such licensed contractor, except that this requirement shall be interpreted to exclude those persons who construct and erect a principal use identification sign when said sign is used at said person's place of business and to exclude licensed general contractors erecting signs as part of a permitted construction or renovation project; provided, however, in all cases, all erection must be properly permitted and inspected for compliance with the applicable codes of the State of North Carolina and the Town of Pembroke and with other parts of this Article.

The following maintenance requirements must be observed for all signs visible from any public street or highway within the jurisdiction of this Article.

- (A) No sign shall have more than 20% of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 successive days.
- (B) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts or be allowed to stand more than 15 degrees away from the perpendicular for a period of more than 30 successive days.
- (C) No sign shall be allowed to have weeds, vines, landscaping, or other vegetation growing upon it and obscuring its view from the street or highway from which it is to be viewed for a period of more than 30 successive days.
- (D) No neon or internally illuminated sign may be allowed to stand with only partial illumination for a period of more than 30 successive days.
- (E) If a sign or sign structure is damaged such that more than 50% of the value is lost, with such determination made by the Administrator, any repair or replacement must be done in conformance with this Section.

The Administrator may inspect all signs for compliance with these maintenance requirements.

### **Section 18-8: Structural and Construction Requirements**

All on-premise and off-premise signs allowed by this Section shall be constructed in accordance with the requirements of the North Carolina State Building Code.

### **Section 18-9: Reserved for Future Use**

**Section 18-10: Enforcement**

Violation of the provisions of these sign regulations shall be enforceable as set forth below in addition to the enforcement provisions as set forth in Article 7.

- (A) Notice of Violation. The Administrator shall have the authority to issue a notice of violation for all violations of this Article. Where the owner of the sign is indicated on the sign or is otherwise apparent or known to the Administrator, a copy of the notice of violation shall be delivered to the sign owner by hand delivery or by certified mail. In all other cases, a copy of the notice of violation shall be posted on the sign. A copy of the notice of violation shall also be delivered by hand delivery or certified mail to the property owner as shown on the Robeson County tax records. In addition, service hereunder may be made in accordance with Rule 4 of the North Carolina Rules of Civil Procedure.
  
- (B) Time to Remedy Violation. Other than for temporary signs, all violations shall be remedied within 30 days. The 30-day period shall commence upon the service of the notice of violation as set forth above. Violations of regulations for temporary signs shall be remedied within 24 hours after service of the notice of violation as set forth above.
  
- (C) Extension of Time for Compliance. Other than for violations of regulations for temporary signs, the Administrator shall have the authority to grant a single 30-day extension of time within which to remedy the violation. For violations of regulations for temporary signs, the Administrator shall have the authority to issue a single 24-hour extension of time within which to remedy the violation. Either single extension of time may be issued based upon a written request for extension of time which sets forth valid reasons for not complying within the original time period.
  
- (D) Remedies for Failure to Comply. Pursuant to N.C. General Statute Sec. 160A-175 (f), the Administrator, in consultation with the Town Attorney, may choose from the remedies set forth below to enforce the requirements of this Section when there is a failure to comply with the notice of violation. Those remedies are as follows:
  - (1) In addition to or in lieu of the other remedies set forth in this section, the Administrator may issue a citation setting forth a civil penalty as specified in NC General Statutes Section 160A-175(C). In the case of a continuing violation, each 72-hour period during which the violation continues to exist shall constitute a separate violation. The citation shall be served upon the person(s) described in subsection (A) by the means set forth therein. In the event the offender does not pay the penalty within 30 days of service of the citation, the civil penalty shall be collected by the town in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of NC General Statutes Section 14-4.
  
  - (2) In addition to or in lieu of the other remedies set forth in this section, the Administrator shall have the authority to issue a remove order for any sign not repaired or brought into compliance within the time required by the foregoing

provisions. Remove orders shall be issued to and served upon the person(s) described in subsection (A) by the means set forth therein. The sign shall be removed 30 days after the service of the remove order at the expense of the offender. The remove order shall describe with particularity the location of the sign to be removed and all of the reasons for issuance of the remove order, including specific reference to the provisions of this Section which have been violated.

- (3) In addition to or in lieu of the other remedies set forth in this Section, the Town Attorney may seek injunctive relief in the appropriate court.
- (E) Removal and Recovery of Expense. In the event of failure to comply with the requirements of a remove order, the Administrator may cause such sign to be removed. The sign owner and property owner may be jointly and severally liable for the expense of removal. Notice of the cost of removal shall be served upon the person(s) described in subsection (A) by the means set forth therein. If said sum is not paid within 30 days thereafter, said sum shall be collected by the town in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of NC General Statutes Section 14-4.
- (F) Removal of Dangerous Signs. Pursuant to NC General Statutes Section 160A-193, the Administrator shall have the authority to summarily remove, abate or remedy a sign which the Chief Building Inspector determines to be dangerous or prejudicial to the public health or safety. The expense of the action shall be paid by sign owner, or if the sign owner cannot be determined, by the property owner, and if not paid, shall be a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes.
- (G) Removal of Other Signs. The Administrator shall have the authority to remove summarily any signs prohibited under Section 18-3 hereinbefore. Further, the owners of said signs shall be subject to other remedies set forth in Section 18-10.
- (H) Stay Upon Appeal. In the event of a timely appeal of a decision of the Administrator to the Board of Adjustment, enforcement of all proceedings and the furtherance of the action appealed from is stayed, unless the Administrator certifies to the Board of Adjustment that a stay would cause imminent peril to life or property.

**Section 18-11: Nonconforming Signs**

- (A) After the effective date of this Article, it shall be unlawful for any person to erect or maintain any sign which does not conform to the requirements set forth herein.
- (B) All nonconforming off-premise signs (and their sign structures) which did not conform as of the effective date of this Section with the requirements of the sign regulations adopted in this Article, shall be made conforming or removed within 24 months of the effective date of this Article. In no event shall any such sign (and sign structure) be allowed for a period in excess of 24 months after it first becomes nonconforming pursuant to the terms of this Article.

- (C) All nonconforming on-premise signs existing on the date of the adoption of this Ordinance shall be allowed to remain unless replaced or damaged greater than 50% of the value of the sign. If replaced or damaged greater than 50% of the value of the sign, the replacement on-premise sign shall be a conforming ground sign.

All nonconforming off-premise signs (and their sign structures) which conformed as of the effective date of this Section with the requirements of the sign regulations adopted in this Section, shall be made conforming or removed within 24 months of the effective date of this Section. In no event shall any such sign (and sign structure) be allowed for a period in excess of 24 months after it first becomes nonconforming pursuant to the terms of this Article.

All off-premise signs (and their sign structures) which are made nonconforming by a subsequent amendment to the Sign Regulations of the Town of Pembroke, or by amendment to the official zoning map or by extension of the corporate limits shall be made conforming or removed within 24 months of the effective date of said amendments or extension. As of the effective date of this Article, all signs (and their sign structures) which were nonconforming but which were granted a permit as a result of a variance granted by the Planning and Zoning Adjustment Board, with such variance granted prior to the effective date of this Section, shall be made conforming or removed within 24 months of the effective date of this Article.

In the event that a nonconforming off-premise sign has been made nonconforming by an extension of the sign area initially permitted for that sign, the extension shall not be allowed to continue after the copy which includes that extension has been changed.

All portable and moveable display signs (and their sign structures) which are made nonconforming as a result of the passage of this Article or from the passage of an amendment to this Section, or the official zoning map, shall be removed within 90 days of the effective date of this Article.

All temporary signs (and their sign structures) which are made nonconforming as a result of the passage of this Section or from the passage of an amendment to this Article, or the official zoning map, shall be removed within 90 days of the effective date of this Article.

- (D) All on-premise and off-premise signs which were erected as of the effective date of this Section and which do not exceed by more than 20% the size, height, setback, spacing, or other dimensional requirements hereunder shall be considered as conforming to the terms of this Section and not subject to the foregoing removal requirements. Nothing herein shall permit any such on-premise or off-premise sign to be renovated or remodeled such that the initial percentage by which the sign exceeds those requirements is increased in any manner. Further, adjacent off-premise signs shall jointly be allowed only one single 20% allowance for the space between them in computing the spacing requirement set forth in Section 18-5(B)(3).

- (E) All off-premise signs which conform with all the requirements of this Section, except the spacing requirement set forth in Section 18-5(B)(3), within 24 months of the effective date of this Article shall be considered as conforming to the terms of this Section and not subject to the foregoing removal requirements.
  
- (F) During the time periods set forth above for removal or conformance of nonconforming signs or uses, such nonconforming signs, sign structures, or uses as described above shall be maintained as provided for in Section 18-7, but shall not be:
  - (1) Changed to or replaced by another nonconforming sign;
  - (2) Structurally altered (except to meet safety requirements);
  - (3) Altered so as to increase the degree of nonconformity of the sign;
  - (4) Expanded;
  - (5) Re-established after its discontinuance for 60 days;
  - (6) Continued in use after cessation of business or change of the type of business use to which the sign pertains; or
  - (7) Re-established after its discontinuance for 60 days;
  - (8) Continued in use after cessation of business or change of the type of business use to which the sign pertains; or
  - (9) Re-established after damage or destruction if the estimated cost of reconstruction exceeds 50% of the appraised value, as determined by the Administrator.

**Section 18-12: Variances**

- (A) In accordance with the procedures stated in the By-laws for the Planning and Zoning Adjustment Board, said Board shall have the power to hear and act upon applications for a variance which meet the following requirements:
  - (1) If the applicant complies strictly with the provisions of this Article, the applicant can make no reasonable use of the sign allowed; and
  - (2) If the hardship of which the applicant complains is unique, or nearly so, and is suffered by the applicant rather than by owners of surrounding properties or the general public; and
  - (3) If the hardship relates to the applicant's land (such as the terrain of the site) rather than to personal circumstances; and



- (4) If the variance will neither result in the extension of a nonconforming use nor authorize the initiation of a nonconforming use; and
  - (5) If the variance is in harmony with the general purpose and intent of this Article and preserves its spirit and if the variance secures the public safety and welfare and does substantial justice.
- (B) In granting a variance, the Board of Adjustment shall make written findings that all of the above listed requirements have been met. If a variance is granted, it shall be the least possible deviation from the requirements of this Article. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Article. Violations of the provisions of the variance granted, including any conditions or safeguards, which are a part of the grant of the variance, shall be deemed a violation of this Article.

**Section 18-13: Severability Clause**

If any section, subsection, sentence, clause, or phrase of this Article is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Article. The Town Council hereby declares that it would have passed this Article and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

**Section 18-14: Effective Date**

This Article shall replace any existing sign ordinance and become effective upon adoption of the Town of Pembroke Unified Development Ordinance.

# **ARTICLE 19. LIGHTING ORDINANCE**

## **PART I. OUTDOOR LIGHTING**

### **Section 19-1: Intent and Purpose**

Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, and not create or cause excessive glare onto adjacent properties and public street rights-of-way.

### **Section 19-2: Light Measurement Technique**

Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent (5%). Measurements shall be taken with a light meter that has been calibrated within the year. Light levels are specified, calculated, and measured in footcandles (FC). All FC values below are maintained footcandles.

### **Section 19-3: General Standards for Outdoor Lighting**

- (A) Unless otherwise specified in Sections 19-4 through 19-9 below, the maximum light level shall be 0.5 maintained footcandle at any property line in a residential district, or on a lot occupied by a dwelling, congregate care, or congregate living structure, and 2.0 maintained footcandle at any public street right-of-way, unless otherwise approved by the Planning Board and Town Council.
- (B) All flood lights shall be installed such that the fixture shall be aimed down at least forty-five (45) degrees from vertical, or the front of the fixture is shielded such that no portion of the light bulb extends below the bottom edge of an external shield. Flood lights and display lights shall be positioned such that any such fixture located within fifty (50) feet of a public street right-of-way is mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed fifteen (15) degrees from perpendicular to the right-of-way.
- (C) All flood lamps emitting 1,000 or more lumens shall be aimed at least sixty (60) degrees down from horizontal, or shielded such that the main beam from the light source is not visible from adjacent properties or the public right-of-way.
- (D) All wall pack fixtures shall be cutoff fixtures.

- (E) Service connections for all freestanding fixtures installed after application of this Ordinance shall be installed underground.
- (F) Within the HB district, all outdoor lighting fixtures shall be at minimum semi-cutoff fixtures.
- (G) All light fixtures installed by public agencies, their agents, or contractors for the purpose of illuminating public streets are otherwise exempt from this regulation. For regulations regarding Street Lighting, see Part II of this Article.
- (H) The use of laser light source, searchlights, or any similar high intensity light for outdoor advertisement or entertainment is prohibited. *(Amended 11/2/2020)*

**Section 19-4: Lighting in Parking Lots and Outdoor Areas**

- (A) Other than flood lights and flood lamps, all outdoor area and parking lot lighting fixtures of more than 2,000 lumens shall be cutoff fixtures, or comply with subsection (C) below.
- (B) The mounting height of all outdoor lighting, except outdoor sports field lighting and outdoor performance area lighting, shall not exceed forty-one (41) feet above finished grade, unless approved by the Planning Board and Town Council as having no adverse effect.
- (C) Exceptions:
  - (1) Non-cutoff fixtures may be used when the maximum initial lumens generated by each fixture shall not exceed 9,500 initial lamp lumens per fixture.
  - (2) All metal halide, mercury vapor, fluorescent, induction, white high pressure sodium, and color improved high pressure sodium lamps used in non-cutoff fixtures shall be coated with an internal white frosting inside the outer lamp envelope.
  - (3) All metal halide fixtures equipped with a medium base socket must utilize either an internal refractive lens or a wide-body refractive globe.
  - (4) All non-cutoff fixture open-bottom lights shall be equipped with full cutoff fixture shields that reduce glare and limit uplight.

**Section 19-5: Lighting for Vehicular Canopies**

Areas under a vehicular canopy shall have a maximum point of horizontal illuminance of twenty-four (24) maintained footcandles (FC). Areas outside the vehicular canopy shall be regulated by the standards of Section 19-4 above. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or more of the following:

- (A) Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy.

- (B) Light fixture incorporating shields, or shielded by the edge of the vehicular canopy itself, so that light is restrained to five degrees or more below the horizontal plane.
- (C) Surface mounted fixture incorporating a flat glass that provides a cutoff fixture or shielded light distribution.
- (D) Surface mounted fixture, typically measuring two feet by two feet, with a lens cover that contains at least two percent (2%) white fill diffusion material.
- (E) Indirect lighting where light is beamed upward and then reflected down from the underside of the vehicular canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the vehicular canopy.
- (F) Other methods approved by the Planning Board.

**Section 19-6: Outdoor Sports Field/Outdoor Performance Area Lighting**

- (A) The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed eighty (80) feet from finished grade unless approved by the Planning Board and Town Council as having no adverse effect.
- (B) All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.
- (C) The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.

**Section 19-7: Lighting of Outdoor Display Areas**

- (A) Parking lot outdoor areas shall be illuminated in accordance with the requirements for Section 19-4 above. Outdoor display areas shall have a maximum point of illuminance of twenty-four (24) maintained footcandles (FC).
- (B) All light fixtures shall meet the IESNA definition of cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within twenty-five (25) feet of any public street right-of-way. Alternatively, directional fixtures (such as flood lights) may be used provided they shall be aimed and shielded in accordance with Section 19-3(A) and (B) of this Ordinance.
- (C) The mounting height of outdoor display area fixtures shall not exceed forty-one (41) feet above finished grade, unless approved by the Planning Board and Town Council as having no adverse effect.

### **Section 19-8: Sign Lighting**

Lighting fixtures illuminating signs shall be aimed and shielded so that direct illumination is focused exclusively on the sign.

### **Section 19-9: Lighting of Buildings and Landscaping**

Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building facade, plantings, and other intended site feature and away from adjoining properties and the public street right-of-way.

### **Section 19-10: Permits**

The applicant for any permit required for work involving outdoor lighting shall submit documentation at time of site plan or plot plan approval that the proposed lighting plan complies with the provisions of this Ordinance. The submission shall contain, but not be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in this Ordinance:

- (A) A point-by-point footcandle array in a printout format indicating the location and aiming of illuminating devices. The printout shall indicate compliance with the maximum maintained footcandles required by this Ordinance.
- (B) Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including but not limited to manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [cutoff fixture, wall pack, flood light, etc.]).

The Administrator or his/her designee(s) may waive any or all of the above permit requirements, provided the applicant can otherwise demonstrate compliance with this Ordinance.

### **Section 19-11: Nonconformities**

- (A) Following application of this regulation, the installation of outdoor lighting, replacement of outdoor lighting, and changes to existing light fixture wattage, type of fixture, mounting, or fixture location shall be made in strict compliance with this Ordinance. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures not subject to subsection (B) below.
- (B) All outdoor lighting that fails to conform with Section 19-3 above which is either located in a residential zoning district or which affects a lot occupied by a dwelling, congregate care, or congregate living structure located in a residential zoning district shall be discontinued,

removed, or made to conform with Section 19-3 within five and one-half (5-1/2) years from the effective date of this provision.

## **PART II. STREET LIGHTING**

### **Section 19-12: Policy Purpose**

The purpose of this section is to establish an official policy for the Town of Pembroke pertaining to the installation of streetlights for the purposes of traffic safety and crime control.

### **Section 19-13: Coverage**

This Article, upon adoption, shall apply to all public rights-of-way within the municipal limits and the ETJ of the Town of Pembroke and any public rights-of-way annexed in the future until such time that this section is altered, modified, or rescinded by the Town Council.

### **Section 19-14: Policy**

The Town Council of the Town of Pembroke hereby establishes the following:

- (A) The owner, developer, or subdivider of a site plan or subdivision shall be required to install street lighting via underground distribution unless specifically approved otherwise by the Town Council, along all proposed streets and along all adjoining existing streets and thoroughfares in accordance with this section.
- (B) Through the site plan and subdivision plan approval process, the Town Council may approve street lighting which exceeds the standard Town requirements for residential streets so as to reduce the length of sag vertical curves provided the streetlights are operational prior to the issuance of any Certificates of Occupancy on such street. In any case, the minimum allowable length of sag vertical curves shall be as follows: residential streets - 20A; cul-de-sacs and loop roads - 15A.
- (C) All underground electrical distribution systems for street lighting within the corporate limits of the Town of Pembroke and its extraterritorial planning jurisdiction shall be installed according to the following standards:
  - (1) Underground service for light fixtures shall be installed by the developer in conformance with Progress Energy and Town of Pembroke standards at the developer's expense.
  - (2) The placement of street lighting fixtures in residential areas shall be at 400 to 600 foot intervals unless:

- (a) The roadway length is less than four hundred (400) feet but more than two hundred (200) feet in which case a streetlight will be provided at the end of the street; or
  - (b) Where the roadway length is less than two hundred (200) feet and a streetlight is placed at the intersection and no natural features create a problem, no streetlight will be placed at the end of the roadway; or
  - (c) The vertical and horizontal street alignment or natural features necessitate shorter spacing intervals.
- (3) The placement of street lighting along thoroughfares, marginal access streets, and collector streets and in nonresidential areas shall be in accordance with the latest revision of the Illuminating Engineering Society's "American National Standards for Roadway Lighting."
  - (4) A streetlight shall be provided at all street intersections.
- (D) Street light fixtures shall conform to the following:
- (1) All fixtures in residential areas shall be either 5,800 or 9,500 lumen enclosed high pressure sodium lamps on standard Progress Energy poles twenty-five (25) feet in height. The 5,800 lumen fixture shall be placed only at the "neck" of cul-de-sacs.
  - (2) All fixtures along thoroughfares shall be 28,500 lumen enclosed high pressure sodium lamps on Progress Energy standard fiberglass poles thirty (30) feet in height or 50,000 lumen enclosed high pressure sodium lamps on Progress Energy standard fiberglass poles thirty-five (35) feet in height. The 28,500 lumen fixtures shall be placed in residential areas when spillover from the 50,000 lumen fixtures would be excessive.
- (E) Authorization for street light installations shall occur at such time as:
- (1) A developer, through the Town of Pembroke, requests the installation of streetlights prior to the issuance of any Certificates of Occupancy. The developer shall incur a monthly electrical expense billed from Progress Energy equal to the monthly electrical expense incurred by the Town of Pembroke, for each streetlight installed. The developer will be billed by Progress Energy for the period beginning with installation of the streetlight and ending with notification to the Town of Pembroke, by the developer, of issuance of a Certificate of Occupancy in the immediate area of each street light location, or
  - (2) A Certificate of Occupancy is issued in the immediate area of the proposed street light location, or

- (3) A thoroughfare, marginal access street, or collector street is constructed or widened as a part of development. Thoroughfares, marginal access streets, and collector streets that are constructed or widened by the Town of Pembroke shall be lighted immediately after construction, dependent on the availability of funds.
- (F) Street lighting facilities and streetlights shall be installed by the developer on any roadway, portion of roadway, or widening prior to the Town of Pembroke's acceptance of that roadway for routine maintenance unless otherwise approved by the Public Works Director.
- (G) Residents along a street may request the relocation of a streetlight provided that the proposed street light location meets Town standards and the relocation is approved by the Public Works Director. Residents living at the cul-de-sac end of a street may request the replacement of an existing 9,500 lumen semi-enclosed light fixture with a 5,800 lumen semi-enclosed light fixture. A petition, signed by all persons owning property fronting on the street within the boundaries of the next closest installed or proposed streetlights, shall be required. Also, the relocation or replacement cost and all facilities abandonment costs must be paid in full to Progress Energy in advance by the resident(s) requesting the relocation or replacement.
- (H) A developer may request to use decorative or "private" street lighting within a development provided:
- (1) Street light fixture types and locations must meet the minimum criteria set forth in this Article and must be approved by the Town of Pembroke.
  - (2) The developer and/or Homeowner's Association shall be responsible for all installation costs and monthly operating costs above what is accepted by policy of the Pembroke Town Council associated with the streetlights.
  - (3) The developer and/or Homeowner's Association shall be responsible for any costs associated with deletion of the streetlights and any costs associated with installing the Town's standard street lights.
  - (4) The developer shall include all responsibilities of the Homeowner's Association pertaining to the street lighting in the development covenants. The developer shall inform all purchasers of property in the development of these same responsibilities.



# ARTICLE 20. FLOOD DAMAGE PREVENTION ORDINANCE

*(Amended 9/3/2019, 8/2/2021)*

## **Section 20-1: Statutory Authorization, Findings of Fact, Purpose and Objectives, Definitions**

- (A) Statutory Authorization. The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of the Town of Pembroke, North Carolina, does ordain as follows:
- (B) Findings of Fact.
- (1) The flood prone areas within the jurisdiction of the Town of Pembroke are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  - (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.
- (C) Statement of Purpose. It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:
- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
  - (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
  - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
  - (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
  - (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(D) Objectives. The objectives of this ordinance are:

- (1) To protect human life, safety, and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business losses and interruptions;
- (5) To minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) To minimize damage to private and public property due to flooding;
- (7) To make flood insurance available to the community through the National Flood Insurance Program;
- (8) To maintain the natural and beneficial functions of floodplains;
- (9) To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

(E) Definitions. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

- (1) Accessory Structure (Appurtenant Structure). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds, and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
- (2) Addition (to an existing building). An extension or increase in the floor area or height of a building or structure.
- (3) Alteration of a Watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or

the channel capacity, or any other form of modification which may alter, impede, retard, or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

- (4) Appeal. A request for a review of the floodplain administrator's interpretation of any provision of Article 20.
- (5) Area of Shallow Flooding. A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
- (6) Area of Special Flood Hazard. See "Special Flood Hazard Area (SFHA)."
- (7) Area of Future-Conditions Flood Hazard. The land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.
- (8) Basement. Any area of the building having its floor subgrade (below ground level) on all sides.
- (9) Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- (10) Base Flood Elevation (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area," it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard," establishes the "Regulatory Flood Protection Elevation."
- (11) Building. See "Structure."
- (12) Chemical Storage Facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
- (13) Design Flood. See "Regulatory Flood Protection Elevation."
- (14) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

- (15) Development Activity. Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.
- (16) Digital Flood Insurance Rate Map (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.
- (17) Disposal. As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- (18) Elevated Building. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- (19) Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- (20) Existing Building and Existing Structure. Any building and/or structure for which the "start of construction" commenced before the effective date of the initial FIRM for the community, dated January 19, 2005.
- (21) Existing Manufactured Home Park or Manufactured Home Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial floodplain management regulations adopted by a community, dated January 5, 2004.
- (22) Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:  
(a) the overflow of inland or tidal waters; and/or  
(b) the unusual and rapid accumulation of runoff of surface waters from any source.
- (23) Flood Boundary and Floodway Map (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard

Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

- (24) Flood Hazard Boundary Map (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.
- (25) Flood Insurance. The insurance coverage provided under the National Flood Insurance Program.
- (26) Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. See also DFIRM.
- (27) Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
- (28) Flood Prone Area. See "Floodplain."
- (29) Floodplain or Flood Prone Area. Any land area susceptible to being inundated by water from any source.
- (30) Floodplain Administrator. The individual appointed to administer and enforce the floodplain management regulations.
- (31) Floodplain Development Permit. Any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.
- (32) Floodplain Management. The operation of an overall program of corrective and preventative measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- (33) Floodplain Management Regulations. This Ordinance and other zoning ordinances, subdivision regulations, building codes, health, regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations, in any

combination thereof, which provide standards for preventing and reducing flood loss and damage.

- (34) Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.
- (35) Flood Resistant Material. Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
- (36) Floodway. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- (37) Floodway Encroachment Analysis. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.
- (38) Flood Zone. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
- (39) Freeboard. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The freeboard plus the Base Flood Elevation establishes the "Regulatory Flood Protection Elevation."
- (40) Functional Dependent Facility. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port

facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacturing, sales, or service facilities.

- (41) Hazardous Waste Management Facility. As defined in NCGS 130, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
- (42) Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
- (43) Historic Structure. Any structure that is:
  - (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
  - (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - (c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program;" or
  - (d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the NC Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

- (44) Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:
  - (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
  - (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
  - (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.
- (45) Light Duty Truck. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082 2 and is:
- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
  - (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
  - (c) Available with special features enabling off street or off highway operation and use.
- (46) Lowest Adjacent Grade (LAG). The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
- (47) Lowest Floor. The subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements this Ordinance.
- (48) Manufactured Home. Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or



without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

- (49) Manufactured Home Park or Subdivision. A parcel, or contiguous parcels, of land divided into two (2) or more manufactured home lots for rent or sale.
- (50) Map Repository. the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.
- (51) Market Value. The building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (Actual Cash Value), or adjusted tax assessed values.
- (52) New Construction. Structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.
- (53) Non-Conversion Agreement. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed.
- (54) Non-Encroachment Area. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.
- (55) Post-FIRM. Construction or other development for which the “start of construction” occurred on or after January 19, 2005, the effective date of the initial Flood Insurance Rate Map.
- (56) Pre-FIRM. Construction or other development for which started before the “start of construction” occurred before January 19, 2005, the effective date of the initial Flood Insurance Rate Map.

- (57) Principally Above Ground. At least 51% of the actual cash value of the structure is above ground.
- (58) Public Safety and/or Nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or a river, bay, stream, canal, or basin.
- (59) Recreational Vehicle. A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light duty truck; (d) not designed for use as a permanent primary dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use; and (e) is fully licensed and ready for highway use.
- (60) Reference Level. The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, or A99.
- (61) Regulatory Flood Protection Elevation. The “Base Flood Elevation” plus the “Freeboard.” In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.
- (62) Remedy a Violation. To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
- (63) Repetitive Loss. Flood-related damages sustained by a structure on two (2) separate occasions during any ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.
- (64) Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.)
- (65) Salvage Yard. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances, and related machinery.

- (66) Solid Waste Disposal Facility. Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).
- (67) Solid Waste Disposal Site. Any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
- (68) Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in Article 20.
- (69) Start of Construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
- (70) Structure. A walled and roofed building that is principally above ground, a manufactured home, a gas, liquid, or liquefied gas storage tank, or other manmade facilities or infrastructures, that is principally above ground.
- (71) Substantial Damage. Damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred. See definition of “substantial improvement.”
- (72) Substantial Improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or improvement of a structure, taking place during any one year period for which the cost equals or exceeds fifty percent (50%) of the market value of the structure, before the “start of construction” of the improvement. This

term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (a) any correction of existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, (b) any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 20-3(E) of this Ordinance.

- (73) Technical Bulletin and Technical Fact Sheet. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

- (74) Temperature Controlled. Having the temperature regulated by a heating and/or cooling system, built in or appliance.
- (75) Variance. A grant of relief from the requirements of this Article.
- (76) Violation. The failure of a structure or other development to be fully compliant with the town’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Article 20 is presumed to be in violation until such time as that documentation is provided.
- (77) Water Surface Elevation (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- (78) Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Section 20-2: General Provisions**

- (A) Lands to Which This Ordinance Applies. This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including the extraterritorial jurisdiction (ETJ), as allowed by law, of the Town of Pembroke.
- (B) Basis for Establishing the Special Flood Hazard Areas. The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) dated December 6, 2019, for Robeson County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared to be a part of this ordinance, and all revisions thereto.
- (C) Establishment of Floodplain Development Permit. A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 20-2 (B) of this ordinance.
- (D) Compliance. No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.
- (E) Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (F) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
  - (1) Considered as minimum requirements;
  - (2) Liberally construed in favor of the governing body; and
  - (3) Deemed neither to limit nor repeal any other powers granted under State statutes.
- (G) Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Pembroke or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (H) Penalties for Violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in

connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NCGS 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Pembroke from taking such other lawful action as is necessary to prevent or remedy any violation.

**Section 20-3: Administration**

(A) Designation of Floodplain Administrator. The Pembroke Town Manager, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

(B) Floodplain Development Application, Permit, and Certification Requirements.

(1) Application Requirements. Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - (i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - (ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 20-2 (B) or a statement that the entire lot is within the Special Flood Hazard Area;
  - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 20-2 (B);
  - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Section 20-2 (B);

- (v) the Base Flood Elevation (BFE) where provided as set forth in Section 20-2 (B); Section 20-3 (C) (11 & 12); or Section 20-4 (D);
  - (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development.
  - (vii) the certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
  - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be flood-proofed;
  - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
  - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 20-4 (B)(4)(d), when solid foundation perimeter walls are used in Zones A, AO, AE, AH, and A99.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

- (g) Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.
  - (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 20-4 (B)(6 & 7) of this ordinance are met.
  - (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
- (a) A complete description of the development to be permitted under the floodplain development permit (e.g., house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.);
  - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 20-2 (B);
  - (c) The regulatory flood protection elevation required for the reference level and all attendant utilities;
  - (d) The regulatory flood protection elevation required for the protection of all public utilities;
  - (e) All certification submittal requirements with timelines;
  - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, unless the requirements of Section 20-4(E) have been met;
  - (g) The flood openings requirements.
  - (h) Limitations of below BFE enclosure areas, if applicable (i.e., parking, building access and limited storage only).
  - (i) A statement, that all materials below BFE/RFPE must be flood resistant materials.



(3) Certification Requirements.

(a) Elevation Certificates

- (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit;
- (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project;
- (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram

number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable;

(b) Floodproofing Certificate.

(i) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to

deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zone A, AO, AE, AH, or A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 20-4 (B)(3).
  - (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
  - (e) Certification Exemptions. The following structures, if located within Zone A, AO, AE, AH, or A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
    - (i) Recreational Vehicles meeting requirements of Section 20-4 (B)(6)(a);
    - (ii) Temporary Structures meeting requirements of Section 20-4 (B)(7); and
    - (iii) Accessory Structures less than 150 square feet meeting requirements of Section 20-4 (B)(8).
- (4) Determinations for Existing Buildings and Structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
  - (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of

improvements and repairs, if applicable, to the market value of the building or structure;

- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

(C) Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 20-4 (E) are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 20-3 (B)(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Section 20-3 (B)(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with Section 20-3 (B)(3).

- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 20-3 (B)(3) and Section 20-4 (B)(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 20-2 (B) obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 20-4 (D)(2)(b), in order to administer the provisions of this ordinance.
- (12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 20-2 (B), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-

work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

- (17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Section 20-3 (D).
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Section 20-2 (B) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

(D) Corrective Procedures.

- (1) Violations to be Corrected. When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action. If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- (a) That the building or property is in violation of the Flood Damage Prevention Ordinance;
  - (b) That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
  - (c) That following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NCGS 143-215.58 and shall be punished at the discretion of the court.
- (E) Variance Procedures.
- (1) The Town Council as established by the Town of Pembroke, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
  - (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

- (3) Variances may be issued for:
- (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Section 20-3 (E)(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
  - (c) Any other type of development, provided it meets the requirements stated in this section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
- (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependant facility, where applicable;
  - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;



- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances.
- (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (d) Variances shall only be issued prior to development permit approval.

- (e) Variances shall only be issued upon:
  - (i) a showing of good and sufficient cause;
  - (ii) a determination that failure to grant the variance would result in exceptional hardship; and
  - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  
- (10) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
  - (a) The use serves a critical need in the community.
  - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
  - (c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
  - (d) The use complies with all other applicable Federal, State and local laws.
  - (e) The Town of Pembroke has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

**Section 20-4: Provisions for Flood Hazard Reduction**

- (A) General Standards. In all Special Flood Hazard Areas the following provisions are required:
  - (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
  - (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
  - (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

- (4) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
  - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance as specified in Section 20-4(E)(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 20-4(B)(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
  - (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
  - (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
  - (15) When a structure is located in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
  - (16) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.
- (B) Specific Standards. In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 20-2 (B), or Section 20-3 (C)(11 & 12), the following provisions, in addition to Section 20-4 (A), are required:
- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.
  - (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance. Structures located in A, AE, AH, AO, and A99 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 20-4 (F)(3). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as

set forth in Section 20-3 (B)(3), along with the operational plan and the inspection and maintenance plans.

(3) Manufactured Homes.

- (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 20-4 (B)(4)(a), (b), and (c).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) Shall not be temperature-controlled or conditioned;
- (c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation;

- (d) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;
  - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - (ii) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;
  - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - (iv) The bottom of all required flood openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;
  - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure;
  - (ii) a substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure;
  - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
  - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
  - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

- (6) Recreational Vehicles. Recreational vehicles shall either:
- (a) Temporary Placement
    - (i) Be on site for fewer than 180 consecutive days; or
    - (ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions).
  - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;
- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
  - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
  - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
  - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
  - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);



- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with Section 20-4 (A)(1);
- (f) All service facilities such as electrical shall be installed in accordance with Section 20-4 (A)(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section 20-4 (B)(4)(c).

An accessory structure with a footprint less than 150 square feet and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 20-5(B)(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 20-3 (B)(3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this Article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to

resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
  - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
  - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 20-4(E) of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 20-4(E) of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 20-4(E) of this ordinance.
- (d) Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

(C) Standards for Floodplains without Established Base Flood Elevations. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 20-2 (B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 20-4 (A and B), shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
- (a) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Section 20-4 (A) and (B).
  - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Section 20-4(B) and (E).
  - (c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 20-2 (B) to be utilized in implementing this ordinance.
  - (d) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Article 2. All other applicable provisions of Section 20-4(B) shall also apply.
- (D) Standards for Riverine Floodplains with BFE but without Established Floodways or Non-Encroachment Areas. Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:
- (1) Standards outlined in Section 20-4 (A and B); and
  - (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (E) Floodways and Non-Encroachment Areas. Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 20-2 (B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential

projectiles. The following provisions, in addition to standards outlined in Section 20-4 (A and B), shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
    - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
    - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
  - (2) If Section 20-4 (F)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
  - (3) Manufactured homes may be permitted, provided the following provisions are met:
    - (a) The anchoring and the elevation standards of Section 20-4 (B)(3); and
    - (b) The no encroachment standard of Section 20-4 (F)(1).
- (F) Standards for Areas of Shallow Flooding (Zone AO). Located within the Special Flood Hazard Areas established in Section 20-2 (B), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 20-4 (A), all new construction and substantial improvements shall meet the following requirements:
- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of two feet if no depth number is specified.
  - (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 20-4 (F)(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Section 20-3 (B)(3) and Section 20-4 (B)(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(G) Standards for Areas of Shallow Flooding (Zone AH). Located within the Special Flood Hazard Areas established in Section 20-2(B), are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Section 20-4(A) and (B), all new construction and substantial improvements shall meet the following requirements:

(1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **Section 20-5: Legal Status Provisions**

(A) Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance. This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted January 5, 2004, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Pembroke enacted on January 5, 2004, as amended, which are not reenacted herein are repealed.

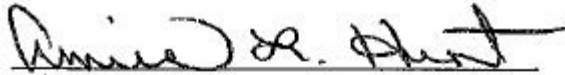
(B) Effect Upon Outstanding Floodplain Development Permits. Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

(C) Severability. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

(D) Effective Date. This ordinance shall become effective upon adoption.

(E) Adoption Certification. I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Town Council of the Town of Pembroke, North Carolina, on the 2<sup>nd</sup> day of August, 2021.

Witness my hand and the official seal of the Town of Pembroke by Amira Hunt, Town Clerk, this the 2<sup>nd</sup> day of August, 2021.



Amira Hunt, Town Clerk



# ARTICLE 21. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS

## Section 21-1: Purpose

The purpose of this Article shall be to set forth the regulatory and licensing requirements for adult and sexually oriented establishments located within the Town of Pembroke. Adult and sexually oriented establishments, because of their very nature, are recognized as having serious objectionable operational characteristics. Studies and experiences that are relevant to North Carolina have shown that lower property values and increased crime rates tend to accompany and are brought about by adult and sexually oriented business establishments. The Town Council finds that regulation of these uses is necessary to ensure that these adverse secondary effects do not contribute to the blighting of surrounding neighborhoods, and to regulate acts, omissions, or conditions detrimental to the health, safety, or welfare and the peace and dignity of the Town. Regulation to achieve these purposes can be accomplished by the procedures set forth hereinafter.

The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This Article represents a balancing of the legitimate ends of the community by imposing an incidental, content neutral place, time, and manner regulation of sexually oriented businesses, without limiting alternative avenues of communication and at the same time, requiring the business to carry its share of financing administrative and enforcement activities.

## Section 21-2: Application for Licenses

### (A) Adult Establishment License.

- (1) It shall be unlawful for any person to operate or maintain an adult establishment in the Town unless the owner or operator thereof has obtained an Adult Establishment License from the Town. It shall also be unlawful for any person to operate such business after such license has been revoked or suspended by the Town, or said license has expired.
- (2) It shall be unlawful for any entertainer to knowingly perform any work, service, or entertainment directly related to the operation of an unlicensed adult establishment within the Town.
- (3) It shall be prima facie evidence that any adult establishment that fails to have posted, in a manner required by this Article, an adult establishment license, or has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer who performs any service or entertainment in which an adult

establishment license is not posted, in the manner required by this Article, had knowledge that such business was not licensed.

(B) Entertainer License. It shall be unlawful for any person to work as an entertainer at an adult establishment without first obtaining a license to do so from the Town, or to work as an entertainer at an adult establishment after such person's license to do so has been revoked or suspended by the Town, or has expired.

(C) License Classification and Fees.

(1) The term of all licenses required under this Article shall be for a period of twelve (12) months, commencing on the date of issuance of the license. The application for a license shall be accompanied by payment in full of the fees referred to in this Article and established by the Town Council. Payment shall be made by certified or cashier's check or money order. No application shall be considered complete until all such fees are paid.

(2) The license shall be issued for a specific location and/or person and shall be non-refundable or non-transferable.

(3) The license fees shall be as set by the Town Council and be recorded in the Town Council Meeting Minutes at which they are set. The license fee for an adult establishment shall be one thousand (1,000) dollars per year. Additionally, there shall be an additional five hundred (500) dollar fee for each additional partner, if the applicant is a partnership; and if the applicant is a corporation, for each corporate officer, director, or any individual(s) having a ten percent (10%) or greater interest in the corporation.

(4) The license fee for an adult entertainer license shall be five hundred (500) dollars per year.

(5) Said license fees shall be listed on the official Schedule of Fees for the Town.

### **Section 21-3: Application Procedures**

(A) Adult Establishment License. All persons desiring to secure a license to conduct, operate, or maintain an adult establishment under the provisions of this Article shall make a verified application to the Administrator. All applications shall require the following information and be submitted on a form supplied by the Town:

(1) The applicant's full name and any aliases or other names by which the applicant is known or which the applicant has used at any time, and the residence address(es) for the past two years, the business and home telephone numbers, occupation, date and place of birth, social security number, driver's license number, and a recent photograph of the applicant.



- (2)
    - (a) The name of the adult establishment, a full description of the adult entertainment to be performed on the licensed premises, the name of the owner of the premises where the adult establishment will be located, the business address and Robeson County parcel identification number on which the business resides.
    - (b) If the persons identified as the fee owner(s) of the tract of land in item 2(a) is/are not also the owner(s) of the establishment, then the lease, purchase contract, purchase option contract, lease option contract, or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the adult establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of an adult establishment.
    - (c) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand (1,000) feet of the property to be certified; the property lines of any established religious institution/synagogue, school, library, or public park or recreation area within one thousand (1,000) feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
    - (d) Any of the criteria above shall not be required for a renewal application if the applicant states, in writing, that the documents previously furnished to the Town with the original application or previous renewals thereof remain correct and current.
  - (3) The names, residence address(es) for the past two years, social security numbers, and dates of birth of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers, directors, and individuals having a ten percent (10%) or greater interest in the corporation.
  - (4) A written statement from the applicant, or from partner, or from each corporate officer, director, or ten percent (10%) or greater shareholder, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
    - (a) A felony criminal act within five (5) years immediately preceding the application, or
    - (b) A misdemeanor criminal act within two (2) years immediately preceding the application.

*Where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the laws of the State of North Carolina or any other comparable violation of the laws of this state or the laws of any other state.*

- (5) If the applicant is a corporation, a current certificate of existence issued by the State of North Carolina Secretary of State.
  - (6) A written statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Article regulating adult establishments.
  - (7) All applicants shall submit to fingerprinting by a Town of Pembroke Police Officer. The fingerprint cards shall be submitted to the North Carolina State Bureau of Investigation (SBI) for processing. Returned fingerprint cards and criminal histories shall be kept on file in the Town of Pembroke Police Department.
  - (8) A written statement signed under oath that the applicant(s) consent(s) to investigation of his/her background by the Town to include fingerprinting and that the applicant(s) agrees to furnish within ten (10) days at his/her expense, a criminal history from the Clerk of Court of any county in which the applicant has resided during the five (5) preceding years.
  - (9) Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed until complete.
- (B) Adult Entertainer License. All persons desiring to secure a license under the provisions of this Article to be an entertainer shall make a verified application to the Town. All applications shall be made in person to the Administrator. All applications shall be submitted on a form supplied by the Town and shall require the following information:
- (1) The applicant's full name and any aliases or other names by which the applicant is known or which the applicant has used at any time, and the residence address(es) for the past two (2) years, the home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining.
  - (2) The name and address of the adult establishment where the applicant intends to work as an entertainer.
  - (3) A written statement from the applicant that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution of either:

- (a) A felony criminal act within five (5) years immediately preceding the application, or
  - (b) A misdemeanor criminal act within two (2) years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the laws of the State of North Carolina or any other comparable violation of the laws of this state or the laws of any other state.
- (4) Photographs shall be taken of the applicant by the Town, and the Administrator charged with the administration and enforcement of the provision of this Article shall have the photographs processed and retain the copies.
- (5) All applicants shall submit to fingerprinting by a Town of Pembroke Police Officer. The fingerprint cards shall be submitted to the SBI for processing. Returned fingerprint cards and criminal histories shall be kept on file in the Town of Pembroke Police Department.
- (6) The applicant shall present, at the time the application is made, documentation to the Town for copying that the applicant has attained the age of twenty-one (21) years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
- (a) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
  - (b) A state issued identification card bearing the applicant's photograph and date of birth;
  - (c) An official and valid passport issued by the United States of America;
  - (d) An immigration card issued by the United States of America (if applicable);
  - (e) Any other form of picture identification issued by a governmental entity that is deemed reliable by the Town; or
  - (f) Any other form of identification deemed reliable by the Town.
- (7) A written statement signed under oath that the applicant consents to investigation of his/her background by the Town to include fingerprinting and that the applicant agrees to furnish within ten (10) days at his/her expense, a criminal history from the Clerk of Court of any county in which the applicant has resided during the five (5) preceding years.

- (8) Failure to provide the information required by this subsection shall constitute an incomplete application and it shall not be processed until complete.
- (C) Application Processing. Upon receipt of a complete application for an Adult Business License or for an adult entertainer license, the Administrator shall immediately commence investigation of the application as follows:
- (1) In the case of an application for a license for an adult establishment, the Administrator shall:
- (a) Transmit a copy of the application to the Town Council, the Police Chief, the Fire Chief, and the Town Clerk. *(Amended 4/4/2022)*
  - (b) The Administrator shall notify the applicant within fifteen (15) working days after the receipt of the application by the Administrator whether or not a proposed adult establishment complies with the requirements of the Town's Unified Development Ordinance regarding location of the adult establishment building, fire, health, or similar State or local code(s).
  - (c) The Administrator shall review the application to confirm compliance with Articles 12 and 21. If the Administrator confirms compliance, then the application shall be forwarded to the Town Council for issuance of the special use permit, following a quasi-judicial hearing *(Amended 8/2/2021, 4/4/2022)*
  - (d) The Police Chief shall report to the Administrator no later than fifteen (15) working days after receipt of the application by the Police Chief the results of his/her investigation of the applicant.
  - (e) The Fire Chief shall report to the Administrator no later than fifteen (15) working days after receipt of the application by the Fire Chief the results of his/her investigation of the applicant.
  - (f) The Town Clerk shall maintain said copy of the application for public review. Notice of availability of said application shall be posted in a paper of general circulation indicating the following:
    - (1) Name of applicant
    - (2) Date of application
    - (3) Nature of application
  - (g) Upon completion of the Administrator's investigation, payment of the applicable license fee, and upon receipt of the report of the Fire Chief and the Police Chief, the Town Council shall determine whether or not a license shall be issued. In no event shall the time period for determination by the Town

Council exceed forty-five (45) working days from the date the application is received by the Administrator, unless consented to by the applicant.

- (2) In the case of an application for a license for an entertainer, the Administrator shall:
  - (a) Transmit a copy of the application to the Police Chief.
  - (b) The Police Chief shall report to the Administrator no later than fifteen (15) working days after receipt of the application by the Police Chief the results of his/her investigation of the applicant.
  - (c) Upon completion of his/her investigation, payment of the appropriate license, and upon receipt of the report of the Police Chief, the Administrator shall determine whether or not a license shall be issued.
  
- (D) Reasons for Disapproval. The Administrator must deny the Adult Business License application if one or more of the following applies:
  - (1) The license application is incomplete. (All information required by the Article is not submitted).
  - (2) The applicant (including any partners, corporate officers, directors, and shareholders where applicable) has been convicted of a crime in the local, state, or federal court systems for any violations listed in this section.
  - (3) The applicant (including any partners, corporate officers, directors, and shareholders where applicable) has made a false or fraudulent statement in the application, evidence of which is disclosed by a Town background investigation or by any other lawful means.
  - (4) The application for an adult establishment business license does not meet the requirements of this Article.
  - (5) The applicant for an adult establishment has not received a Special Use Permit from the Town Council. *(Amended 8/2/2021)*
  
- (E) Notice of Approval or Disapproval.
  - (1) Upon a determination by the Administrator of the disapproval or approval of the application, the Administrator shall notify the applicant by personal delivery or certified mail, return receipt requested, to the address of the applicant as shown on the application. In the event that the application is disapproved, the notification shall state the basis for such disapproval.

(2) In the event an application is disapproved, the applicant shall have thirty (30) days from the receipt of the notice of disapproval to appeal that determination to the Superior Court of Robeson County.

(F) Changes to Application. All applicants shall notify the Administrator of any changes to the application within five (5) working days of the date the change occurs.

**Section 21-4: Prohibited Acts and Conduct**

(A) No person under the age of twenty-one (21) years shall be permitted on the premises of any adult establishment.

(B) No person under the age of twenty-one (21) years shall be granted a license for an Adult Establishment Business or as an entertainer.

(C) No owner, operator, manager, employee, or entertainer, nor any customer or patron, shall appear "bottomless" or in a state of nudity while on the premises of the adult establishment.

(D) No owner, operator, manager, employee, or entertainer, nor any customer or patron shall perform any specified sexual activities as defined in this Article, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial device or inanimate object to perform or depict any of the specified sexual activities, as defined in this Article, or participate in any act of prostitution while on the premises of the adult establishment.

(E) No owner, operator, manager, employee, entertainer, customer, or patron of an adult establishment shall knowingly touch, fondle, or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle, or caress any specified anatomical area of his or hers, whether such specified anatomical areas are clothed, unclothed, covered, or exposed, while on the premises of the adult establishment.

(F) There shall be a minimum separation of six (6) feet between any entertainer or performer and any patron or customer.

(G) No owner, operator, manager, or employee shall mix, dispense, or serve any alcoholic beverage while in a state of nudity or semi-nudity.

(H) No owner, operator, manager, or employee shall solicit, receive, or accept nor shall any customer or patron give, offer, or provide any gratuity, tip, payment, or any other form of compensation for entertainment for or while either or both is/are in a state of nudity or semi-nudity. This also pertains to the purchase of an unrelated item that includes a "free" dance, act, or service.

- (I) No owner, operator, manager, or other person in charge of the premises of an adult establishment shall knowingly allow or permit any person under the age of twenty-one (21) years of age to be in or upon the premises or knowingly allow or permit a violation of this Ordinance.

**Section 21-5: License, Posting and Display**

- (A) Every person, corporation, or partnership licensed under this Article as an adult establishment shall post such license in a conspicuous place and manner on the adult establishment premises.
- (B) Every person holding a license as an entertainer shall post his/her license in his or her work area on the adult establishment premises so it shall be readily available for inspection by the Town authorities responsible for enforcement of this Article.

**Section 21-6: Inspections**

- (A) All adult establishments shall permit representatives of the Police, Fire, Zoning, or other Town or state departments or agencies acting in their official capacity, to inspect the premises as necessary to ensure that the business is complying with all applicable regulations and laws.
- (B) The owner or operator of an adult establishment shall provide, on the first work day of each month, a comprehensive written list of all employees of said adult establishment to include any and all entertainers working on the premises to the Administrator for inspection.

**Section 21-7: Suspension or Revocation of Licenses**

- (A) The Administrator may temporarily suspend a license pending a public hearing. The Administrator shall conduct a hearing to determine whether or not a license should be suspended or revoked, with the hearing conducted within ten (10) working days of his/her knowledge that:
  - (1) The owner or operator of an adult establishment or the holder of a license as an entertainer has violated, or knowingly allowed or permitted the violation of any of the provisions of this Article; or
  - (2) There have been recurring violations of provisions of this Article that have occurred under such circumstances that the owner or operator of an adult establishment knew or should have known that such violations were committed; or
  - (3) The license was obtained from false statements in the application for such license, or renewal thereof; or

- (4) The license has been materially altered or defaced or is being or was used by a person other than the license holder or at a location other than that identified on the license or for a use or type other than that for which the license was issued; or
  - (5) The licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
  - (6) The owner or operator, or any partner, or any corporate officer or director holding an adult establishment license has become disqualified from having a license by a conviction as provided in this Article; or
  - (7) The holder of an entertainer license has become disqualified from having a license by a conviction as provided in this Article; or
  - (8) The owner or operator of the adult establishment fails to provide to the Administrator a comprehensive written list of all employees to include any and all entertainers working on the premises on the first working day of any given month.
- (B) At the hearing, the licensee shall have an opportunity to be heard, to present evidence, and to be represented by an attorney. Based on the evidence produced at the hearing, the Administrator shall take, within five (5) working days after the hearing, any of the following actions:
- (1) Suspend the license for up to ninety (90) days; or
  - (2) Revoke the license; or
  - (3) Place the license holder on administrative probation for a period of up to one (1) year, on the condition that no further violations of this Article occur during the period of probation; or
  - (4) Take no action.
- (C) The Administrator shall provide written notice of his/her decision to the applicant by certified mail, return receipt requested. The notice shall be sent immediately after the Administrator determines what action to take, as described herein.
- (D) In the event of suspension or revocation of the license or the placement on administrative probation, the licensee shall have the right to appeal that determination to the Superior Court of Robeson County within thirty (30) days of receipt of the notice of suspension, revocation, or probation.



**Section 21-8: License Renewal**

- (A) A license may be renewed by making application to the Administrator on application forms provided for that purpose. Any license issued under this Article shall expire at the end of the twelve (12) month period from the date of its issuance, and renewal applications for such licenses shall be submitted no sooner than forty-five (45) days prior to expiration and no later than the Town business day immediately preceding the date of expiration of the license.
- (B) Upon timely and proper application for renewal and the payment in full of the license fee, the Administrator shall issue to the applicant a receipt showing the date of the renewal application and granting to the applicant a temporary extension of the license for a period of forty-five (45) days or until the application for renewal is approved or disapproved. Any license issued under the provisions of this Article may be renewed by issuance of a new license for an additional twelve (12) month period. All applications for renewal of license shall be processed in the manner provided for the issuance of the initial license as set forth within this Article.

**Section 21-9: Transfer of License**

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

**Section 21-10: Locational Restrictions**

Sexually oriented businesses may be permitted as a Special Use in an HI zoning district provided that *(Amended 8/2/2021)*:

- (A) The sexually oriented business may not be located or operated within one thousand (1,000) feet of:
  - (1) A church, synagogue, or regular place of worship;
  - (2) A public or private elementary or secondary school;
  - (3) A public library;
  - (4) A boundary of any residential district;
  - (5) A publicly owned park, beach, beach access, or other recreation area or facility;
  - (6) A licensed day care center;
  - (7) An entertainment business that is oriented primarily towards children;
  - (8) Another sexually oriented business.
- (B) For the purpose of this Article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is to be conducted, to the nearest property line of the premises of any use listed in (A) above.

- (C) No more than one (1) adult or sexually oriented business establishment or massage business shall be located in the same building or structure or on the same lot. No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.
- (D) Adult and sexually oriented businesses shall be located as special use within the HI Zoning district. *(Amended 8/2/2021)*
- (E) All minimum lot requirements and regulations of the HI Zoning District shall be met.
- (F) No person shall permit any viewing booth in an adult mini motion picture theater to be occupied by more than one person at any time.

**Section 21-11: Nonconforming Uses**

- (A) Any business lawfully operating on the effective date of this Ordinance that is in violation of the location and structural configuration requirements of this Ordinance shall be deemed a nonconforming use. The nonconforming requirements of this Ordinance shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business(es) is nonconforming.
- (B) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked.

**Section 21-12: Additional Regulations for Adult Motels**

- (A) Evidence that a sleeping room in a hotel, motel, or similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttal presumption that the enterprise is an adult motel as that term is defined in this Ordinance.
- (B) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

- (C) For the purpose of this Article, the terms “rent” and “subrent” mean the act of permitting a room to be occupied for any form of consideration.

**Section 21-13: Additional Regulations for Escort Agencies**

- (A) An escort agency shall not employ any person under the age of twenty-one (21) years.
- (B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of twenty-one (21) years.

**Section 21-14: Additional Regulations for Nude Model Studios**

- (A) A nude model studio shall not employ any person under the age of twenty-one (21) years.
- (B) A person under the age of twenty-one (21) years is in violation of this Article if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under twenty-one (21) years was in a restroom not open to the public view or visible by any other person.
- (C) It is a violation of this Article if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- (D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

**Section 21-15: Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, and Live Performances**

- (A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, other video reproduction, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more managers’ stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager’s station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer’s or architect’s blueprint shall not be required; however, each diagram should be oriented to the north or to some designed street or object and should be drawn to a designated scale or with marked dimensions sufficient to show

the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The Administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Administrator.
- (4) It is the duty of the owner(s) and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designed, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owner(s) and operator, and it shall also be the duty of the agent(s) and employee(s) present in the premises, to ensure that the view area specified in subsection (5) remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) above.
- (7) No viewing room may be occupied by more than one person at any time.
- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) footcandles as measured at the floor level.
- (9) It shall be the duty of the owner(s) and operator, and it shall be the duty of any agent(s) and employee(s) present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (10) No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

- (11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
  - (12) The operator of the sexually oriented business shall, during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.
  - (13) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
  - (14) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within forty-eight inches (48") of the floor.
- (B) A person having a duty under subsections (1) through (14) of this section is in violation of this Article if he/she knowingly fails to fulfill that duty.

**Section 21-16: Exterior Portions of Sexually Oriented Businesses**

- (A) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- (B) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Article.
- (C) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single monochromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
  - (1) The establishment is a part of a commercial multi-unit center; and
  - (2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
  - (3) Nothing in this Article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(4) A violation of any provision of this Section shall constitute a violation of this Article.

**Section 21-17: Signage**

- (A) Notwithstanding Article 21, it shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.
- (B) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
- (1) Not contain any flashing lights;
  - (2) Be a flat plane, rectangular in shape;
  - (3) Not exceed sixty-four (64) square feet in area; and
  - (4) Not exceed eight (8) feet in height.
- (C) Primary signs shall contain no photographs, silhouettes, drawings, or pictorial representations in any manner, and may contain only the name of the enterprise.
- (D) Each letter forming a word on a primary sign shall be of a solid color, and each letter shall be the same print-type, size, and color. The background behind such lettering on display surface of a primary sign shall be of a uniform and solid color.
- (E) Secondary wall signs shall have only one (1) display surface. Such display surface shall:
- (1) Be a flat plane, rectangular in shape;
  - (2) Not exceed six (6) square feet in area;
  - (3) Be at least seven (7) feet above grade;
  - (4) Be suspended from or attached to the underside of a canopy or marquee.
- (F) The provisions of item (1) of subsection (B) and subsection (C) and (D) shall also apply to secondary signs.
- (G) Setback, height, and any other provision of the Unified Development Ordinance that is not in conflict with this section shall apply.

**Section 21-18: Parking**

Any adult establishment erected, altered, or converted for or to any other adult establishment shall be required to comply with the parking requirements as set forth within Article 17 of this Ordinance.

**Section 21-19: Massages or Baths Administered by a Person of the Opposite Sex**

It shall be unlawful for a sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor, or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this Section shall constitute a misdemeanor.

**Section 21-20: Hours of Operation**

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of twelve o'clock (12:00) AM and four o'clock (4:00) PM on weekdays, Saturdays, and Sundays.

**Section 21-21: Exemptions**

It is a defense to prosecution under this Article that a person appearing in a state of nudity did so in a modeling class operated:

- (A) By a proprietary school, licensed by the State of North Carolina, a college, junior college, or university supported entirely or partly by taxation;
- (B) By a private college or university that maintains and operates education programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

**Section 21-22: Notices**

- (A) Any notice required or permitted to be given by the Administrator or any other Town office, division, department, or other agency under this Article to any applicant, operator, or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the Administrator. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Administrator or his designee shall cause it to be posted at the principal entrance to the establishment.
- (B) Any notice required or permitted to be given to the Administrator by any person under this Article shall not be deemed given until and unless it is received in the office of the Administrator.
- (C) It shall be the duty of each owner who is designated in the license application and each operator to furnish notice to the Administrator in writing of any change of residence or mailing address.

- (D) Notice of Violation and Penalty. When the Administrator of the Town determines that a person is in violation of the provisions as set forth in this Article, a written notice of violation shall be issued to the owner of the subject property. The notice of violation shall contain:
- (1) The name and address of the person(s) in violation;
  - (2) The street address and a description of the building structure, or land upon which the violation has occurred;
  - (3) A statement specifying the nature of the violation;
  - (4) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
  - (5) A statement that the Town's determination of violations may be appealed to the Town Administrator by filing a written notice of appeal within thirty (30) days of service of said notice of violation.
  - (6) The notice of violation shall be served upon the person(s) to whom it is directed either personally, in the manner provided for personal service of notices by the Court of local jurisdiction, or by mailing a copy of the notice of violation by certified mail, postage prepaid, return receipt requested to such person at his or her last known address.
- (F) A notice of violation issued pursuant to this section constitutes a determination from which an administrative appeal may be taken to the Town Administrator.



**ARTICLE 22. RESERVED FOR FUTURE USE.**

*(Amended 8/2/2021)*

## **ARTICLE 23. TELECOMMUNICATION FACILITIES**

### **Section 23-1: Purpose**

The purpose of this Article is to set forth the requirements for planning and construction of telecommunications facilities including cellular antennas, wireless communication towers, and principal communication towers for other uses.

### **Section 23-2: Compliance with Federal Law**

- (A) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. Therefore, it is the policy of the State and the Town of Pembroke to facilitate the placement of wireless communications support structures in all areas of the Town. *(Amended 8/2/2021)*
- (B) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 USC § 332 as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 USC § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission. *(Amended 8/2/2021)*
- (C) This Article shall not be construed to authorize the Town of Pembroke to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein. *(Amended 10/2/2017)*

### **Section 23-3: Facilities Permitted**

Telecommunications facilities, including cellular antennae and wireless communications towers and facilities, are permitted subject to the following conditions:

- (A) Location. The proposed tower, antenna, and accessory structure and equipment shall be placed in a location and in a manner that will minimize the visual impact on the surrounding area. Any tower, antenna, or accessory structure shall be approved by the Planning Board and Town Council for compliance with these requirements. Accessory structures and equipment must meet applicable Sections of Article 11, Note 7. To ensure the safety of the public and other existing buildings, the telecommunications site shall:
  - (1) Not endanger or adversely affect adjacent residential properties *(Amended 11/3/2014)*;

- (2) Be located such that all supporting cables and anchors are contained within the property of the applicant.
- (B) Collocation. Approval for a proposed tower within a radius of ten thousand five hundred (10,500) feet from an existing tower or other similar structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet applicant's structural specifications or technical design requirements, or that a collocation agreement could not be obtained at a reasonable market rate and in a timely manner.
- (C) Height. The height of the tower shall not exceed one hundred sixty (160) feet as measured from existing grade at its base to the highest point of the tower or antennae. An additional one hundred twenty (120) feet of height may be approved if the tower is designed to accommodate twice the applicant's antennae requirements. Telecommunications antennae or equipment mounted on a building shall meet height requirements of Article 11.
- (D) Setback. Unless otherwise stated herein, each Wireless Support Structure shall be set back from all property lines a distance equal to its engineered fall zone.
- (E) Design.
- (1) Towers shall be designed to accommodate additional antennae equal in number to the applicant's present and future requirements for the life of the tower. The color of the tower and its antennae shall be one that will blend to the greatest extent possible with the natural surroundings and shall be approved by the Planning Board.
- (2) Concealed Wireless Facilities shall be designed to accommodate the Collocation of other Antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured, and otherwise not readily apparent to a casual observer.
- (3) A Monopole or Replacement Pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:
- (a) The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.
- (b) The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.
- (c) The height of the Monopole or Replacement Pole may not exceed by more than thirty (30) feet the height of existing utility support structures.
- (d) Monopoles and the Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.

- (e) Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by subsection (c) above.
  - (f) Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.
- (F) Lighting and Marking. Wireless Facilities or Wireless Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- (G) Signage. Signs located at the Wireless Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which Wireless Facilities are located (i.e., approved signage at locations on which Concealed Facilities are located).
- (H) Accessory Equipment. Accessory equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the operation of the Wireless Facility or Wireless Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.
- (I) Fencing. Ground mounted Accessory Equipment and Wireless Support Structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the UDO Administrator. This requirement may be waived by the UDO Administrator if it is deemed that a fence is not appropriate or needed at the proposed location.
- (J) Maintenance or Service Structures. One unmanned maintenance or service structure of not more than twenty (20) feet in height and four hundred (400) square feet of floor space may accompany each tower. The tower and maintenance or service structure shall not be required to comply with development standards relating to lot size, setbacks, street frontage, and subdivision regulations, so long as the principal use complies with this Article.
- (K) Existing Towers. Existing towers may be replaced or modified providing that the existing height is not exceeded by more than twenty (20) feet and the new or modified tower meets all of the requirements of this Article except setback provisions.
- (L) Replacement of Towers. Those towers that are located prior to March 19, 2002, in the Light Industrial or Industrial Zone can be replaced to their current height if completely destroyed by natural causes and only if the applicant presents engineering data to the Planning Board and Town Council that the replacement poses no threat to the surrounding property owners.
- (M) Non-Conforming Towers. All non-conforming transmission towers existing as of the effective date of this Ordinance may be replaced if damaged by no more than fifty percent

(50%). Those towers that are located prior to March 19, 2002, in the Light Industrial or Heavy Industrial Zone can be replaced to their current height if completely destroyed by natural causes and only if the applicant presents engineering data to the Planning Board and Town Council that the replacement poses no threat to the surrounding property owners (refer to Article 8-3). *(Amended 8/2/2021)*

(N) Leases of Property by the Town of Pembroke for Communication Towers. *(Amended 1/4/2016)*

- (1) Any property owned by the town may be leased or rented for such terms and upon such conditions as the Town Council may determine, but not for longer than 10 years (except as otherwise provided in subsection (4) of this section) and only if the Town Council determines that the property will not be needed by the town for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.
- (2) Property may be rented or leased only pursuant to a resolution of the Town Council authorizing the execution of the lease or rental agreement adopted at a regular Town Council meeting upon 30 days public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Board's intent to authorize the lease or rental at its next regular meeting.
- (3) No public notice as required by subsection (2) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the Town Council may delegate to the Town Manager or some other town administrative officer authority to lease or rent town property for terms of one year or less.
- (4) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.
- (5) Notwithstanding subsection (4) of this section, the Town Council may approve a lease without treating that lease as a sale of property for any of the following reasons:
  - (a) For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 years.
  - (b) For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years.

(O) Miscellaneous Provisions.

- (1) Abandonment and Removal. If a Wireless Support Structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, the Town of Pembroke may require that such Wireless Support Structure be removed

only after first providing written notice to the owner of the Wireless Support Structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the Wireless Support Structure within sixty (60) days of receipt of said written notice. In the event the owner of the Wireless Support Structure fails to reclaim the Wireless Support Structure within the sixty (60) day period, the owner of the Wireless Support Structure shall be required to remove the same within six (6) months thereafter. The Town of Pembroke shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

- (2) Multiple Uses on a Single Parcel or Lot. Wireless Facilities and Wireless Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

**Section 23-4: Telecommunications Facility Plans**

(A) Approvals Required for Wireless Facilities and Wireless Support Structures.

- (1) Administrative Review and Approval. The following types of applications are subject to the review process as provided in Article 12. No other type of zoning or site plan review is necessary.
  - (a) Monopoles or Replacement Poles located on public property or within utility easements or rights-of-way, in any zoning district.
  - (b) COWs, in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of one hundred twenty (120) days.
  - (c) Substantial modifications.
  - (d) Collocations.
- (2) Special Use Permit. Any application for Wireless Facilities and/or Wireless Support Structures not subject to Administrative Review and Approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Special Use Permit in accordance with the standards for granting Special Use Permits set forth in Section 12-17. *(Amended 8/2/2021)*
- (3) Exempt from All Approval Processes. The following are exempt from all Town of Pembroke UDO approval processes and requirements:
  - (a) Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this Ordinance.

- (b) Ordinary Maintenance of existing Wireless Facilities and Wireless Support Structures, as defined in this Ordinance. Nothing in this section requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities.
- (c) Wireless Facilities placed on Utility Poles.
- (d) COWs placed for a period of not more than one hundred twenty (120) days at any location within the Town of Pembroke or after a declaration of an emergency or a disaster by the Governor.

(B) Administrative Review and Approval Process.

- (1) Content of Application Package. All Administrative Review application packages must contain the following in addition to those requirements outlined in Article 12:
  - (a) A fee determined by the Town's Fee Schedule.
  - (b) A written narrative of the development plan.
  - (c) Documentation that collocation on existing towers or structures within a radius of ten thousand five hundred (10,500) feet was attempted by the applicant, but found unfeasible with reasons noted.
  - (d) A notarized affidavit that states the applicant's willingness to allow location on the proposed tower, at a fair market price and in a timely manner, of any other service provided licensed by the Federal Communications Commission (FCC) for the Cape Fear market area.
  - (e) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.
  - (f) For substantial modifications, drawings depicting the improvements along with their dimensions.
- (2) Approval Schedule. Within forty-five (45) days of the receipt of a complete application for a Collocation, a Monopole or Replacement Pole, a Non-Exempt COW, or a Substantial Modification, the UDO Administrator will:
  - (a) Review the application for conformity with this Ordinance (see Section 13-4 (D)). An application under this section is deemed to be complete unless the UDO Administrator provides notice that the application is incomplete in

writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The UDO Administrator may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, state, and local safety requirements. The UDO Administrator may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

- (b) Issue a written decision approval on an eligible facilities request application within forty-five (45) days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the UDO Administrator shall issue its written decision to approve or deny the application within forty-five (45) days of the application being deemed complete.

(C) Special Use Permit Process. Any Wireless Facility or Wireless Support Structures not meeting the requirements of Section (A)(1) and (A)(3) above, may be permitted in all zoning districts upon the granting of a Special Use Permit, subject to the requirements of Section 12-17. *(Amended 8/2/2021)*

(1) Content of Special Use Permit Application Package. All special use permit application packages must contain the following in addition to those requirements contained in Sections 12-17 and 12-18. *(Amended 8/2/2021)*

- (a) A fee determined by the Town's Fee Schedule.
- (b) A written narrative of the development plan.
- (c) The impact on the environment (trees, run-off, waste disposal, emissions, historic property impact, and impact on other properties).
- (d) Documentation that collocation on existing towers or structures within a radius of ten thousand five hundred (10,500) feet was attempted by the applicant, but found unfeasible with reasons noted.
- (e) A site plan and landscaping plan at a scale of one-inch equals forty (40) feet by a North Carolina registered surveyor, showing location of all existing property lines and improvements within a five hundred (500) foot radius and any proposed tower, antenna, accessory structure, or equipment, and how the applicant proposes to screen any service structure, accessory structure, or equipment from view. Indigenous vegetation shall be used in all plantings.



A permanent maintenance plan shall be provided for the plantings. In addition, the site plan must include a list of adjacent property owners and their addresses, zoning district, and the names of developer(s) and owner(s).

- (f) Copies of all county, state, and federal permits with the application building permit where prior local approval is not required.
  - (g) Elevation drawings of all towers, antennas, and accessory structures and equipment, indicating height, design, and colors.
  - (h) Certification that all antenna and equipment comply with FCC regulations for radio frequency radiation and all towers, antennae, and equipment meet Federal Aviation Administration (FAA) aviation and navigation requirements.
  - (i) A copy of approved National Environmental Policy Act of 1969 (NEPA) compliance report for all towers, antennae, accessory structures, or equipment proposed for the proposed site.
  - (j) Documentation signed and sealed by a North Carolina registered engineer that indicates any proposed tower meets the structural requirements of the Standard Building Code and the collocation requirements of this Article.
  - (k) Proof of liability insurance or financial ability to respond to claims up to \$1,000,000 (escalated each year by the Consumer Price Index) in the aggregate which may arise from operation of the facility during its life, at no cost to the Town of Pembroke, in a form approved by the Town Attorney.
  - (l) Appropriate approvals, certifications, or recommendations required to allow review of approval criteria such as sight line analysis, aerial photographs, or other such tests as determined by the Administrator.
- (2) Approval Schedule. Within one hundred fifty (150) calendar days of the receipt of an application under this section, the Town Council upon recommendation of the Planning Board will:
- (a) Complete the process for reviewing the application for conformity with this Ordinance (see Section 13.4 (D)). An application under this section is deemed to be complete unless the UDO Administrator notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within thirty (30) calendar days, the application shall be reviewed and processed within one hundred fifty (150) calendar days from

the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one hundred fifty (150) calendar days deadline for review shall be extended by the same period of time.

- (b) Make a final decision to approve or disapprove the application.
- (c) Advise the applicant in writing of its final decision. If the Town Council denies an application, it must provide written justification of the denial.
- (d) Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

(D) Application Review.

- (1) The review of an application for the placement or construction of a new wireless support structure or substantial modification of a wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the Town may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. The Town may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. The Town may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the Town may review the following:
  - (a) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.
  - (b) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure, or replacement wireless support structure is necessary to provide the applicant's designed service.

- (c) The Town may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. The Town may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.
- (2) The Town may engage a third-party consultant for technical consultation and review of applications. The fee imposed by the Town for the review of an application may not be used for either of the following:
  - (a) Travel expenses incurred in a third-party's review of an application.
  - (b) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

**Section 23-5: Small Wireless Facilities (Amended 10/2/2017)**

(A) Applicability.

- (1) The Town of Pembroke shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the Town. This subsection does not prohibit the enforcement of applicable codes.
- (2) Nothing contained in this Article shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.
- (3) Except as provided in this Article or otherwise specifically authorized by the General Statutes, the Town of Pembroke may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or Town rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or Town rights-of-way and may not regulate any communications services.
- (4) Except as provided in this Article or specifically authorized by the General Statutes, the Town may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

- (5) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Article does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.

(B) Permitting Process.

- (1) Small wireless facilities that meet the height requirements of Section 23-5(C)(1)(b) shall only be subject to administrative review and approval under subsection 23-5(B)(2) of this section if they are collocated (i) in a Town right-of-way within any zoning district or (ii) outside of Town rights-of-way on property other than single-family residential property.
- (2) The Town of Pembroke shall require an applicant to obtain a permit to collocate a small wireless facility. The Town shall receive applications for, process, and issue such permits subject to the following requirements:
  - (a) The Town may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, “services unrelated to the collocation,” includes in-kind contributions to the Town such as the reservation of fiber, conduit, or pole space for the Town.
  - (b) The wireless provider completes an application as specified in form and content by the Town. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.
  - (c) A permit application shall be deemed complete unless the Town provides notice otherwise in writing to the applicant within thirty (30) days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.
  - (d) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the Town fails to approve or deny the application within forty-five (45) days from the time the application is deemed complete or a mutually agreed upon time frame between the Town and the applicant.
  - (e) The Town may deny an application only on the basis that it does not meet any of the following: (i) the town’s applicable codes, (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, Town utility poles, or reasonable and

nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; or (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way. The Town must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the Town denies an application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days of the denial without paying an additional application fee. The Town shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.

- (f) An application must include an attestation that the small wireless facilities shall be collocated on the utility pole, Town utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by wireless services provider to provide service no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
  - (g) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the Town shall be allowed at the applicant discretion to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The Town may issue a separate permit for each collocation that is approved.
  - (h) The permit shall specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- (3) The Town may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities; (ii) the amount charged by the Town for permitting of any similar activity, or (iii) one hundred dollars (\$100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars (\$50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

- (4) The Town may impose a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. The Town may engage an outside consultant for technical consultation and the review of an application. The fee imposed by the Town for the review of the application shall not be used for either of the following:
- (a) Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.
  - (b) Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the Town has the burden of proving that the fee meets the requirements of this subsection.

- (5) The Town shall require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town shall cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.
- (6) The Town shall not require an application or permit or charge fees for (i) routine maintenance; (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or Town utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under NCGS 105-164.4(a)(4c) or NCGS 105-164.4(a)(6).
- (7) Nothing in this section shall prevent a Town from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the Town right-of-way.

(C) Use of Town of Pembroke Public Right-of-Way.

- (1) The Town shall not enter into an exclusive arrangement with any person for use of Town rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.
- (2) Subject to the requirements of Section 23-5(B), a wireless provider may collocate small wireless facilities along, across, upon, or under any Town right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, Town utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any Town right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and Town utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any Town right-of-way shall be subject only to review or approval under Section 23-5(B)(2) if the wireless provider meets all the following requirements:
  - (a) Each new utility pole and each modified or replacement utility pole or Town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.
  - (b) Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, Town utility pole, or wireless support structure on which it is collocated.
- (3) In no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, Town utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the Town grants a waiver or variance approving a taller utility pole, Town utility pole, or wireless support structure.
- (4) The Town may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider. The right-of-way charge shall not exceed \$50.00 per year.
- (5) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately-owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.
- (6) The Town shall require a wireless provider to repair all damage to a Town right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support

structures, Town utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the Town within a reasonable time after written notice, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town shall maintain an action to recover the costs of the repairs.

- (7) A wireless provider may apply to the Town to place utility poles in the Town rights-of-way, or to replace or modify utility poles or Town utility poles in the public rights-of-way, to support the collocation of small wireless facilities. The Town shall accept and process the application in accordance with the provisions of Section 23-5(B)(2), applicable codes, and other local codes governing the placement of utility poles or Town utility poles in the Town rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

(D) Access to Town Utility Poles to Install Small Wireless Facilities.

- (1) The Town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on Town utility poles. The Town shall allow any wireless provider to collocate small wireless facilities on its Town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per city utility pole per year.
- (2) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the Town to be reimbursed by the wireless provider. In granting a request under this section, the Town shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.
- (3) Following receipt of the first request from a wireless provider to collocate on a Town utility pole, the Town shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the Town utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.
- (4) In any controversy concerning the appropriateness of a rate for a collocation attachment to a Town utility pole, the Town has the burden of proving that the rates



are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

- (5) The Town shall provide a good-faith estimate for any make-ready work necessary to enable the Town utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a Town utility pole necessary for the Town utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.
- (6) The Town shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.
- (7) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under NCGS 62-350.
- (8) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, Town utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of NCGS 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in NCGS 62-350, are governed solely by NCGS 62-350. For purposes of this section, "excluded entity" means (i) a Town that owns or operates a public enterprise pursuant to Article 16 of this Chapter consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under Section 224 of the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended.

# **ARTICLE 24. SUBDIVISION REGULATIONS**

## **PART I. GENERAL PROVISIONS**

### **Section 24-1: Thoroughfare Plan**

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the Town, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this Article.

### **Section 24-2: School Plans**

This Article may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the Town Council. In order for this authorization to become effective, before approving such plans the Town Council and the Board of Education with jurisdiction over the area shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the comprehensive land use plan. Whenever a subdivision is submitted for approval which includes part or all of a school site to be reserved under the plan, the Town Council shall immediately notify the Board of Education and the Board shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Town Council or the Planning Board, and no site shall be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have eighteen (18) months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation to condemn the site within eighteen (18) months, after eighteen (18) months the subdivider may treat the land as freed of reservation.

### **Section 24-3: Unified Development Ordinance and Other Plans**

Proposed subdivisions must comply in all respects with the requirements of the Unified Development Ordinance, and any other officially adopted plans.

### **Section 24-4: Design Standards for Stormwater Drainage**

- (A) Design of Drainage Courses. Surface drainage course shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distances. Courses shall be of sufficient size to accommodate the drainage area without flooding.
- (B) Bottom Grade. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each three hundred (300) feet of horizontal distance.

**Section 24-5: Sedimentation Pollution Control**

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage network; the subdivider shall comply with all requirements of the “North Carolina Sedimentation Pollution Control Act of 1973.”

**Section 24-6: Stormwater Runoff Disposal**

All North Carolina Coastal Counties are subject to North Carolina Administrative Code 15 NCAC 2H.1000-Stormwater Runoff Disposal for the management of stormwater runoff. All stormwater runoff disposal plans shall be approved by the Division of Environmental Management and delivered to the Administrator.

**Section 24-7: Design Standards for Easements**

Easements shall be provided as follows:

- (A) Utility Easements. Easements for underground or above ground utilities shall be provided where necessary across lots, or preferably centered on rear or side lot lines, and shall be at least ten (10) feet in width.
- (B) Drainage Easements. Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.
- (C) Buffer Strips. A buffer strip at least six (6) to eight (8) feet tall and giving approximately seventy-five percent (75%) visual opacity within one year of planting. Three rows of planted materials shall be required to a minimum depth of fifteen (15) feet unless otherwise recommended by the Planning Board and approved by the Town Council (refer to Article 15, Buffer Strips and Landscaping).

**PART II. MAJOR AND MINOR SUBDIVISIONS**

**Section 24-8: Plat Shall be Required on Any Subdivision of Land**

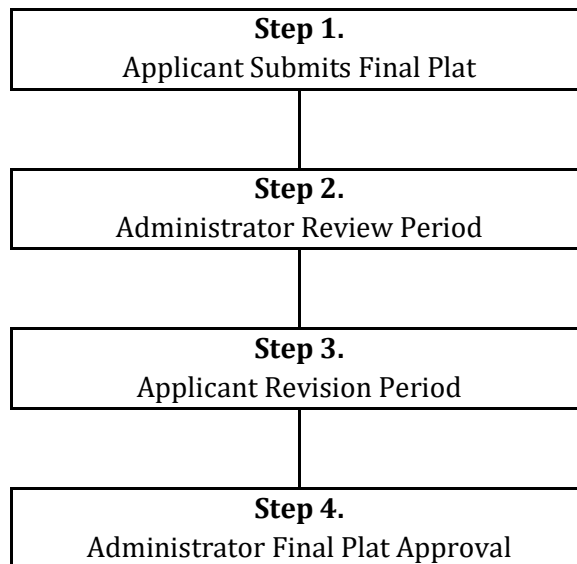
Pursuant to G.S. 160A-372, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place.

**Section 24-9: Approval Prerequisite to Plat Recordation**

Pursuant to G.S. 160A-373, no final plat of a subdivision within the jurisdiction of the Town, as established in Section 1-4 of this Ordinance, shall be recorded by the Register of Deeds of Robeson County until it has been approved as provided herein. To secure any approval of a final plat, the subdivider shall follow the procedures established in this Article.

**Section 24-10: Two-Lot and Family Subdivisions (Amended 6/1/2015)**

(A) Two-Lot and Family Subdivision Review Process. This is an administrative process. A subdivider may apply to the Administrator for a final plat review process for two-lot and family subdivisions. Family subdivisions are permitted only in the town's extraterritorial jurisdiction. Two-lot subdivisions which are not family subdivisions shall meet all lot requirements specified in Article 11. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



(B) Applicant Submits Final Plat. The applicant shall submit a final plat in accordance with the requirements of this ordinance.

(C) Administrator Review Period.

- (1) The Administrator shall review the plat in accordance with the requirements of this Ordinance and any other applicable ordinances. This review shall take not more than 15 working days. After conducting an application completeness review, the Administrator will notify the applicant of any deficiencies. The receipt of a revised application will restart the 15-day review period.
- (2) The Administrator may have any other applicable local, state, and federal officials, agencies, or consultants review the plat. The 15 working day limit may be extended up to 45 days if these agencies have been consulted and the Administrator is awaiting a reply.

(D) Family Subdivision Requirements.

- (1) The subdivider shall submit with his application for a family subdivision written evidence that the subdivision of land is a division of land by a property owner among his immediate family to wit: spouse, children, or their lineal descendants or ascendants, or the lineal descendants or ascendants of said property owner as a gift, or as a settlement of the property owner's estate.
- (2) The family subdivision shall provide that each lot or parcel of land shall have direct access from an existing recorded right-of-way or shall have a recorded access easement from a public road. If a grantor has a recorded access easement, it shall transfer along with the property.
- (3) The family subdivision resulting lots shall meet the minimum lot area requirements of this ordinance.

(E) Certificates for Two-Lot and Family Subdivisions.

Certificate of Approval for Recording Final Plat. I hereby certify that the subdivision plat shown hereon has been found to comply with the Town of Pembroke, North Carolina, Unified Development Ordinance and that this plat has been approved for recordation with the Robeson County Register of Deeds.

\_\_\_\_\_  
Administrator

\_\_\_\_\_  
Date

**Section 24-11: Procedures for Review of Major and Minor Subdivisions**

All subdivisions shall be considered major subdivisions except those defined as minor subdivisions by Section 2-2. Major subdivisions shall be reviewed in accordance with the procedure in Sections 24-11 and 24-13 through 24-15. Minor subdivisions shall be reviewed in accordance with the provisions in Section 24-12. However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way from the property to be subdivided, the subdivision shall not qualify under the minor subdivision procedure. Furthermore, the minor subdivision procedure may not be used a second time within three (3) years on any property less than fifteen hundred (1,500) feet from the original property boundaries by anyone who owned, had an option on, or any legal interest in the original subdivision at the time the subdivision received preliminary or final plat approval.

**Section 24-12: Procedure for Review of Minor Subdivisions**

The subdivider shall submit the final plat so marked to the Administrator for approval. The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Standards of Practice for Land Surveying in North Carolina.

Five (5) copies of the final plat shall be submitted; two (2) of these shall be on reproducible material; three (3) shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Standards of Practice for Land Surveying in North Carolina.

The final plat shall be of a size suitable for recording with the Robeson County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines.

Submission of the final plat shall be accompanied by a filing fee as set forth in the Town's Fee Schedule. The final plat shall meet the specifications of this section. The following signed certificate shall appear on all five (5) copies of the final plat.

(A) Certificate of Ownership and Dedication. I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Pembroke and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

(B) Certificate of Survey and Accuracy. In accordance with G.S. 47-30: There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and

departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments, and shall be in substantially the following form:

"I, \_\_\_\_\_, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book \_\_, Page \_\_, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_, Page \_\_; that the ratio of precision as calculated is 1: \_\_; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this \_\_\_ day of \_\_\_\_\_, A.D. 20\_\_."

Seal or Stamp

\_\_\_\_\_  
Surveyor

\_\_\_\_\_  
Registration Number

The certificate of the Notary shall read as follows:

"North Carolina, \_\_\_\_\_ County.

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

Seal or Stamp

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_."

The Administrator shall review the final plat and shall proceed with approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within twenty-eight (28) days of initial receipt of the plat.

During review of the final plat, the Administrator may appoint an engineer or surveyor to confirm the accuracy of the final plat, if agreed to by the Town Administrator. If errors are found which make the plat non-recordable, the costs shall be charged to the subdivider, and the plat shall not be recommended for approval until such errors have been corrected.

If the Administrator approves the final plat, he/she shall secure all required Town signatures and transmit the final plat to the subdivider for recording with the Robeson County Register of Deeds office.

If the Administrator recommends conditional approval of the final plat with modifications to bring the plat into compliance, he/ she shall retain one (1) print of the plat for the Town's records and return his written recommendation and two (2) reproducible copies of the plat to the subdivider.

If the Administrator disapproves the final plat, he/she shall instruct the subdivider concerning resubmission of a revised plat, and the subdivider may make such changes as will bring the plat into compliance with the provisions of this Ordinance and resubmit same for reconsideration by the Administrator.

Failure of the Administrator to approve or make a written recommendation within twenty-eight (28) days after receipt of the subdivision plat shall constitute grounds for the subdivider to apply to the Town Council for approval.

If the Administrator approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Pembroke, North Carolina, and that this plat has been approved by the Mayor for recording in the Office of the Register of Deeds of Robeson County.

\_\_\_\_\_

Date

\_\_\_\_\_

Mayor, Pembroke, North Carolina

If the property is located in the Watershed Protection Overlay District, the following certification shall be shown on each copy of the plat:

Certificate of Approval for Recording (Watershed Protection Overlay). I certify that the plat shown hereon complies with Article 25, Water Supply Watershed Protection Regulations and is approved by the Board of Adjustment for recording in the Register of Deeds office.

\_\_\_\_\_

Date

\_\_\_\_\_

Administrator

NOTE: This property is located within a Public Water Supply Watershed - development restrictions may apply. *(Amended 6/5/2017)*

If the final plat is disapproved by the Mayor and Town Clerk, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) copy of the plat shall be retained by the Administrator for record; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may



make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Administrator.

If the final plat is approved by the Mayor and Town Clerk, the original tracing and two (2) prints of the plat shall be retained by the subdivider. One (1) reproducible tracing and one (1) print shall be filed with the Town Clerk.

The subdivider or Town shall file the approved final plat with the Register of Deeds of Robeson County within thirty (30) days of approval; otherwise, such approval shall be null and void.

**Section 24-13: Major Subdivision Sketch Design Plan Submission and Review**

- (A) Submission Requirements. The developer shall submit a sketch design plan prior to submitting a preliminary plat. Sketch design plans are optional. However, if a sketch is not submitted and approved by the Planning Board, a preliminary plat is required to be reviewed and approved by the Planning Board.
- (B) Procedural Requirements. The procedural requirements for receiving sketch plan approval are as follows: The subdivider shall submit to the Administrator or designated agent no less than twenty-one (21) days prior to the regularly scheduled Planning Board and Town Council meeting at which time the plan will be considered, fifteen (15) copies of the proposed sketch prepared in accordance with the requirements of this Ordinance. An application for subdivision review shall accompany the sketch.
- (C) Sketch Plan Contents. The proposed sketch plan shall be prepared by a registered land surveyor or engineer licensed to render said service in the State of North Carolina and shall depict the following information:
- (1) The name and location of the proposed subdivision;
  - (2) The date that the sketch plan was prepared or revised;
  - (3) North arrow;
  - (4) Vicinity map;
  - (5) Verbal Scale (1"=100' if less than 5 acre lots);
  - (6) Verbal Scale (1"=200' if all lots are 5 acres or more);
  - (7) Graphic Scale
  - (8) Total number of lots;
  - (9) The names of adjacent property owners;
  - (10) Adjoining property lines within 100 feet of the property;
  - (11) Corporate limits, county lines, ETJ boundaries, etc.;
  - (12) Existing structures, wells, and septic systems;
  - (13) Zoning information, including setbacks;
  - (14) Total acreage to be subdivided and acreage left in open spaces or for other uses;
  - (15) Property boundaries and proposed lot lines;

- (16) Proposed road layout to meet NCDOT standards and proposed road construction standards;
- (17) Proposed road names;
- (18) Existing topography showing contour intervals of 10 feet;
- (19) Existing public roads and accesses within 400 feet of the property;
- (20) Existing railroads and bridges;
- (21) Utility easements;
- (22) Floodplain, public water supply watershed, and soil type information;
- (23) Watercourses, ponds, streams, etc.
- (24) Name and address of owner or developer; and
- (25) Maps submitted shall not exceed a maximum size of 24" x 36".

(D) Planning Board Review and Approval. The Planning Board and Town Council shall review the sketch plan and any other reports or recommendations pertaining to the plan and shall approve, approve with conditions, or disapprove the sketch plan.

- (1) If the Planning Board grants the conditional approval of the sketch plan, the conditions and reasons thereof shall be stated in writing.
- (2) If the Planning Board disapproves of the sketch plan, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this Ordinance with which the plan does not comply.
- (3) If the Planning Board approves the sketch plan, the developer is authorized to proceed with the preparation of the preliminary plat.
- (4) If the Planning Board fails to render a recommendation on the sketch plan within sixty (60) days from the date that the plan is initially reviewed by the Planning Board, the developer may proceed with the preparation of a preliminary plat.

**Section 24-14: Major Subdivision Preliminary Plat Submission and Review**

- (A) Submission Procedure. For every subdivision within the territorial and extra-territorial jurisdiction established by Section 1-4 of this Ordinance which does not qualify for the minor subdivision procedure, the subdivider shall submit a preliminary plat which shall be reviewed by the Planning Board and approved by the Town Council before any construction or installation of improvements may begin.

Twelve (12) copies of the preliminary plat (as well as any additional copies which the Administrator determines are needed to be sent to other agencies) shall be submitted to the Administrator of this Ordinance at least twenty-one (21) days prior to the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat. Preliminary plats shall meet the specifications in Section 24-16.

- (B) Review by Other Agencies. The Administrator may, at his discretion, or as directed by the Planning Board, submit copies of the plat to other agencies or contract services for review and comment.

- (C) Review Procedures.

- (1) The Administrator shall review the preliminary plat before the next regularly scheduled meeting of the Planning Board which follows at least twenty-one (21) days after the Administrator receives the preliminary plat.
- (2) The Administrator shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within twenty-one (21) days following receipt of the preliminary plat.
- (3) If the Administrator recommends approval of the preliminary plat, copies of the plat shall be submitted to the Planning Board with the Administrator's recommendation.
- (4) If the Administrator recommends conditional approval of the preliminary plat, copies of the plat and the recommendation shall be transmitted to the Planning Board, and a copy of the plat and Administrator's recommendation submitted to the subdivider.
- (5) If the Administrator recommends disapproval of the preliminary plat, copies of the plat and the Administrator's recommendation shall be transmitted to the Planning Board, and a copy of the plat and Administrator's recommendation submitted to the subdivider.
- (6) If the preliminary plat is disapproved by the Planning Board, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Town Council.

- (7) If the Planning Board does not make a written recommendation within forty-five (45) days after its first consideration of the plat, the subdivider may apply to the Town Council for approval or disapproval.
- (8) If the Town Council approves the preliminary plat, such approval shall be noted on two (2) copies of the plat. One (1) copy of the plat shall be retained by the Town, and one (1) copy shall be returned to the subdivider. If the Town Council approves the preliminary plat with conditions, approval shall be noted on two (2) copies of the plat along with a reference to the conditions. One (1) copy of the plat along with the conditions shall be retained by the Town, and one (1) copy of the preliminary plat along with the conditions shall be returned to the subdivider. If the Town Council disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One (1) copy of the plat and the reasons shall be retained by the Town, and one (1) copy shall be returned to the subdivider.

**Section 24-15: Major Subdivision Final Plat Submission and Review**

- (A) Preparation of Final Plat and Installation of Improvements. Upon approval of the preliminary plat by the Town Council, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this Ordinance. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this Ordinance, or guaranteed their installation as provided herein. No final plat will be accepted for review by the Planning Board or the Town Council unless accompanied by written notice by the Town Clerk acknowledging compliance with the improvement and guaranteeing standards of this Ordinance. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at this time; such portion shall conform to all requirements of this Ordinance. Developers must provide a digitized database with all final plats in a form to be determined by the Administrator.
- (B) Performance Guarantees. In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the Town of Pembroke may enter into an agreement with the subdivider whereby the subdivider shall agree to complete any remaining required improvements as specified by the approved preliminary plat for that portion of the subdivision to be shown on the final plat within a mutually agreed upon specified time period. Once agreed upon by both parties and the security required herein is provided, the final plat may be approved by the Town Council, if all other requirements of this Ordinance are met. The town shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements. *(Amended 8/2/2021)*
  - (1) Type. The subdivider shall provide one of the following Performance Guarantees, elected at the subdivider's discretion, in lieu of installation *(Amended 8/2/2021)*:

- (a) Surety bond issued by any company authorized to do business in this State.
  - (b) Letter of credit issued by any financial institution licensed to do business in this State.
  - (c) Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- (2) Duration. The duration of the performance guarantee shall initially be one year, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the subdivider determines that the scope of work for the required improvements necessitates a longer duration. *(Amended 8/2/2021)*
- (3) Extension. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (5) of this subsection and shall include the total cost of all incomplete improvements. *(Amended 8/2/2021)*
- (4) Release. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgment by the town that the improvements for which the performance guarantee is being required are complete. The town shall return letters of credit or escrowed funds upon completion of the required improvements to the specifications of the town, or upon acceptance of the required improvements, if the required improvements are subject to town acceptance. When required improvements that are secured by a bond are completed to the specifications of the town, or are accepted by the town, if subject to town acceptance, upon request by the developer, the town shall timely provide written acknowledgement that the required improvements have been completed. *(Amended 8/2/2021)*
- (5) Amount. The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include 100% of the costs for labor and materials necessary for completion of the required improvements. Where

applicable, the costs shall be based on unit pricing. The additional 25% allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained. *(Amended 8/2/2021)*

- (6) Timing. The town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation. *(Amended 8/2/2021)*
- (7) Coverage. The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion. *(Amended 8/2/2021)*
- (8) Legal Responsibilities. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:
  - (a) The town to whom such performance guarantee is provided.
  - (b) The subdivider at whose request or for whose benefit such performance guarantee is given.
  - (c) The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.
- (9) The town may release a portion of any security posted as the improvements are completed and recommended for approval by the UDO Administrator. Within thirty (30) days after receiving the UDO Administrator's recommendation, the Town Council shall approve or not approve said improvements. If the Town Council approves said improvements, then it shall immediately release any security posted. *(Amended 8/2/2021)*
- (10) For subdivisions which are underwritten or constructed with federal funds and for which the specifications for facilities or improvements are equal to or of a higher standard than those required by the town, the bond-posting requirement may be waived and the final plat approved prior to completion of facilities or improvements.
- (11) Multiple Guarantees. The subdivider shall have the option to post one type of a performance guarantee as provided for in subdivision (a) of this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees. Performance

guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section. *(Amended 8/2/2021)*

- (C) Claims. No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this section or in the proceeds of any such performance guarantee other than the following:
- (1) The local government to whom such performance guarantee is provided.
  - (2) The developer at whose request or for whose benefit such performance guarantee is given.
  - (3) The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer. *(Amended 8/5/2019)*
- (D) Defects Guarantees. The owner of the subdivision shall require the contractor constructing streets, curbs, gutters, sidewalks, drainage facilities, and/or water and sewer lines to give bond guaranteeing the work against defects.
- (E) Submission Procedure. The subdivider shall submit the final plat, so marked, to the Administrator not less than twenty-one (21) days prior to the Town Council meeting at which it will be reviewed; further, then final plat for the first stage of the subdivision shall be submitted not more than twenty-four (24) months after the date on which the preliminary plat was approved; otherwise such approval shall be null and void, unless a written extension of this limit is granted by the Town Council upon written request of the subdivider on or before the twenty-four (24) month anniversary of the approval. For subdivisions developed in stages, each successive final plat for a stage of the subdivision shall be submitted for approval within twenty-four (24) months of the date of approval of the previous final plat for a stage of the subdivision.

The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provision for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 and the Standards of Practice for Land Surveying in North Carolina.

Five (5) copies of the final plat shall be submitted, two (2) of these shall be on reproducible material, three (3) shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Robeson County Register of Deeds.

The final plat shall be of a size suitable for recording with the Robeson County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one sheet with appropriate match lines.

Submission of the final plat shall be accompanied with a filing fee as established by the Town's fee schedule. The final plat shall meet the specifications in Section 24-16 of this Ordinance.

The following signed certificates shall appear on all five (5) copies of the final plat.

- (1) Certificate of Ownership and Dedication. I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Pembroke and that I hereby adopt this plat of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, open space, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, stormwater sewer, and water lines, and appurtenances, to the Town of Pembroke.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

- (2) Certificate of Survey and Accuracy. In accordance with G.S. 47-30: There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate shall be acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments, and shall be in substantially the following form:

"I, \_\_\_\_\_, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book \_\_, Page \_\_, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_, Page \_\_; that the ratio of precision as calculated is 1:\_\_; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this \_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_."

Seal or Stamp

\_\_\_\_\_  
Surveyor

\_\_\_\_\_  
Registration Number



The certificate of the Notary shall read as follows:

“North Carolina, \_\_\_\_\_ County.

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Seal or Stamp

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.”

- (3) Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements. I hereby certify that all streets, utilities, and other required improvements have been installed in accordance with NC Department of Transportation specifications and standards, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Pembroke has been received, and that the filing fee for this plat, as established by the Town’s fee schedule, has been paid.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrator, Town of Pembroke

- (4) Certificate of Disclosure; Town of Pembroke Floodplain Management Regulations, if applicable, to be signed by owner: I (we) hereby certify that prior to entering any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign a statement which fully and accurately discloses that the subject real estate, or a portion of the subject real estate, is located within a flood hazard area and that the buyer must satisfy the requirements of Town of Pembroke floodplain management regulations prior to the issuance of building permits.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner’s Signature

\_\_\_\_\_  
Owner’s Signature

- (5) Acknowledgment of Compliance (Private Developments). I, \_\_\_\_\_, (name of developer and/or seller) hereby certifies that the streets (including traffic markings and control devices) and parks, open space, or other areas delineated hereon and dedicated to private use, shall not be the responsibility of the public or the municipality, acting on behalf of the public, to maintain. Furthermore, prior to entering any agreement or any conveyance with any prospective buyer, I shall prepare and sign, and the buyer of the subject real estate shall receive and sign, an acknowledgment of receipt of a disclosure statement. The disclosure statement shall fully and completely disclose the private areas and include an examination of the consequences and responsibility as to the maintenance

of the private areas, and shall fully and accurately disclose the party or parties upon whom the responsibility for construction and maintenance of such private areas shall rest. *(Amended 8/3/2015)*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Developer and/or Seller

\_\_\_\_\_  
Signature of Developer and/or Seller

- (6) Notwithstanding any other provision contained in this section, it is the duty of the surveyor, by a certificate on the face of the plat, to certify to one of the following:
  - (a) That the survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
  - (b) That the survey is located in such portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;
  - (c) That the survey is of an existing parcel or parcels of land;
  - (d) That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, and other exception to the definition of a subdivision;
  - (e) That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his or her professional ability as to provisions contained in Section 24-15(C)(1) through (C)(5) above.

However, if the plat contains the certificate of a surveyor as stated in (a), (d), or (e) above, then the plat shall have, in addition to said surveyor’s certificate, a certification of approval, or no approval required, as may be required by local ordinance from the appropriate government authority before the plat is presented for recordation. If the plat contains the certificate of a surveyor as stated in (b) and (c), above, nothing shall prevent the recordation of the plat if all other provisions have been met.

- (7) The Planning Board shall review the final plat at or before the next regularly scheduled meeting which follows at least twenty-one (21) days after the Administrator receives the final plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within forty-five (45) days of its first consideration.
- (8) During its review of the final plat, the Planning Board may appoint a Registered Land Surveyor to confirm the accuracy of the final plat, if agreed to by the Town Administrator. If errors are found which make the plat non-recordable, the costs shall be charged to the subdivider, and the plat shall not be recommended for approval until such errors have been corrected.

- (9) If the Planning Board approves the final plat, it shall transmit all copies of the plat and its written recommendations to the Town Council through the Administrator.
- (10) If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one (1) print of the plat for its minutes, return its written recommendation and two (2) reproducible copies of the plat to the subdivider, and transmit one (1) print of the plat and its written recommendation to the Town Council through the Administrator.
- (11) If the Planning Board disapproves the final plat, it shall instruct the subdivider concerning resubmission of a revised plat, and the subdivider may make such changes as will bring the plat into compliance with the provisions of this Ordinance and resubmit same for reconsideration by the Planning Board, or appeal the decision to the Town Council.
- (12) Failure of the Planning Board to make a written recommendation within forty-five (45) days shall constitute grounds for the subdivider to apply to the Town Council for approval.
- (13) If the Planning Board recommends approval or conditional approval with modifications to bring the plat into compliance, or the subdivider appeals to the Town Council, the Town Council shall review and approve or disapprove the final plat within forty-five (45) days after the plat and recommendations of the Planning Board have been received by the Administrator.
- (14) Property Owners Association Covenants Review. Prior to approval of any final plat for a major subdivision, including private street subdivisions, the UDO Administrator shall review the proposed covenants of the Property Owners Association to ensure compliance with town requirements. The covenants shall include provisions for the ownership and maintenance of private streets and utilities serving the subdivision. The UDO Administrator shall refer the covenants to the Town Attorney for review. The covenants shall be submitted to the Town Council for approval prior to recording of the final plat. *(Amended 8/3/2015)*
- (15) If the property is located in the Watershed Protection Overlay District, the following certification shall be shown on each copy of the plat:

Certificate of Approval for Recording (Watershed Protection Overlay). I certify that the plat shown hereon complies with Article 25, Water Supply Watershed Protection Regulations and is approved by the Board of Adjustment for recording in the Register of Deeds office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrator

NOTE: This property is located within a Public Water Supply Watershed - development restrictions may apply. (Amended 6/5/2017)

- (E) If the Town Council approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of Approval for Recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Pembroke, North Carolina, and that this plat has been approved by the Town Council for recording in the Office of the Register of Deeds of Robeson County.

\_\_\_\_\_

Date

\_\_\_\_\_

Mayor  
Pembroke, North Carolina

- (1) If the final plat is disapproved by the Town Council, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One (1) copy of such reasons and one (1) copy of the plat shall be retained by the Town Council as part of its proceedings; one (1) copy of the reasons and three (3) copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit same for reconsideration by the Planning Board and Town Council.
- (2) If the final plat is approved by the Town Council, the original tracing and one (1) print of the plat shall be retained by the subdivider. One (1) reproducible tracing and one (1) print shall be filed with the Town Clerk, and one (1) print shall be returned to the Town Council for its records.
- (3) The subdivider shall file the approved final plat with the Register of Deeds of Robeson County within thirty (30) days of the Town Council's approval; otherwise, such approval shall be null and void.
- (4) Effect of Plat Approval on Dedications. The approval of a plat shall not be deemed to constitute or effect the acceptance by the town of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town Council may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities within the planning and development regulation jurisdiction but outside the corporate limits of the town shall not place on the town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless the town shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the

time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, the town shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of the town, require dedication of water systems or facilities as a condition for subdivision approval. (*Amended 8/3/2015, 8/2/2021*)

**Section 24-16: Information to be Contained in or Depicted on Major Preliminary and All Final Plats**

The preliminary and final plats shall depict or contain at a minimum the information indicated in the following table. An “x” indicates that the information is required. (*Amended 9/2/2014*)

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Title Block Containing: -Property Designation -Name of Owner -Location (including Township, county, and state) -Date or dates survey was conducted and plat prepared -A scale of drawing in feet per inch listed in words or figures -A bar graph -Name, address, registration number, and seal of the Registered Land Surveyor	x x x x x x x	x x x x x x x
The name of the subdivider	x	x
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area. Scale: 1" = 400'	x	
Corporate limits, Township boundaries, ETJ boundary, county lines if on the subdivision tract	x	x
The names, addresses, and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	x	x
The registration numbers and seals of the professional engineers	x	x
Date of plat preparation	x	x
North arrow and orientation	x	x
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	x	
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands		X
The names of owners of adjoining property	x	
The names of any adjoining subdivisions of record or proposed and under review	x	
Building line minimum (setbacks) per lot	x	x

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
The zoning classifications of the tract to be subdivided and adjoining properties	x	
Existing property lines on the tract to be subdivided and on adjoining properties	x	
Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	x	
Proposed lot lines, lot and block numbers, and approximate dimensions	x	x
The lots numbered consecutively throughout the subdivision		x
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds, wetland areas, and any other natural features affecting the site	x	
The exact location of the flood hazard, floodway, and floodway fringe areas from the Robeson County Official Flood Insurance Map	x	x
The following data concerning streets:		
-Proposed public streets	x	x
-Existing and platted streets on adjoining properties and in the proposed subdivision Thoroughfare plan road as approved in Thoroughfare Plan for Town	x	x
-Rights-of-way, location, and dimensions in accordance with Part IV of this Article	x	x
-Pavement widths	x	1
-Approximate grades	x	1
-Design engineering data for all corners and curves	x	
-Typical street cross-sections	x	1
-Street names	x	x
-Type of street dedication; all streets must be designated either "public" or "private." The subdivider must submit all public street plans to the Administrator for approval prior to preliminary plat approval. Where public streets are involved which will not be dedicated to the Town of Pembroke, the subdivider must submit the following documents to the NC Department of Transportation District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths, and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas	x	x

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
-Where streets are dedicated to the public, but not accepted into the Town of Pembroke system or the state system before lots are sold, a statement explaining the status of the street in accordance with Part IV of this Article		x
-If any street is proposed to intersect with a state-maintained road, the subdivider shall apply for driveway approval as required by the North Carolina Department of Transportation, Division of Highways' Manual on Driveway Regulations. Evidence that the subdivider has obtained such approval	x	
The location and dimension of all of the following:		
-Utility and other easements	x	
-Riding trails	x	
-Natural buffers	x	
-Pedestrian or bicycle paths	x	
-Parks and recreation areas with specific type indicated	x	
-Areas to be dedicated to or reserved for public use	x	x
-Areas to be used for purposes other than residential with the zoning classification of each stated	x	x
-The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership) of recreation and open space lands	x	x
The plans for utility layouts including: -Sanitary sewers -Storm sewers -Other drainage facilities, if any -Water distribution lines -Natural gas lines -Telephone lines -Electric lines illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains, and gate valves	x x x x x x x	1
Plans for individual water supply and sewage disposal systems, if any	x	
-Profiles based upon Mean Sea Level datum for sanitary sewers and storm sewers	x	
Site calculations including:		
-Acreage in total tract to be subdivided	x	
-Acreage in parks and recreation and open space areas and other nonresidential areas	x	
-Total number of parcels created	x	
-Acreage in the smallest lot in the subdivision	x	

<i>Information</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
-Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute		x
-The accurate locations and descriptions of all monuments, markers, and control points		x
-A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas or open space areas are established	x	x
-Where land disturbing activity is an acre or more in size, a copy of the erosion control plan submitted to the appropriate office of the North Carolina Department of Environment and Natural Resources, which complies with NCGS 113A, Article 4 (Sedimentation Pollution Control Act of 1973). Evidence of approval must be provided prior to submittal of a final plat for approval	x	
-Topographic maps with contour intervals of no greater than five (5) feet at a scale of no less than one (1) inch equals four hundred (400) feet	x	
-404 wetland areas as determined by the Wilmington District office of the U.S. Army Corps of Engineers	x	x
-All certifications required in Section 24-15		x
-Any other information considered by either the subdivider, the Planning Board, or Town Council, to be pertinent to the review of the plat	x	x
-All mapping shall comply with G.S. 47-30	x	x
-Developers must provide a digitized database.		x
Soil and Stormwater requirements as per Town Standards	x	

<sup>1</sup>Required on final plat only for minor subdivisions.

**Section 24-17: Recombination of Land**

- (A) Any plat or any part of any plat may be nullified by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.
- (B) Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.



- (C) Such an instrument shall be executed, acknowledged or approved, and recorded and filed in the same manner as a final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- (D) When lots have been sold, the plat may be nullified in the manner provided in Sections (A) through (C) above, by all owners of the lots in such plat joining in the execution of such writing.

**Section 24-18: Resubdivision Procedures**

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

**Section 24-19: Through Lots**

Following adoption of this Ordinance, the subdivision of through lots is prohibited between two (2) public streets.

**Section 24-20: Presale/Transfer of Lots (Amended 6/5/2017)**

- (A) Transfer of Lots in Unapproved Subdivision Plats. Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the town, thereafter subdivides his land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such regulation and recorded in the office of the Robeson County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits required pursuant to NCGS 160D-1108 may be denied for lots that have been illegally subdivided. In addition to other remedies, the town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct. (Amended 8/2/2021)
- (B) Presale of Lots. Pre-sale and pre-lease contracts are allowed only after a preliminary plat has been approved. The closing and final conveyance of lots subject to pre-sale and pre-lease contracts may not occur until after the final plat is approved and recorded. The buyer shall:
  - (1) Be provided a copy of the preliminary plat at the time the contract is executed;
  - (2) Be notified that no final plat has been approved;

- (3) Be advised that there is no guarantee that changes will not be made to the plat before final approval;
  - (4) Be provided a copy of the final plat before final approval by the City; and
  - (5) Be informed that the contract or lease may be terminated by the buyer/lessee if the final plat differs in any material way from the preliminary plat.
- (C) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the Robeson County Register of Deeds, provided the contract does all of the following:
- (1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.
  - (2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.
  - (3) Provides that if the approved and recorded final plat does to differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.
  - (4) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price. *(Amended 8/2/2021)*
- (D) The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the Robeson County Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no

conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the Robeson County Register of Deeds. *(Amended 8/2/2021)*

**Section 24-21: Procedure for Plat Recordation** *(Amended 1/4/2016)*

After the effective date of this Ordinance, no subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the appropriate agencies, and until this approval is entered in writing on the face of the plat by the chairperson or head of that agency. All publicly dedicated improvements must be accepted by the Town Council contingent upon final plat recordation or acceptance of an approved performance bond.

A plat shall not be filed or recorded by the Robeson County Register of Deeds of any subdivision located within the town's jurisdiction that has not been approved in accordance with this Ordinance, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the requirements of this Ordinance.

**Section 24-22: Issuance of Permits and Conveyance of Subdivision Lots**

Development permits and building permits may be issued by the Town of Pembroke for the erection of any building on any lot within a proposed subdivision prior to the final plat of said subdivision being approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds office, provided an improvements permit has been issued by the Robeson County Health Department, if required. **A certificate of occupancy may not be issued until the final plat has been approved and recorded.** *(Amended 1/4/2016, 8/2/2021)*

**Section 24-22a: Notice of New Subdivision Fees and Fee Increases; Public Comment Period**

(A) The Town of Pembroke shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to this UDO at least seven (7) days prior to the first Town Council meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The town shall employ at least two of the following means of communication in order to provide the notice required by this section:

- (1) Notice of the meeting in a prominent location on the Town of Pembroke website.
- (2) Notice of the meeting in a prominent physical location, including, but not limited to, any town building, library, or courthouse within the planning and development regulation jurisdiction of the Town of Pembroke.
- (3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the Town of Pembroke for the purpose of notification as required by this section.

- (B) During the consideration of the imposition of or increase in fees or charges as provided in subsection (A), the Town of Pembroke shall permit a period of public comment.
- (C) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of NCGS 159-12.  
*(Amended 8/2/2021)*

**PART III. DESIGN STANDARDS FOR RECREATION AREAS**

**Section 24-23: Recreation Areas**

Every person or corporation who subdivides ten (10) acres or more of land for residential purposes shall be required to dedicate a portion of such land, as set forth in this section for the purpose of providing open space sites, recreation areas, or parks to serve future residents of the neighborhood within which the subdivision is located. As an alternative to the public dedication of such land and with approval of the Town Council, the subdivider may:

- (A) Dedicate such land to a homeowners' association or other nonprofit ownership; provided, the provisions listed in Section 24-23 of this Article are made;
- (B) Make provision for an equitable amount of land in another location plus improvements; and
- (C) Pay to the Town a fee in lieu of dedication. The payment in lieu of dedication shall be equal to the appraised value of the required acreage of land within the subdivision based on an appraisal prepared by a licensed appraiser and submitted by the developer. If the Town disagrees with the submitted appraisal, it may have a second appraisal prepared. If the appraisals are within fifteen percent (15%) of each other, the developer's appraisal will be utilized to establish value. If the appraisals differ by more than fifteen percent (15%), the value will be based on the average of the two appraisals.

**Section 24-24: Amount of Land**

The amount of land required to be dedicated by a subdivider or developer shall be based upon the most recent U.S. Bureau of Census figures for an average size family for the Town and a minimum park and recreation factor of eight (8) acres per one thousand (1,000) persons. The actual amount of land to be reserved shall be determined by the following formula:

$$\begin{array}{rclclcl} \text{Total number} & & \text{Average size} & & \text{.008 acres per} & & \text{Amount} \\ \text{of dwelling} & \times & \text{of family} & \times & \text{person} & = & \text{(average)} \\ \text{units or lots} & & & & & & \text{reservation} \end{array}$$

**Section 24-25: Suitability Requirements**

Criteria for evaluating suitability of proposed recreation, park and open space areas shall include but not be limited to the following, as determined by the Town Council after recommendations of the Planning Board:

- (A) Unity. The dedicated land shall form a single parcel of land, except where the Planning Board determines that two (2) parcels or more would be in the public interest. The Planning Board may also determine that a connecting corridor of open space is in the public interest, in which case the path shall not be less than thirty (30) feet wide for the purpose of accommodating a path or trail.
- (B) Shape, Topography and Subsoils. The shape, topography and subsoils of the dedicated parcel or parcels of land shall be such as to be usable for active recreation (play areas, ballfields, tennis courts or similar recreation uses).
- (C) Location. The dedicated or reserved recreation or park land shall be located so as to reasonably serve the recreation needs of the subdivision for which the dedication was made.
- (D) Accessibility. Public access to the dedicated land shall be provided either by an abutting street or public easement. Such easement shall be not less than thirty (30) feet wide.
- (E) Usability. The dedicated land shall be usable for recreation. Lakes may not be included in computing dedicated land area unless acceptable to the Planning Board. Where the Planning Board determines that recreation needs are being adequately met, either by other dedicated parcels or existing recreation facilities, then land that is not used for recreation may be dedicated as open space.
- (F) Plans. Municipal and county plans shall be taken into consideration when evaluating land proposals for dedication.
- (G) Vegetative Cover. The vegetative cover, if feasible, shall be sufficient to lend attractiveness to the land parcel, protection from the sun's rays and suitability for a variety of a nature related recreation opportunities.

**Section 24-26: Homeowners Association or Nonprofit Organizations**

Where park or recreation space is deeded to a homeowners association or any nonprofit ownership in lieu of public dedication or fee payment, the subdivider or owner shall record a declaration of covenants and restrictions that will govern the open space of the association or nonprofit organization. This shall be submitted with the application for preliminary plat approval. Provisions shall include but not be limited to the following:

- (A) The homeowner's association shall be established before recording final plat.

- (B) Membership shall be mandatory for each home buyer and all successive buyers.
- (C) The association shall be responsible for the liability insurance, local taxes, and the maintenance of recreation and other facilities.
- (D) Any sums levied by this association that remain unpaid shall become a lien on the individual homeowner's property which shall be subordinate only to tax and mortgage liens.
- (E) If all or any portion of property held by the association is being disposed of, or if the association is dissolved, adequate open space shall be deeded to the Town with Town Council approval to satisfy the requirements for public recreation facilities under this Section.

**Section 24-27: Limitations**

Nothing herein shall be construed to limit the amount of privately controlled open-space land which may be included under an agreement, over and above the recreation and park site obligation.

**Section 24-28: Adjustments**

Notwithstanding provisions of this section to the contrary, the Town Council may, in cases of an unusual or exceptional nature, allow adjustments in the dedication regulations established in and required by this section. Such adjustments shall be reviewed by the Planning Board before the action by the Town Council.

## **PART IV. STREETS**

### **Section 24-29: Coordination and Continuation of Streets**

The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area, and where possible, existing principal streets shall be extended.

### **Section 24-30: Street Connectivity Requirements**

- (A) An interconnected street system is necessary in order to protect the public health, safety, and welfare in order to ensure that streets will function in an interdependent manner, to provide adequate access for emergency and service vehicles, to enhance nonvehicular travel such as pedestrians and bicycles, and to provide continuous and comprehensible traffic routes. All proposed new streets shall be platted according to the current Town Thoroughfare Plan.
- (B) All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.
- (C) The street network for any subdivision shall achieve a connectivity ratio of not less than 1.40 (see example in Figure 2). The phrase “connectivity ratio” means the number of streets links divided by the number of nodes or link ends, including cul-de-sac heads. A “link” means and refers to that portion of a street defined by a node at each end or at one end. Approved stubs to adjacent property shall be considered links. However, alleys shall not be considered links. A “node” refers to the terminus of a street or the intersection of two (2) or more streets, except that intersections that use a roundabout shall not be counted as a node. For the purposes of this section, an intersection shall be defined as:
  - (1) Any curve or bend of a street that fails to meet the minimum curve radius as established in the second table of Sections 24-43 and 24-44, or
  - (2) Any location where street names change (as reviewed and approved by the Administrator).
- (D) For the purposes of this section, the street links and nodes within the collector or thoroughfare streets providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.
- (E) Residential streets shall be designed so as to minimize the length of local streets, to provide safe access to residences with minimal need for steep driveways and to maintain connectivity between and through residential neighborhoods for autos and pedestrians.
- (F) Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, rights-of-way, and improvements shall be extended to the boundary of the



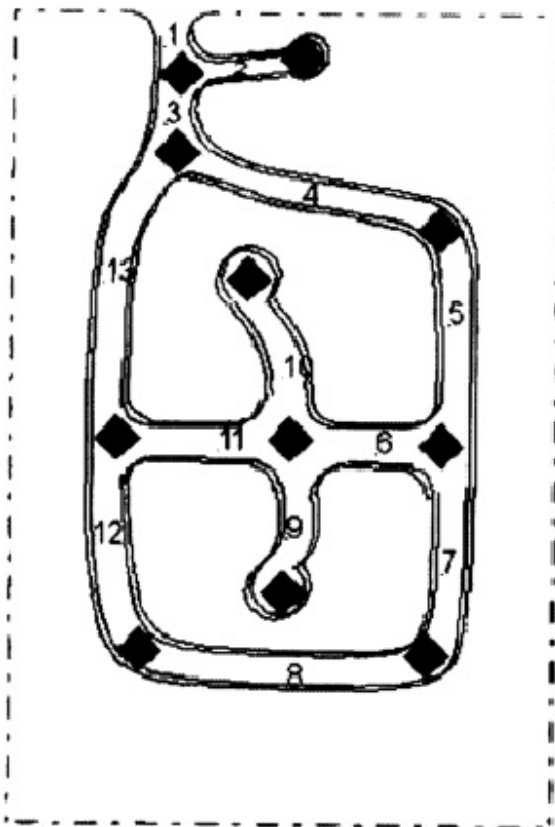
development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated, or established by other means.

(G) Exemption. New subdivisions that intend to provide one new cul-de-sac street shall be exempt from the connectivity ratio standard as set forth in this section, provide the Administrator determines that there is:

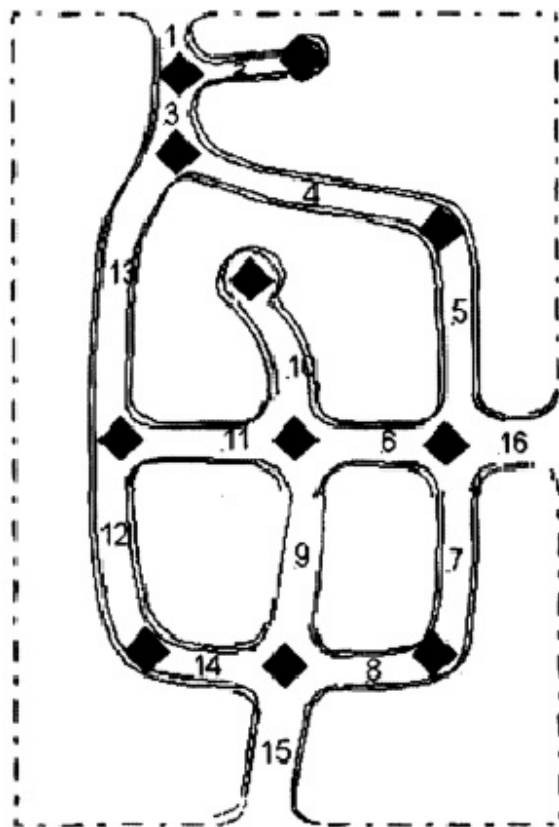
- (1) No options for providing stub streets due to topographic conditions, adjacent developed sites, or other limiting factors; and
- (2) Interconnectivity (use of a looped road) within the development cannot be achieved or is unreasonable based on the constraints of the property to be developed.

**Figure 2**

**Example 1:** Subdivision that does not meet the Ratio  
(13 links/11 nodes = 1.18 ratio)



**Example 2:** Same development modified to meet Ratio  
(16 links/11 nodes = 1.45 ratio)



**Section 24-31: Private Streets** *(Amended 8/3/2015)*

Streets designated as private may be allowed in subdivisions where the private street designation must serve the entire subdivision, not only part(s) of the subdivision and, when, in the opinion of the Town Council, they provide adequate ingress and egress onto collector streets, and they provide sufficient assurance through legally established homeowners' or similar owners' associations, deed restrictions, and/or covenants, or other maintenance agreements, that said streets shall be properly maintained and said agreements perpetually carried with the land. The Town Council shall reserve the authority, when the public welfare and safety warrant, requiring the public dedication of street rights-of-way within developments. All private streets shall be designed and constructed to meet or exceed the public street standards as specified in this section. All final plats which include private streets shall identify the streets as private streets.

This section shall apply to all subdivision plats submitted to the Town Council for approval on or after June 1, 2015.

**Section 24-32: Marginal Access Streets**

Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial street. Where reverse frontage is established, private driveways shall be prevented from having direct access to the expressway.

**Section 24-33: Subdivision Street Disclosure Statement**

All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6, and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system, before lots are sold, a statement explaining the status of the street shall be included with the final plat.

**Section 24-34: Half-Streets**

The dedication of half streets of less than sixty (60) feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than sixty (60) feet of right-of-way is required, a partial width right-of-way, not less than sixty (60) feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider; provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

**Section 24-35: Street Names**

Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Town Council.

**Section 24-36: Collector and Minor Streets**

Collector and minor streets shall be so laid out that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, and other places of public assembly.

**Section 24-37: Design Standards**

The design of all streets and roads within the jurisdiction of this Ordinance shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways, as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The NC Department of Transportation, Division of Highways' Subdivision Roads, Minimum Construction Standards, January 1, 2000, or the current NC Department of Transportation standards, shall apply for any items not included in this Ordinance, or where stricter than this Ordinance.

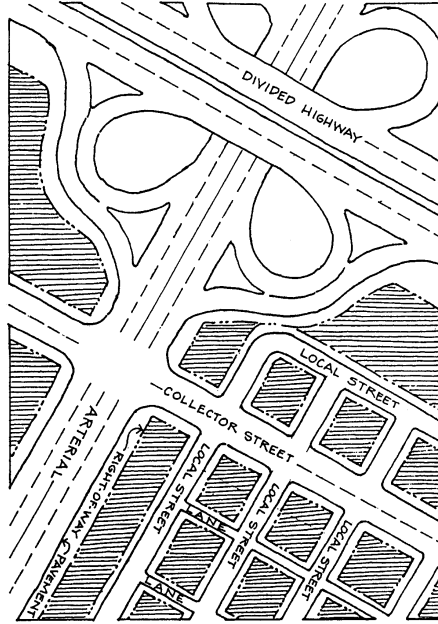
**Section 24-38: Nonresidential Streets**

The subdivider of a nonresidential subdivision shall provide streets in accordance with I.F.-4 of the North Carolina Roads, Minimum Construction Standards, January 1, 2000; or current applicable North Carolina Department of Transportation Standards; and the standards of this Ordinance, whichever are stricter in regard to each particular item.

**Section 24-39: Right-of-Way Widths**

Right-of-way widths shall not be less than the following:

	<u>Minimum Right-of-Way (ft.)</u>
Principal Arterial	
Freeways	350
Other	200
Major Collector	100
Major Thoroughfare other than Freeway and Expressway	90
Minor Thoroughfare	70
Local Street	60 (may be no less than 50 feet if approved by the Town Council due to special conditions)
Cul-de-sac	100' diameter for turnaround and 45' for street right-of-way



**Section 24-40: Pavement Widths**

Pavement widths or graded widths shall be as follows:

	<u>Streets with Curb and Gutter</u>	<u>Streets without Curb and Gutter</u>
Minor Thoroughfare	43 ft.	40 ft.
Local Road	24 ft.	20 ft.*
Marginal Access (frontage)	24 ft.	20 ft.
Cul-de-sac	24 ft.	20 ft.
Cul-de-sac turnaround	100 ft. in dia.	80 ft. in dia.

\*All streets without curb and gutter shall be provided grassed swales for drainage. Grass swales must meet or exceed minimum NCDOT design standards. Based on site conditions, swale design may be required to exceed NCDOT design standards to ensure positive drainage.  
(Amended 11/4/2013)

Pavement widths for principal arterials and major thoroughfares shall be determined in concert with the Town of Pembroke or the NC Department of Transportation standards and the current Pembroke Thoroughfare Plan.

**Section 24-41: Roads and Street Surfaces**

All public subdivision streets and roads shall be constructed and paved to meet the current requirements of the North Carolina Department of Transportation, Division of Highways' standards for state maintenance.

**Section 24-42: Tangents**

A tangent of at least one hundred (100) feet shall be provided between reverse curves on all streets.

**Section 24-43: Street Intersections**

Street intersections shall be laid out as follows:

- (A) All streets shall intersect as nearly as possible at right angles and no street shall intersect at less than sixty (60) degrees.
- (B) Intersections with a major street shall be at least one thousand (1,000) feet apart, measured from centerline to centerline.
- (C) Where a centerline offset (jog) occurs at an intersection, the distance between centerline of the intersecting streets shall be not less than two hundred (200) feet.
- (D) Property lines at intersections should be set so that the distance from the edge of pavement of the street turnout to the property line will be at least as great as the distance from the edge of pavement to the property line along the intersecting streets. The property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property lines will be required, if necessary, to provide sight distance for the vehicle on the side street.

**Section 24-44: Alleys**

- (A) Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access. Alleys shall not be provided in residential subdivision unless necessitated by unusual circumstances and approved by the Planning Board and Town Council.
- (B) All alleys shall be designed in accordance with the Department of Transportation, Division of Highways' specifications and standards and shall meet the following requirements:

Right-of-way width	20 feet
Property line radius at alley intersection	15 feet
Minimum centerline radius when deflection angle of not more than 10 degrees occurs	35 feet
Minimum turnaround diameter of dead-end alley (right-of-way width)	80 feet

- (C) Sharp changes in alignment and grade shall be avoided.
- (D) All alleys shall be designed in accordance with NC Department of Transportation Standards.

**Section 24-45: Geometric Characteristics**

The standards outlined below shall apply to all subdivision streets proposed for addition to the State Highway System or Municipal Street System. In cases where a subdivision is sought adjacent to a proposed thoroughfare corridor, the requirements of dedication and reservation discussed under Right-of-Way shall apply.

(A) Design Speed. The design speeds for subdivision-type streets shall be:

	<u>Desirable (mph)</u>	<u>Minimum (mph)</u>
<u>Urban</u>		
Minor Thoroughfares	60	50
Local Streets	40	40

(B) Desirable and Minimum Grades. The desirable/minimum for subdivision type streets grades in percent shall be:

	<u>60 Desirable</u> (50 Minimum)	<u>40 Desirable</u> (40 Minimum)
Type of Topography		
Flat-NCDOT Divisions	3	5
1, 2, 3, 4, and 5	(4)	(5)

The minimum grade in no case shall be less than one half percent (0.5%). Grades for one hundred (100) feet each way from intersections should not exceed five percent (5%).

**Section 24-46: Minimum Sight Distances**

In the interest of public safety, the minimum sight distance applicable shall be provided in every instance. Vertical curves that connect each change in grade shall be provided and calculated using the following parameters. (General practice calls for vertical curves to be multiples of fifty (50) feet. Calculated lengths should be rounded up in each case.)

<u>Design Speed, MPH</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>50</u>	<u>60</u>
Stopping Sight Distance					
Min. Stopping Distance, Ft.	150	200	275	350	475
Des. Stopping Distance, Ft.	150	200	300	450	650
Minimum K* Value For:					
Min. Crest Vert. Curve	16	28	55	85	160
Des. Crest Vert. Curve	16	28	65	145	300
Min. SAG Vert. Curve	24	35	55	75	105
Des. SAG Vert. Curve	24	35	60	100	155
Passing Sight Distance					

<u>Design Speed, MPH</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>50</u>	<u>60</u>
Min. Passing Distance, Ft. (2 lane)		1100	1500	1800	2100
Min. K* Value for Crest Vert. Curve		365	686	985	1340

K\* is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve which will provide minimum sight distance.

Sight distance provided for stopped vehicles at intersections should be in accordance with Article 9 of this Ordinance.

**Section 24-47: Design Speeds**

The following table shows the maximum degree of curve and related maximum superelevation for design speeds. The maximum rate of roadway superelevation (e) for roads with no curb and gutter is .08. The maximum rate of superelevation for streets with curb and gutter is .06, and .04 being desirable.

Design Speed MPH	Maximum e*	Minimum Radius (Rounded) Feet	Maximum Degree of Curve (Rounded) Degrees
20	.04	125	45.00
30	.04	302	19.00
40	.04	573	10.00
50	.04	955	6.00
60	.04	1528	3.45
20	.06	115	50.00
30	.06	273	21.00
40	.06	509	11.15
50	.06	844	6.45
60	.06	1380	4.15
20	.08	110	53.50
30	.08	252	22.45
40	.08	468	12.15
50	.08	764	7.30
60	.08	1206	4.45

\*Maximum rate of roadway superelevation, foot per foot.

**Section 24-48: Cul-de-Sacs**

Cul-de-sacs shall not exceed 750 feet in length.

**Section 24-49: PRD Streets (Amended 8/2/2021)**

- (A) A dense network of narrow streets with reduced curb radii may be fundamental to sound design. This network serves to both slow and disperse vehicular traffic and provide a pedestrian friendly atmosphere. Such alternate guidelines are encouraged in PRDs when the overall design ensures that non-vehicular travel is to be afforded every practical accommodation that does not adversely affect safety considerations. The overall function, comfort, and safety of a multi-purpose or “shared” street are more important than its vehicular efficiency alone.
- (B) PRDs should have a high proportion of interconnected streets, sidewalks, and paths. Streets and rights-of-ways are shared between vehicles (moving and parked), bicycles, and pedestrians. A dense network of PRD streets will function in an interdependent manner, providing continuous routes that enhance non-vehicular travel. Most PRD streets should be designed to minimize through traffic by the design of the street and the location of land uses. Streets should be designed to only be as wide as needed to accommodate the usual vehicular mix for that street while providing adequate access for moving vans, garbage trucks, fire engines, and school buses (see Appendix I).

**Section 24-50: Materials**

- (A) Portland cement concrete for curb and gutter, driveways, and sidewalks shall have a minimum 28 compressive strength of 3,000 psi, a nonvibrated slump between 2.5 and 4 inches, a minimum cement of 564 pounds per cubic yard, an air entrainment of 5% through 7%, and a maximum water-cement ratio of 0.532.
- (B) Joint filler shall be a nonextruding joint material conforming to ASTM C1751.
- (C) Concrete curing agents shall be free from any impurities which may be detrimental to the concrete and meet Section 926 of the NCDOT Standard Specifications for Roadways and Structures.
- (D) Aggregate for portland cement concrete shall meet the requirements for fine and course aggregate of Section 914 of the NCDOT Standard Specifications for Roadways and Structures.
- (E) Portland cement and admixtures shall meet the requirements of Section 924 of the NCDOT Standard Specifications for Roadways and Structures.
- (F) Water for mixing or curing the concrete shall be free from injurious amounts of oil, salt, acid or other products injurious to the finished product.



- (G) Aggregate base course shall consist of an approved coarse aggregate produced in accordance with the requirements indicated in Section 910 for either Type A, B, or C aggregate as described in the NCDOT Standard Specifications for Roadways and Structures.
- (H) Bituminous surface course, Type I-2, shall consist of a mixture of coarse and fine aggregates, asphalt cement, and shall meet the requirements in Section 645 of the NCDOT Standard Specifications for Roadways and Structures.
- (I) Bituminous concrete base course, Type HB, shall conform to the general, material and construction specifications as specified in Section 610 and Section 630 of the NCDOT Standard Specifications for Roadways and Structures.
- (J) Bituminous concrete binder course Type H, shall conform to the general, material and construction specifications as specified in Section 610 of the NCDOT Standard Specifications for Roadways and Structures.
- (K) Tack coat shall be asphalt or asphalt cement and shall meet the general, material and construction specifications as specified in Section 605 of the NCDOT Standard Specifications for Roadways and Structures.
- (L) Concrete pavement shall meet Section 700 of the NCDOT Standard Specifications for Roadways and Structures.
- (M) Concrete pavers may be used on privately maintained streets in accordance with Standard Detail 1.04 as set forth in Appendix II, or on areas of Town maintained streets as approved by the Town Council or the Town's duly authorized representative.
- (N) Brick pavers may be used on privately maintained streets in accordance with Standard Detail 1.04 as set forth in Appendix II, or on areas of Town maintained streets as approved by the Town Council or the Town's duly authorized representative.

**Section 24-51: Earthwork**

- (A) Earthwork shall be defined as removal of earth or soft rock from its natural location or as the depositing of such material into the proper fill areas as designated on the plans.
- (B) Rock excavation shall be defined, in the opinion of the Public Works Director, as all ledge rock or boulders of 0.5 cubic yard that cannot be excavated without blasting.
- (C) A written permit for blasting must be obtained from the Town and coordinated with the local fire department, a minimum of 48 hours before any explosive material or blasting agents are transported into the corporate limits of the Town.
- (D) Backfill material shall be free from construction material, debris, frozen material, organic matter or unstable material. For the top two (2) feet below finished subgrade, no fill

material shall be used weighing less than one hundred (100) pounds per cubic foot. The top two (2) feet of backfill material shall be free from stones greater than four (4) inches.

- (E) The top six (6) inches of subbase, and the entire base course shall be compacted to a density of 100% maximum dry density as determined by AASHTO method T99. For that portion of backfill under roadways and extending at a slope on one to one beyond the back of curb, compact to a density of no less than ninety percent (90%) of the maximum dry density as determined by AASHTO method T99. Backfill material shall be placed in lifts of twelve (12) inches or less of uncompacted soil.
- (F) Other fill material shall be compacted to a density of no less than ninety percent (90%) of the maximum dry density as determined by AASHTO method T99. Backfill material shall be placed in lifts of twelve (12) inches or less of uncompacted soil.

**Section 24-52: Construction and Inspection**

- (A) General Requirements. No construction shall be conducted until the following applicable items have been obtained: all grading permits, NCDOT encroachment agreements, performance bonds, and Town plan approval.
- (B) Streets.
  - (1) No base material shall be placed on a roadway until the storm sewer, subgrade, utilities, and all appurtenances have been inspected and meet the Town standard specifications.
  - (2) The Inspector may require a proctor analysis of the subgrade soils from a certified soils laboratory. The soils laboratory shall submit sufficient proctors to allow the Director of Public Works to determine the density of different soils used in the street. The Inspector may also require a proctor analysis of the ABC used and a asphalt mix formula before either is inspected or approved.
  - (3) The subgrade shall be compacted as described in Section 24-48(E). The inspection of the subgrade prior to placement of base course, and the inspection of the base course prior to placement of asphalt, shall be performed by proof rolling at the direction of the Inspector.
- (C) Curb and Gutter, Driveways, and Sidewalks.
  - (1) No concrete shall be placed until the forms and subgrades have been approved by the Inspector.
  - (2) The surface of sidewalks shall be finished to grade and cross-sectioned with a float, troweled smooth and finished with a broom.

- (3) Subgrade shall be excavated to the required depth, and shaped to the proper cross-section. Where tree roots are encountered, they shall be removed to a depth of one foot for the full width of the excavation. The subgrade shall be stable and thoroughly compacted.
- (4) Forms shall be set and maintained true to the required lines, grades and dimensions. Forms shall be constructed with material of such strength and rigidity to prevent any appreciable deflection between supports. Straight forms shall be within a tolerance of one-half-inch in ten feet from a true line horizontally or vertically. Forms shall be thoroughly cleaned of all dirt, mortar and foreign material before being used. All inside form surfaces shall be thoroughly coated with commercial quality form oil.
- (5) Grooved contraction joints shall be cut to a depth equal to at least one-third of the total slab thickness. The joint shall be no less than one-eighth-inch in width of the sidewalk. A one-half-inch expansion joint filled with joint filler shall be placed between all rigid objects and placed no farther than fifty (50) feet apart for sidewalks and curb and gutter, extending the full depth of the concrete with top of the filler one-half-inch below the finished surface.

**PART IV. UTILITIES**

**Section 24-53: Water and Sewerage Systems**

- (A) When available, the subdivider shall connect to the water and sewerage systems owned and operated by the Town. For all residential and commercial development, the Town may require that the developer install lines larger than required by the development in order to support future growth. The Town will pay the difference between the required utilities and the upsized lines.
- (B) Where public or community water supply and/or sewerage systems are not available or to be provided, a written statement from the County Health Department shall be submitted with the preliminary plat indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal. The statement from the County Health Department shall be based upon a field investigation. The field investigation for sewage disposal shall include a sufficient number of percolation tests (at least one per acre) to determine absorption capacity of the soil and test holes at least six (6) feet deep (as needed) to determine the depth to the ground water table, and the presence of rock formations or other impervious strata.
- (C) All utilities shall be installed per Town requirements at the direction of the Public Utilities Director.

**Section 24-54: Electric Power**

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

- (A) If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.
- (B) If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

**Section 24-55: Telephone Service**

Every principal use and every lot within a subdivision must have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

- (A) If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to such line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is necessary.
- (B) If the use is a subdivision or is not located on a lot served by an existing telephone line or a substantial internal distribution system will be necessary, then the telephone utility company must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

**Section 24-56: Underground Utilities**

- (A) All electric power lines (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in subdivisions constructed after the effective date of this Ordinance shall be placed underground in accordance with the specifications and policies of the respective utility service providers and the Town of Pembroke.
- (B) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this Ordinance, than all electric power, telephone, gas distribution, and cable television lines installed to serve the development that are located on the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility service providers and the Town of Pembroke.

**Section 24-57: Utilities to be Consistent with Internal and External Development**

- (A) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby developments, such utility facilities (i.e., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.
- (B) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

**Section 24-58: As-Built Drawings Required**

Whenever a developer installs or causes to be installed any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, and before acceptance of any water or sewer line, furnish the Town with a copy of a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development. All utilities located within a right-of-way must be dedicated and accepted by the Pembroke Town Council.

# ARTICLE 25. WATER SUPPLY WATERSHED PROTECTION REGULATIONS

## Section 25-1: Purpose

- (A) The purpose of this section is to describe the watershed areas and regulations herein adopted. The Town of Pembroke has within its jurisdiction, a portion of the protected area of the Lumber River Watershed. The Environmental Management Commission classifies the area as WS-IV. The Town Council for the Town of Pembroke, North Carolina, has chosen the **low-density option** for development within the watershed areas. These areas are displayed on the Town of Pembroke's Official Zoning Map, and the following regulations apply to these areas in addition to regulations stated elsewhere in this Unified Development Ordinance. As defined by the NC Department of Environmental Quality, high density development is not permitted.
- (B) G.S. 143-214.5 provides for a cooperative program of water supply watershed management and protection to be administered by local governments consistent with minimum statewide management requirements established by the Environmental Management Commission. In order to promote the public health, safety, and welfare, the Town Council for the Town of Pembroke, North Carolina, adopts these Watershed Protection regulations effective for all areas designated Watershed Protection Overlay District on the official Zoning Map of the Town of Pembroke.

## Section 25-2: Effective Date

This Overlay District and its provisions governing the use of land and buildings in designated watershed areas are hereby established and declared to be in full force and effect from and after its passage by the Town Council on the 5<sup>th</sup> day of June, 2017.

## Section 25-3: Watershed Protection Permit Required

If, at the time of application for a development permit, it is determined that the property lies in a water supply watershed, as shown on the Zoning Map, a Watershed Protection Permit will be required. Requirements outlined in Section 12-1 of this Ordinance will be followed when applying for a Watershed Protection Permit. *(Amended 8/2/2021)*

## Section 25-4: Issuance of Watershed Protection Permit

If the proposed activity as set forth in the application is in conformance with the provisions of this ordinance, the UDO Administrator shall issue a Watershed Protection Permit. If any application for a Watershed Protection Permit is not approved, the UDO Administrator shall state in writing on the application, the cause for such disapproval. In no case shall the issuance of a permit be construed as waiving any provision of this or any other ordinance or regulation.

**Section 25-5: Exceptions to Applicability and Pre-Existing Lots**

- (A) It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- (B) If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of these regulations if it is developed for single-family purposes. Any lot or parcel created as part of a family subdivision after the effective date of these rules shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent possible.
- (C) Any existing development, as defined in this ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance; however, the built-upon area of the existing development is not required to be included in the density calculations.
- (D) Vacant Lots. This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Robeson County. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:
  - (1) Where the lot area is below the minimum specified in this ordinance, the UDO Administrator is authorized to issue a watershed protection permit.
  - (2) Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this ordinance, or if this is impossible, reduce to the extent possible the nonconformity of the lots.
- (E) Occupied Lots. This category consists of lots occupied for residential purposes at the time of the adoption of this ordinance. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.



- (F) Reconstruction of Built-Up Areas. Any reconstruction of built-upon areas per Article 11 of this Ordinance shall not increase the total amount of space devoted to built-upon area unless storm water control that equals or exceeds the previous development is provided. Reconstruction of single-family residential development is exempt from this regulation.

**Section 25-6: Administration, Enforcement, and Appeals**

(A) Administrator Watershed Duties.

- (1) The Administrator of the Town of Pembroke shall serve as Watershed Administrator and shall issue Watershed Protection Permits as prescribed herein. A record of all permits shall be kept on file for public inspection.
- (2) The Board of Adjustment for the Town of Pembroke (see Article 13, Part II) shall serve as Watershed Review Board, and shall delegate administrative review procedures to the Town of Pembroke Planning Board. The Board of Adjustment shall retain the responsibility to grant variances from these regulations.
- (3) The Town Clerk shall serve as clerk to the Board of Adjustment.
- (4) The Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Division of Water Resources.
- (5) The Administrator shall keep records of the jurisdiction's use of the provision that a ten percent (10%) of the protected area of WS-IV watersheds may be developed with new development at a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan (if applicable).
- (6) The Administrator is granted the authority to administer and enforce the provisions of these regulations, exercising in the fulfillment of his responsibility the full police power of the Town. The Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.
- (7) The Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Division of Water Resources on or before January 1<sup>st</sup> of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

- (B) Rules Governing the Interpretation of Watershed Area Boundaries. Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Official Zoning Map, the rules contained in Section 9-4 of this Ordinance shall apply.
- (C) Penalties/Remedies for Violations. All penalties and remedies for violation of these regulations shall be in accordance with Article 7, Enforcement and Review.
- (D) Changes and Amendments to the Water Supply Watershed Protection Regulations. The Town Council may, on its own motion or on petition, amend, supplement, change, or modify the watershed regulations in accordance with Article 4 of this Ordinance. Under no circumstances shall the Town Council adopt such amendments, supplements, or changes that would cause this Ordinance to violate the watershed protection rules as adopted by the NC Environmental Management Commission. All amendments must be filed with the NC Division of Water Resources, NC Division of Environmental Health, and the NC Division of Community Assistance.
- (E) Appeal from the Administrator. Any order, requirement, decision, or determination made by the Administrator may be appealed to and decided by the Town of Pembroke Board of Adjustment in accordance with Article 5, Section 5-1 of this Ordinance.
- (F) Variances. Variances may be granted by the Board of Adjustment in accordance with Article 5, Section 5-2 of this Ordinance. If the application calls for the granting of a major variance, and if the Board of Adjustment decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
- (1) The variance application;
  - (2) The hearing notices;
  - (3) The evidence presented;
  - (4) Motions, offers of proof, objections to evidence, and rulings on them;
  - (5) Proposed findings and exceptions;
  - (6) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

- (1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (b) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Town of Pembroke Board of Adjustment. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance

with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

- (2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (b) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Town of Pembroke Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

### **Section 25-7: Watershed Overlay District Regulations**

- (A) Only new development activities that require a sedimentation/erosion control plan under State Code (NCAC, Chapter 4) or local government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. These include land-disturbing activities of one acre or more. Sludge application is allowed; new non-discharging landfills are allowed. Best management practices for forestry and transportation (reference NCDOT publication Best Management Practices for the Protection of Surface Waters) are required.
- (B) In addition to Permitted and Special Uses listed for the appropriate district in Article 10, Table of Permitted Uses, the following are allowed uses in the Watershed Protection District. *(Amended 8/2/2021)*
  - (1) Allowed Uses.
    - (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation, and Trade Act of 1990.
    - (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 11.6101-.0209).
  - (2) Not Allowed.
    - (a) Discharging landfills.
    - (b) The storage of toxic and hazardous materials (unless a spill containment plan is implemented).
  - (3) Dimensional Requirements. The following dimensional requirements are in addition to the requirements contained in Article 11 of this Ordinance.
    - (a) Single-Family Residential. For activities disturbing one acre or more of land, minimum lot size is 20,000 square feet, or 24% built-upon, or one-third (1/3)

acre for projects without a curb and gutter street system, except within an approved cluster development.

- (b) All Other Residential and Non-Residential. For activities disturbing one acre or more of land, built-upon area is limited to 24%. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.
- (c) In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy upon to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project-by-project basis, when approved as a special intensity allocation (SIA). The UDO Administrator is authorized to approve SIAs consistent with the provision of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area; direct storm water away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

#### **Section 25-8: Cluster Development**

Clustering of development is allowed under the following conditions.

- (A) Minimum lot sizes are not applicable to cluster development projects; however, the total number of lots shall not exceed the number of lots allowed in Article 11. Built-upon area for the project shall not exceed that allowed for the WS-IV watershed protected area.
- (B) All built-upon area shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (C) Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainageways.
- (D) The remainder of the tract shall remain in a vegetated or natural state, not to be developed at any future date. The title to the open space areas shall be conveyed to an incorporated property owners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property owners association is not incorporated, a maintenance agreement shall be filed with the property deeds, and individual property owners shall be responsible for maintenance.

**Section 25-9: Buffers Required**

- (A) A minimum of thirty (30) foot vegetative buffer is required for development activities along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.
- (B) No new development is allowed in the buffer except water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increase in impervious area, and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters, and maximize the utilization of storm water Best Management Practices.

**Section 25-10: Watershed Protection Permit**

- (A) Except where a single-family residence is constructed on a lot deeded prior to the effective date of this Ordinance, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the UDO Administrator.
- (B) Watershed Protection Permit applications shall be filed with the UDO Administrator. The application shall include a completed application form (provided by the UDO Administrator) and supporting documentation deemed necessary by the UDO Administrator.
- (C) Prior to issuance of a Watershed Protection Permit, the UDO Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.
- (D) A Watershed Protection Permit shall expire if a Building Permit or Certificate of Occupancy for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

**Section 25-11: Building Permit Required**

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

**Section 25-12: Zoning Compliance Permit for Properties Located in a Watershed Area**

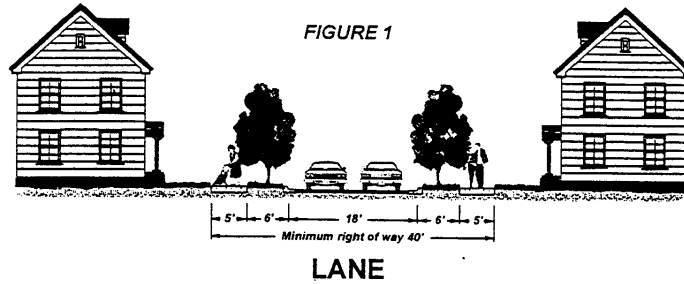
- (A) The UDO Administrator shall issue a Zoning Compliance Permit certifying that all requirements of this Ordinance have been met prior to the occupancy or use of a building hereafter erected, altered, or moved and/or prior to the change of use of any building or land.

- (B) A Zoning Compliance Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alteration of the building.
- (C) When only a change in use of land or existing building occurs, the UDO Administrator shall issue a Zoning Compliance Permit certifying that all requirements of this Ordinance have been met coincident with the Watershed Protection Permit.
- (D) If the Zoning Compliance Permit is denied, the UDO Administrator shall notify the applicant in writing stating the reasons for denial.
- (E) No building or structure which has been erected, moved, or structurally altered may be occupied until the UDO Administrator has approved and issued a Zoning Compliance Permit.

**Section 25-13: Public Health Regulations**

- (A) Public Health, In General. No activity, situation, structure or land use shall be allowed within the watershed, which poses a threat to water quality and the public health, safety, and welfare. Such conditions may arise from inadequate site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash, or other refuse with a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.
- (B) Abatement. The Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- (C) The Administrator shall report all findings to the Planning Board. The Administrator may consult with any public agency or official and request recommendations.
- (D) Where the Planning Board finds a threat to water quality and the public health, safety, and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct, or abate the condition and/or violation.

## APPENDIX I STREET TYPES



**Purpose:** Provides access to single-family homes.

### Features

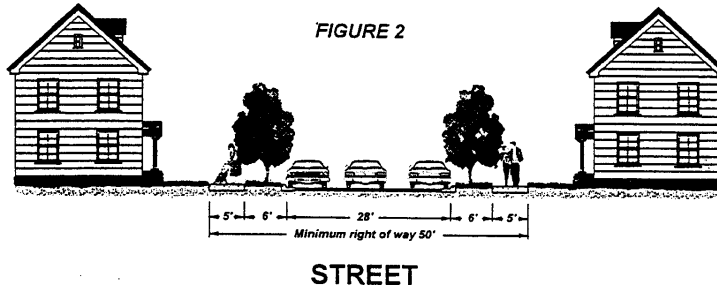
- Street width 18' with curb and gutter and informal parking designated on street
- Planting strips 6'
- Sidewalks 5' on each side
- Design speed 20 mph
- Posted speed 20 mph
- Requires a 40' right of way
- Drainage - curb and gutter

### Features

- Generally two to six blocks long

### Building and Land Use

- Residential - primarily single family homes



**Purpose:** Provides access to housing

### Features

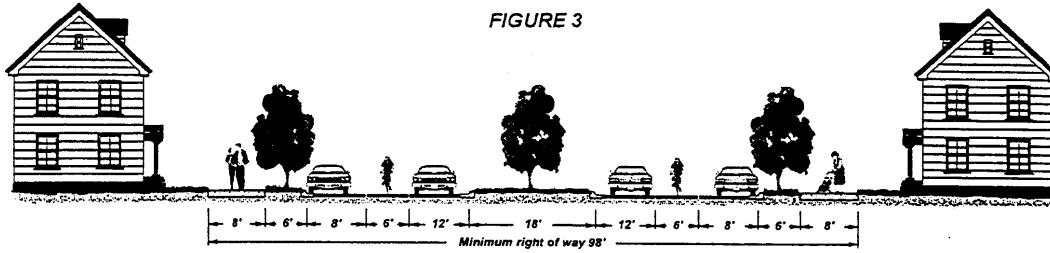
- Street width 28' with curb and gutter and informal parking
- Planting strips 6'
- Sidewalks 5' on each side
- Design speed 20 mph
- Posted speed 20 mph
- Requires a 50' right of way
- Drainage - curb and gutter

### Features

- Generally two to six blocks long

### Building and Land Use

- Residential - many residential types



### AVENUE WITH PARKING

**Purpose:** Avenues are short distance, medium speed connectors between neighborhoods and core areas. As such, they are used in both residential and commercial areas, often terminating at prominent buildings or plazas. Avenues may also circulate around squares or neighborhood parks.

**Features**

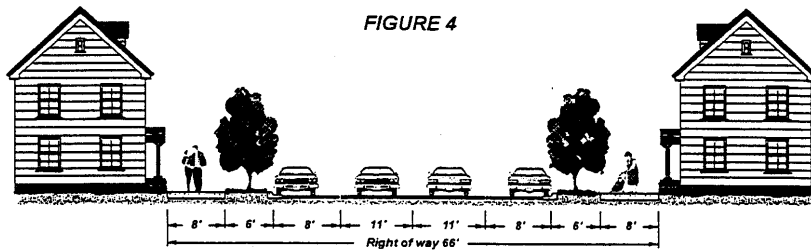
- Street width 26' on both sides of median with on-street parking, 18' if no parking or curb and gutter
- Median width 18' (minimum)
- Travel lanes 12'
- Maximum 2 travel lanes
- Bike lanes and planting strips 6'
- Sidewalks 8' on each side
- Design speed 30 mph (maximum)

**Features**

- Posted speed 25 - 30 mph
- Requires a 98' right of way
- Drainage - curb and gutter

**Building and Land Use**

- Mixed residential and commercial use



### MAIN STREET WITHOUT MEDIAN

**Purpose:** Main streets provide low-speed access to neighborhood, commercial, and high density residential areas

**Features**

- Travel lanes 11' with striped parking
- Maximum 2 travel lanes
- Planting wells 6'- landscaped median optional (minimum 18')
- Sidewalks minimum of 8' each side
- Design speed 25 mph (maximum)
- Posted speed 20 - 25 mph
- Requires a 66' right of way

**Features**

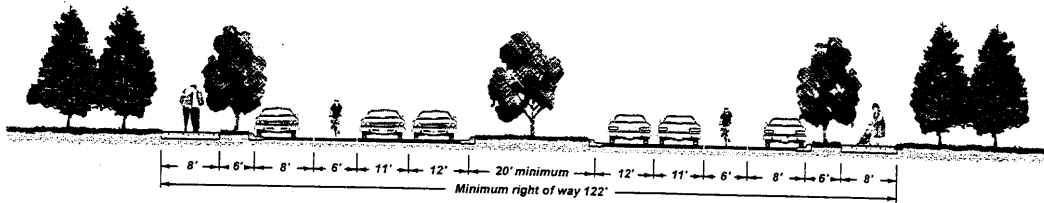
- Drainage - curb and gutter
- Includes bulbouts at intersections and mid-block crossings
- Bike lanes optional but preferred (minimum 6')

**Building and Land Use**

- Commercial and mixed use
- High density residential



FIGURE 5



**BOULEVARD**

**Purpose:** Provides multi-lane access to commercial and mixed-use buildings, and carries regional traffic.

**Features**

- Lanes 11' with striped parking and bike lanes
- Maximum 4 travel lanes
- Planting wells 6 - 11'
- Sidewalks 8' on each side
- Design speed 40 mph (maximum)
- Posted speed 30 - 35 mph

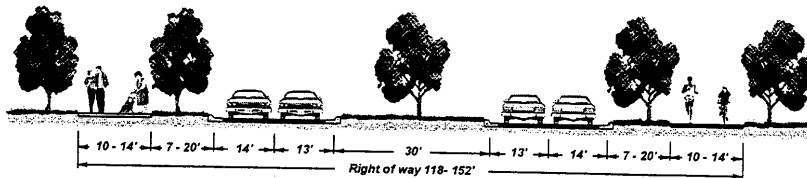
**Features**

- Requires a 122' right of way
- Drainage - curb and gutter

**Building and Land Use**

- Commercial and mixed use

FIGURE 6



**PARKWAY**

**Purpose:** Parkways bring people into town, or pass traffic through natural areas. Parkways are not designed for development. When the parkway enters town, it becomes a boulevard.

**Features**

- Travel lanes 11 - 12'
- Median width 30'
- Design speed 50 mph (maximum)
- Posted speed 45 mph (maximum)
- Requires a 118' right of way (minimum)
- Drainage - swales allowed, or curb and gutter
- Multi-use trails 10 - 14'
- Planting strips 7 - 20'
- Bike lane not adjacent to travel lane

**Features**

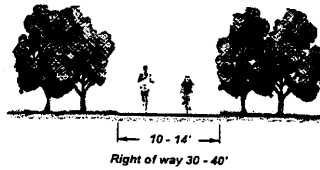
- 6' minimum paved shoulder on high-speed parkway (greater than 45 mph: typical section has shoulder with ditches)

**Building and Land Use**

- Parkways are designed to be on the edge of towns, nature preserves, or agricultural areas
- Multi-use trails may be on either or both sides

Provided for informational use only

**FIGURE 7**



## TRAIL

**Purpose:** Provides non-motorized access throughout the neighborhood.  
[Note: Not to be accepted onto the state system]

### Features

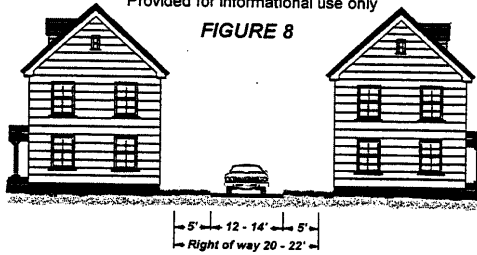
- Shade trees recommended
- Trail width 10—14'
- Stopping sight distance 125'
- Clear zone 3—6'

### Building and Land Use

- Link to make connections between homes, parks, schools, and shopping districts

Provided for informational use only

**FIGURE 8**



## Alleys

**Purpose:** Although part of the interconnected street system, alleys provide access to property but are not intended to accommodate through traffic. Alleys are often used by garbage trucks. In some areas alleys must accommodate dumpsters.

[Note: Not to be accepted onto the state system]

### Features

- Requires 20' right of way (minimum)
- Utilities, either above or underground, may be located in alleyways to provide service connections to rear elevations
- Width 12' (minimum)
- Additional pavement at alleyway intersections is necessary to facilitate turns.

### Building and Land Use

- Residential - primarily single family
- Provides rear access to garages

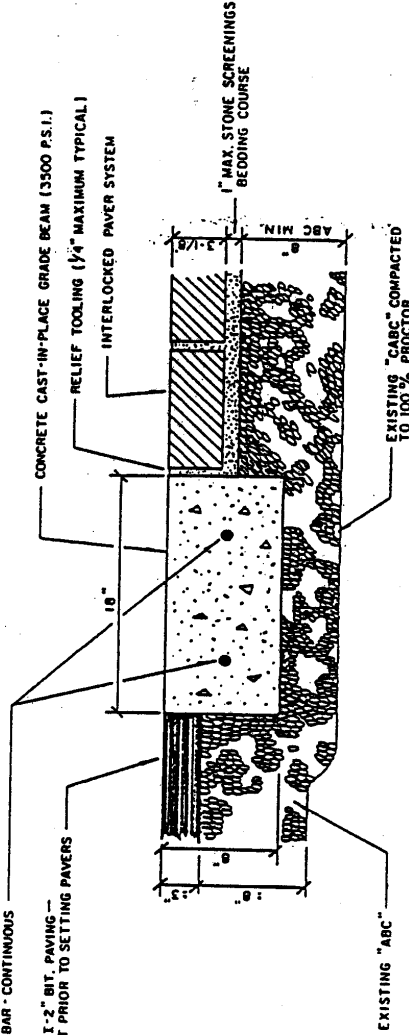
APPENDIX II

§ 2. TYPICAL BRICK PAVER STREET SECTION DETAIL.

NOTE 1.

1. EXISTING "CABC" IN ROADWAY MAY BE USED AS BASE COURSE AFTER COMPACTING TO ACHIEVE 100% PROCTOR. LOCALIZED UNDERCUTTING AND REPAIR SHALL BE REQUIRED WHERE "PROOF-ROLLING" RESULTS IN PUMPING OR AS DIRECTED BY THE INSPECTOR. TESTING OF SUBGRADE / "CABC" COMPACTION SHALL BE REQUIRED.
2. EXISTING ROADWAY PAVING SHALL BE SAW-CUT TO RECEIVE PLACEMENT OF GRADE BEAMS. A THREE-DAY CURING PERIOD SHALL BE REQUIRED FOR GRADE BEAMS PRIOR TO REMOVAL OF REMAINING BITUMINOUS PAVING. BASE BELOW GRADE BEAMS SHALL BE COMPACTED TO 100% PROCTOR.
3. BRICK PAVED STREETS SHALL NOT BE MAINTAINED BY THE TOWN

(2) No. 4 REBAR - CONTINUOUS  
 EXISTING "I-2" BIT. PAVING -  
 REPAIR CUT PRIOR TO SETTING PAVERS



SECTIONAL VIEW

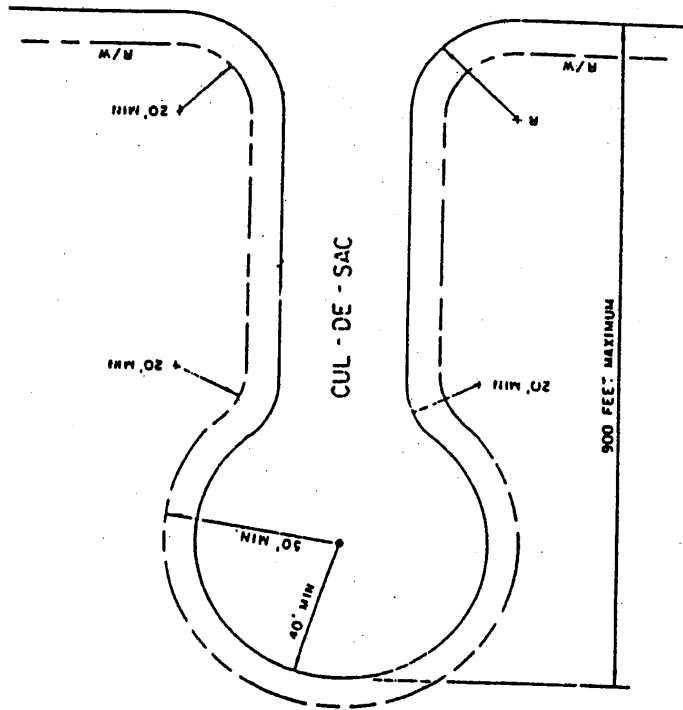
REVISIONS	
DATE	DESCRIPTION

STD. NO.

1.04

TYPICAL BRICK PAVER STREET SECTION DETAIL

§ 3. CUL-DE-SAC DIMENSIONS.



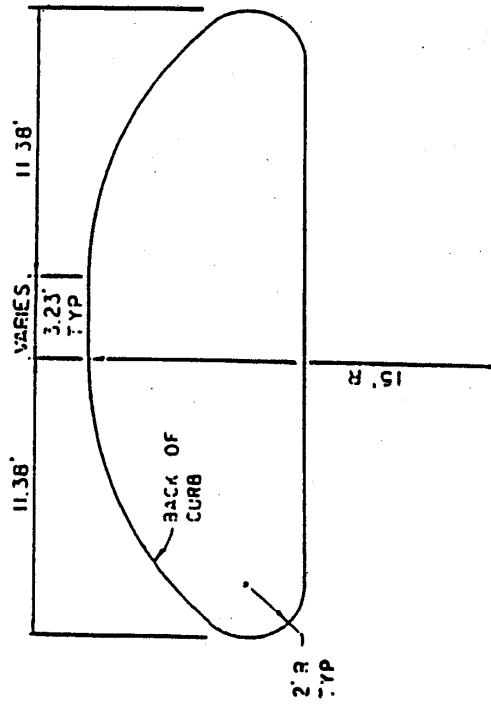
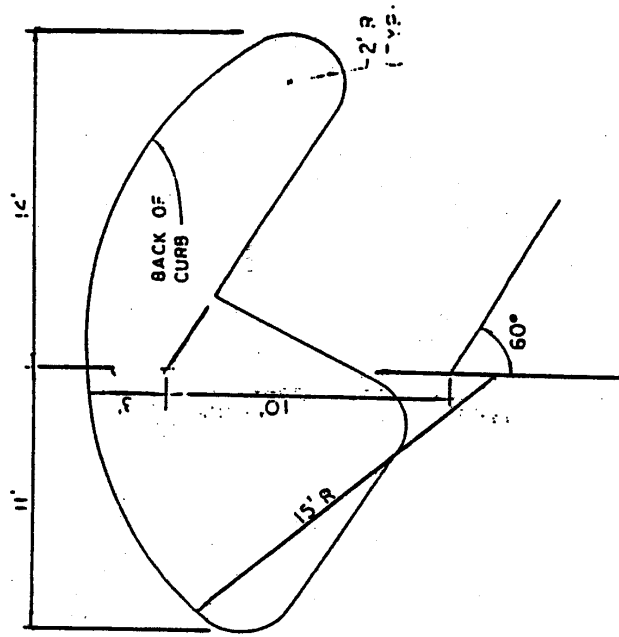
R = 20' MIN WHEN INTERSECTING WITH A MINOR STREET.  
 R = 30' MIN. ON ALL OTHER INTERSECTIONS.

DATE	REVISIONS	DESCRIPTION

CUL-DE-SAC DIMENSIONS

STD. NO.	1.08
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§ 4. END ISLANDS FOR PARKING LOTS.



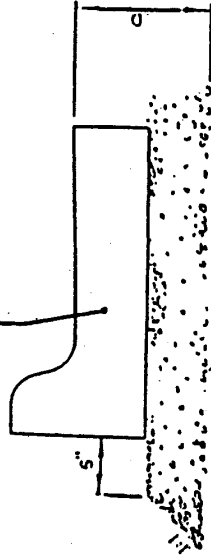
REVISIONS	
DATE	DESCRIPTION

STD. NO.  
1.09

END ISLANDS FOR PARKING LOTS

§ 5. A.B.C. UNDER TWO FEET SIX INCHES CURB AND GUTTER.

STANDARD 2'-6" CURB & GUTTER



A.B.C. (AVG. DEPTH = 3/2" OR 3-5 1/2", WHICHEVER IS GREATER)

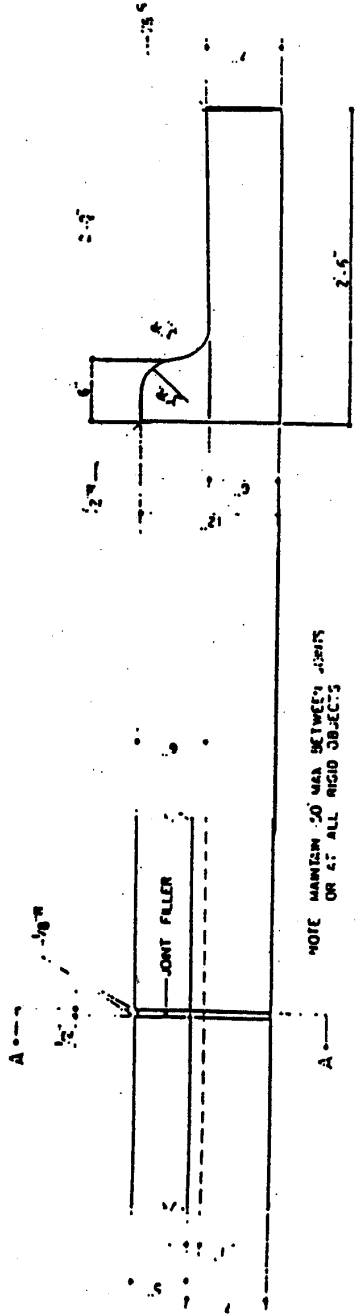
NOTE: THIS DETAIL ONLY APPLIES TO THOROUGHFARE SECTIONS 35' & GREATER, OR PAVEMENT DESIGNS GREATER THAN 10'

DATE	REVISIONS	DESCRIPTION

STD. N
1:10

A.B.C. UNDER 2'-6" CURB & GUTTER

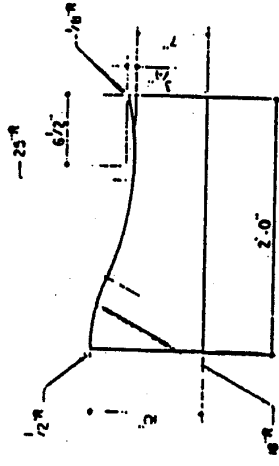
§ 6. STANDARD CONCRETE CURB AND GUTTER.



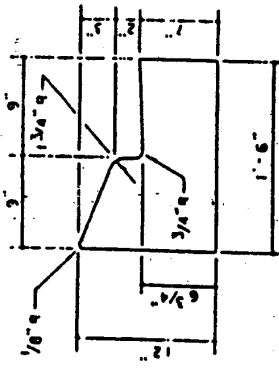
FRONT ELEVATION  
TRANSVERSE EXPANSION JOINT

SECTION A-A  
SIDE ELEVATION

COMBINATION CURB AND GUTTER



VALLEY GUTTER  
SIDE ELEVATION



MEDIAN CURB AND GUTTER  
SIDE ELEVATION

NOTES

1. CONCRETE SHALL BE 3,000 P.S.I.
2. CONTRACTION JOINTS SHALL BE SPACED AT 10' INTERVALS. (A 15' SPACING WILL BE ALLOWED WHEN A MACHINE IS USED.)
3. VALLEY GUTTER IS TO BE USED ONLY BY DIRECTION OF TOWN ENGINEER
4. FINISH ALL CONCRETE WITH CURING COMPOUND.

DATE	REVISIONS
0-1-11	DESCRIPTION MEDIAN CURB & GUTTER SSS

STANDARD CONCRETE CURB AND GUTTER

STD. NO  
1.11

# APPENDIX III: DOWNTOWN DESIGN GUIDELINES

In this Appendix we will present design guidelines for the Downtown District, which includes what was historically the central business district for Pembroke, outlined in green on the plan at right. Appendix IV presents guidelines for the Commercial Corridor Districts outlined in red in the plan at right. Site standards are included with each district.

## 1.0 Allowed Uses

Uses allowed in the Downtown District include commercial, multi-family residential, institutional, office, and service. Gas stations and auto-related businesses are prohibited, except existing businesses, which are grandfathered under current ownership or tenancy only.

## 2.0 Site Design Guidelines

- 1. Placement of Structures.** In most cases, buildings should meet the property line at the back of the sidewalk, and should meet the structures on either side to form a street “wall.” The only exceptions to this would be for significant civic buildings (such as the Town Hall or a Church), platted alley rights of way, mid-block pedestrian connections between parking and the street, and for the creation of spaces that enhance the public environment, such as pocket parks and outdoor dining areas. Such exceptions should be reviewed and approved by the Town and the Planning Commission.
- 2. Off-street parking.** Parking must meet all applicable Town standards, and the following also applies within the Downtown District.



*This plan shows the Downtown District (in green) and the Commercial Corridor District in red. There are other areas to the east and west along Third Street in Pembroke that could also have the Commercial District designation if desired.*



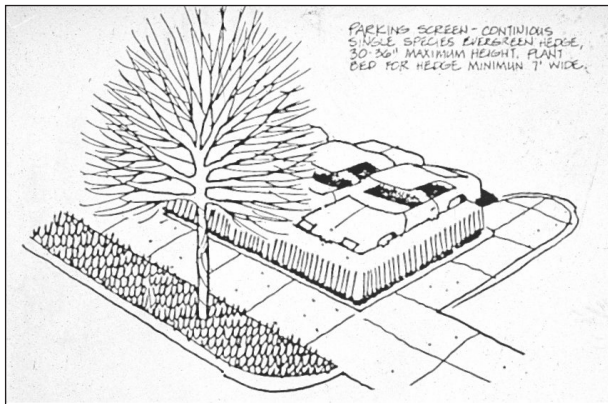
*Commercial buildings in the Downtown District should form a continuous street “wall.”*

- Parking should be located to the rear of buildings, or by exception on the side. Access to parking should be from the rear or from side streets or alleys.
- Parking should be shared by several or all the businesses on the block whenever possible.
- Parking must be screened from the street and sidewalks with a 30-36” hedge or masonry wall, or with a taller fence of masonry and metal pickets (see page 40). In no case should parking be screened with solid materials taller than 36” because of the need for security and surveillance.
- Parking must meet all applicable Town standards, and be set back a minimum of 5’ from all property lines.
- Existing parking in front of buildings shall be removed when a change in use or ownership occurs or when new sidewalks are installed.





The photo above shows a 30" wall used to screen a parking area from the sidewalk. The hedge or wall, plus trees, is accommodated by the required 5' setback.



This drawing shows a 30-36" hedge used to screen parking from the sidewalk.

- Existing or new parking to the side of buildings should only be allowed by exception, and only if appropriately screened and landscaped.
- All parking areas must be paved with concrete or asphalt or other materials by exception.

**3. Service areas.** Service areas must be screened from public view, including loading areas, trash receptacles, mechanical equipment and dumpsters. In high-density areas, dumpsters should be consolidated to serve several businesses. Enclosures near buildings should be constructed of materials similar to the building, and must be high enough to completely block views from street level. Enclosures further from buildings should be of approved masonry or wood fencing. See example at right. Service areas must be paved with concrete or asphalt or other materials by exception.

**4. Storage areas.** Areas used to store vehicles, equipment, or materials must be screened with a masonry wall, hedge or fence with landscaping of sufficient height and density to block views from street level.

**5. Pedestrian access.** Parking areas for commercial businesses must have clearly marked and well-lit pedestrian access from parking to public sidewalks and building entries. See example at lower right, where lighting and paving match the quality and style of the downtown area (example from New Bern).

**6. Rear entries.** Attractive rear entries to businesses are encouraged. If residential units occur in the upper floors of commercial buildings, entries adjacent to parking areas are required. In large developments, rear entries and interior or exterior passageways to the primary streets are encouraged.

**7. Driveways.** Wherever possible, driveways should be consolidated within a property or combined to provide access to two or more adjacent properties. Driveways across the main pedestrian thoroughfares in the down-



The top photo shows appropriate trash enclosure constructed of broken-face block and with wood gates. The photo below shows a pedestrian walk-through from parking to the street. Pedestrian connections in the Downtown District should be designed with attention to detail to welcome visitors.



town are discouraged, with access from side streets or to the rear of the property preferred. Driveways must be paved with concrete or other materials by exception.

**8. “Drive-Through” businesses are discouraged in the downtown.** New businesses that rely solely on drive-through traffic will not be allowed in the downtown. Drive-through windows for all businesses (e.g. restaurants, banks and pharmacies) should be located to the rear of the buildings or screened from the street with access and egress configured to minimize disruption of pedestrian movement. All drive-through configurations should be allowed only as exceptions and must be reviewed and approved by the reviewing agencies.

**10. Adjacent residential uses.** Where commercial uses abut residential areas consisting primarily of detached or attached homes, an approved 6’ masonry or wooden fence must be installed to screen parking and service areas. Where the parking area to be screened is two bays or more in size, a 10’ setback with trees in addition to a fence is also required.

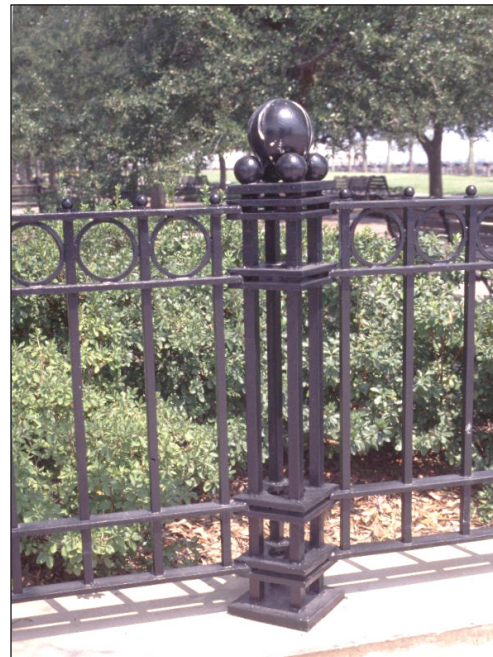
**11. Fencing and screening materials.**

- Double staggered row of approved hedge material
- Landscaped beds acting as screens with approval and appropriate ongoing maintenance
- Masonry piers and low foundation with metal pickets (for parking areas only, not storage areas)
- Masonry or split-face block walls for screening
- Approved wooden privacy fencing (in the rear of properties only)

- Poured concrete, broken face block or light stucco finish block.

Prohibited screening and fencing materials:

- Chain or chain link (except temporary installations at construction sites)
- Unfinished pipe railings
- Split rail, stockade, picket or other suburban/rural styles of fencing
- Prefabricated wooden fencing
- Prefabricated PVC fencing
- Unfinished concrete block



*Examples of appropriate screening and fencing. Top right, masonry piers and low foundation wall with metal pickets for perimeter or parking screening; above right, masonry wall to screen storage areas; left; ornamental metal pickets for perimeter fencing.*

## 3.0 Commercial Architectural Guidelines

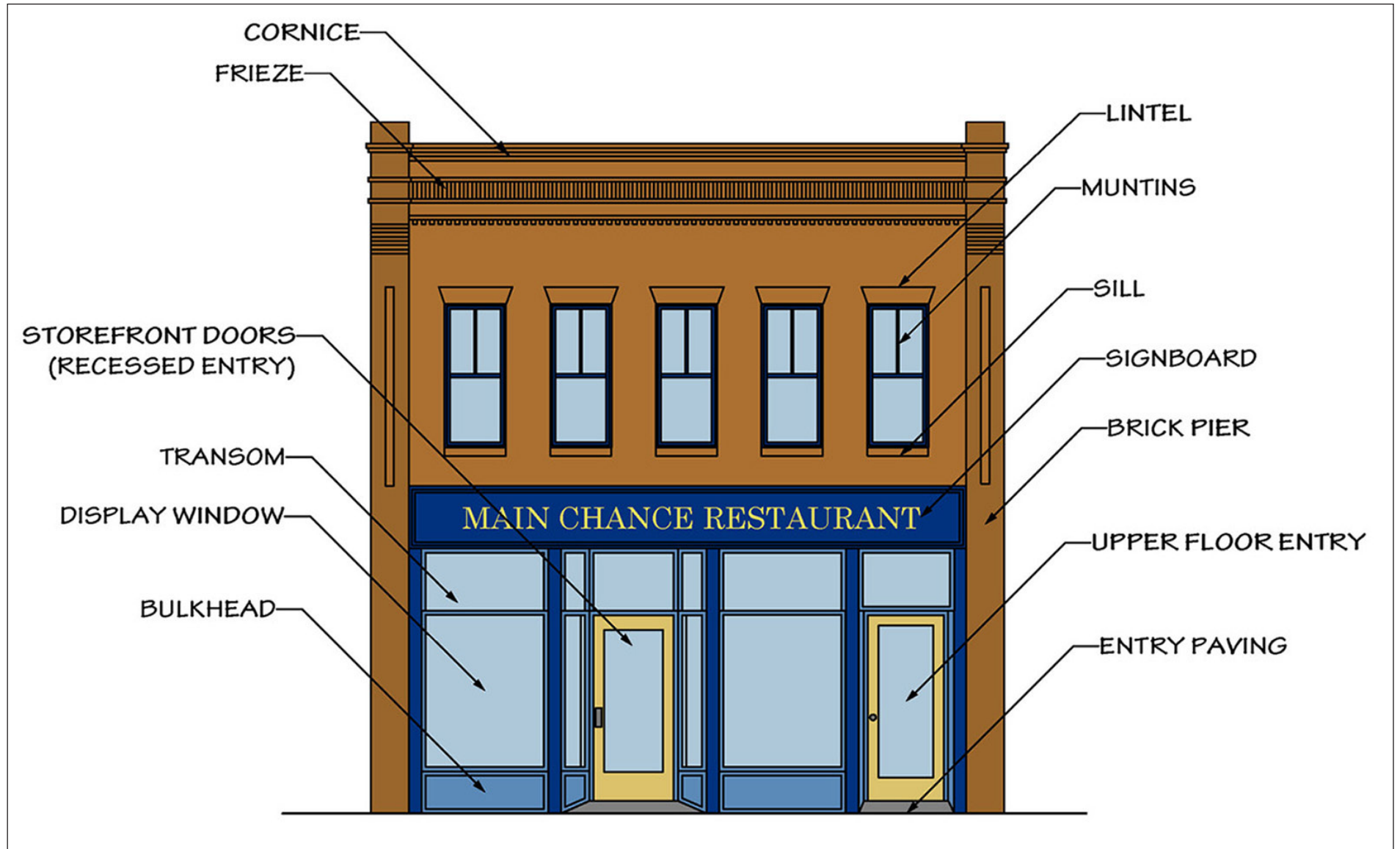
For *historic commercial buildings with altered facades*, these guidelines are meant to help restore appropriate proportions and materials. Where historic photographs or drawings remain, these documents should guide restoration work. Where none exist, the guidelines below can help in reestablishing the harmony of traditional storefronts.

*The architecture of new structures* within the Central Business District should enhance the existing architecturally or historically significant buildings that will remain. These guideline do **not** promote the idea that new construction should be designed to look “historic”. New construction should be “traditional” in character, while reflecting the time period of its creation. Consistency in the use of materials and details can help define the Downtown District’s sense of place. The traditional multi-story “storefront” structure should be the predominant building type in the Central Business District, especially on Third, Main and Union Chapel.

1. **Placement of Structures.** New or replacement structures should front on the sidewalk in line with existing structures, with exceptions for public space and significant buildings as noted in the site design guidelines. This will continue the pattern of building facades enclosing the pedestrian space. Most buildings should be constructed to fill the full width of a given property, to create a street front “wall” composed of several buildings. Carefully located alleys that allow pedestrian access from block interiors and provide light to upper stories are also allowed with site plan review and approval.
2. **Massing and Height.** Heights allowed are specified in the zoning ordinance. It is assumed that most new commercial buildings will be 2-3 stories, but buildings taller than this will be allowed with review. When designing taller buildings that will be sited near buildings that are 2-3 stories, care should be taken to ensure that the taller buildings do not overwhelm the shorter buildings. This can be accomplished by such architectural design elements as setbacks of the taller portion of the building at the two- or three-story level, and articulation and massing that allows light to reach surrounding buildings and the street.
3. **Materials.** Recommended materials for the Downtown District include:
  - Siding Materials**
    - Brick in approved range of colors (for the predominant exterior material). Brick used in new construction shall not be painted. Brick may be painted in rehabilitation projects subject to the approval of the reviewing agency.
    - Stone, cast stone or architectural concrete
  - Trim or accent materials**
    - Split-face concrete masonry
    - Ceramic tile in appropriate colors
    - Wood (e.g. accent material such as panelled storefronts)
    - Metal framing (Note: aluminum storefront framing systems must be designed with careful consideration of proper proportions of the framing members in order to be successful)
    - Cast or wrought iron
    - Smooth textured stucco
    - Sheet metal (parapet wall copings, etc.)
    - Fabricated millwork (Fiberglass, structural foam, or other hybrid materials with approval)



The “before” (top) and “after” views of a building on Union Chapel Road illustrate how historic elements, including the cornice and windows, can be restored.



*The parts of an historic commercial building facade.*

**Glazing Materials**

- Clear glass, glass block
- Textured, faceted or stained glass as an accent.

**Roofing Materials**

- Standing-seam metal roofs
- Slate
- Clay tile
- Membrane roofing (built-up roofing, single-ply roofing, etc.) screened by parapets at front and sides

**Awnings**

- Fabric awnings
- Composite material with review and approval
- Awning material must meet district fire codes
- Awnings must be self-supported (e.g. no support poles)
- Awning areas may not be enclosed with plastic or fabric sheeting on the public right of way
- Awnings may extend no farther than 5' unless by exception and with review

**Prohibited materials include:**

- “Mirrored” or opaque glass
- Colored glass (other than stained glass accents as seen in historic commercial facades)
- Wood shakes or shingles
- Heavily textured stucco
- Imitation stone texturing (formstone)
- Clapboard sidings, whether wood or alternative materials
- Metal Awnings or canopies or fixed awnings only by exception and with review
- Backlit canopies or awnings
- Plastic awnings

4. **Building Scale and Proportion.** In general, building facades in the Downtown District should have windows that have a vertical

emphasis, that is, windows that are taller than they are wide. Windows should be organized into regularly spaced patterns within the wall surface. The building facade should be broken into vertical and horizontal “panels” through the use of pilasters or other surface textures. See examples at right and on the previous page.

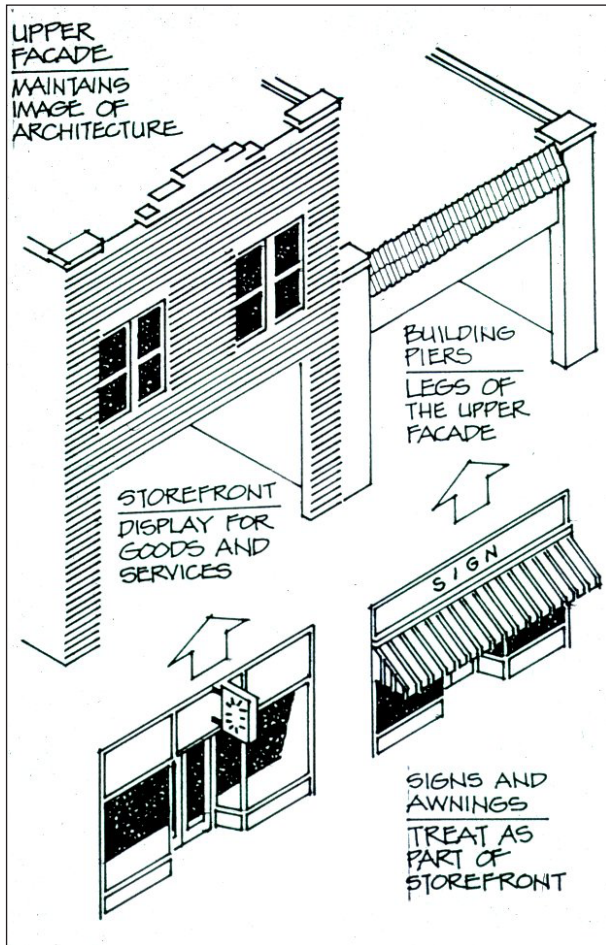
5. **Building Elements.** The various components used in the composition of a building design greatly affect the success of a design and its compatibility with its context. The following descriptions provide guidance for various components used in traditional commercial structures. Refer to the diagram on the previous page.

**Upper Floor Windows:**

The most typical type of window found in the upper floors of traditional commercial buildings in this region is double-hung sash. These windows are taller than they are wide, and have a horizontal rail that divides the upper half from the lower. A wide variety of contemporary window types constructed from a range of materials can be used to successfully interpret this tradition. Acceptable window types include single-hung and double-hung. Additional configurations such as casement sash or fixed windows may be acceptable if configured with a horizontal rail that mimics the proportions of double-hung sash. Windows may have further dividing members, but such divisions shall be either “true divided light” construction or permanent exterior grilles. Interior grilles alone or grilles set between the panes of double glazing are not acceptable. Windows may be constructed of wood or wood clad in prefinished metal.



*Windows add not only light, but interest. Note the various types of trim and moldings on the cornices and windows of these buildings*



**Storefronts**

The first floor storefront should be composed of large expanses of glazed openings (see example at left and on previous page). These allow for the display of merchandise in retail uses, but are also appropriate for other uses such as restaurants or offices. Features such as transoms allow for natural light to penetrate deeply into the building. The use of awnings can shade these large glass areas and allow for the introduction of appropriate colors to enliven the pedestrian experience. Framing for storefront glazing should be wood or metal. Metal framing should be a minimum of 2" wide.

**Doors**

A major factor in the creation of a compatible building design is consistency. It is imperative that the doors used on commercial structures follow the traditional format for "commercial" doors. The use of door configurations more typically found on residential structures such as paneled doors or "cross-buck" doors is not appropriate. If aluminum storefront doors are used, only the "wide stile" type of door is appropriate. "Narrow" or "medium" stile aluminum doors should not be used. Metal and wood framing for storefront glazing should be a minimum of 2" wide.

**Shutters**

Shutters can provide emphasis to the upper stories of a building and can introduce elements of color to a building facade. However, there are some basic requirements for shutters to be appropriately installed. The size and shape of shutters should correspond to the size and shape of the window opening (see drawings at left). Shutters can be mounted to operate, or if mounted in a fixed

position, should be placed immediately adjacent to the window jamb. Wood and architectural composites (with approval) are acceptable materials for shutters. PVC plastic is prohibited.

**Equipment and Technology**

Mechanical equipment should be located on the roof or at the rear of buildings if ground-mounted equipment is used. Ground mounted equipment shall be screened and rooftop equipment shall not be visible from the street. Careful planning of rooftop equipment locations will allow the roof parapet, roof, or roof forms to serve as an effective screen.

Many companies utilize satellite dishes for business purposes. Television antennae, satellite dishes and similar equipment should be as small as feasible and located so as not to be visible from the street.

Urban Design & report preparation by:



**Allison Platt & Associates**

Urban Design  
Landscape Architecture

203 North Slocumb Street  
Goldsboro, NC 27530

Phone: 919-734-7542  
Mobile: 410-961-7761  
allisonplatt79@gmail.com  
allisonplattandassociates.com

Engineering & report contributions by:

**The Wooten Company**

Chad Easter, Project Manager  
300 South Main Street  
Lower Level Suite  
Winston-Salem NC 27101  
Phone: 919.828.0531  
Mobile: 803.828.8775  
<http://www.thewootencompany.com>

and:

**Locklear, Locklear & Jacobs**

Jonathan Locklear, Principal  
114 West 3rd Street,  
Pembroke, NC 28372  
Phone: 910.774.9306  
Fax: 866.649.7235  
<http://www.llandj.com>

# APPENDIX IV: COMMERCIAL CORRIDOR DESIGN GUIDELINES

In this Appendix we will present design guidelines for the Commercial Corridor Districts (outlined in red in the plan at right). Guidelines for the Downtown District (outlined in green) are in Appendix III. Site standards are included with each district.

## 1.0 Allowed Uses

As is typical of this type of street, there is a wide range of existing and possible future building types, including large office/commercial buildings such as banks, fast food restaurants, service businesses, gas stations, strip commercial centers, churches, city buildings, and the occasional single family houses.

Since there is typically a very wide range of building types and uses along commercial corridors, the purpose of these guidelines is to unify the street with an attractive streetscape and create site and buildings design guidelines that reinforce an attractive, ordered image for the Town.

These corridors are primarily vehicular, so sidewalks need not be elaborate or wide; however, **along Third a continuous sidewalk should be required, and elsewhere it should be a goal**, so that pedestrians and bicycles can use these corridors safely.

## 2.0 Site Design Guidelines

1. **Building setbacks** for most uses should be from 5-15' minimum and may be more depending on the size and use of the proposed building, and also depending on the space available on the site. If the use is a



*This plan shows the Downtown District (in green) and the Commercial District in red. There are other areas to the east and west along Third Street in Pembroke that could also have the Commercial District designation is desired.*

commercial center or single large building, a landscaped setback of 10-20' is required. If one bay of parking is permitted in the front of the building, an appropriate setback for parking and screening would be about 80'.

2. **Off-street parking.** Parking shall be located to the sides and rear of buildings if possible. For large buildings, a single bay of parking and drop-off area may be permitted by exception and with adequate landscaping and screening. In no case will parking without screening be allowed when parking occurs in the front of buildings. Access to parking may be from the front,



*This view looking west on Third Street near Pine Street is unfortunately typical of many sections of the commercial corridors near downtown.*



*This before photo and after sketch of Pikesville, MD illustrate how public improvements and design guidelines can improve a commercial area. The sketch demonstrates how the removal of utility poles and the addition of trees, screen walls and appropriate signage could improve the appearance, and the prospects, of this or any struggling commercial area.*

side streets, or from the rear (see below for information on driveways). If practical, parking should be shared. Parking for small properties should be screened from public streets and sidewalks on all sides with a 30-36" hedge or masonry wall, with approved landscaping, or a combination of the two. Larger properties can use the 30-36" wall or hedge, a taller fence of masonry and metal pickets, or a combination of walls and landscaping. In no cases should parking be screened from the street with solid materials taller than 36" (except deciduous trees) because of the need for security and surveillance. Existing parking in front of buildings should be removed if possible. If this is not possible, a hedge or wall as defined above should be installed. Existing parking to the side of buildings should be appropriately screened and landscaped. If two properties share parking, there is no need for setbacks at the adjoining property lines. Parking should be set back a minimum of 5' from all property lines, and 10' if the property abuts a residential use. Lighting must be approved by the reviewing agency. Parking areas must be well lit for nighttime pedestrian and vehicular security. Parking areas must be paved with asphalt or concrete or other materials by exception. Gravel, grass or packed soil are prohibited.

**3.**

**Service areas.** Service areas must be screened from public view, including loading areas, trash receptacles, mechanical equipment and dumpsters. In high-density areas, dumpsters should be consolidated to serve several businesses. Enclosures near buildings should be of similar materials, and must be high enough to completely block views from street level. Enclosures further from buildings should be of approved masonry or

wood fencing. Service areas must be paved with concrete or asphalt or other materials by exception.

**4.**

**Storage areas.** Areas used to store vehicles, equipment, or materials must be screened with a masonry wall, hedge or fence with landscaping of sufficient height and density to block views from street level. Screening with chain link in any form is unacceptable.

**5.**

**Pedestrian access.** There must be direct pedestrian access from public sidewalks to buildings. In large parking areas, design consideration should be given to the provision of crosswalks, sidewalks, and other elements to ensure pedestrian safety.

**6.**

**Rear entries.** Attractive rear entries to businesses are encouraged. For large buildings with parking in the rear, the rear entrance may be the main entrance, but a floor-through lobby to the front is recommended.

**7.**

**Driveways.** Wherever possible, driveways should be consolidated within a property or combined to provide access to two or more adjacent properties. Driveways from the main thoroughfares are limited to one if the frontage is less than 100', or two if more than 100'; three will be permitted only by exception. Driveway width should not exceed 30' for two-way traffic, 20' for one way traffic. Driveways should not exceed one per 100' of frontage on any side except where there is frontage on one side only, when two driveways will be permitted. Driveways must be paved with concrete, or other materials by exception.



8. **“Drive-Through” businesses** should be designed with drive-in structures on the side or rear of the building. Businesses that provide drive-through service as part of their services (e.g. restaurants, banks and pharmacies) are allowed, but drive-through windows for all businesses should be located to the rear of the buildings or to the side with screening. Drive-through windows are not allowed between the building and the street. Access and egress should be configured to minimize disruption of pedestrian movement.
9. **Adjacent residential uses.** Where commercial uses abut residential areas, a 10’ setback from parking or structures to property lines is required, and a 6’ masonry or approved wooden fence must be installed. Where the parking area to be screened is two bays or more in size, the planting of trees along the setback is also required to provide more effective screening of residential properties.
10. **Signage.** Signage in this area will depend on use. For existing commercial uses, consolidation and sharing of signage as well as parking is recommended for multi-tenant properties. “System” signs with a double support system and a place for individually mounted signs of similar size and materials are preferred to individual signs. For existing buildings set back behind parking and for new and existing larger commercial uses, a ground mounted monument-type sign or a pylon-mounted sign is recommended. The scale of such signs will vary depending on the size of the use. Because of the recommendations for street trees on commercial corridors, monument-type signs will be more visible than pole-mounted signs in the future.

Owners of existing signs in this district are encouraged to replace nonconforming signs with new signs. Existing signs that do not conform must be removed when any change in ownership or use of the property takes place.



*Although this sign is a “system” sign, it still presents an unattractive image because of differing styles, poor spacing of signs, and the two different-size areas for movable lettering right next to each other. The monument-type sign shown at right projects a much better image.*

## 11. Fencing and screening materials.

### **Recommended fencing and screening materials:**

- Brick
- Split face block finished with stone or masonry caps and/or bands
- Double staggered row of approved hedge material
- Landscaped beds acting as screens with approval and appropriate ongoing maintenance
- Metal pickets in dark colors with or without masonry piers or foundation walls (for perimeter and parking areas only, not storage areas). If used to screen parking, landscaping materials 30-36” high should



be planted in front of or behind the fence to screen the lower portion of parked vehicles

- Approved wooden privacy fencing (in the rear of properties only)
- Poured concrete or light stucco finish block
- Prefabricated wooden fencing may be used only with review and approval on the side and rear of properties to screen parking from adjacent uses.

**Prohibited fencing and screening materials:**

- Chain link (except temporary installations at construction sites or where not visible from the street)
- Split rail, stockade, wood picket or other suburban/rural styles of fencing
- Unfinished concrete block

- 12. Equipment and Technology.** Mechanical equipment should be located on the roof or at the rear of buildings if ground-mounted equipment is used. Careful selection of rooftop equipment locations will allow the roof parapet, roof, or roof forms to serve as an effective screen.

Many companies utilize satellite dishes for business purposes. Television antennae, satellite dishes and similar equipment shall be as small as feasible and located so as not to be visible from the street.

## 3.0 Corridor Architectural Guidelines

This district, to succeed, must accommodate both large and small buildings, larger developments and single owners. Because of the range of types of uses, some similarity in materials and site guidelines can help to unify these corridors. Two sets of

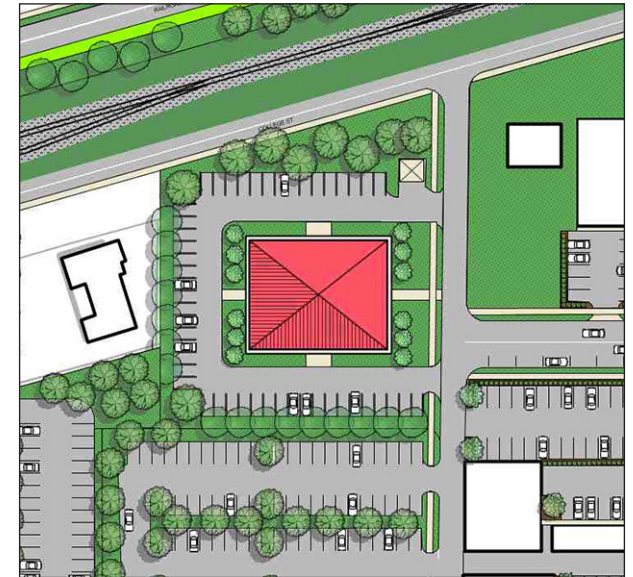
guidelines are presented, one for large uses, and one for “infill” smaller uses.

There are already quite a few existing larger-scale buildings to the east the Downtown District. Examples include the Church on the north side of Third near the park and Breece Street, a strip center to the west of the church, and the Southern States building. There are also smaller-scale commercial uses along Third Street including a drive-through restaurants and small office and service uses. Examples of ways that some of the underutilized sites along this corridor could be redeveloped are discussed in Chapter 4.0 of this report.

### 3.1 Guidelines for Large Buildings

- 1. Placement of Structures.** New structures should be located in compliance with the Site Design Guidelines in this section 2.0. Additionally, the principal façade(s) of such buildings should be oriented to face the adjacent street(s). Building entrances should be prominent elements on these facades.

Although it is not likely that much medium-density housing will be built along Third, it could be built along College, similar to the housing complex north of Railroad Street close to this district (one example at top right). Such buildings in groups may have private open space in interior courtyards, which may be but is not required to be visible from the street. Whether it is visible may depend on use (e.g. if the area had a pool, this would be screened from view). If the open space includes a setback with landscaping, this should be visible from the street but may be fenced with a metal picket fence (see photo of this type of landscaping on next page).



*This plan detail shows appropriate site planning for a residential development, including building setback, parking on the sides and rear, parking screening from adjacent properties, and access to the building from the front and sides.*

- 2. Massing and Height.** Heights allowed are specified in the zoning ordinance. When designing taller buildings that will be sited near buildings of any height that will remain because of their architectural significance or use, care should be taken to ensure that the taller buildings do not overwhelm the shorter buildings. This can be accomplished by such architectural design elements as setbacks of the taller portion of the building and articulation and massing that allows light to reach surrounding buildings and the street. This guideline is not meant to apply to new buildings constructed next to existing buildings that are unlikely to remain in the long term.



*This apartment complex on Railroad Street near the UNC-P campus is a good example of attractive larger buildings with good site planning and landscaping.*

**3. Materials.** Recommended materials include:

**Construction Materials:**

- Brick in approved range of colors (for the predominant exterior material). Brick used in new construction shall not be painted
- Stone, cast stone or architectural concrete
- Wood on upper stories of residential structures

**Trim or accent materials:**

- Split-face concrete masonry
- Ceramic tile in appropriate colors
- Metal framing (aluminum glass framing systems or curtain wall systems)
- Cast or wrought iron
- Smooth textured stucco

- Sheet metal (parapet wall copings, etc.)
- Fabricated millwork (Fiberglass or structural foam)
- Stone veneer

**Glazing Materials:**

- Clear glass, glass block
- Textured, faceted, or stained glass as an accent

**Roofing Materials:**

- Standing-seam metal roofs
- Slate or synthetic slate
- Composition shingles (Standard 3-tab shingles and shingles that are imitations of wood shingles or shakes are inappropriate. Heavy weight shingles are preferred)

- Membrane roofing at low-slope areas (built-up roofing, single-ply roofing, etc.)

**Prohibited materials include:**

- “Mirrored” or opaque glass
- Colored glass
- Wood shakes or shingles
- Heavily textured stucco
- Imitation stone texturing (formstone)
- Clapboard sidings, whether wood or alternative materials, except in the upper stories of medium-density housing
- Sheet metal awnings or canopies
- Backlit canopies or awnings
- Plastic awnings

- 4. Building Scale and Proportion.** In order to better relate to the pedestrian, the ground floor of buildings two stories or more should be articulated differently from the stories above. This can be accomplished by the use of a different material, by the addition of more detail in the ground floor wall surface, by varying the color or pattern of the material, or by combinations of these techniques. The best examples include historic commercial buildings where ground floor windows and articulation provide interest at the sidewalk level.

When a significant commercial or office building is being planned, the design can be less constrained than one that occurs in an historic commercial setting. Modern structures can be appropriate, but quality traditional materials are required to create a transition from the downtown to outlying areas, and to form a gateway from outlying areas to the downtown. Transparency at the entrance or lobby area is also very important in order to welcome the public.

- 5. Building Elements.** The various components used in the composition of a building design greatly affect the success of a design and its compatibility with its context. The following descriptions provide guidance for various components that may be used in larger buildings:

**Wall Surfaces:**

Walls shall be predominately constructed of masonry materials. Scale and interest can be introduced through the use of contrasting materials or the introduction of features such as horizontal bands. Openings (such as windows) can be emphasized through the use of lintels and sills of contrasting materials or of different masonry coursing. Upper stories of medium-density residential buildings can utilize wood and siding to introduce a more “domestic” quality to the architecture.

**Windows:**

Windows may be constructed of wood, wood clad in prefinished metal, or from aluminum or other materials appropriate to the use.

**Shutters:**

Shutters should not be used on commercial or other large scale buildings, except medium density residential with review and approval.

**Roofs/Cornices:**

Because large-scale commercial buildings will be among the larger buildings in the downtown area, they will naturally be more visually prominent. The roofs or roof forms of such prominent structures should act as a means of transitioning the building against the sky. Sloping roofs, either gabled or hipped, are encouraged. The cornice, where the building wall meets the roof, presents an opportunity for introducing detail and a

material or color contrast that can enliven the building composition. Flat roofs are not encouraged but may be allowed with review and approval.

**Equipment and Technology:**

Modern building systems and technological conveniences make everyday life and work easier and more pleasant. However, the equipment that makes these conveniences possible can create substantial visual clutter. Mechanical equipment should be located at the rear of buildings in well-screened enclosures.

Many companies utilize satellite dishes for business purposes. Television antennae, satellite dishes and similar equipment should be as small as feasible and located so as not to be visible from the street.

### 3.2 Guidelines for Small Buildings

The architecture of new smaller structures within the Commercial Corridor District should form a graceful transition from the historic downtown to the outlying areas. New construction should be “traditional” in character, while reflecting the time period of its creation. Consistency in the use of materials and details can help define a sense of place.

- 1. Placement of Structures.** New or replacement smaller structures should be set back from the right of way about 5-20', with the intermediate space used for wider sidewalks or landscaping with walks to the door, depending on the use. The goal in this district should still be to continue the pattern of building facades enclosing the pedestrian space, but the space will be a little more generous and green in this zone. Buildings should be constructed to fill at least one third to one half the property frontage, with parking to the side and rear. There should always be direct access to the building from the sidewalk.
- 2. Massing and Height.** New smaller-scale buildings would normally be one or two stories. If the buildings are to be used for retail or restaurants, the guidelines in the Downtown District regarding percentage of transparency will apply (at least 60% on the first level, at least 26% on the upper levels). If the buildings are to be used for office or residential, only 26% on each level is required, but welcoming entries and lobbies with a larger percentage of transparency are encouraged.
- 3. Materials.** Recommended materials include:
 

**Construction Materials:**

  - Brick in approved range of colors (for the predominant exterior material). Brick used in new construction shall not be painted.
  - Stone, cast stone or architectural concrete
  - Split-face block used in conjunction with brick
  - Light stucco finish
  - Wood for smaller-scale townhouses and condos if zoning allows.

**Trim or accent materials:**

  - Ceramic tile in appropriate colors
  - Wood (e.g. accent material such as panelled storefronts and entries)
  - Metal framing (Note: aluminum storefront framing systems must be designed with careful consideration of proper proportions of the framing members in order to be successful)
  - Cast or wrought iron
  - Sheet metal (parapet wall copings, etc.)
  - Fabricated millwork (Fiberglass or structural foam)

**Glazing Materials:**

- Clear glass, block
- Textured, faceted or stained glass as an accent.

**Roofing Materials:**

- Standing-seam metal roofs
- Slate or synthetic slate
- Composition shingles (Standard 3-tab shingles and shingles that are imitations of wood shingles or shakes are inappropriate. Heavy weight shingles such as “Slateline” by GAF, “Grand Manor” or “Carriage House” by Certainteed are appropriate.)
- Membrane roofing at low-slope areas (built-up roofing, single-ply roofing, etc.)

**Awnings:**

- Fabric awnings

**Prohibited materials include:**

- “Mirrored” or opaque glass
- Colored glass
- Wood shakes or shingles
- Heavily textured stucco
- Imitation stone texturing (formstone)
- Clapboard sidings, whether wood or alternative materials at the ground level or except with review and approval
- Metal Awnings or canopies
- Backlit canopies or awnings
- Plastic awnings

4. **Building Scale and Proportion.** In general, building facades should have windows that have a vertical emphasis, that is, windows that are taller than they are wide (except storefronts, see below). Windows should be organized into regularly spaced patterns within the wall surface.

5. **Building Elements.** The various components used in the composition of a building design greatly affect the success of a design and its compatibility with its context. The following descriptions provide guidance for various components used in retail/commercial structures.

**Windows:**

Acceptable windows for this district would be single-hung or double-hung (except storefronts, see next section). Windows should be taller than they are wide. A wide variety of contemporary window types constructed from a range of materials can be used to successfully interpret this tradition. Additional configurations such as casement sash or fixed windows may be acceptable with review. Windows may have further dividing members, but such divisions shall be either “true divided light” construction or permanent exterior grilles. Interior grilles alone or grilles set between the panes of double glazing are not acceptable. Windows may be constructed of wood, clad in vinyl or prefinished metal, or from aluminum or other appropriate metals.

**Storefronts/Building Fronts on Retail Buildings Only:**

On commercial/retail buildings, the first floor storefront should be composed of large expanses of glazed openings (60% or more). These allow for the display of merchandise in retail uses, but are also appropriate for other uses such as restaurants or offices. Features such as transoms allow for natural light to penetrate deeply into the building. The use of awnings can shade these large glass areas and allow for the introduction of appropriate colors to enliven the pedestrian experience. Metal framing for storefront glazing should be a minimum of 2” wide.



*These “before” and “after views of the same building illustrate that it is possible for even a plain single-story building to be attractive and to be articulated to break up a long facade. This might apply to “facelifts” for existing strip commercial uses.*

**Doors:**

A major factor in the creation of a compatible building design is consistency. It is imperative that the doors used on commercial structures follow the traditional format for “commercial” doors. The use of door configurations more typically found on residential structures such as paneled doors or “cross-buck” doors is not appropriate. If aluminum storefront doors are used, only the “wide stile” type of door is appropriate. “Narrow” or “medium” stile aluminum doors should not be used. Townhouses will follow guidelines for residential buildings, and apartments or condos will follow either large or small building guidelines depending on their size and scale.

**Shutters:**

Shutters can provide emphasis to the upper stories of a building and can introduce elements of color to a building facade. However, there are some basic requirements for shutters to be appropriately installed. The size and shape of shutters should correspond to the size and shape of the window opening. Shutters can be mounted to operate, or if mounted in a fixed position, should be placed immediately adjacent to the window jamb. Wood and synthetic millwork are acceptable materials for shutters.

**Awnings:**

Awnings are an excellent way to introduce color and texture into the commercial street/building environment. Fabric awnings are recommended, and a range of acceptable colors should be agreed upon. Backlit or plastic awnings are not permitted.

**6. Equipment and Technology**

Mechanical equipment should be located on the roof or at the rear of buildings if ground-mounted equipment is used. Careful selection of rooftop equipment locations will allow the roof parapet, roof, or roof forms to serve as an effective screen

Many buildings require satellite dishes for business or entertainment purposes. Television antennae, satellite dishes and similar equipment should be as small as feasible and located so as not to be visible from the street.

**Urban Design & report preparation by:****Allison Platt & Associates**

Urban Design  
Landscape Architecture

203 North Slocumb Street  
Goldsboro, NC 27530

Phone: 919-734-7542  
Mobile: 410-961-7761  
allisonplatt79@gmail.com  
allisonplattandassociates.com

**Engineering & report contributions by:****The Wooten Company**

Chad Easter, Project Manager  
300 South Main Street  
Lower Level Suite  
Winston-Salem NC 27101  
Phone: 919.828.0531  
Mobile: 803.828.8775  
<http://www.thewootencompany.com>

and:

**Locklear, Locklear & Jacobs**

Jonathan Locklear, Principal  
114 West 3rd Street,  
Pembroke, NC 28372  
Phone: 910.774.9306  
Fax: 866.649.7235  
<http://www.llandj.com>