

## **CHAPTER 153: ZONING CODE**

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## ***GENERAL PURPOSE AND LEGAL AUTHORITY***

### **' 153.001 INTENT.**

The zoning regulations and districts herein set forth in this chapter have been prepared in concern with the town land use plan for the express purpose to promote the orderly development of the municipality. In so doing, the health, safety, morals, and general welfare of the municipality may be served by limiting problems associated with vehicular traffic congestion; securing safety from the potential dangers of fire, panic, or natural disaster; providing light and air for all citizens; prohibiting the unsafe, unhealthful overcrowding of land; and promoting the facilitation of proper services inclusive transportation, water, sewer, electricity, schools, and parks in such a manner that the overall plan will be served and properly implemented. Also, through the application of this chapter, those areas having environmental qualities (Areas of Environmental Concern) which should be preserved or developed in a judicious manner will be guided to insure their existence for future generations. Within the context of this purpose, all requirements and/or restrictions have been developed with reasonable consideration of all factors inclusive the suitability of use of land, value of property and buildings, and the general needs of the populace.

### **' 153.002 AUTHORITY.**

The provisions of this chapter are adopted under the authority granted by G.S. ' 160D-702.

### **' 153.003 SHORT TITLE.**

The official title of this chapter shall be known as the Zoning Code of the Town of Plymouth, North Carolina, and may be further cited as the Zoning Code.

### **' 153.004 INTERPRETATION, PURPOSE AND CONFLICT.**

In the interpretation and application, the provision of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, and general welfare. Wherever the requirements of this chapter are at variance with other requirements of the lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the highest standards shall govern.

**' 153.005 VALIDITY.**

Should any section or provision of this chapter be declared invalid by the courts, such decision shall not affect the validity of the chapter as a whole, or any part thereof other than the part so declared to be invalid.

**' 153.006 CONFLICT OF INTEREST.**

No staff, governing board, or advisory board member shall make a final decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the member or if the applicant or other person subject to that decision is a person with whom the 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 Town Manager.

***ADOPTION***

**' 153.015 RESOLUTION.**

(A) The Town Council do hereby adopt the following:

(1) An ordinance properly regulating and restricting the height, size, location, and other open land spaces; the location and standards of certain land use activities inclusive of commercial, industrial, and residential uses through the creation of districts with recognized boundaries and regulatory controls for the expressed stated purpose (' 153.001) to promote orderly development for the general welfare of the citizens of Plymouth, North Carolina.

(2) In so doing, the Town Council does accept this chapter and the accompanying official map as the instruments of interpretation and enforcement.

(3) Furthermore, the Town Council provides for a Board of Adjustment, appeals procedures, and the imposition of penalties in order to assure the equitable enforcement of this chapter and its intent.

(B) The Town Council of Plymouth, North Carolina do ordain as follows to be in full force and effect this, the twelfth day of September, 1983.

**' 153.016 REPEAL.**

Upon date of adoption (' 153.015), all provisions of the Zoning Ordinance and its amendments previously enforced by the Town of Plymouth are hereby repealed, except for such actions expressly retained herein.



**' 153.017 JURISDICTION.**

The provisions of this chapter shall be applicable within the corporate limits of the Town of Plymouth and the extraterritorial limits as adopted under the G.S. ' 160D-201.

**' 153.018 LAND USE PLAN**

Plans shall be adopted by the Town Council with the advice and consultation of the Planning Board. Adoption and amendment of a comprehensive or land use plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601. Plans adopted under G.S. 160D shall be advisory in nature without independent regulatory effect. Plans adopted under G.S. 160D do not expand, diminish, or alter the scope of authority for development regulations.

If a plan is deemed amended by G.S. 160D-605 by virtue of adoption of a zoning map amendment that is inconsistent with the plan, that amendment shall be noted in the future land use map. 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. A statement of reasonableness must be adopted for every zoning map amendment.

The comprehensive plan or land use plan shall be reasonably maintained by the Town of Plymouth.

***INTERPRETATION AND DEFINITIONS***

**' 153.025 PHRASES/TERMINOLOGY.**

For the purpose of this chapter, certain words shall be interpreted as follows. Except as defined herein, all other words shall have their customary dictionary definition as would be applicable.

***ACCESSORY USE.*** A use customarily incidental and subordinate to the primary use of a building and located on the same lot with such use of building, but not to include open air storage or facilities housing more than four animals of any kind.

***ADMINISTRATIVE DECISION.*** Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards as set forth in this chapter. Also known as administrative determinations.

***ADMINISTRATIVE HEARING.*** A proceeding to gather facts needed to make an administrative decision.

**ADMINISTRATOR, ZONING.** The person whom the Town Council has designated as its agent for administration and enforcement of this chapter and subsequent regulations.

**ADULT USE.** Any principal or accessory use which excludes minors by reason of age. This definition does not apply to applicable beverage laws or voluntary restrictions of the motion picture industry. Any application that meets this requirement must be compliant with ' 153.222(K) to (M).

**ALLEY.** Includes a passageway as a thoroughfare through the middle or in the rear of a block affording access to the rear of property and/or buildings.

**ASSEMBLY AND PROCESSING.** The assembly, processing and wholesale of farm and food products, including meat, fish, poultry, vinegar and yeast. Shall include the incidental retail outlets for only that merchandise handled at the wholesale establishment.

**AUTOMOBILE.** A self-propelled, free moving, state inspected vehicle, with four wheels in road worthy, good mechanical condition, (so that it could and can be driven off any premises), used to transport people and items and (capable of being) licensed by the appropriate state agency as a passenger vehicle.

**AUTOMOBILE CARWASH AND DETAILING.** Inclusive of facilities with mechanical or hand-operated equipment used for cleaning, washing, polishing, detailing, or waxing of motor vehicles.

**AUTOMOBILE REPAIR SERVICES.** Inclusive of automobile repair services, including minor and major repairs, body working, overhauling, painting, and other specialized services. This shall not include "junkyards" as defined in this chapter.

**AUTOMOBILE SALES AND SERVICES.** Inclusive of new and used car sales, which may also offer automobile repair services, including minor and major repairs, body working, overhauling, painting, and other specialized services. This shall not include "junkyards" as defined in this chapter.

**BED AND BREAKFAST INN.** A single family dwelling which rents a room or rooms without cooking facilities and which provides a breakfast meal but no other meals for guests on the premises.

**BILLBOARD.** Inclusive of outdoor signs and outdoor advertisements, meaning any sign (including a standard poster panel) either free standing or attached to a structure which directs attention to a business, commodity, service, entertainment, or other activity conducted, sold, or offered elsewhere than on the premises on which the sign is located.

**BUILDING.** A structure with a roof supported by columns or walls, intended to provide shelter and support for any use or occupancy. Includes roof, gutters, walls, downspouts, porches, foundations, crawl spaces, windows, floors, and doors. The term includes the words structure and establishment.

**BUILDING LINE.** Inclusive of setback line, denoting the line on the front, rear, and sides of a lot, established according to the zoning district regulations set forth herein, delineating the area upon which a building may be erected or maintained.

**CHURCH, CLUB, OR PRIVATE LODGE.** An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities operated on a nonprofit basis for the primary benefit of its members.

**CURB CUT.** Inclusive of driveway referring to a lowered or cut away (paved or unpaved) curb for purposes of ingress or egress to property abutting a public street.

**DETERMINATION.** A written, final and binding order, requirement, or determination regarding an administrative decision.

**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.

**DEVELOPMENT.** Unless the context clearly indicates otherwise, the term means:

- a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
- b) excavation, grading, filling, clearing or alteration of land;
- c) the subdivision of land as defined in G.S. 160D-802; or
- d) the initiation or substantial change of the use in land or the intensity of use of land.

**DEVELOPMENT APPROVAL.** An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project or development proposal. Development approvals include, included but are not limited to, zoning permits, site plan approvals, special use permits, and variances. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter.

**DWELLING.** A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

**DWELLING, MULTI FAMILY.** Includes apartments, condominiums, and townhouses as a residence designed for occupation by three or more families with separate living facilities for each.

**DWELLING, SINGLE FAMILY.** A detached residence designed for occupation by one family only.

**DWELLING, TWO FAMILY.** Includes a duplex defined as a residence designed for occupation by two families only with separate living facilities for each.

**DWELLING, UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EVIDENTIARY HEARING.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision.

**EXTRATERRITORIAL AREA.** Inclusive of extraterritorial district, extraterritorial planning area, and extraterritorial planning district meaning the properties or land beyond the corporate limits of the town, adopted in accordance with G.S. ' 160D-202.

**FAMILIAL RELATIONSHIP.** A spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

**FAMILY.** One or more persons occupying a premises or residence, living as a single housekeeping unit, as distinguished from a group occupying a boarding house, fraternity, sorority, or transient residents (such as motel or hotel occupants).

**FAMILY CARE HOME.** A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons.

**FENCE/WALL.** An artificially constructed barrier constructed of wood, chain link, masonry, wrought iron, vinyl or any combination of afore-referenced good/materials, erected to enclose, screen, retain, and/or separate areas.

**FIREARM.** Any handgun, revolver, rifle, shotgun or any other device designed to be used as a weapon, from which a projectile is expelled through a barrel by the force of an explosion or any other form of combustion.

**FIREARMS DEALER.** A properly licensed person lawfully engaged in the business of selling, transferring, or leasing, or advertising for, sale, transfer, or lease or offering or exposing for sale, transfer, or lease, any firearm.

**FRONTAGE.** The distance between the two side lot lines as measured along the front setback line.

**GREEN POWER PRODUCTION FACILITY.** Any facility that produces electrical power through the harnessing of energy sources which are not expected to be depleted in a time frame relevant to the human race, also called sustainable energy. Sustainable energy sources are most often regarded as including all renewable sources, such as plant matter, solar power, wave power, geothermal power and tidal power. Wind power is not included for this definition.

**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 by G.S. 122C 3(11)b.

**HOME-BASED BUSINESS.** An accessory use of a second structure located on the same parcel with a primary owner occupied single family residential dwelling, which must meet the requirement of ' 153.148 and with all local zoning and building codes and state/county/local mandated health and safety regulations. A **HOME-BASED BUSINESS** may consist of service-oriented uses and typically will be more intensive than a home occupation, due to factors such as intensity of use or clients coming to the residence.

**HOME OCCUPATION.** An occupation for gain in a residence by a person or family residing therein.

**HOME PROFESSIONAL OFFICE.** The office, studio, or occupational room of a doctor, dentist, architect, musician, tutor, instructor, professional engineer or surveyor, attorney, realtor or insurance agent, or similar professional persons providing services when:

- (1) The use is conducted within a residence occupied by the practitioner.
- (2) No other persons are engaged in the occupation.
- (3) There is no display of goods or of advertising, other than an identification sign.

**HOTEL.** Inclusive a motel, tourist home, and boarding house, defined as a commercial structure in which sleeping accommodations are provided and offered to transient visitors for compensation.

**JUNK YARD.** Use of more than 200 square feet of any property for indoor and/or outdoor storage, sale, or resale of junk including scrap material of metal, rags, paper, lumber, structural steel, equipment, or assortment thereof, or for the dismantling, demolition, and/or abandonment of automobiles, boats, and other vehicles or machinery or parts thereof.

**KENNELS.** A fenced in or enclosed structure or structures, facility or facilities in which actual or intended use is to domicile more than four dogs or other domesticated animals.

**LEGISLATIVE DECISION.** The adoption, amendment, or repeal or a regulation under this Chapter.

**LEGISLATIVE HEARING.** A hearing to solicit public comment on a proposed legislative decision.

**LOT.** Includes a parcel denoting a land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are required in this chapter. Such **LOT** may consist of the following:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; or

(4) A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

**LOT, CORNER.** A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal, in which case the owner shall be required to meet the applicable standards of this chapter.

**LOT DEPTH.** The arithmetic horizontal distance between front and rear lot lines.

**LOT OF RECORD.** A lot which is a part of a subdivided plat which has been recorded in the office of the County Register of Deeds of Washington County no later than the date of the adoption of this chapter, or a lot described by metes and bounds, the description of which has been recorded by the aforementioned time.

**LOT WIDTH.** The arithmetic horizontal distance between side lot lines.

**MEDICAL SUPPLIES AND SERVICES.** Services provided in a facility with merchandise for retail sales used for treating patient physical illness or injury or a facility (with or without said merchandise), engaged in furnishing the following outpatient medical, surgical or other personal physical health services: medical, dental, optical, physical mobility, hearing, certified therapeutic massage therapist, and outpatient physical care facilities. These services would be separate from and unaffiliated with hospitals and would be properly supervised on site by Board certified or State licensed personnel. This definition shall specifically exclude for profit and not for profit businesses and establishments engaged in: a) psychiatric and mental health services and b) marijuana (medical or otherwise) growing, manufacturing, dispensing and/or on site consumption facilities, and marijuana associated paraphernalia and equipment sales, and/or use.

**MICRO WINERY OR BOUTIQUE WINERY.** A business that processes agricultural products into beverages (wine) in small batches of less than 7,500 cases per year and may include an in house tasting room for retail sales of the product produced on site and its related merchandise. (A case consists of twelve 750 ml bottles of wine).

**MOBILE HOME.** A dwelling unit that:

(1) Is not constructed in accordance with the North Carolina State Building Code for site-built homes; and

(2) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site or its own chassis; and

(3) In traveling mode is 40 feet or more in length and eight feet or more in width; and

(4) Bears a permanent label or seal of compliance in accordance with G.S. 143 149(6). Label of Compliance shall mean a permanent label or seal permanently attached to a manufactured home at completion of construction thereof which is issued by any independent, solvent, and trustworthy person approved and licensed by the Council (N.C. State Building Council) as being competent and as having and utilizing initial and follow up manufacturing inspection services which provide the highest degree of quality control, and on which seal or label shall be recorded:

- (a) The person issuing such label or seal and the serial number of the label or seal;
- (b) The serial number or other identification number of said manufactured home;
- (c) A certification that said manufactured home was evaluated, tested, and inspected in accordance with the standards and rules and regulations prescribed in this chapter.

**MOBILE HOME CLASS A.** A mobile home constructed after July 1, 1976, 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 mobile home has a length not exceeding four times its width;
- (2) The pitch of the mobile 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, aluminum or vinyl (that does not exceed 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;
- (5) Stairs, porches, entrance platforms and other means of entrance and exit to the home shall be installed or constructed in accordance with the standard set by the North Carolina Department of Insurance; and
- (6) The moving hitch, wheels and axles, and transporting lights have been removed.

**MOBILE HOME CLASS B.** A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy all of the criteria necessary to qualify the house as a Class A mobile home.

**MOBILE HOME CLASS C.** Any mobile home that does not meet the definitional criteria of a Class A or Class B mobile home.

**MOBILE HOME PARK.** Any tract of land upon which five or more mobile homes occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such service on any site or tract of land designed for such occupancy.

**MODULAR HOME.** A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a **MODULAR HOME** may consist of two or more sections transported to the site in a manner similar to a mobile home (except that the modular home meets the N.C. State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

**NONCONFORMING USE.** Any structure and/or use of land which does not conform with the permitted uses for the zoning district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

**NON-PROFIT OPERATIONS.** Those operations conducted by a properly established and maintained entity pursuant to the provisions of G.S. Ch. 55A or I.R.C. ' 501(c)(3). Such entity must be organized and operated exclusively for those exempt purposes as defined in I.R.C. ' 501(c)(3), and none of its earnings may inure to the benefit of any private shareholder or individual. Such entity shall provide proof of its proper establishment and ongoing exclusive operations upon request by any town official.

**NURSING HOME.** Inclusive a convalescent home, rest home, or elderly home and described as a health facility where persons are housed and furnished with meals and continuing nursing care for compensation, either on a part time or full time basis.

**OPEN-AIR STORAGE.** The keeping, stacking, or storing of goods without the benefit of structural shelter.

**OPAQUE.** Not able to be seen through; not transparent.

**PRINCIPAL USE.** The principal or primary use for which a lot or the main structure thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

**PSYCHIATRIC AND MENTAL HEALTH SERVICES.** Services provided in a facility for clients or patients on an outpatient or inpatient basis that would include: evaluation, examination, diagnosis, referral, treatment, counseling, mentoring, group support services, individual support services, group therapy, and/or individual therapy in the mental health and/or psychiatric fields and properly supervised on site by board certified or state licensed personnel.

**QUASI-JUDICIAL DECISION.** A decision involving the finding of facts regarding a specific application of development regulation and requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions variances, special use permits, and appeals of administrative determinations.



**RECREATIONAL GOODS RENTALS.** A brick-and-mortar business that rents recreational goods on site. Inclusive of bicycles, boats, canoes, jet skis, kayaks, and similar recreational equipment.

**SATELLITE RECEIVERS.** A structure designed to receive television broadcasts relayed by microwave signals from earth orbiting communications satellites and is in excess of four feet in diameter or five feet in height from the base to the top of the antenna.

**SERVICE STATION.** Inclusive of gas station and filling station and defined as a building or lot dedicated to the rendering of automotive services such as the sale of gasoline, oil, grease, and accessories, and the minor repair of automobiles such as tune ups, brake adjustment, and tire changes, and excluding body working, overhauling, painting, and other specialized services.

**SHOPPING CENTER.** Inclusive of convenience center, shopping mall, and commercial center and defined as more than two commercial establishments planned and constructed as a single unit with off street parking and loading facilities provided on the property and related in location, size, and type of shops to the general trade area in the vicinity.

**SIGN.** A device (stationary or transportable) designed to inform, direct, or attract the attention of persons not on the premises on which the sign is located as pulled out in " 153.105 through 153.113.

**SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**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 judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as "conditional use permits".

**SPORTS BAR.** A sit down restaurant open to the general public (of all ages) that would include amenities or entertainment in conjunction with the restaurant such as: a microbrewery, public bar located in the restaurant area, (multiple) television screens, billiard tables, foosball tables, and/or darts.

**STREET.** A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting property.

**TAVERN/NIGHTCLUB.** An establishment where food and drink are prepared, served and consumed within the principal building and in which music (live and otherwise), dancing and/or entertainment is permitted.

**TRAVEL TRAILER.** Any structure which:

- (1) Consists of a single unit completely assembled at the factory.

- (2) Is designed so that the total structure can be transported on its own chassis.
- (3) Is not over 32 feet in length and eight feet in width, and
- (4) May be used as a dwelling unit (term is inclusive of camper, mini mobile home, and the like.)

**VARIANCE.** A relaxation of the specific terms of a zoning ordinance. A **VARIANCE** may be made where, owing to conditions peculiar to the property not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. **VARIANCES** are granted by the Board of Adjustment which must adhere to certain rules and regulations as set forth in this chapter.

**VIDEO GAMING ARCADE.** Any establishment that operates by selling customers internet time and where the customer may use the computer terminal to surf the internet or play games to win prizes based on predetermined odds. Included in this definition would also include, internet sweepstakes, video sweepstakes, and internet café, lounges, or other related terms. (Internet cafes shall not be constructed to be restaurants or dining establishments that also provide just wireless internet [Wi-Fi] for their customers or patrons to access with the customers' or patrons' laptops or hand-held devices).

**YARD.** Required open space across the front of a lot measured from side lot line to side lot line and lying between the front property line and the front building setback line.

**YARD, FRONT.** Required open space extending along either side of a lot measured from side lot line to side lot line and lying between the front property line and the front building setback line.

**YARD, REAR.** Required open space extending across the rear of a lot measured from side lot line to side lot line and lying between the rear property line and the rear building setback line. (NOTE: A **REAR YARD** may be used for an accessory building provided no structure, temporary or permanent, is constructed within five feet of any property line.)

**YARD, SIDE.** Required open space extending along either side of a lot measured from front setback line to the rear setback line and lying between the side lot line and the side setback line.

## **' 153.026 WORD INTERPRETATIONS.**

For the purpose of this chapter, the following terms shall be interpreted as stated:

- (A) The present tense includes future tense and future tense includes the present tense.
- (B) The singular number includes the plural number and plural number includes the singular number.
- (C) The words "may" and "should" are permissive.

- (D) The word “shall” is mandatory and not merely directory.
- (E) The word “map” shall mean the official zoning map of the Town of Plymouth adopted pursuant to this chapter.
- (F) The word “chapter” shall mean the official zoning chapter of the Town of Plymouth.
- (G) The words “town” or “city” shall mean Plymouth, North Carolina, a municipal corporation.
- (H) The word “Board” shall mean the Planning Board of Plymouth, North Carolina, unless otherwise noted.
- (I) The words “Town Council” shall mean the Town Council of Plymouth, North Carolina.
- (J) The words “Board of Adjustment” shall mean the Town of Plymouth Board of Adjustment.

### ***APPLICATION***

#### **' 153.040 EQUITABILITY.**

The regulations contained in this chapter for each district shall be applied in an equal and impartial manner to all property within each district throughout the town and the extraterritorial planning districts.

#### **' 153.041 AGRICULTURAL ACTIVITIES.**

Agricultural activities will be allowed only within the extraterritorial planning jurisdiction of the town. Livestock operations of more than ten animals per acre will be prohibited, and all food animal operations shall require a 100 foot vegetative buffer along property lines bordering non-agricultural uses and natural or manmade waterways.

#### **' 153.042 AREAS OF ENVIRONMENTAL CONCERN.**

The following areas outlined in divisions (A) through (C) are those areas of environmental concern as defined in G.S. Chapter 113A affected by the application of this chapter within the jurisdiction of the town. The enforcement of this chapter within these designated areas or lands affecting such areas should be wholly consistent with the development policies and regulations prescribed in the Coastal Area Management Act of North Carolina. All development standards and permits required under the Act will take precedence over the standards and regulations set forth in this chapter.

(A) *Estuarine waters.* Estuarine waters are defined in G.S. ' 113A 113(b) as all the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters, as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment, Health, and Natural Resources filed with the Secretary of State, entitled Boundary Lines, North Carolina Commercial Fishing Inland Fishing Waters, revised to March 1, 1965.

(B) *Estuarine shorelines.* Estuarine shorelines constitute those non ocean shorelines which are especially vulnerable to erosion, flooding, or other adverse effects of wind and water and are intimately connected to the estuary. This area extends from the mean high water level or normal water level along the estuaries, sounds, bays, and brackish waters as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment, Health, and Natural Resources for a distance of 75 feet landward.

(C) *Public trust areas.* Public trust areas are all waters of the Atlantic Ocean and the lands thereunder from the mean high water mark to the seaward limit of state jurisdiction; all natural bodies of water subject to measurable lunar tides and lands thereunder to the mean high water mark; all navigable natural bodies of water and lands thereunder to the mean high water level or mean water level, as the case may be, except privately owned lakes to which the public has no right of access; all water in artificially created bodies of water containing significant public fishing resources or other public resources which are accessible to the public by navigation; and all waters in artificially created bodies of water in which the public has acquired rights by prescription, custom, usage, dedication, or any other means. In determining whether the public has acquired rights in artificially created bodies of water, the following factors shall be considered.

- (1) Use of the body of water by the public.
- (2) Length of time the public has used the area.
- (3) Value of public resources in the body of water.
- (4) Whether the public resources in the body of water are mobile to the extent that they can move into natural bodies of water.

#### **' 153.043 USES OF LAND AND STRUCTURES.**

The following regulations are applicable to all uses of land and structures in the jurisdiction and shall be enforceable upon the effective date of this chapter:

(A) *Conforming use.* Land and structures or the uses of land and structures, which conform to the regulations for the district in which it is located, may be continued provided that any structural change or alteration or change in use shall conform with the provisions of this chapter.

(B) *New use of construction.* All new construction or use of land shall conform to the use and dimensional requirements for the district in which it is to be located.

(C) *Nonconforming uses.* Land or structures or uses of land, which would be prohibited under the regulations for the district in which it is located, shall be considered as conforming uses. Nonconforming uses or structures shall be allowed to continue under the appropriate provisions spelled out in this chapter.

#### **' 153.044 ONE PRINCIPAL BUILDING.**

No lot shall be occupied by more than one principal building. No portion of a yard, court, or other open space provided about any building or structure for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required under this chapter for another building or structure. A residence shall always be considered the principal use of a lot.

(A) *Address numbers on primary structures.* All primary structures shall have affixed to their facade numbers that correspond to the E-911 address for that structure. These numbers shall be a minimum of three inches high and a maximum of five inches high. These should be placed at a conspicuous location on the structure. In the case of a primary structure being divided into subsections with separate entrances for each and a different address to each subsection, each entrance shall have the individual address identified with the affixed numbers as described above.

(B) *Penalty for failure to affix address numbers on primary structures.* The owner of any structure failing to bring the primary structure into compliance with division (A) shall be liable for a civil penalty in the amount of \$25. With this penalty the town shall cause the appropriate numbers to be affixed to the structure. Removal of these numbers once affixed shall cause the structure to be out of compliance and subject to further civil penalty.

#### **' 153.045 LOT REDUCTION.**

No yard or lot existing at the time of the passage of this chapter shall be permitted to be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

#### **' 153.046 SUBSTANDARD LOTS OF RECORD.**

Where the owner of a lot at the time of the adoption of this chapter (or his successor in title thereto) does not own sufficient land to enable him to meet the minimum dimensional requirements of this chapter, such lot may be used as a building site provided that the lot width and lot area are not more than 20% below the minimum specified in this chapter or other

dimensional requirements cannot be met, the Board of Adjustment is thus authorized to approve as a variance such dimensions as shall conform as closely as possible to the applicable, required dimensions.

**' 153.047 ADJOINING/VACANT SUBSTANDARD LOTS OF RECORD.**

If two or more adjoining lots of record are in single ownership at any time after the adoption of this chapter and the lots individually have less frontage or area than the minimum requirements of the applicable district, the lots shall be considered as a single lot or several lots which meet the minimum requirements of the district in which the lots are located.

**' 153.048 NEWLY INCORPORATED AREAS.**

All territory which may hereafter be included within the zoning jurisdiction of town shall, within one year after formal designation by the Town Council, be appropriately zoned by the Town Planning Board. Until such time, all property herein described shall be placed in the R20 residential district and those regulations governing that district shall apply.

**' 153.049 FENCES AND WALLS.**

(A) The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any wall or fence.

(B) (1) However, within or abutting any residential district, no wall or fence shall exceed six feet in height within a front, side, or rear yard.

(2) In any business or industrial district, no fence shall exceed eight feet in height.

(C) Barbed or similar wire to be used for security shall be allowed in industrial districts only.

***NONCONFORMING USES***

**' 153.055 INTENT.**

It is the intent of this chapter to permit nonconformities to exist only until such time as they are removed or cease to operate as uses. The application of this chapter should in no way encourage their existence or perpetuate them as nonconforming uses of land. In so doing, the expansion, enlargement, or extension of nonconforming uses will not be permitted. Also, the existence of nonconforming uses should not be constructed as an allowance for adding structures

or uses or adding to other structure or uses prohibited or uses prohibited elsewhere in the same district.

**' 153.056 NONCONFORMING LOTS.**

(A) Where the owner of a lot at the time of the adoption of this chapter or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this chapter, a building permit may be granted, provided that the lot width and lot area are not more than 20% below the minimum specified in this chapter as determined by the local Zoning Administrator.

(B) If two or more adjoining and vacant lots of record are in single ownership at any time after the adoption of this chapter and such lots individually have less frontage or area than the minimum requirements of the district in which the lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this chapter for the district in which the lots are located.

**' 153.057 NONCONFORMING USES OF LAND.**

Where at the time of passage of this chapter, lawful use of land exists which would not be permitted by the regulations and guidelines imposed by this chapter for the district in which such lots are located, the use of land may be continued so long as it remains otherwise lawful provided:

(A) No such nonconforming use shall be enlarged or increased, no extended to occupy a greater area of land than was occupied at the effective date of this chapter.

(B) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective date of this chapter.

(C) If any such nonconforming use of land ceases for any reason for a period of time of more than 180 days, any subsequent use of the land shall conform to the regulations specified for the district in which the land is located.

(D) Any nonconforming use of land may be changed to a conforming use. (Uses cannot receive a variance from any board or council. Uses can only be allowed by formally amending the ordinance to allow them. Only dimensional requirements or, in some cases, conditions placed on special uses can receive a variance through the Board of Adjustment.)

**' 153.058 NONCONFORMING STRUCTURES.**

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the current terms of this chapter by reason of restrictions on an area, lot coverage, height, yards, its location on the lot, or other requirements that may be

included within this chapter, the structure may be continued so long as it remains lawful subject to the following provisions and conditions:

(A) No nonconforming structure can only be enhanced upon or altered if the nature of the alteration does not increase the nonconformity of the structure.

(B) Should a nonconforming structure or a nonconforming portion of a structure be destroyed by any means to an extent which exceeds 50% of its replacement cost at the time of destruction as determined by the local Building Inspector, it shall not be reconstructed except in conformance with the provisions of this chapter. Any replacement involving work equaling less than 50% of the cost at time of destruction shall be completed within one year of that date. Should this replacement not take place within this time period, the rights under this division will not be valid and no building permit be granted for purposes other than for activities in conformance with this chapter.

(C) Should a structure (nonconforming or conforming) be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(D) Normal maintenance and routine repair of a nonconforming structure will be permitted as long as the maintenance or repair cannot be construed to add, extend, or intensify the nonconforming structure or nonconforming portion(s).

(E) Nonconforming mobile homes may be rebuilt, replaced, or returned to the lot after it is removed. Any mobile home that is damaged by any means greater than 50% of its replacement cost shall be removed and shall not be rebuilt, replaced; or returned.

### ***ESTABLISHMENT, DELINEATION, AND INTERPRETATION OF ZONING DISTRICT BOUNDARIES***

#### **' 153.065 SPECIFIED DISTRICTS.**

For the purposes of this chapter, the town and its extraterritorial jurisdiction are hereby divided into the following districts with appropriate designation and zoning purpose for each:

- C Conservation District
- R20 Single-Family Residential District (low density)
- R20A Single-Family Residential District (low density with individual mobile homes)
- R15 Single-Family Residential District (medium density)
- R10 Single-Family Residential District (medium density with duplex units)
- R7 Multi-Family Residential District (high density)
- R7A Multi-Family Residential District (mixed high density)
- OI Office and Institutional District
- C1 Central Business District
- C2 Highway Business District



RDO Riverfront Development Overlay District  
IL Light Industrial District  
IH Heavy Industrial District

#### **' 153.066 OFFICIAL ZONING MAP.**

The boundaries of the districts shown on the map are made a part of this chapter (see Appendix A) and shown as the Official Zoning Map posted for public inspection at the Town Hall of Plymouth. The zoning map and all notations, references, and amendments thereto are designated as the official instruments for the implementation and application of all regulations governing the districts above. Current and prior zoning maps shall be available for public inspection.

#### **' 153.067 UPDATING OF MAP.**

The boundaries of the districts shown on the map are made all necessary changes in the Official Zoning Map no later than 30 days after official amendments and/or other action is certified. All maps prepared for public distribution will be updated on an annual basis as of January 1 of each calendar year.

For extension of the extraterritorial planning jurisdiction (ETJ), a mailed notice shall be provided thirty days prior to an ETJ hearing. There may one hearing (with a single mailed notice) regarding the ETJ and initial zoning amendment.

#### **' 153.068 INTERPRETATION OF BOUNDARY LINES.**

The following rules will apply in the interpretation of all district boundary lines:

(A) *Location.* All boundary lines are intended to be along or parallel to established property lines, lot lines, the center line of streets, alleys, railroad easements, geographic features (i.e. creeks, streams), or designated rights of way.

(B) *Responsibility of interpretation.* Any discrepancy between a street or property layout on the ground and the zoning map shall be interpreted by the Board of Adjustment. All interpretations shall be consistent across district boundary lines.

### ***DISTRICT REGULATIONS***

#### **' 153.075 C CONSERVATION DISTRICT.**

(A) The purpose of this District is to retain those areas that are least suitable for development on any scale. This designation is based upon soil type, floodplain retention, or other

fragile features that threaten the safety and well-being of any citizen who may wish to build a structure on such property. Due to the soil types and general topography of the municipality, it is essential that such designations be made and observed for good, sound planning judgments. In so doing, the town will preserve certain natural features which enhance the quality of life for all citizens.

(B) *Land use compatibility.* The character of this District's designation is wholly compatible with such areas designated as conservation in the town land use plan under the provisions of the Coastal Area Management Act (CAMA). Wherever possible, the District should coincide with that classification and be treated with similar intent.

(C) *Permitted uses.*

(1) Horticultural uses, inclusive of the retail sale of products on the property where produced.

(2) Low intensity public and private recreational uses or facilities of a noncommercial nature including boat access, open space park, ball fields, bikeway, and greenways.

(3) Tree farming and other forestry related activities.

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, the special uses are:

(1) Golf courses.

(2) Public utility facilities.

(E) *Dimensional and structural requirements.* The following will outline the specifications under which structures will be permitted to be constructed.

(1) *Barriers.* No structures or barriers will be permitted which impede the normal flow of water or adversely affect the water holding capacity of the property as provided for under the State Ground Absorption Act.

(2) *Enclosed structures.* No enclosed structure will be permitted unless required for the normal occurrence of permitted activities (such as public restrooms, picnic shelters, or storage facilities).

(3) *Covered surface.* Maximum lot coverage for placement of impervious surfaces will be 30%.

(4) *Land clearance.* All clearance of vegetation will be held to a minimum with only essential clearance permitted.

**' 153.076 R20 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(A) This district is intended to provide areas of low density development for the purposes of higher property values or public health concerns. Within the jurisdiction of this chapter, constraints may be placed on residential and commercial development by soil limitations with respect to percobility (capacity to absorb effluent). These are areas which are not presently served by the municipal water and sewer system. In order to ensure a healthful development pattern, any single family dwelling in this District is required to have a minimum of 20,000 square feet. Where conditions warrant, the lot size should be larger to accommodate and protect health related needs of the property and the surrounding residents. The size and approval of residential development will be based upon documentation of favorable percolation tests. These results must be provided by the County Sanitarian for any residences located in this District. This test will be paid for by the individual, builder, or developer.

(B) *Land use compatibility.* The character of this District provides for low density development without provision of water and sewer service generally limited to the extraterritorial planning jurisdiction. Wherever possible, the District should coincide with those land classifications of rural and community as set forth in the most current land use plan under the provisions of the Coastal Area Management Act.

(C) *Permitted uses.*

- (1) Residential accessory uses (such as garage, private workshop).
- (2) Single-family residences excluding mobile homes on individual lots.
- (3) Agricultural uses inclusive of tree farming and row crops.
- (4) Horticultural uses inclusive of retail sales of products on the property where produced (such as greenhouses/nurseries).
- (5) Public and private recreational uses or facilities of a noncommercial nature.
- (6) Family care homes, as defined in 153.025 of this chapter.

(D) *Special uses.* 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those are:

- (1) Child care/day care/kindergarten.
- (2) Churches.
- (3) Golf courses.
- (4) Home occupations.
- (5) Public or private school facilities.

(6) Public utility facilities.

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

(1) *Minimum lot dimensions.*

Lot area	20,000 square feet
Lot width at front setback line	100 feet
Lot depth	150 feet
Side yard setback (each side)	15 feet
Side yard setback (abutting street)	20 feet
Front yard setback	30 feet
Rear yard setback	25 feet

(2) *Structure/lot coverage.*

Maximum residential coverage area (40%), inclusive of carport, accessory buildings, and any other impermeable surface	8,000 square feet
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(3) *Height.*

Maximum height of structures	35 feet
Maximum height of auxiliary household equipment	55 feet

(F) *Supplemental regulations.* The following represent special considerations guiding the development of land use permitted within this District.

(1) *Off street parking.* The required off street parking allowances are provided in " 153.125 through 153.134.

(2) *Corner visibility.* No visual obstruction will be permitted within five feet of either of two intersecting streets.

(3) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(4) *Accessory buildings.* Permitted accessory buildings require a minimum five foot back yard setback and five foot side yard setback.

(5) *Accessory structures.* Erection of animal shelters, animal cages, or animal pens in front yards or side yards is not permitted.

**' 153.077 R20A SINGLE-FAMILY RESIDENTIAL DISTRICT (LOW DENSITY WITH INDIVIDUAL MOBILE HOMES).**

(A) This District will provide for the low-density development of properties in areas not adjacent to entryway corridors for the town. Individual mobile homes will be allowed provided all prevailing requirements of this chapter and associated County Health Department regulations are complied with.

(B) Land use compatibility. The character of this District provides for low density development without provisions of water and sewer service generally limited to the extraterritorial planning jurisdiction. Wherever possible, this Districts should coincide with those land classifications of rural and community as set forth in the most current town land use plan under the provisions of the Coastal Area Management Act.

(C) *Permitted uses.*

- (1) Residential accessory uses (such as garage, private workshop).
- (2) Single-family residence including mobile homes on individual lots.
- (3) Agricultural uses inclusive of tree farming and row crops.
- (4) Horticultural uses inclusive of retail sales of products on the property where produced (such as greenhouses/nurseries).
- (5) Public and private recreational uses or facilities of a noncommercial nature.
- (6) Class A and B Mobile Homes on individual lots which meet applicable standards.
- (7) Family care homes, as defined in 153.025 of this chapter.

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those uses are:

- (1) Child care/day care/kindergarten.
- (2) Churches.
- (3) Cemeteries
- (4) Home occupations.
- (5) Public or private school facilities.
- (6) Public utility facilities.
- (7) Home based businesses, ' 153.148.
- (8) Corresponding revision in the zoning district schedule appendix A.

(E) *Dimensional and structural requirements.* Same as for R20 Single-Family Residential District in 153.077(E).

(F) *Supplementary regulations.* The following represent special considerations guiding the development of land use permitted within this District.

(1) *Off-street parking.* The required off street parking allowances are provided in " 153.125 through 153.134.

(2) *Corner visibility.* No visual obstruction will be permitted within five feet of either of two intersecting streets.

(3) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(4) *Mobile homes.* The required standards for individual mobile homes to be placed in this District are provided in ' 153.095.

(5) *Accessory buildings.* Permitted accessory buildings require a minimum five foot back yard setback and five foot side yard setback.

(6) *Accessory structures.* Erection of animal shelters, animal cages, or animal pens in front yards or side yards is not permitted.

**' 153.078 R15 SINGLE-FAMILY RESIDENTIAL DISTRICT (MEDIUM DENSITY).**

(A) This District provides for the orderly and rational growth of a single-family residence at a medium density. The regulations surrounding this District provide for the discouragement of any use which would be detrimental to the nature of a residential district with regard to noise, smell, or conflicting activities.

(B) Land use compatibility. The character of this District, providing for medium-density development with/without provision of water and sewer service, is in general compatibility with community, developed, and transition classes of land as provided for in the most current town land use plan under the provisions of the Coastal Area Management Act. Wherever possible, the District should coincide with those land classifications.

(C) *Permitted uses.*

(1) Residential accessory uses (such as garage, private workshop).

(2) Single-family residences excluding mobile homes on individual lots.

(3) Public and private recreational uses or facilities of a noncommercial nature.

(4) Family care homes, as defined in ' 153.025 of this chapter.

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those are:

- (1) Child care/day care/kindergarten.
- (2) Churches.
- (3) Home occupations.
- (4) Public or private school facilities.
- (5) Public utility facilities.
- (6) Professional offices/agencies including, but not limited to, chiropractic, osteopathic, dental, psychiatric, medical, and the like.

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

(1) *Minimum lot dimensions.*

Lot area	15,000 square feet
Lot width at front setback line	90 feet
Lot depth	150 feet
Side yard setback (each side)	15 feet
Side yard setback (abutting street)	20 feet
Front yard setback	30 feet
Rear yard setback	25 feet

(2) *Structure/lot coverage.*

Maximum residential coverage area (30%) (inclusive of carport, accessory buildings, or any other impermeable surface)	4,500 square feet
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(3) *Height.*

Maximum height of structures	35 feet
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(F) *Supplemental regulations.* The following represent special considerations guiding the development of land use permitted within this District.

- (1) *Off-street parking.* The required off street parking allowances are provided in 153.125 through 153.134.
- (2) *Corner visibility.* No visual obstruction will be permitted within five feet of either of two intersecting streets.
- (3) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(4) *Accessory buildings.* Permitted accessory buildings require a minimum five foot back yard setback and five foot side yard setback.

(5) *Accessory structures.* Erection of animal shelters, animal cages, or animal pens in front yards or side yards is not permitted.

**' 153.079 R10 SINGLE-FAMILY RESIDENTIAL DISTRICT (MEDIUM DENSITY WITH DUPLEX UNITS).**

(A) This District provides for the availability of residential use at a denser level by allowing for conventional single and double (duplex) dwelling units. The regulations provide for efficient and orderly development for residents desiring small residences at a moderate density level. The regulations are developed in a manner to discourage any use which would interfere or detract from the residential nature of the District. This District will only be applied in areas with community water and sewer service.

(B) *Land use compatibility.* The character of this District's designation is generally compatible with the developed classification as set forth in the most current town land use plan under the provisions of the Coastal Area Management Act. Wherever possible, the delineation of this District should coincide with that classification.

(C) *Permitted uses.*

(1) Low intensity public and private recreational uses or facilities of a noncommercial nature inclusive of a boat access, open space park, playground, ball fields, bikeway, hiking trails, and greenways.

(2) Single-family residences excluding mobile homes on individual lots.

(3) Two-unit dwellings.

(4) Residential accessory uses (such as garage, private workshop).

(5) Kindergartens and/or day nurseries with the following restrictions:

(a) Minimum of 200 square feet of play area for each child based on capacity.

(b) Fence of four feet in height enclosing play area.

(c) Parking spaces equaling one per three children.

(6) Family care homes as defined ' 153.025 of this chapter.

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those are:

(1) Churches.



- (2) Home occupations.
- (3) Public or private school facilities.
- (4) Public utility facilities.
- (5) Rooming houses/tourist home/bed & breakfast.

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

(1) *Minimum lot dimensions.*

Lot area (one-unit dwelling)	8,000 square feet
Lot area (two-unit dwelling)	16,000 square feet
Lot width at front setback line	75 feet
Lot depth	125 feet
Side yard setback (each side)	15 feet
Side yard setback (abutting street)	20 feet
Front yard setback	30 feet
Rear yard setback	20 feet

(2) *Structure/lot coverage.*

Maximum residential coverage area (40%) (inclusive of carport, accessory buildings, and any other impermeable surface)	4,000 square feet
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(3) *Height.*

Maximum height of structures	35 feet
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(F) *Supplemental regulations.* The following represent special considerations guiding the development of land use permitted within this District.

(1) *Off-street parking.* The required off street parking allowances are provided in " 153.125 through 153.134.

(2) *Corner visibility.* No visual obstruction will be permitted within five feet of either of two intersecting streets.

(3) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(4) *Accessory buildings.* Permitted accessory buildings require a minimum five foot back yard setback and five side yard setback.

(5) *Accessory structures.* Erection of animal shelters, animal cages, or animal pens in front yards or side yards is not permitted.

**' 153.080 R7 MULTI-FAMILY RESIDENTIAL DISTRICT (HIGH DENSITY).**

(A) This District provides an area for the highest density of residential development on a single-, double- (duplex), or multi-family basis without provision for mobile home units. It provides the most intensive use of land that is served by a community water and sewer service. The regulations are developed in such a manner that a mix of conventional housing can be developed without interference from nonresidential uses.

(B) *Land use compatibility.* The character of this District's designation is generally compatible with the developed classification as set forth in the most current town land use plan under the provisions of the Coastal Area Management Act. Wherever possible, the delineation of this District should coincide with that classification.

(C) *Permitted uses.*

(1) Low intensity public and private recreational uses or facilities of a noncommercial nature inclusive of a boat access, open space park, playground, ball fields, bikeway, hiking trails, and greenways.

(2) Single-family residences excluding mobile homes on individual lots.

(3) Two-unit dwellings.

(4) Residential accessory uses (such as garage, private workshop).

(5) Kindergartens and/or day nurseries with the following restrictions:

(a) Minimum 200 square feet play area for each child based on capacity.

(b) Fence of four feet in height enclosing play area.

(c) Parking space equaling one per three children.

(6) Multi-family residences.

(7) Family care homes as defined in ' 153.025 of this chapter.

(8) Bed and breakfast inn.

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those are:

(1) Churches.

(2) Home occupations.

(3) Library.

(4) Public or private school facilities.

(5) Public utility facilities.

(6) Apparel sales.

(7) Cemeteries.

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

(1) *Minimum lot dimensions.*

Lot area (one-unit dwelling)	5,000 square feet
Lot area (two-unit dwelling)	12,000 square feet
Lot area (each additional unit)	4,000 square feet
Lot width at front setback line	50 feet
Lot depth	100 feet
Side yard setback (each side)	10 feet
Side yard setback (abutting street)	15 feet
Front yard setback	20 feet
Rear yard setback	20 feet

(2) *Structure/lot coverage.*

Maximum residential coverage area (40%).

Inclusive of carport, accessory buildings,  
and any other impermeable surface 2,800 square feet

(3) *Height.*

Maximum height of structures 35 feet

(F) *Supplemental regulations.* The following represent special considerations guiding the development of land permitted within this District.

(1) *Off-street parking.* The required off street parking allowances are provided in " 153.125 through 153.134.

(2) *Corner visibility.* No visual obstruction will be permitted within five feet of either of two intersecting streets.

(3) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(4) *Multi-family.* All regulations pertaining to multi-family residential units are provided in ' 153.131.

(5) *Accessory buildings.* Permitted accessory buildings require a minimum of five foot back yard setback and five foot side yard setback.

(6) *Accessory structures.* Erection of animal shelters, animal cages, or animal pens in front yards or side yards is not permitted.

**' 153.081 R7A MULTI-FAMILY RESIDENTIAL DISTRICT (MIXED HIGH DENSITY).**

(A) This District provides an area for the highest density of residential development on a single-, double- (duplex), or multi-family basis for both conventional housing and mobile homes. It provides for the most intensive use of land that is served by community water and sewer service. The regulations are developed in such a manner that a mix of housing types can be developed without interference from nonresidential types.

(B) *Land use compatibility.* The character of this District's designation is generally compatible with the developed classification as set forth in the town land use plan under the provisions of the Coastal Area Management Act. Wherever possible, the delineation of this District should coincide with such classification.

(C) *Permitted uses.*

- (1) Residential accessory (such as private garage, workshop).
- (2) Single-family residences including mobile homes on individual lots.
- (3) Two-unit dwellings.
- (4) Multi-family dwellings.
- (5) Class A mobile homes on individual lots.
- (6) Mobile home parks (subject to the provisions of ' 153.097).
- (7) Family care homes, in compliance with G.S. ' 168 22.

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those are:

- (1) Rooming house/tourist home/bed and breakfast inn.
- (2) Child care/day care/kindergarten.
- (3) Churches.
- (4) Home occupations.
- (5) Public or private recreation facilities such as outdoor parks and playgrounds.
- (6) Public or private school facilities.
- (7) Public utility facilities.

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

(1) *Minimum lot dimensions.*

Lot area (one-unit dwelling)	7,000 square feet
Lot area (two-unit dwelling)	12,000 square feet
Lot area (each additional unit)	4,000 square feet
Lot width at front setback line	60 feet
Lot depth	125 feet
Side yard setback (each side). Five additional feet to each side yard shall be added for each full story of structural height over one story	10 feet
Side yard setback (abutting street)	15 feet
Front yard setback	20 feet
Rear yard setback	20 feet

(2) *Structure/lot coverage.*

Maximum residential coverage area (40%). (Inclusive of carport, accessory buildings, and any other impermeable surface)	2,800 square feet
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(3) *Height.*

Maximum height of structures	35 feet
Maximum height of auxiliary household equipment	55 feet

(F) *Supplementary regulations.* The following represent special considerations guiding the development of land permitted within this District.

(1) *Off-street parking.* The required off street parking allowances are provided in " 153.125 through 153.134.

(2) *Corner visibility.* No visual obstruction will be permitted within five feet of either of two intersecting streets.

(3) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(4) *Multi-family.* All regulations pertaining to multi-family residential units are previously outlined are provided in ' 153.131.

(5) *Individual mobile homes.* The required standards for individual mobile homes and mobile home parks are provided in ' 153.095.

(6) *Accessory buildings.* Permitted accessory buildings require a minimum five foot back yard setback and five foot yard setback.

(7) *Accessory structures.* Erection of animal shelters, animal cages, or animal pens in front yards or side yards is not permitted.

**' 153.082 OI OFFICE AND INSTITUTIONAL DISTRICT.**

(A) This District is developed to provide space for institutions (public or private), office uses, and certain commercial uses which have limited or specialized contact with the general public. This is not inclusive merchandising establishments (retail or wholesale). Due to the complementary nature of these uses and the regulations governing their development, residential uses are also permitted within the District.

(B) *Land use compatibility.* The character of this District=s designation is generally compatible with the developed classification as set forth in the town land use plan under the provisions of the Coastal Area Management Act. Wherever possible, the delineation of this District should coincide with that classification.

(C) *Permitted uses.*

- (1) Single family residential uses.
- (2) Bed and breakfast inn.
- (3) Business services.
  - (a) Advertising.
  - (b) Brokerage.
  - (c) Financial establishments (such as banks and savings and loans).
  - (d) Insurance.
  - (e) Real estate.
  - (f) Stenographic, telephone answering.
  - (g) Studios (such as artists, sculptors, or photographers).
- (3) Public service.
  - (a) Charitable institutions.
  - (b) Chiropractic, osteopathic.
  - (c) Churches and parsonages.
  - (d) Community centers, civic clubs, fraternal organizations.

- (e) Convalescent or rest homes.
- (f) Funeral home, mortuary.
- (g) Governmental offices (not involving outside storage of material and/or equipment).
- (h) Hospitals.
- (i) Libraries.
- (j) Medical and dental clinics.
- (k) Medical and dental services (individual basis) \*Does not include veterinarian services.
- (l) Museums and art galleries.
- (m) Nursing homes.
- (n) Public and private schools.
- (o) Recreational uses (parks, playgrounds, open space, low-density recreational usage).
- (p) Sanitariums.

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those uses are:

- (1) Child care/day care/kindergarten.
- (2) Churches.
- (3) Home occupations.
- (4) Other professional offices or agencies, not named above.
- (5) Public utility facilities.
- (6) Veterinary medicine clinic/animal hospital.
- (7) Barber and beauty shops.

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

- (1) *Minimum lot dimensions.*

Lot area (one-unit dwelling)	7,000 square feet
Lot area (two-unit dwelling)	12,000 square feet
Lot area (each additional unit)	2,500 square feet

Lot width at front setback line	60 feet
Lot depth	125 feet
Side yard setback (each side). Five additional feet to each side yard shall be added for each full story of structural height over one story	10 feet
Side yard setback (abutting street)	15 feet
Front yard	20 feet
Back yard	20 feet

(2) *Structure/lot coverage.*

Maximum residential coverage area (40%) (inclusive of carport, accessory buildings, and any other impermeable surface)	2,800 square feet
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(3) *Height.*

Maximum height of structures	35 feet
Maximum height of auxiliary needs/requirements	55 feet

(F) (1) *Accessory regulations.* The following represent special considerations guiding the development of land permitted within this District.

(2) *Off-street parking.* The required off-street parking allowances are provided in " 153.125 through 153.134.

**' 153.083 C1 CENTRAL BUSINESS DISTRICT.**

(A) This District provides for the retention of a downtown business core catering to walk-in traffic on a concentrated basis and activities to promote and support waterfront tourism. The regulations governing this District provide a norm through which businesses are encouraged to maintain some continuity as a retail shopping place for local and nearby residents.

(B) *Land use compatibility.* The character of this District designation is generally compatible with the developed classification as set forth in the town land use plan under the provisions of the Coastal Area Management Act. Wherever possible, the delineation of this District should coincide with that classification.

(C) *Permitted uses.*

(1) Retail sales (small merchandise).

(a) Art galleries and working studios (not including residence).

(b) Cameras.



- (c) Candy.
- (d) Clothing.
- (e) Drugs.
- (f) Flowers.
- (g) Gifts.
- (h) Hardware and hardware sales.
- (i) Hobby and craft goods.
- (j) Jewelry.
- (k) Leather goods.
- (l) Magazines and books.
- (m) Musical instruments.
- (n) Shoes.
- (o) Sporting goods.
- (p) Toys.
- (2) Retail sales (large merchandise).
  - (a) Antiques.
  - (b) Bicycles.
  - (c) Electrical supplies and fixtures.
  - (d) Furniture.
  - (e) Groceries.
  - (f) Plumbing supplies and fixtures.
  - (g) Radio and television.
- (3) Office and institutional services.
  - (a) Business.
  - (b) Financial establishments.
  - (c) Governmental offices.
  - (d) Medical supplies and services.
  - (e) Professional offices and agencies.

- (f) Insurance offices and agencies.
- (g) Real estate offices and agencies.
- (4) Personal and individual services.
  - (a) Bakery.
  - (b) Barber and beauty shops.
  - (c) Cafeterias.
  - (d) Hotels, motels, and tourist homes.
  - (e) Laundromats.
  - (f) Parking lots.
  - (g) Commercial printing.
  - (h) Restaurants.
  - (i) Shoe repair.
  - (j) Taxi stands.
  - (k) Theatres.
  - (l) Upholstery and refinishing.
  - (m) Recreational goods rentals.
  - (n) Event venues.

(5) Single Family Residential uses are permitted in this district on the second floor and above (using Water Street as the first floor level), provided that the entire first floor is used for permitted, commercial service, or office use. See ' 153.083(F)(3) for regulations concerning residential use in this district.

(D) *Special uses.*

(1) " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those uses are:

- (a) Dry cleaning/laundry.
- (b) Firearms dealer.
- (c) Fish and seafood markets.
- (d) Fraternal lodge/hall.
- (e) Indoor recreational facilities, public or commercial.

- (f) Outdoor recreational uses.
- (g) Psychiatric and mental health services.
- (h) Public utility facilities.
- (i) Sports bar.

(2) Street vendors of small retail items using carts or mobile kiosks may be allowed as a special use on public property between the hours of 8:00 a.m. and 6:00 p.m. These activities will be limited to the sale of food and beverages, newspapers and magazines. This activity will require a special license by the town and a photograph or artistic rendering of the proposed cart/kiosk must be approved by the Board of Adjustment for visual appropriateness. The town may waive this requirement during special events.

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

(1) *Rear yard.* Rear yard space is required only in cases where the rear of the plot abuts a residential use. In those cases, a rear yard space of 20 feet will be required.

(2) *Buffer.* A buffer strip consisting of a fence or vegetation equaling six feet in height shall be required adjacent to any adjoining residential use.

(F) *Supplementary regulations.* The following represent special considerations guiding the development of land use permitted within this District.

(1) *Off-street parking.* The required off-street parking allowances are provided in '153.125 through 153.134. (Note: Any residential building converted to commercial, office, or other nonresidential use after the effective date of this chapter shall comply with the applicable parking requirements).

(2) *Multi-Family Residential uses and First-floor Residential uses.* Allowed in Riverfront Development Overlay. See 153.083(F)(3) and 153.084 for approval process and additional regulations.

(3) *Regulations for Residential Use in CI District.* The following are specific guidelines related to residential use in the Central Business (CI) District. All residential development in this district must comply with the following guidelines.

(a) Primary access for all residential uses in the CI District is required to be located to the rear of the building (alley-access) or on a side street. If secondary access is provided to Water Street the access must be no wider than five feet.

(b) Screening (with an opaque buffer) of all outdoor storage (i.e. trash cans), with the storage area not to exceed 36 square feet (6 x 6). The screening

may be no taller than six feet. No outdoor grills, child playground equipment or the like will be allowed to be unscreened unless in use.

(c) No outdoor kennels for dogs or other animals will be allowed.

(d) Single-story and first-floor residences (using Water Street as the first floor level).

1. Residential uses are prohibited in the basement level (only accessible by the alley north of Water Street) of buildings located on the river side of Water Street.

2. All single-story and first-floor residences must be a minimum of 1,000 gross square feet in size and must not consist of more than 50% of the total square footage of the first floor of the building.

3. The primary access for any single-story and first-floor residence shall not be on the Water Street side of the building. If a secondary access is provided to Water Street, the access must be no wider than five feet, with the net square footage of the access hall counting towards the square footage of the residential space.

4. The Water Street frontage (front 50%) of buildings with approved first-floor residences must be occupied by a non-residential use permitted in the underlying district both prior to and at all times during the permitted residential use being occupied.

#### **' 153.084 RDO RIVERFRONT DEVELOPMENT OVERLAY DISTRICT.**

(A) The Riverfront Development Overlay District is a zone which overlays all land lying between the Roanoke River and Main Street, roughly from Plywood Road on the east side to Martin County line on the west side of the town. It is created to encourage responsible public and private investment along the Roanoke River. The intent is to allow flexible but appropriate development and redevelopment which will support tourism, enhance property values, encourage public interaction with the estuarine environment and simulate the local economy by capitalizing on the town's most significant natural resource.

(1) The Coastal Area Management Act (CAMA) designates all navigable waters to be Public Trust areas and all land within 75 feet of the normal high water mark as estuarine shorelines. Any development which is to occur in these areas would be subject to CAMA review and approval and must meet standards enforced by the state.

(2) Development allowed in this overlay is subject to site plan review by the Planning Board to determine appropriateness of scale, appearance, and economic impact.

(B) *Land use compatibility.* The character of this District's designation is compatible with the developed classification of the town's most current CAMA Land Use Plan.

(C) *Uses.* The following uses will be reviewed as Special Uses under this overlay:

(1) Two-unit and multi-unit residences. All two-unit and multi-unit (three or more individual units) residences will be reviewed, provided they are located in the following underlying districts: Central Business (C1) District, Office and Institutional (OI) District, R10 and R7 Districts. See Regulations for Residential Use in C1 in ' 153.083(F)(3).

(2) Hotels, motels, tourist homes or other short-term overnight accommodations, provided they are located in the following underlying districts: Central Business (C1) District, Office and Institutional (OI) District, R10 and R7 Districts.

(3) First-floor residences in C1 District (as determined by Water Street frontage). See 153.083(F)(3) for additional regulations.

(4) All permitted and special uses in the Conservation (C) District.

(5) All permitted and special uses in the Industrial (IL and IH) Districts.

(D) *District guidelines.*

(1) The use must be generally compatible with existing permitted uses. Mixed uses may occur only where there are no inherent conflicts between proposed and permitted uses.

(2) Uses reliant on large volume vehicular traffic will not be considered.

(3) Restaurants with drive-thru windows will not be allowed within this district.

(4) Adequate off-street parking must be demonstrated for all proposals.

(5) Noise, odor, smoke, and vibration levels must be unobtrusive to normally permitted uses.

(6) Health and safety risks to the surrounding area must be low or the developer must demonstrate how these risks will be managed or mitigated.

(7) Waste products or by-products must be properly stored and removed from the area in a timely manner.

(8) Storage areas must be screened by a contiguous visual buffer adequate to completely shield waste from the public view.

(9) The public's free access to enjoyment of the waters of the Roanoke River will be a priority. Projects such as public piers, boardwalks, docks, bulkheads, boat ramps, parks, and the like which accommodate, promote, or sponsor such activities will be given priority.

(10) Projects providing overnight accommodations for tourists will be considered as long as the small town, historic character of the waterfront district is respected and local infrastructure has adequate capacity to serve.

(11) Condominium development will be considered if adequate character, open space, circulation, parking, drainage, and public services can be demonstrated.

(12) Normal lot and dimensional requirements of the underlying district will apply unless separate application is made for a variance and such variance is granted by the Board of Adjustment.

(13) To the extent reasonably practicable, all waterfront development projects should be designed in such a way as to respect and accommodate the water-view vistas of adjoining properties.

(14) This section (14) shall not apply for property in this area acquired or to be acquired by contract by the Town of Plymouth.

(E) *Review and approval process.*

(1) A complete zoning application along with seven copies of the proposed site plan must be submitted to the Zoning Administrator not less than 14 working days prior to the Planning Board meeting at which the proposal will be reviewed.

(2) The Zoning Administrator will specify what materials need to be in the zoning application package, and the Planning Board or Board of Adjustment may request additional information as needed.

(3) Incomplete applications will not be processed for review.

(4) The Planning Board will review each proposal and send their recommendation to the Board of Adjustment for final approval at a regularly-scheduled meeting. The approval will be for a special use permit, and either the Planning Board or Board of Adjustment may place specific conditions on an application.

#### **' 153.085 C2 NEIGHBORHOOD BUSINESS DISTRICT.**

(A) This District provides a rational development pattern for single, unattached uses along the major highway corridors serving Plymouth. It is essential that such development takes place in a manner to serve the business needs of the community but protect the safety and liability of those areas served directly or indirectly by highways.

(B) Land use compatibility. The character of this District's designation is generally compatible with the developed classification as set forth in the town land use plan under the provisions of the Coastal Area Management Act. Wherever possible, the delineation of this District should coincide with those classifications.

(C) *Permitted uses.*

- (1) Agricultural supply sales.
- (2) Alcoholic beverages control stores \*\*These are exempt from local regulation.
- (3) Apparel sales.
- (4) Automobile parts sales.
- (5) Automobile repair services.
- (6) Automobile sales and service (new and used).
- (7) Barber and beauty shops.
- (8) Blueprinting services.
- (9) Building supplies sales.
- (10) Cabinetry and woodworking shops.
- (11) Chiropractic and osteopathic offices.
- (12) Contractors (general construction, plumbing and heating, electrical).
- (13) Farm machinery sales and repairs.
- (14) Financial establishments (banks, saving and loans).
- (15) Fish and seafood retail sales.
- (16) Florists.
- (17) Fraternal lodges and/or halls.
- (18) Funeral homes.
- (19) Furniture sales.
- (20) Groceries stores.
- (21) Hardware sales.
- (22) Home appliances sales and services.
- (23) Laundromats and dry cleaners.
- (24) Medical supplies and services.
- (25) Mobile home sales.
- (26) Motels.
- (27) Motorcycles, motorbike sales.
- (28) Nurseries (horticultural).

- (29) Nursing home, rest home and sanitarium.
- (30) Offices of a governmental, professional and personal services.
- (31) Paint sales.
- (32) Parking facilities (commercial).
- (33) Pet shops.
- (34) Pharmacies.
- (35) Restaurants inclusive of fine dining, fast food, taverns, grills, or snack bars.
- (36) Shoe repair and sales.
- (37) Terminals (bus, taxi, rail, car/truck rental, and commercial trucking).
- (38) Tire sales and services.
- (39) Upholstering services.
- (40) Insurance sales and real estate sales, and corresponding revision in the zoning district schedule appendix A.

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those are:

- (1) Shopping centers, subject to site plan review in ' 153.223.
- (2) Adult business uses, subject to the provisions in " 153.220 through 153.223.
- (3) Commercial recreational facilitates.
- (4) Firearms dealer.
- (5) Indoor recreational facilities.
- (6) Kennels/pet boarding.
- (7) Micro winery or boutique winery.
- (8) Outdoor parks and playgrounds.
- (9) Pool halls/billiard parlors.
- (10) Psychiatric and mental health services.
- (11) Public or private school facilities.
- (12) Public utility facilitates.



- (13) Sports bar.
- (14) Veterinary medicine, animal hospital.
- (15) Tavern/nightclub.
- (16) Service stations/gas stations and corresponding revision in the zoning district schedule appendix A.

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

(1) *Minimum lot dimensions.*

Lot area	15,000 square feet
Lot width at front setback line	100 feet
Side yard setback (each side)	25 feet
Width of driveway	30 feet
Front yard setback (Note: No parking signs, gasoline pumps, or other structures shall be permitted within 30 feet of the front property line)	50 feet
Rear yard	25 feet

\* Where abutting residential property or designated residential district, a buffer strip or fence no less than six feet in height will be provided.

(F) *Supplementary regulations.* The following represent special considerations guiding the development of land permitted within this District.

(1) *Off street parking.* The required off street parking allowances are provided in " 153.125 through 153.134.

(2) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(3) *Curb cut provisions.* Those regulations dealing with curb cuts are provided in 153.132.

## **' 153.086 IL LIGHT INDUSTRIAL DISTRICT.**

(A) This District provides space for industries and wholesaling and warehouse facilities that operate in a clean, quiet manner that do not place extreme demands on the sewer and/or water system. All uses permitted under this jurisdiction must be determined to be inoffensive to nearby residential areas.

(B) *Land use compatibility.* The character of the District's designation is generally compatible with the developed classification as set forth in the town land use plan under the provisions of the Coastal Area Management Act. Wherever possible, the delineation of this District should coincide with that classification.

(C) *Permitted uses.* The uses in this District shall be limited to the following.

- (1) Assembly and processing of farm and food products, including meat, fish, poultry, vinegar, and yeast.
- (2) Automobile sales and service (new and used).
- (3) Bag manufacturers (inclusive of other paper containers).
- (4) Bakery products.
- (5) Boat manufacturers.
- (6) Bottling works.
- (7) Building materials, storage, and sales.
- (8) Cabinetmaking and woodworking shops (inclusive of furniture products).
- (9) Circuses, carnivals, and fairs (temporary basis not to exceed 30 days).
- (10) Churches.
- (11) Cold storage plants.
- (12) Commercial recreation facilities (including concession stands).
- (13) Contractor storage yards.
- (14) Dairy products processing.
- (15) Dry cleaning and laundry plants.
- (16) Electrical and industrial equipment (inclusive manufacturers, assembly, repair, and servicing).
- (17) Farm machinery (inclusive of assembly, repair, and sales).
- (18) Garages/service stations/convenient stores.
- (19) Grain elevators.
- (20) Greenhouses and nurseries.
- (21) Grounds and facilities for open air games and sports.
- (22) Ice plants.
- (23) Industrial research and educational facilities.

- (24) Jewelry and clock manufacturing.
- (25) Kennels and pet boarding.
- (26) Laboratories for research and testing.
- (27) Leather goods manufacturers.
- (28) Lumber yards.
- (29) Machine shops.
- (30) Musical instrument manufacturers.
- (31) Off-street parking facilities.
- (32) Optical and scientific instruments.
- (33) Pharmaceutical products manufacturers.
- (34) Printing, publishing, and reproduction establishments.
- (35) Repair and servicing of office and household equipment.
- (36) Sheet metal shops and tinsmith shops.
- (37) Veterinary medicine and animal hospitals.
- (38) Shirt manufacturers.
- (39) Sign manufacturers (inclusive of printing and maintenance).
- (40) Stone cutting, monument manufacturers (including sales).
- (41) Storage warehouse yards.
- (42) Venetian blind manufacturers, contractors, and cleaning shops.
- (43) Welding shops.
- (44) Wholesale and jobbing establishments (including incidental retail outlets for only that merchandise handled at the wholesale establishment).

(D) *Special uses.* " 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those are:

- (1) Bulk fuel storage.
- (2) Outdoor parks and playgrounds.
- (3) Public utility facilities.
- (4) Sanitary landfill.

(5) Firearms dealer

(E) *Dimensional, setback, and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

(1) *Minimum lot dimensions.*

Lot area	15,000 square feet
Lot width at front setback line. No parking signs, storage, outdoor manufacturing, processing, or assembling activity, nor any structure housing accessory uses shall be permitted within 30 feet of the front property	100 feet
* Side yard setback (each side)	25 feet
Width of driveway	30 feet
Rear yard setback	25 feet

\*Where a rear or side lot line abuts residential property, there shall be no parking in the rear or side yard unless a thickly planted buffer strip four feet in height, or other fencing device, is installed to prevent dust, fumes, noise, the glare of lights, or other nuisances associated with parking from interfering with the enjoyment of the adjacent property and affecting its value.

(F) *Supplemental regulations.* The following represent special considerations guiding the development of land permitted within this District.

(1) *Off-street parking.* The required off-street parking allowances are provided in " 153.125 through 153.134.

(2) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(3) *Curb cut provisions.* Those regulations dealing with curb cuts are provided in ' 153.132.

#### **' 153.087 IH HEAVY INDUSTRIAL DISTRICT.**

(A) This District accommodates industries and other heavy commercial activities from which noise, odor, smoke, vibrations, and other nuisance factors can be anticipated. Related development problems such as high volume traffic flows must also be considered as factors in the placement of this District. The wise location of this District can lessen, if not completely eliminate, the detrimental effect of such operations. In addition, this District is intended to accommodate heavy water uses and waste producers, particularly those which produce waste that cannot be treated by the municipal system.

(B) *Land use compatibility.* The character of this District's designation is generally compatible with the developed classification as set forth in the town land use plan under the

provisions of the Coastal Area Management Act. Wherever possible, the delineation of this District should coincide with that classification.

(C) *Permitted uses.*

- (1) Uses permitted in an IL Light Industrial District.
- (2) In addition, the following uses are permitted:
  - (a) Airports.
  - (b) Bottled gas works.
  - (c) Bulk oil storage.
  - (d) Coal yards.
  - (e) Equipment manufacturers, repair, and servicing.
  - (f) Fertilizer plants.
  - (g) Foundries.
  - (h) Incinerators.
  - (i) Machine tool manufacturers.
  - (j) Manufacturing, processing, assembling, or fabricating operations.
  - (k) Meat packing, abattoir, stockyards.
  - (l) Railroad freight yards.
  - (m) Sanitary landfills.
  - (n) Sewage treatment plants.
  - (o) Textile manufacturers.
  - (p) Water treatment plants.

(D) *Special uses.* 153.220 through 153.223 and the Use Tables which follow describe uses which might be allowed in each district, subject to certain conditions. For this district, those are:

- (1) Firearms dealer

(E) *Dimensional and structural requirements.* The following will outline specifications under which structures will be permitted to be constructed.

- (1) *Setback.* No building shall be less than 30 feet from any property line except that when the use abuts a residential district, the building setback line shall be 50 feet from the nearest residential property line. If the 30 or 50 foot setback is the front yard

setback, it shall be used from property line to property line only for pathways, driveways, and landscaping.

(2) *Buffer.* Side and rear yard setbacks may be used for parking and storage provided that adjacent property zoned for residential uses is protected from the noise, dust, glare of lights, and other detrimental effects of the storage and/or parking area by a thickly planted buffer strip or fence of at least four feet in height.

(E) *Supplemental regulations.* The following represent special considerations guiding the development of land permitted within this District.

(1) *Off-street parking.* The required off-street parking allowances are provided in " 153.125 through 153.134.

(2) *Signs.* All signs permitted in this District shall be in compliance with " 153.105 through 153.113.

(3) *Curb-cut provisions.* Those regulations dealing with curb cuts are provided in ' 153.132.

## ***GENERAL PROVISIONS***

### **' 153.095 MOBILE HOMES.**

It shall be unlawful for any person to park or store a mobile home and/or place or maintain a mobile home used for living, sleeping, business, or utility purposes on any premises within the town and its extraterritorial limits other than as expressly permitted. All permitted mobile homes will be in conformance with the following requirements concerning placement:

(A) Mobile homes shall only be placed in districts which permit these residences on a single basis or park basis.

(B) In districts in which individual mobile homes are allowed, there shall be only one unit per lot and the dimensional requirements of the applicable district shall be complied with.

(C) One travel trailer may be parked or stored in the rear yard of any lot provided that no living quarters shall be maintained nor any business conducted therein while the trailer is so parked or stored.

(D) Mobile homes or travel trailers may be parked in a sales lot for the expressed purpose of inspection or sale within a district in which such use is permitted provided that no living quarters shall be maintained in any of the trailers so parked.

(E) Travel trailers or mobile homes used for temporary field offices may be permitted by a special 30-day permit, obtainable from the Zoning Administrator, renewable for a 30-day period.

(F) Trailers used in connection with and by employees of circuses, fairs, and carnivals duly authorized by the town and complying with the requirements of this chapter may be permitted by obtaining a special 30-day permit issued by the Zoning Administrator. Such trailers, if located on the same lot as the circus, fair, or carnival, may be used temporarily for living quarters of the owners and/or employees of such circus, fair, or carnival. If the trailers are not located on the same lot, then the trailers must be located within an established trailer park.

(G) Any trailer used as temporary classrooms or offices to alleviate crowded conditions of schools or institutions is permissible provided that all requirements of the district are met. A standard zoning permit is required for such additions.

(H) The Zoning Administrator may issue a temporary permit to allow no more than two mobile homes, travel trailers, or similar mobile living quarters be domiciled on a lot during construction of any building or structure in excess of \$300,000 in value, such permit being renewable under the conditions of ' 153.095(E).

#### **' 153.096 MOBILE HOME PARKS.**

It shall be unlawful for a person to park or store a mobile home or trailer within a mobile home park or subdivide property for the purpose of a mobile home park within the jurisdiction of this chapter in compliance with the town Subdivision chapter with the following exceptions:

(A) Minor facility improvements are being made which do not affect the total number of mobile home sites.

(B) Mobile home spaces are rental and are not being transferred to different ownership.

(C) Mobile homes within mobile home parks shall not be excluded based on age.

#### **' 153.097 MOBILE HOME PARK DESIGN.**

The following specifications will be applicable for the design and review of mobile home parks by the Zoning Administrator under the jurisdiction of this chapter.

(A) *Size dimensions.*

(1) Every mobile home park shall be located on a tract of land not less than three acres in size and shall contain at least five mobile home spaces as defined in subsection (2).

(2) Every mobile home space shall consist of a minimum of 3,200 square feet. Further, each mobile home space shall be clearly defined or delineated and shall have a minimum width of 40 feet.

(3) Only one mobile home may be parked on any designated mobile home space or per every 3,200 square feet.

(4) No mobile home space shall be located within 50 feet of a public street right of way.

(5) No mobile home stand shall be located less than 30 feet from any property or exterior park boundary.

(6) No mobile home shall be located less than 20 feet from another mobile home, a mobile home addition, or any other structure.

(B) *Parking.*

(1) Parking spaces shall provide a minimum area of ten feet by 20 feet for each automobile.

(2) Off street parking space sufficient to accommodate at least two automobiles shall be constructed within each mobile home space.

(3) All parking spaces shall be paved or covered with crushed stone or other suitable material.

(C) *Access.*

(1) Each mobile home park not located adjacent to a public right-of-way shall have common driveways with an unobstructed right-of-way of at least 30 feet that directly abut all mobile home spaces.

(2) Minimum width of driveways shall be 18 feet.

(3) No on street parking shall be permitted on driveways.

(4) On street parking may be permitted when a minimum of 50-foot right-of-way and a minimum of 34 feet width of pavement is provided.

(5) No mobile home space shall be more than 500 feet, measured along connecting driveway centerlines, from a public street.

(6) All mobile home park driveways shall connect with a public street or another driveway with a 30-foot (minimum) right-of-way and 18 feet pavement (minimum).

(7) No individual mobile home space shall have direct vehicular access to a state or federal primary street.

(8) Closed ends of dead-end streets shall be provided with an adequately-paved vehicular turning circle of at least 50 feet in diameter.



(9) When the mobile home park has more than one direct access to a public street, they shall not be less than 300 feet apart or less than 300 feet from a public street intersection (unless topographical or site conditions demand otherwise).

(D) *Drainage.*

(1) The mobile home park shall be located on ground not susceptible to flooding.

(2) Underground drainage facilities with connections to the storm drainage system shall be provided for the mobile home park (unless adjacent streets do not have storm drainage pipes).

(3) Each mobile home stand and the mobile home space shall be graded to provide adequate storm drainage away from the mobile home and such that there will exist no more than two feet difference between the chassis of the mobile home and the finished grade of the mobile home stand along the entire perimeter of the mobile home proper.

(4) An area to provide proper drainage ditches and a three to one back slope shall be provided along all public streets or private driveways constructed with 18 feet or more of paving width.

(E) *Mobile home park signs.*

(1) One or not more than two signs with a total area of not more than one half square foot for each mobile home space and in no case larger than 50 square feet located on private property but no closer than five feet to any property line, shall be permitted.

(2) Only indirect non-flashing lighting may be used for illumination.

(3) All signs must be constructed in such a manner as to prevent a direct view of the light source from any public street right-of-way.

(F) *Supplemental regulations.*

(1) All mobile homes within the town shall be connected to the municipal water and sewer system.

(2) Mobile homes and mobile home parks located within the extraterritorial area shall be connected to an approved water and sewer system as required and approved by the County Board of Health.

(3) All mobile home parks with more than 12 residences shall provide adequate and suitable recreational areas and facilities to serve the needs of the residents of the park.

(4) Each refuse station shall be no less than one 30-gallon covered container with tight fitting cover for every two residences.

- (5) Accessory structures. Erection of animal shelters, animal cages, or animal pens in front yards or side yards are not permitted.

**' 153.098 MANUFACTURED STRUCTURES AS NON-RESIDENTIAL USES.**

(A) Manufactured structures used for office, business or non-residential institutional purposes must meet the requirements of the State Building Code, since the HUD Code applies only to units designed for residential use. Manufactured structures, or modular units, are required to satisfy the same building code as site-built structures (evidenced by a sticker affixed at the factory in the case of modular units). In addition to the requirements of the State Building Code, manufactured structures must also meet the following guidelines:

(1) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard construction;

(2) A continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured structure;

(3) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the structure shall be attached firmly to the primary structure and anchored securely to the ground; and

(4) The moving hitch, wheels and axles, and transporting lights have been removed.

(B) It is the intent of these criteria to ensure that a manufactured structure, when installed, shall have substantially the appearance of an on-site, conveniently built structure.

**' 153.099 AUTOMOBILE REPAIR SERVICES / AUTOMOBILE SALES AND SERVICE / SERVICE STATIONS**

Automobile repair services, automobile sales and service, and service stations, as defined in Section 153.025, whether allowed as a permitted use or a conditional use, must meet the following conditions and any additional conditions and safeguards deemed appropriate by the Council:

(1) Vehicles before, during, and after repair are to be stored inside the building or behind an opaque fence which is a minimum of six (6) feet in height and does not exceed eight (8) feet in height. The fence shall be constructed of decorative wood, vinyl, natural or cultured stone, or other opaque materials approved by the Zoning Administrator. A chain link or welded wire fence may be used if a minimum 9-gauge fabric is installed and maintained around the

entire perimeter of the fence for the entire height of the fence. Barbed wire, razor wire, and other hazardous materials are prohibited.

- (2) No outside storage of vehicles, supplies, parts, tires, or remnants of repairs.
- (3) Service doors shall be closed except for entry and exit of automobiles.
- (4) Vehicles awaiting repair shall be stored for a period not to exceed 90 days.
- (5) There shall be no dismantling of vehicles for salvage.
- (6) Contaminants shall not be stored on site and shall be disposed of in an environmentally approved manner.

(7) A buffer strip consisting of both a fence and vegetation and plantings shall be required adjacent to all adjoining parcels. The fence shall meet the requirements outlined in Section 1 and be installed behind the vegetative buffer. The vegetative buffer shall consist of evergreen trees or evergreen bushes, planted no more than eight (8) feet apart, which shall be at least six (6) feet tall at the time of planting and reach a minimum height of fifteen (15) feet within three (3) years of planting. Vegetation should be installed according to established planting techniques, including establishing a well-prepared planting area prior to planting any trees or shrubs. The vegetative buffer must be maintained, including keeping vegetation healthy, neat and orderly in appearance, and free of litter and debris. Where adequate vegetative screening exists on the parcel where the business is located, the existing vegetative buffer may be used to satisfy the requirements of this Section.

## ***SIGNS AND BILLBOARDS***

### **' 153.105 PURPOSE.**

The purpose of this section is to provide for safe, rational establishment of signs and outdoor advertisements within the jurisdiction of this chapter. No sign or outdoor advertisement (billboard) of any type shall be erected within the jurisdiction of this chapter without proper compliance with the terms set forth in this section. Any sign or billboard not covered by the terms of this section must be approved by the Planning Board and Town Council prior to its erection. (Note: Regardless of exemptions stated herein, all outdoor advertising signs on lots along U.S. Highway 64 are subject to the restrictions of the State of North Carolina Department of Transportation in addition to local requirements.

### **' 153.106 APPLICATION.**

(A) The owner of the property upon which any sign or billboard is to be placed is responsible to apply to the Zoning Administrator ensuring compliance with appropriate guidelines.

(B) A fee shall be paid to the town upon receipt of the application by the Zoning Administrator. A fee schedule appears in ' 153.167.

(C) The application shall include scaled site plans or drawings showing the exact location, dimensions, type of sign, and any distinguishing characteristics of the sign (such as type of lighting, height, and so forth).

(D) Temporary Signs. All off premises Temporary Sign permits are issued for a period of fourteen days only. A fee schedule appears in ' 153.167. The fee is waived for registered non-profit organizations and yard sales, but a Temporary Sign Permit must still be obtained.

For all temporary signs, it shall be the responsibility of the person erecting the sign to remove it within the time frame set forth fourteen days. For all days exceeding the maximum allowed, the owner will be charged \$1 per day by the Zoning Administrator or the sign will be removed by the Chief of Police or the Code Enforcement Officer.

The permit number from the approved Temporary Sign Permit must be written on the sign to signify approval. Failure to write the permit number on the temporary sign could result in the sign being removed without refund of the application fee.

#### **' 153.107 SIGNS EXEMPT FROM CHAPTER.**

No sign will be permitted which reduces corner visibility or is erected within or projects into a public right-of-way. All signs are subject to ' 153.108(D). Permitted marquees, canopies, and awnings are not included under this provision. The following signs will be permitted within the jurisdiction and are exempt from the provisions of this chapter not stated in this section.

(A) Regulatory or advisory signs of a public nature, such as traffic or street signs, rest rooms, parking areas, freight entrances, and the like.

(B) \*Warnings or legal notices of a temporary nature.

(C) Flags, emblems, or insignias not used as commercial advertising.

(D) \*Other temporary, noncommercial signs not to exceed two square feet in surface area and not to exceed 14 days during any quarter of the calendar year.

(E) Any plaque, tablet, or marker of a historical nature.

(F) Noncommercial signs posted for personal residence use in conjunction with mailbox, doorbell, and entrance or exit ways.

(G) Address signs not exceeding 72 square inches and showing only the numerical designation of the premises.

(H) Any sign required by law to be posted (temporary or permanent).

(I) Signs of professional use or home office space approved under the auspices of this chapter. (Note: This sign shall not be over two square feet in surface area, shall not be illuminated, and must be mounted to the main wall of the building.)

(J) Temporary real estate signs not to exceed six square feet in surface area. (Note: This sign must be displayed only on the property proposed for rent or sale and shall not be closer than five feet from any property line nor within any legal right-of-way).

(K) Signs for church, community, or community activities not to exceed 25 square feet in surface area. (Note: These signs must be on private property and not located within ten feet of any adjoining property line.)

(L) \*Political campaign posters and signs not to exceed four square feet in surface area.

\*For all temporary signs, it shall be the responsibility of the person erecting the sign to remove it within the time frame set forth. For all days exceeding the maximum allowed will be charged \$1 per day by the Zoning Administrator or the sign will be removed by the Chief of Police. In the case of political campaign posters and signs, the candidate or political party named on the poster/sign will be held responsible for removal of the signs within 14 days after the election.

#### **' 153.108 GENERAL REQUIREMENTS.**

(A) *Size and number.*

(1) Only one sign or billboard per building, establishment, or 150-foot frontage or 15,000 square foot area (whichever is applicable).

(2) Maximum size of any sign will be 250 square feet.

(B) *Location.*

(1) No signs or billboards shall be located on or attached to a rooftop or on any tower (such as a radio, home radio, or television tower, or the like).

(2) All signs associated with a permitted marquee will be attached flat with no extension vertically above or below the marquee.

(3) No nonexempt signs or billboards or any part thereof will be permitted within 50 feet of a residentially-zoned area (inclusive flashing, temporary signs).

(C) *Safety.*

(1) No sign or billboard which obstructs, confuses, or interferes with any authorized traffic or directional sign provided for the general public shall be allowed at any location.

(2) No lights which resemble in strength, color, or the action of any emergency light shall be permitted.

(3) No flashing lights connected with any sign shall be permitted within 300 feet of a residentially-zoned area.

(4) All lights connected with the illumination of a sign will be placed in such a manner as not to impair the vision of motorists.

(5) Floodlighting and display lighting (temporary or permanent) shall be shielded in such a manner as not to impair the vision of motorists and shall not be located within 50 feet of the highway right-of-way.

(D) *Condition.*

(1) Any sign or billboard allowed in the jurisdiction shall be kept in good repair with proper security.

(2) Signs which have been abandoned, are no longer functioning, or are in disrepair or unsafe condition, as determined by the Building Inspector, shall be removed or relocated by the owner or at the owner's expense within 90 days of dysfunction or abandonment or 30 days within determination of disrepair or unsafe condition.

#### **' 153.109 SIGNS IN RESIDENTIAL DISTRICTS.**

No signs or billboards will be permitted within any residential district except as permitted by ' 153.107 of this chapter.

#### **' 153.110 SIGNS IN OFFICE AND INSTITUTIONAL DISTRICTS.**

(A) Outdoor advertising signs and/or flashing signs or billboards (temporary or permanent) shall not be allowed within an OI Office and Institutional District.

(B) All signs associated with office and institutional uses shall not exceed four square feet.

(C) Clustered uses of three or more office and institutional uses shall be permitted with one sign not exceeding 25 square feet in total area (for the purpose of serving the office and institutional uses only).

(D) Freestanding, non-advertisement signs shall be limited to ten feet in height.

(E) All general requirements spelled out in ' 153.108 shall be enforced where applicable.

#### **' 153.111 SIGNS IN CENTRAL BUSINESS DISTRICTS.**

(A) No freestanding signs shall be permitted.

- (B) No outdoor advertising signs or billboards shall be permitted.
- (C) No sign shall exceed 50 square feet or 10% of the square footage of the facade of the building, whichever is less.
- (D) All signs permitted shall be mounted flat against the building with all attached letters and superscriptions applied thereon parallel with the building's facade.
- (E) Only the name of the establishment or the address shall be allowed on canopies in this district.
- (F) No flashing or glittering materials are allowed in this district.
- (G) No banner or pennant signs other than those promoting approved special events will be allowed.

#### **' 153.112 SIGNS IN SHOPPING CENTER DISTRICTS.**

All requirements for the Central Business District and all general requirements shall be enforced where applicable (' 153.111). (Note: A sign for the identification of a designated shopping center shall be allowed with ten square feet permitted per business, not exceeding 25 square feet for any one sign.)

#### **' 153.113 SIGNS IN INDUSTRIAL DISTRICTS.**

All general requirements spelled out in ' 153.111 shall be enforced where applicable. (Note: Outdoor advertising signs and freestanding signs shall be allowed with no freestanding sign or billboard exceeding 30 feet above ground level.)

### ***PARKING AND LOADING REQUIREMENTS***

#### **' 153.125 PARKING REQUIREMENTS.**

The provision of adequate off-street parking is a vital part of the functional design of any area. In addition, the aspect of safety for both pedestrians and motorists is a primary consideration in the application of this section. Specific requirements for the provision of off-street parking shall be provided under this section.

#### **' 153.126 APPLICATION.**

(A) The requirements will be enforceable at the time of the erection of any building and/or at the time any principal building is enlarged or increased in capacity (through the addition of dwelling units, guest rooms, seats, or floor area).

(B) The requirements will be enforceable before the conversion from one type of use and/or occupancy to another use or occupancy.

(C) All parking spaces required by this section shall be a minimum of 200 square feet in area with a minimum width of ten feet.

(D) Parking spaces may be provided in a parking garage or a properly-graded open space.

(E) No spaces which are rented or are located on a public right-of-way may be counted toward compliance with this section.

#### **' 153.127 SPECIAL REQUIREMENTS.**

(A) *Central business district.* The requirements of this section are not applicable to a C1 Central Business District, provided there is adequate off-street or satellite parking available to accommodate all noncommercial uses.

(B) *Residential districts.* Where parking spaces for more than eight cars are required in a residential district, the following shall be complied with:

(1) The lot may be used only for parking and not for any type of loading, unloading, sales, dead storage, repair work, dismantling, servicing, or recreation.

(2) All entrances, exits, barricades at sidewalks, and drainage plans shall be acceptable per the subdivision code of the town.

(3) A strip five feet wide shall be reserved as open space adjoining any street line or any lot zoned for residential use and shall be guarded with wheel bumpers and planted in grass and/or shrubs.

#### **' 153.128 CERTIFICATION.**

(A) Each application for a zoning permit for a commercial, industrial, institutional, or multi-family residential unit submitted to the Zoning Administrator shall identify the location and dimensions of off-street parking spaces.

(B) The location and design of such spaces will be reviewed to verify compliance with both number and size as called for by this section.

#### **' 153.129 COMBINATION OF REQUIRED PARKING SPACE.**

(A) 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 as provided in division (B) below.



(B) One-half of the parking spaces required for churches, theatres, 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.

**' 153.130 REMOTE PARKING SPACE.**

(A) If an off street parking space required by this section 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 provided the land is in the same ownership as the principal use.

(B) Land described in division (A) above shall be used for no other purpose.

(C) When adequate provisions for parking space (meeting the requirements of this section) have been made for the principal use, the requirements of divisions (A) and (B) above shall be inapplicable. (Note: In such cases, the applicant shall apply for a certificate of compliance for the principal use.)

(D) In cases of new construction, an applicant shall submit (with his application for a building permit) an instrument, duly executed and acknowledged, which subjects the land to parking use in connection with the principal use for which it is made available. (Note: The applicant shall deposit the appropriate fee and upon the issuance of a zoning permit, the Zoning Administrator shall cause the instrument to be registered in the Office of the County Register of Deeds.)

**' 153.131 PARKING SPACE REQUIREMENTS.**

(A) *Residential and related use requirements.*

<b><i>Land Use</i></b>	<b><i>Required Parking</i></b>
Duplex dwelling unit	Two parking spaces per dwelling unit
Home occupation use (nonprofessional)	Three parking spaces per unit
Home occupation use (professional) Includes doctors and dentists offices	Three parking spaces per professional housed in unit and one space per other employee, plus applicable residential requirement
Motel/hotel (with restaurant or other group facilities)	One parking space for each room to be rented and one space per two employees plus requirements shown for any associated use
Motel/hotel (without restaurant or other group facilities or motor court)	One parking space for each room to be rented and one additional space per two employees
Multi-family dwelling unit	Two parking spaces per dwelling unit

Rooming, boarding house or bed and breakfast	One parking space for each one room to be rented, plus one space for each two employees, plus two spaces where there are resident owners or operators
Single-family dwelling unit	Two parking spaces per dwelling unit

(B) *Public use requirements.*

<b><i>Land Use</i></b>	<b><i>Required Parking</i></b>
Auditorium	One parking space for each four seats of capacity of the largest meeting room
Churches	One parking space for each four seats in the sanctuary plus one space for every 200 square feet of space not used for services
Clinic or doctors or dentists office	One space for every 150 square feet of gross floor area
Elementary school or junior high school	Two spaces per classroom
Hospital (public and semi-public)	Two parking spaces for each two beds intended for patient use, exclusive of bassinets or one space per 150 square feet of gross floor area, whichever is greater
Nursing home	Three parking spaces for each five beds used for patient use
Public building	Two parking spaces for each employee
Public or private club	One parking space per 300 square feet of gross floor space
Senior high school	One parking space for each two students administrative employees plus five spaces for each classroom and one space per each ten seats in the largest auditorium
Stadium, playfield, or organized recreation area	One parking space for each four spectator seats

(C) *Business uses requirements.* Where specific business types are not listed, discretion by the Zoning Administrator shall be used to determine the closest applicable use.

<b><i>Land Use</i></b>	<b><i>Required Parking</i></b>
Commercial or personal service establishments	One space for each 200 square feet of gross floor area
Drive in restaurant	One space per 100 square feet of gross floor area plus one space for every four outside seats provided plus a reserve traffic lane with capacity for five vehicles per drive-in window

Kindergarten/child care/nursery	One space for each employee, plus one space per 500 square feet of building, plus four spaces for loading and unloading children
Office, professional building or similar use	One space per 200 square feet of gross floor area
Restaurant or place dispensing food/drinks/ refreshments (not drive-in)	One space per 100 square feet of gross floor area plus one space for every four outside seats provided
Shopping center	One space for every 200 square feet of gross floor area

(D) *Wholesale uses and wholesale warehouse use requirements.*

<b><i>Land Use</i></b>	<b><i>Required Parking</i></b>
Wholesale use and wholesale warehouse use	One parking space for each employee on the largest shift

(E) *Industrial use requirements.*

<b><i>Land Use</i></b>	<b><i>Required Parking</i></b>
Industrial uses	One space for each two employees on the largest shift plus one space for each 400 square feet gross floor area used for office or administrative purposes, plus one space for each vehicle used directly in the conduct of the business

**' 153.132 MULTI FAMILY HOUSING.**

For the purpose of providing a harmonious blend between the intensive use of multi-family housing and other land uses, the following will apply for all structures which are occupied by three or more families.

(A) *Application.* A detailed site plan as provided for in the Subdivision Code shall be submitted for review to the Planning Board.

(B) *Design.*

(1) *Parking.* As provided for in " 153.125 through 153.134.

(2) *Buffer strip (screening).* A buffer strip (fence or evergreen hedge) shall be provided along any property line abutting single-family residences and commercial and/or industrial uses. Such a buffer shall be at least four feet in height (projected for hedge) with no more than four feet between plantings or sections of fence.

(3) *Yard space.* No less than five feet of yard space shall be provided between the structure and any impermeable surface (such as parking spaces, sidewalks and the like).

(4) *Recreational/open space.* For any multi-family development which contains more than 20 units, common, open space equaling not less than 4,000 square feet shall be provided. All open space shall be grassed and landscaped.

(5) *Building walls.* Building walls having only window opening or only door opening shall be located no closer than 25 feet to another building. Building walls having both window and door openings shall be located no closer than 50 feet to another building.

### **' 153.133 CURB CUTS.**

The following requirements are applicable to all districts.

(A) *Commercial and residential districts.*

(1) No portion of any entrance driveway leading from a public street shall be closer than 20 feet to the corner of any intersection, measured along the right-of-way line from the intersection of the rights of way of the two streets.

(2) The width of any driveway leading from a public street shall not exceed 30 feet at its intersection with the curb or street line.

(3) No two driveways on a single lot leading from a public street shall be within 20 feet of each other measured along the right-of-way between the approximate edges of such curb cuts.

(B) *Industrial districts.* Centerlines of driveways leading to and from the same establishments shall not be closer than 50 feet.

### **' 153.134 OFF STREET LOADING.**

The number of off-street loading berths required by this section shall be considered as the absolute minimum, and the developer should evaluate his own needs to determine if they are greater than the minimum specified by this section. For purposes of this section, an off-street loading berth shall have minimum plan dimensions of 12 feet by 25 feet, and 14 feet clearance with adequate means for ingress and egress.

(A) For a nonresidential structure containing not more than 25,000 square feet of gross floor area, one berth shall be required.

(B) For a nonresidential structure containing 25,000 or more square feet of gross floor area, the number of berths specified in the table below shall be provided.

<b><i>Square Feet of Gross Floor Area</i></b>	<b><i>Required Number of Berths</i></b>
25,000 to 79,999	2
80,000 to 127,999	3
128,000 to 191,999	4
192,000 to 255,999	5
256,000 to 319,999	6
320,000 to 400,000	7
Each 90,000 above 400,000	1

### ***HOME OCCUPATIONS***

#### **' 153.145 HOME OCCUPATIONS.**

(A) A home occupation as defined in ' 153.025 is a permissible use and shall be governed by the following requirements and conditions:

(1) The occupation is clearly incidental to or secondary to the residential use of a dwelling unit and occupies not more than one-third of the total floor area of such single-family dwelling unit, and in no event contains more than 500 feet of floor area.

(2) Only one additional person other than those residing in the home shall be engaged in the occupation.

(3) The home shall continue to be used principally as a dwelling.

(4) The occupation shall not include the retail sale of products.

(5) Home occupations shall be permitted only in single-family dwellings.

(6) Full compliance with all state and local sanitary and health department rules and regulations, as written and hereafter amended.

(B) In connection with the operation of a home occupation, it shall not be permitted:

(1) To have exterior displays, signs, or a display of goods visible from outside.

(2) To store materials or products outside of a principal or accessory building or other structure.

(3) To make external structural alterations which are not customary in residential buildings.

(4) To produce offensive noise, vibration, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, or other objectionable effects.

(C) Home occupations may consist of personal services listed as follows:

- (1) Accountant.
- (2) Beauty shop.
- (3) Drafting.
- (4) Notary public.
- (5) Addressing service.
- (6) Barber shop.
- (7) Insurance agent.
- (8) Photographer.
- (9) Typing service.
- (10) Art teacher.
- (11) Music teacher.
- (12) Tax consultant.
- (13) Catering.

#### **' 153.146 SATELLITE RECEIVERS.**

A satellite receiver as defined in ' 153.025 is permitted and shall be governed by the following requirements:

(A) A satellite receiver shall be permitted as an accessory use in all Residential and OI Office and Institutional Districts.

(B) It shall be prohibited to temporarily or permanently place a satellite receiver in the area between the building front setback line and the street in any Residential or OI Office and Institutional Districts.

(C) Satellite receivers will be permitted to encroach into the required rear and side yard setbacks of Residential or OI Office and Institutional Districts to a point no closer than five feet from a property or lot line.

(D) Satellite receivers will be limited to the maximum lot coverage requirements of the particular zone in which they are located.

(E) Satellite receivers will be permitted in all commercial and industrial districts and will be governed by the applicable regulations of these particular zones.

**' 153.147 TELECOMMUNICATIONS FACILITIES.**

(A) *Facilities allowed.* Telecommunications facilities, including cellular antennae and wireless communications towers and facilities, are allowed, subject to the following conditions:

(1) *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 Town Council for compliance with these requirements. To ensure the safety of the public and other existing buildings, the telecommunications site shall be a minimum of 350 feet from residentially zoned property.

(2) *Co-location.* Approval for a proposed tower within a radius of 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 co-location agreement could not be obtained at a reasonable market rate and in a timely manner.

(3) *Height.*

(a) Subject to division (A)(3)(b) of this section, the height of the tower shall not exceed 160 feet as measured from existing grade of the ground at its base to the highest point of the tower or antennae. Up to an additional 120 feet of height may be approved if the tower is designed to accommodate twice the applicant's antennae requirements.

(b) Telecommunications antennae or equipment mounted on a building shall meet all height restrictions of the district within which the structure is located and not exceed the maximum requirements.

(4) *Setbacks.* All free-standing transmission towers, including television, radio, cellular, or similar transmitting or receiving towers shall have front, side and rear setbacks of 100 feet and shall be located such that all supporting cables and anchors are contained within the property and all towers and supporting cables and anchors shall be contained within a fence. Any tower that is over 100 feet in height shall provide front, side and rear setbacks equal to the height of the proposed tower. All monopole structures may reduce the required setback factor by 25%.

(5) *Existing towers.* Existing towers may be replaced or modified providing that the existing height is not exceeded by more than 20 feet and the new or modified tower meets all of the requirements of this section except setback provisions.

(6) *Replacement of towers.* Those nonconforming towers that are erected and in use prior to May 14, 2012, can be replaced to their then current height if completely destroyed by natural causes and only if the applicant presents engineering data to the Town Council that the replacement tower poses no substantial threat to the surrounding property owners.

(7) *Non-conforming towers.* All non-conforming transmission towers existing as of the effective date of this section may be replaced if damaged by no more than 50%. Those towers that are located prior to May 14, 2012 can be replaced to their current height if completely destroyed by natural causes and only if the applicant presents engineering data to the Town Council that the replacement poses no threat to the surrounding property owners.

(8) *Abandoned towers.* Any tower, antenna, accessory structure, or equipment that is not used for communication purposes for more than 180 consecutive days shall be considered abandoned; and once considered abandoned, the tower and all structures, buildings, fences, cables, anchors and wiring shall be removed by the owner within 90 days.

(9) *Removal of towers.* Where removal of any tower, antenna, accessory structure, or equipment is planned or required herein, a performance bond in the amount of the anticipated removal costs of all such structures, buildings, fences, cables, anchors and wiring as determined by a North Carolina registered engineer is required.

(B) *Telecommunication facility plans.* No telecommunications facility shall be constructed or permitted without a set of facility plans bearing an engineer's seal that has been filed with and approved by the Zoning Administrator and Building Inspector. Telecommunications facility plans shall contain the following:

(1) *Fee.* A fee determined by the town's fee schedule.

(2) *Narrative.* A written narrative of the development plan.

(3) *Development impact statement.* The impact on the environment (trees, run-off, waste disposal, emissions, historic property impact, and impact on other properties).

(4) *Co-location on existing towers.* Documentation that co-location on existing towers or structures within a radius of 10,500 feet was attempted by the applicant but found unfeasible by the applicant with reasons noted.

(5) *Co-location on proposed tower.* A notarized affidavit that states the applicant's willingness to allow co location on the proposed tower, at a fair market price and in a timely manner, of any other service provided and licensed by the Federal Communications Commission (FCC).

(6) *Site plan.* A site plan is required. The Zoning Administrator shall uniformly determine the level of detail for the required site plans.



(7) *Other permits.* Copies of all county, state, and federal permits with the application building permit.

(8) *Elevation drawings.* Elevation drawings of all towers, antennae, and accessory structures and equipment, indicating height, design, and colors.

(9) *Landscape plan.* If visible from any public road, a landscape plan at a scale of one inch equals 40 feet shall indicate 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.

(10) *FCC and FAA certifications.* 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.

(11) *NEPA compliance.* 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.

(12) *Structural requirements.* Documentation signed and sealed by a North Carolina registered engineer that indicates any proposed tower, structure, building, cables, anchors and wiring meets the structural and support requirements of the Standard Building Code and the co-location requirements of this section.

(13) *Liability.* The tower owner shall provide proof of liability insurance or financial ability to respond to claims up to \$1,000,000 in the aggregate, which may arise from the erection and/or operation of the facility during its life at no cost to the Town of Plymouth, in a form approved by the Town Attorney. The proof of insurance shall be provided to the town before the tower is constructed and during each year of the tower's existence, without regard to its actual operation. Copies of any policy cancellation, revision or renewal shall be provided to the town by the owner and or the insurer.

(14) *Other approvals, certifications, or recommendations.* 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 Zoning Administrator.

(15) *Special use.* The allowance of telecommunication facilities shall be a special use and allowed in districts zoned light industry (IL) or Heavy Industry (IH) in the Town of Plymouth, NC.

**' 153.148 HOME BASED BUSINESS.**

(A) A home based business as defined in ' 153.025 is allowed and shall be governed by the following requirements and conditions:

(1) The occupation is clearly incidental to or secondary to the primary residential use of the property. The home based business may be situated in a detached accessory structure; however, the accessory structure must comply with the terms of the North Carolina State Building Code and with all local zoning and building codes and state/county/local mandated health and safety regulations. Accessory structure may not be larger than the principle dwelling;

(2) Only two person other than those residing in the home shall be engaged in the occupation;

(3) The home shall continue to be used principally as a dwelling;

(4) The occupation which may include the sale of products directly associated with the allowed business activity, shall be conducted between the hours of 8:00 a.m. and 6:00 p.m.;

(5) Home based businesses must be located more than 500 feet from the nearest residential structure on any adjacent property; and

(6) Applicant must secure a special use permit from the Town of Plymouth Board of Adjustment.

(B) In connection with the operation of a home occupation, it shall not be permitted:

(1) To have exterior displays, or a display of products visible from or on the adjacent right-of-way;

(2) To store materials or products outside of a principal or accessory building or other structure that is not screened with either a landscaped, vegetative buffer or fencing; and

(3) To produce offensive noise, vibration, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, or other objectionable effects.

(C) Home based business may consist of services listed as follows:

(1) Screen printing;

(2) Wood working;

(3) Storage for contractor services;

(4) Appliance repair;

(5) Those activities listed as home occupations under ' 153.145; and

- (6) Other home based businesses deemed comparable to those listed above by the Plymouth Board of Adjustment.

### ***ADMINISTRATION AND ENFORCEMENT***

#### **' 153.160 ENFORCING OFFICER.**

The Town Manager or his agent shall administer and enforce this chapter. This individual shall be designated Zoning Administrator by the Town Manager and shall accept the duties outlined in ' 153.161.

#### **' 153.161 DUTIES OF ZONING ADMINISTRATOR.**

(A) The Zoning Administrator shall act under the provisions of Zoning Board of Adjustment law (G.S. ' 160D-402), which provides for the decisions of an administrative official charged with the enforcement of any ordinance adopted pursuant to this Part.

(B) Pursuant to this and other authorities set out in state law, the Zoning Administrator will be responsible for the processing, review, and enforcement of all provisions adopted as part of this chapter. These activities will consist of, but not be limited to, the following:

- (1) Receipt of applications for permits.
- (2) Issuance or denial of permits.
- (3) Documentation of reasons for denial of permits.
- (4) Issuance of certificates of occupancy or compliance.
- (5) Posting and/or mailing of notices.
- (6) Issuance of stop orders pursuant to violations.
- (7) Revocation of permits.
- (8) Issuance of certificates of occupancy for nonconforming uses.
- (9) Receipt of notices of appeal.
- (10) Maintain file of documentation of individual cases.
- (11) Initiate all actions related to the above activities.
- (12) Serve as staff to Planning Board and Zoning Board of Adjustment.
- (13) Explain the chapter requirements to the public.

(C) If inspecting, the Zoning Administrator or Enforcement Officer must enter the premises during reasonable hours and upon presenting credentials; must have consent of premises owner or an administrative search warrant to inspect areas not open to the public.

(D) Must provide written notice of determination by personal delivery, electronic mail, or first-class mail to the property owner and party seeking determination, if different from the owner. (G.S. 160D-403(b).)

#### **' 153.162 ENFORCEMENT ACTIONS.**

Upon the finding of any inappropriate or illegal activities on the part of any citizen which would violate the provisions of this chapter, a written notice of violation shall be given to the holder of the development approval and property owner and may also be given to the occupant or person undertaking the work or activity on property. The person providing the notice of violation shall certify to the local government that the notice was provided. The notice of violation shall indicate the following:

(A) The nature of the violation.

(B) The action necessary to correct the violation.

(C) The date by which corrective action should be taken and completed.

(D) The action which will take place if such corrective action is not taken.

(E) When such action has not been taken or is deemed inadequate based upon division (B), an order for the discontinuance of the use or occupation of any land, building, or structure or any illegal additions, alterations, or structural changes thereto may be issued.

(F) Any other action authorized by this chapter to ensure compliance with, or to prevent violation of, any provisions of this chapter.

(G) Such actions may be appealed as provided in ' 153.180.

#### **' 153.163 ZONING PERMIT REQUIRED.**

No building or other structure shall be erected, moved, added to, or structurally altered until a Zoning Permit shall have been issued, except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. No building permit for the purpose of erection, extension, or alteration of any building shall be issued before an application has been made and a Zoning Permit issued.

(A) A Zoning Permit is also required in advance of:

(1) A change in use of any building, land, or renovation thereof; and

(2) Occupancy or use of a building hereafter erected, altered or moved.

(B) A Zoning Permit shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter.

**' 153.164 COMPLIANCE PROCEDURES.**

All applications for a Certificate of Zoning Compliance shall be accompanied with the following before acceptance.

- (A) Plans showing the dimensions and shape of the parcel to be built upon.
- (B) The exact size, uses, and location on the parcel of any existing building.
- (C) The exact size, uses, and location on the parcel of any proposed building.
- (D) The total number of dwellings, commercial uses, or industrial units if more than one is located on the parcel.
- (E) Other information as may be necessary to determine conformance with and provide for the enforcement of this chapter.

**' 153.165 PROCESSING OF APPLICATION; PLANS AND FEES.**

The following will be the minimum requirements set forth for processing and review of an application.

- (A) (1) Two copies of the application shall be provided for the Zoning Administrator.
  - (2) One copy shall be returned to the applicant by the Zoning Administrator, either approved or disapproved and attested to name by this signature on such copy.
  - (3) One copy, either approved or disapproved, and attested to same by Zoning Administrator shall be retained on file by the town.
- (B) A fee schedule appears in ' 153.167.
- (C) A development approval shall be provided in writing and the application must be made by the person with a property interest or a contract to purchase the property or authorized agent of the landowner. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to G.S. 160D attach to and run with the land.

**' 153.166 MISREPRESENTATIONS AND MISUNDERSTANDINGS.**

Any misunderstanding or misrepresentation, either verbal or written in any form, such as a permit, conveyed by the town staff or anyone representing the town shall be ultimately resolved by this chapter. If further doubt is still present, the Board of Adjustment will resolve the

issue. The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

**' 153.167 FEE SCHEDULE.**

**Planning, Zoning, and Land Use Regulation/Disturbance Fees**

<i><b>DESCRIPTION</b></i>	<i><b>FEE</b></i>
Zoning Compliance Certificate/Permit	\$50
Sign Permit	\$25
Driveway Permit Fee Town streets only	\$25
Rezoning Request	\$200-\$350 + \$10/AC
Board of Adjustment Cases	
Variance	\$200
Appeals from Zoning Administrator Interpretation of ordinance	\$200
Special Use Permits	\$250
Planned Unit Developments	
Town Home Type Developments	
Multi-use (non-residential) buildings	
Zoning Ordinance text amendment (only)	\$100
Zoning Ordinance text and map amendment	\$100
Annexation Petition (voluntary)	\$50
Sketch Plan Review	\$100
Preliminary Plat (Subdivision)	\$200

<i><b>DESCRIPTION</b></i>	<i><b>FEE</b></i>
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Preliminary Plat Minor Alternations (Post Planning/Town Board Recommendation/Consideration)	\$200
Final Plats (Subdivision)	\$200
Final Plats (Subdivision) Minor Alternations	\$200 \$50
Site Plans, including, but not limited to: Non-residential Landscape Plan Town Home Developments Planned Unit Development Apartments	\$200
Site Plan Minor Alterations (Requested in writing by owner/applicant)	\$50
Landscape Plans (Submitted subsequent to initial/original plan)	\$50
Landscape Plans Minor Alterations (Requested in writing by owner/applicant)	\$50
Erosion and Sedimentation Control Plan	\$200
<b>NOTES:</b> (1) Disturbed acreage is that area, which is to be cleared, graded, ditched, etc. in a manner where the actual soil is disturbed. (2) A phase of development is defined as the area of a project which is graded in one continuous operation, under one contract, containing the improvements required for the approval of the same final plat or secured by the same financial guarantee. Plans submitted for a whole development but constructed in phases will require submission fees for each phase, payable in full with the original application. Changes in disturbed areas or increase by exceeding the limits of construction as noted on the approved plans will require a revised plan and additional fees.	

<i><b>DESCRIPTION</b></i>	<i><b>FEE</b></i>
Copy charges for maps and drawings maintained by the Town:	
Zoning Map, ETJ, and Land Use Color copies	\$25
Copies of maps on file Black and white copies	\$10
Copy charges for ordinances: Zoning Subdivision	\$25 \$25

### ***BOARD OF ADJUSTMENT***

#### **' 153.175 CREATION OF BOARD.**

There is created a Board of Adjustment, hereinafter referred to as the Board, consisting of five regular members and two alternates. Four of the regular members and one alternate shall be appointed by the Town Council. One regular member and one alternate shall be appointed by the Washington County Board of Commissioners. The members of the Board serving on the effective date of this chapter, under the zoning chapter prior hereto, shall be considered as the five members to be appointed by the Town Council, and each shall serve the balance of the term to which he has been appointed. Those members so appointed by the Board of Commissioners shall also extend their appointment through the remainder of their designated term. Such members shall serve until his successor is appointed and qualified.

***Statutory reference:***

*Board of Adjustment, see G. S. ' 160D-302*

#### **' 153.176 APPOINTMENT OF MEMBERS.**

(A) The appointment of members to the Board shall comply with the following procedures and the criteria set forth in ' 153.177.

(1) *Municipal members.* In January of each year, the Town Council shall review all appointments, making any necessary new appointment for a term beginning on January 13 of the year of the appointment.

(2) *Extraterritorial members.* The ETJ population estimate must be updated at least with each decennial census for proportional representation on the board.



(3) *Duration of appointments.* All appointments shall be for three-year terms unless otherwise designated. Any appointment made to fill an unexpired term shall extend to the original expiration date of such unexpired term. Members may serve no more than two consecutive terms.

(4) When in session the Board of Adjustments will maintain an accurate attendance record and ensure that absent members' names are included within the proceedings minutes. BOA will be allowed two absences during a 12 consecutive month period, upon a third absence this absence will be considered as a resignation from the BOA.

(5) When a vacancy occurs (excluding an ETJ member), the senior alternate will be considered for the vacancy by the Plymouth Town Council at the next scheduled council meeting, and may be appointed to fill the remainder of the term of the resigned member, or take any action the Town Council deems prudent.

(6) All members appointed shall, before entering their duties, qualify by taking an oath of office.

#### **' 153.177 QUALIFICATIONS OF MEMBERS.**

The following represent the minimal requirements of appointed members to the Board.

(A) *Municipal members.* These members shall have a permanent residence within the corporate limits of the town and shall so reside during their term of appointment.

(B) *Extraterritorial members.* These members shall have permanent residence within the extraterritorial planning area of the town and shall so reside during their term of appointment.

#### **' 153.178 BOARD OF ADJUSTMENT MEETINGS.**

The Board shall elect one of its members as Chairperson and shall elect such subordinate officers as authorized by the Town Council. The Board of Adjustment will follow statutory procedures for all quasi-judicial development decisions, including variances, special use permits, and appeals of administrative determinations. For decisions requiring a quasi-judicial process all mandatory procedures outline in G.S. 169D-406 will be followed. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the majority of the Board may determine. Such Chairperson or, in his absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. 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.

**' 153.179 RESPONSIBILITIES OF THE BOARD OF ADJUSTMENT.**

The responsibilities of the Board of Adjustment shall include the following actions:

(A) *Exceptions.* The Board shall pass on exceptions to the zoning code through the variance procedures outlined in ' 153.182.

(B) *Map.* The Board may interpret any conflicts or questions arising from the official zoning map.

(C) *Boundaries.* The Board may pass upon disputed questions of lot lines or zoning district boundaries.

(D) *Interpretation of ordinance.* The Board shall provide for the enforcement of this chapter and regulations prescribed in its adoption.

(1) The Board shall hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case; the evidentiary hearing must have testimony under oath; must establish written findings of fact and conclusions of law. (G.S. 160D-406.)

(2) The Board chair shall rule at the evidentiary hearing on objections to inclusion or exclusion of administrative material; such ruling may be appealed to the full board. (G.S. 160D-406(d).)

(3) The Board shall allow parties with standing to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; may allow non-parties to present competent, material, and substantial evidence that is not repetitive. (G.S. 160D-406(d).)

(E) *Administrative questions.* The Board shall pass on administrative questions and their modification based upon the enforcement of this chapter. In so doing, the Board may prescribe appropriate conditions and safeguards to protect the continuing application of this chapter.

(F) *Filing fee.* To hear and decide any appeal or review any order, requirement, decision or determination by the Zoning Administrator, a fee, as stated in ' 153.167, shall be paid to the town to cover advertising and administrative expenses. In the case of an appeal that is subsequently decided in favor of the applicant, the fee shall be returned to the applicant upon his request within 30 days of the overturning decision. The applicant is responsible for the burden of initiating the reimbursement.

(G) Members of the Board of Adjustment 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 not 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.

**' 153.180 APPEALS.**

(A) Any citizen may bring before the Board of Adjustment an appeal concerning any action related to the enforcement of this chapter.

- (1) *Administrative Determination.* An aggrieved individual shall have thirty-days (30) to file an appeal for an administrative determination. It will be presumed that if the notice of determination was sent by mail, it was received on the third business day after it was sent.

(B) Appeals procedure. Such appeals must adhere to the following procedures:

- (1) Provide written notice of an appeal to Zoning Administrator. The official who made the decision (or his or her successor if the official is no longer employed) is required to appear as a witness in the appeal. (G.S. 160D-406.)
- (2) The reasons and circumstances for the appeal.
- (3) The corrective actions which are requested.
- (4) The concurring vote of four members shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is required to pass under the provisions of this chapter.
- (5) Appeal from the decision of the Board of Adjustment shall be to the Superior Court of Washington County. By statute, review of BOA decisions is by the court.
- (6) All enforcement actions, including fines, shall be paused during the appeal process.
- (7) Appeals of Administrative Decisions shall go directly to the Board of Adjustment.

**' 153.181 HEARING PROCEDURES.**

(A) Upon notification by the Zoning Administrator that the requirements of ' 153.180 have been fulfilled by the applicant, the case shall be addressed by the Board of Adjustment.

(B) The following procedures shall be observed by the Board of Adjustment.

- (1) A reasonable time shall be fixed, not to exceed 30 days from notification, for the hearing of such appeals.

(2) Appropriate public notice of the hearing shall be provided to the appellant by the Board of Adjustment, with time, place, and date of the hearing.

- (3) Fifteen days' notice shall be given adjoining property owners.

(4) At the hearing, the Board shall make a determination as to the appeal. Town Council shall be informed of such action and the Zoning Administrator shall enforce the ruling. All action shall be based upon a four-fifths majority vote of the Board of Adjustment according to the general statutes of the state.

#### **' 153.182 VARIANCES.**

(A) Based upon the procedures outlined in ' 153.181, a variance from the terms of this chapter may be granted.

(B) All of the following must be observed by the Board of Adjustment in the granting of any variance.

(1) The variance will not be contrary to the public interest.

(2) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(3) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(4) That the special conditions and circumstances do not result from the actions of the applicant.

(5) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same zoning district.

### ***CHANGES AND AMENDMENTS***

#### **' 153.190 RESPONSIBILITY.**

It shall be responsibility of the Town Council to amend, supplement, or change the text, regulations, and zoning map according to the procedures outlined below:

(A) Shall refer request to the Planning Board (see ' 153.192) outlining actions to be addressed.

(B) Shall provide the Planning Board with 35 days to render a recommendation.

(C) Shall provide notice and public hearing pursuant to ' 153.191 of this subchapter.

(D) Shall act upon the request after the public hearing is conducted in accordance with ' 153.191 during any properly scheduled meeting and/or at the next regularly-scheduled meeting following the public hearing process in accordance with ' 153.191.

#### **' 153.191 NOTICE AND PUBLIC HEARING.**

The following prescribe the requirement concerning timing and content of notice for the purpose of public hearing:

(A) A notice of public hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the town. (Such notice shall be published the first time not less than ten days nor more than twenty-five days prior to the date scheduled for such public hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.)

(B) The notice shall contain all pertinent information related to the change, indicating the area affected by recognizable landmarks and the exact change being requested citing the sections of this chapter so affected.

(C) *Zoning Map Amendment.* 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 addresses listed for such owners on the county tax abstracts. Properties are "abutting" even if separated by a street, railroad, or other transportation corridor.

(1) This notice must be deposited in the mail at least ten but not more than twenty-five days prior to the date of the hearing.

(2) 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. It shall be posted within the same time period specified for mailed notices of the hearing.

(3) 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.

#### **' 153.192 PLANNING BOARD RESPONSIBILITY.**

The Planning Board (see ' 153.194) shall be the Advisory Board to the Town Council on the following matters related to the content of this chapter:

(A) *Types of review.* The Planning Board shall act on the following and make appropriate recommendations to the Town Council concerning matters outlined below.

(1) Every proposed amendment, supplement, change, modification, or appeal to this chapter shall be referred to the Planning Board for its recommendation and comment on consistency with adopted plans.

(2) All requests for a change in the official zoning map shall include a description of the property involved and the names and addresses of current abutting property owners. (Note: All necessary fees to cover costs of advertising as required by this chapter shall be collected.)

(3) Periodically review the district designations to ensure that land development is taking place within the intent of this chapter and its parts.

(B) *Meeting Procedures*

(1) Minutes shall be kept of all proceedings.

**' 153.193 PLANNING BOARD COMPOSITION.**

The following shall represent the composition of the Planning Board and govern its appointment:

(A) The Planning Board shall consist of five regular members and three alternates.

(1) *Municipal members.* Four regular members and the three alternates shall be permanent residents within the corporate limits of the town.

(2) *Extraterritorial members.* At least one regular member shall be a permanent resident of the extraterritorial planning area of the town. (Note: This member shall have equal rights, privileges, and duties with the municipal members of the Planning Board regardless of whether the matters at issue arise within the extraterritorial planning area or within the corporate limits.) The extraterritorial jurisdiction population estimate shall be updated with every decennial census with representation on the board proportional as defined by G.S. 160D-307.' **153.194 PLANNING BOARD APPOINTMENTS.**

The following will guide the appointment of the appropriate members as outlined ' 153.194.

(A) *Responsibility of appointments.*

(1) *Municipal members.* These four members shall be appointed by the Town Council.

(2) *Extraterritorial member.* ETJ population estimate must be updated at least with each decennial census for proportional representation on the board.

(3) All members appointed shall, before entering their duties, qualify by taking an oath of office.

(B) *Time of appointment.*

(1) *Date.* In January of each year, the Town Council and the County Board of Commissioners shall appoint new members to the Planning Board for a term beginning on January 13 of the year of the appointment to last for three years, provided that nothing in this section shall be construed to affect the term of any member incumbent on the effective date of this chapter. Each year the Town Council may reaffirm members for up to nine years or take any action concerning membership the Town Council determines is appropriate.

(2) *Terms.* Planning Board members shall each serve three-year, staggered terms with each member serving until his/her successor is appointed and qualified. Planning Board members may serve up to nine years. Members are allowed to miss three Planning Board meetings during any 12 month period. Upon the fourth absence this shall constitute a voluntary resignation from the Planning Board.

(3) *Vacancy.* Any vacancy in the membership of the Planning Board other than by reason of the expiration of term of office shall be filled when such vacancy occurs for the unexpired term only. The vacancy shall be filled by the most senior alternate board member. The Town Council shall affirm the appointment of the alternate to the Planning Board or take any action the Town Council deems prudent at the next scheduled Town Council meeting.

**' 153.195 CITIZEN COMMENT.**

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) ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the Town Council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705 or any other statute, the 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.

**' 153.196 FINAL ACTION.**

(A) *Hearing.* The Town Council shall hold a legislative hearing to consider an amendment.

(B) *Vote of Council.* The Board shall permit the adoption of an amendment on first reading by simple majority.

(C) *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 or land use 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 Town Council was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan or land use plan.

(D) *Statement of Reasonableness.* A statement of reasonableness shall be provided by the Town Council for zoning map amendments. This statement may consider factors specified in N.C.G.S. 160D-605(b).

(E) *Inconsistent Map Amendment.* If a zoning map amendment is adopted and the action is 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 request or application for a plan amendment shall be required.

(F) *CAMA.* For a future land use map that is deemed amended, if it is a CAMA plan, then such amendment is not effective until it goes through the CAMA plan-amendment process (N.C.G.S. 160D-501).

#### **' 153.197 THIRD-PARTY DOWN-ZONINGS PROHIBITED.**

No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it 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 or the landowner.

### ***STATUTORY VESTED RIGHT PROVISIONS***

#### **' 153.205 PURPOSE.**

The purpose of this subchapter is to implement the provisions of G.S. ' 160D-108 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

#### **' 153.206 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***APPROVAL AUTHORITY.*** The Town Council, Board of Adjustment or other board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.



***SITE SPECIFIC DEVELOPMENT PLAN.*** A plan of land development submitted to the town for purposes of obtaining one of the following zoning or land use permits or approvals:

- (1) A zoning permit (when filed in accordance with ' 153.113).
- (2) A special use permit (when filed in accordance with ' ' 153.050 - 153.053).
- (3) A variance (when filed in accordance with ' 153.115).
- (4) Subdivision Review Procedures (when filed in accordance with 155.55 through 155.58 of this chapter).

Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

***ZONING VESTED RIGHT.*** A right pursuant to G.S. ' 160D-108 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

#### **' 153.207 ESTABLISHMENT OF A ZONING VESTED RIGHT.**

(A) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Town Council or Board of Adjustment, as applicable, of a site specific development plan, following notice and legislative or quasi-judicial hearing.

(B) The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.

(C) Notwithstanding divisions (A) and (B) of this section, approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

(D) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.

(E) The establishment of a zoning vested right shall not preclude the application of overlay zoning 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 land-use regulation by the town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this chapter.

(F) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

#### **' 153.208 APPROVAL PROCEDURES AND APPROVAL AUTHORITY.**

(A) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(B) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the town, that a zoning vested right is being sought.

(C) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: Approval of this plan establishes a zoning vested right under G.S. ' 160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until (date).

(D) Following approval or conditional approval of a site specific development plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals 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.

(E) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this chapter.

(F) The applicant shall not be made to wait for final action on a proposed change before proceeding if the applicant elected determination under prior rules.

#### **' 153.209 DURATION.**

(A) A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to division (B) of this section. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(B) Notwithstanding the provisions of division (A) of this section, the approval authority may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions. These determinations shall be in the

sound discretion approval authority at the time the site specific development plan is approved. Multi-phase developments, which shall be defined as long-term projects of at least 25 acres shall be vested up to seven (7) years.

(C) Upon issuance of a building permit, the expiration provisions of G.S. ' 160D-111 and the revocation provisions of G.S. ' 160D-1115 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(D) If a building permit is issued, that permit shall be valid for 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.

#### **' 153.210 TERMINATION.**

A zoning right that has been vested as provided in this chapter shall terminate:

(A) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(B) With the written consent of the affected landowner;

(C) Upon findings by the Town Council, by ordinance after notice and a public 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, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

(D) Upon payment to the affected landowner of 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 approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

(E) Upon findings by the Town Council, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

(F) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

(G) All revocations of development approvals shall follow the same process that was used for the approval.

**' 153.211 VOLUNTARY ANNEXATION.**

A petition for annexation filed with the town under G.S. ' 160A 31 or G.S. ' 160A 58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G. S. ' 160D-108. A statement that declares that no zoning vested right has been established under G.S. ' 160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(Ord. 91-6, passed 8-12-91)

**' 153.212 LIMITATIONS.**

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G. S. ' 160D-108.

**' 153.213 REPEALER.**

In the event that G. S. ' 160D-108 is repealed, this subchapter shall be deemed repealed and the provisions hereof no longer effective.

***SPECIAL USES***

**' 153.220 APPLICATION FOR SPECIAL USE PERMIT.**

Special uses add flexibility to the Zoning Code by allowing uses which would otherwise be undesirable to be established in designated districts under conditions imposed by the Board of Adjustment. Applications for special use permits shall be filed with the Zoning Administrator, who shall transmit the application to the Board of Adjustment. After a evidentiary hearing, as required by " 153.175 through 153.182, the Board of Adjustment may grant permission to establish special uses as permitted in the district regulations, if the Board of Adjustment finds that:

- (A) The proposed use does not affect adversely the general plans for the physical development of the town as embodied in these regulations and in any plan or portion thereof adopted by the Planning Board.
- (B) The proposed use will not be contrary to the purposes stated for these regulations.
- (C) The proposed use will not affect adversely the health and safety of residents and workers in the town.

(D) The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses.

(E) The proposed use will not be affected adversely by the existing uses.

(F) The proposed use will be placed on a lot of a sufficient size to satisfy the space requirements of that use.

(G) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.

(H) The standards set forth for each particular use for which a permit may be granted have been met.

(I) The Board of Adjustment will follow the quasi-judicial process as outlined in G.S. 160D-406 when reviewing special use permit applications and will not impose conditions on the special use permits that are not within the statutory authority to impose as stated in G.S. 160D-705(c).

(J) The proposed use shall be subject to the minimum area, setback, and other locational requirements of the zoning district in which it would be located.

(K) The proposed use shall be subject to the off-street parking and service requirements of these regulations.

(L) Wherever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions, or restrictions, upon which such permit was granted are not being with, the Board shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a evidentiary hearing.

(M) The Board shall obtain the applicant's/landowner's written consent to conditions related to a special use approval to ensure enforceability.

#### **' 153.221 EFFECT UPON SPECIAL USES.**

Those uses which existed prior to the effective date of this chapter, or any amendments thereto, and permitted only as special uses in the district in which they are located, or had received a special use permit from the Board of Adjustment, shall be considered to be legally established special uses. Any expansion, addition, or other change for which a zoning certificate is required shall be heard, considered, and approved or disapproved by the Board of Adjustment in the same manner as an original application for special use approval.

**' 153.222 REQUIREMENTS FOR CERTAIN SPECIAL USES.**

The Board of Adjustment may grant permission for the establishment of the following uses in specified districts, under the following suggested conditions or any additional specific conditions set forth by the Board.

(A) *Bulk fuel storage areas.* Above-ground fuel tanks used for commercial wholesale or retail purposes shall be enclosed with a fence at least six feet high.

(B) *Cemeteries.*

- 1) All cemeteries shall have a minimum area of 8,500 square feet.
- 2) Cemeteries must be enclosed by a fence or wall.
- 3) All burial plots shall be setback a minimum of:
  - a. Fifteen (15) feet from the front property line
  - b. Ten (10) feet from the side property line
  - c. Fifteen (15) feet from the rear property line
  - d. Fifty (50) feet from any existing wells
  - e. Fifty (50) from the high-water mark of any spring, stream, lake reservoir of other known source of water, and shall not be located in a special flood hazard area.
- 4) All cemeteries shall comply with all applicable local, state and federal environmental and public health laws (including the requirements of N.C.G.S 65). Burials within a family cemetery must be supervised by a licensed funeral director.
- 5) Human remains shall be buried beneath the surface of the ground and shall be indicated by a permanent visible marker or monument.
- 6) The owner of any property which contains all or part of a cemetery is responsible for maintaining the cemetery in compliance with the Town of Plymouth's General Regulations, Chapter 94, entitled "Garbage, Refuse and Weeds".
- 7) Operators of all commercial cemeteries must be properly licensed through the North Carolina Cemetery Commission.

(C) *Dry cleaning, laundry.* According to district requirements providing the applicant shows adequate safe storage and disposal of chemicals, and control of noise and heat to surrounding buildings.

(D) *Elementary and middle schools/hospitals/emergency service ingress-egress areas.* The minimum distances between these uses and commercial or manufacturing uses which generate heavy traffic flows or extensive congestion shall be 300 feet.

(E) *Home occupations.* See ' 153.145

(F) *Junk yards/salvage yards.*

(1) The minimum front, side, and rear yards shall be 50 feet.

(2) The storage area shall be screened by a continuous visual barrier at least eight feet in height.

(3) Salvage auto parts shall not be allowed to collect water, which provides a breeding ground for mosquitoes or other insects, nor harbor breeding grounds for rats or other rodents.

(G) *Kindergartens or day care.* Kindergartens and day care facilities may be permitted subject to the requirements of the district provided that:

(1) At least 100 square feet of outdoor play area is supplied for each child accommodated; and

(2) The entire play area is enclosed by a fence having a minimum height of four feet, with child-proof gate latches, and constructed in such a manner that ensures maximum safety of the children.

(H) The development of any multi-family residential project within either the C1 or O&I zoning districts shall not involve the demolition of any structure listed as historic with the North Carolina State Historic Preservation Office.

(I) *Public utility facilities.* All water treatment and sewage disposal facilities, sanitary landfills, electric or telephone substations or other utility facilities shall be subject to site plan review.

(J) *Veterinary hospital/clinic/animal boarding/kennel.* Subject to all other related provisions of this chapter, this use should comply with the following:

(1) Minimum lot size of 15,000 square feet.

(2) Minimum lot width of 100 feet.

(3) Minimum front yard setback of 50 feet.

(4) Maximum lot coverage of 50%.

(5) Visual buffers will be required when boarding space is provided outside the principal structure.

(6) This use could be allowed on a low intensity basis at the discretion of the Board of Adjustment, provided all safety and nuisance concerns are identified and addressed.

(K) *Shopping centers.* Shopping centers are allowed as special use in the C2 District after extensive site plan review and approval by the Planning Board.

(L) *Adult use business.*

(1) *Definition. ADULT USE.* Any principal or accessory use which excludes minors by reason of age. This definition does not apply to applicable alcoholic beverage laws or voluntary restrictions of the motion picture industry.

(2) Conditions and requirements.

(a) No adult use business may be located closer than 1,000 feet to the nearest:

- Residential Zone
- House of worship
- Day Care Center
- School
- Public Park
- Public Library
- Cemetery
- Motion picture theater regularly showing G or PG rated movies to the public
- Any other area where large numbers of minors regularly travel or congregate

(b) All windows, doors, openings, entries, and the like for all adult uses shall be so located, covered, screened, or otherwise treated so that views into the interior of the establishment are not possible from any public or semi-public area, street, or way.

(c) The lot containing the adult use shall not be located within a 1,000 feet radius of another lot containing an adult use.

(d) All buildings used for permitted adult uses must be designed in such a way as to prevent the escape of noise from the premises.

(M) Other special uses will be reviewed as to health, safety, and general nuisance risk and will be subject to conditions recommended by staff and determined by the Board of Adjustment.

(N) The requirements placed upon a special use applicant by the Board of Adjustment shall specifically and in entirety be reduced to written form. The requirements shall be written specifically enough as to delineate precisely and unambiguously the requirements set forth by the Board in the issuance of the special use permit. The written requirements are to be signed by the Board of Adjustment Chairman, Zoning Administrator, and the applicant prior to the issuance of the permit.



**' 153.223 SITE PLAN REVIEW.**

(A) *Purpose.* The purpose of site plan review is to protect and enhance public health, safety, and welfare, and aesthetic value of the built environment. More specifically, the purpose of this review is to encourage site planning in advance of construction so that issues of nuisance (such as noise, glare of lights, odor, unsightly or unsafe buildings and parking areas, and the like). Crime prevention, maintenance of property values, and aesthetic value can be addressed through thoughtful site design.

(B) *Where required.* Site plan review and approval shall be required for all new developments and expansion of existing developments on real property in certain districts in accordance with the provisions of this section, and no building permit or other authorization for development shall be issued prior to such approval. Site plan review shall be required for all development proposals in the Riverfront Development Overlay District, all special uses and for the following uses, whether permitted or special use, in any district:

- (1) Golf courses.
- (2) Multi-function recreational facilities/amusements.
- (3) Multi-family residential development.
- (4) Multi-use or multi-unit development on a single lot.
- (5) Shopping centers.
- (6) Mobile home parks.
- (7) Home occupations.
- (8) Parking lots.

(C) *Plans required.* Seven copies of a site plan or plans drawn to a scale of 1 inch = 100 feet shall be submitted to the town's Zoning Administrator and shall include the following:

- (1) Name and address of applicant, graphic scale, date, and North arrow.
- (2) Existing conditions. A map of the property and adjacent lands showing contours with a two feet interval; location and direction of all watercourses, floodplain, and other hazard areas; natural features; names of all platted streets, easements, and utility rights-of-way; parks and other public open spaces; structures and their uses; town boundaries; existing water mains, sewer lines; culverts and other underground facilities and their exact location.
- (3) Proposed development. A map showing the following in addition to other requirements which may be specified by the Zoning Administrator:
  - (a) Proposed land uses and densities.
  - (b) Building types and coverage.

- (c) Circulation patterns for vehicular and pedestrian traffic.
- (d) Parks, playgrounds, open spaces.
- (e) Waste disposal facilities (sewage and trash).
- (f) Lighting.
- (g) Water supply, community facilities (schools, libraries, fire stations, shopping and the like.).

(D) *Standards.* The following shall be required on all site plans and for all development reviewed:

(1) A minimum of 10% of the lot area being developed shall be landscaped, including a mix of vertical (trees) and horizontal (grass/ground cover). Major remodeling of properties in already developed sections of town shall require landscaping to the extent possible up to the 10% requirement. Landscaping shall be visible in large part from public thoroughfares.

(2) Natural landscaping shall be retained where possible to meet the landscaping requirements.

(3) Unnecessary grade changes shall be avoided. Retaining walls shall be provided where needed.

(4) Drainage shall be approved by the Zoning Administrator according to accepted engineering standards.

(5) Off-street parking shall be buffered from the street and from adjacent residential zones by means of landscaping a low fence, but not to the extent of restricting visibility necessary for safety and security.

(6) Sidewalks and curbs shall be provided in whole or in part in those locations where such amenities exist on adjacent properties.

(7) Ingress and egress locations onto public thoroughfares shall be located in the interest of public traffic safety.

(8) Parking spaces shall be designated in accordance with the requirements of this Zoning Code.

(9) There shall be reasonable access for emergency services and vehicles.

(10) Outdoor lighting shall be provided for security. Such lighting shall illuminate appropriate areas with a minimum of glare and without creating a nuisance for adjacent properties.

(11) Other specified site provisions may be required as determined by the Zoning Administrator.

(E) The following shall be required on those site plans for multi-family dwellings and for all such multiple family development:

(1) Outdoor play space shall be provided and shall constitute a minimum of 10% of the lot area. This requirement is in addition to landscaping requirements. Parking lots are not acceptable as play space. This requirement may be waived or reduced in any housing development designed and maintained exclusively as adult housing.

(2) Private or semi-private outdoor space shall be included for each unit. This may include such amenities as balconies, porches, or fenced yards.

(3) The site plan shall be designed to minimize outdoor noise.

(4) Buffer yards shall be required on those site plans for commercial and industrial uses according to the following guidelines:

Recommended Buffer Yards:

<i>Type of Use</i>	<i>Adjacent Use</i>	<i>Buffer Type</i>
Industry, light	Residential O & I	Opaque Broken
Industry, heavy	Residential Commercial O & I	Opaque Semi-Opaque Opaque
Commercial, general	Residential	Opaque
Shopping Center	Residential	Opaque

While the above categories serve as general guidelines, the Zoning Administrator may require a more intense buffer system where the type of use results in the emittance of odor, dust, smoke, fumes, noise, heat and/or vibration.

For purposes of this requirement, the following definitions shall apply:

***OPAQUE BUFFER.*** A screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque buffer is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen is composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative buffers or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity the portion of intermittent visual obstructions should not contain any completely unobstructed openings of more than ten feet. The portion of the intermittent visual obstructions may contain deciduous plants.

***SEMI-OPAQUE BUFFER.*** A screen that is opaque from the ground to a height of at least three feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. The semi-opaque buffer is intended to partially block visual contact between uses and to create a strong impression of separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative buffers or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity the portion of intermittent visual obstructions should not contain any completely unobstructed openings of more than ten feet. The portion of the intermittent visual obstructions may contain deciduous plants.

**BROKEN BUFFER.** A buffer composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen buffer is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation or existing vegetation. Compliance of planted vegetative buffers or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The buffer may contain deciduous plants.

Where building setback distances are limited due to small lot size or existing development, the town may substitute other mitigating measures of comparable effectiveness (fences, beans, walls, etc.) in place of buffer yards and vegetation.

(F) *Building structures.* Building structures shall be consistent with the surrounding area and shall be aesthetically pleasing. All exterior surfaces of structures shall present a finished appearance.

(G) *Enforcement.*

(1) The Zoning Administrator shall review plans to assure that standard requirements are included. Plans shall be reviewed by the Planning Board and approved by the Town Council.

(2) The Building Inspector shall not issue a building permit until all improvements required by the site plan approval have been confirmed and accepted by the town.

(3) If construction has not begun within one year of the date of site plan approval, such approval shall expire unless a request for extension is requested by the developer and granted by the town.

(Ord. passed 9-12-83; Am. Ord. passed 10-21-96)

#### **' 153.998 VIOLATION OF CHAPTER.**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained in violation of this chapter or any building, structure, or land is used in violation of this chapter, the Zoning Administrator, or any appropriate authority or any adjacent, nearby, or neighboring property owner who would be affected by such violation, in addition to other remedies, may institute an injunction, mandamus, or other appropriate action for proceeding to prevent occupancy or use of such building, structure, or land. Any agreement or arrangement between adjacent property owners concerning buildings, structures, or land use shall not circumvent any requirements set forth by this chapter.

**' 153.999 PENALTY.**

Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished for each offense by a fine of not more than \$50 or imprisonment not to exceed 30 days. Each day such violation continues shall be deemed to be a separate offense.

***APPENDIX A: ZONING DISTRICT SCHEDULE***

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Adult Business										P		
Advertising Agency								P				
Agricultural Uses (no intensive livestock)		P	P									
Agricultural Supply Sales										P		
Airports												P
Antiques									P			
Apparel Sales									P	P		
Art Galleries and Working Studios									P			
Assembly and Processing (farm and food products)											P	P
Automobile Parts Sales										P		
Automobile Repair Services										P		
Automobile Sales and Services										P		
Bag Manufactures											P	P
Bakery									P			
Bakery Products											P	P
Barber and Beauty Shops									P	P		
Bed and Breakfast/Rooming House/Tourist Home					S	P	S	P				
Bicycles									P			

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Blueprinting Services										P		
Boat Manufacturers											P	P
Bottled Gas Works												P
Bottling Works											P	P
Brokerage Firm								P				
Building Materials, Storage, Sales											P	P

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Building Supplies Sales										P		
Bulk Fuel Storage											S	P
Business Services								P	P			
Cabinetmaking and Woodworking Shops										P	P	P
Cafeterias									P			
Camera Sales									P			
Candy Sales									P			
Charitable Institutions								P				
Child Care/Day Care/Kindergarten		S	S	S	P*	P*	S	S				
Chiropractic and Osteopathic Offices								P		P		
Churches		S	S	S	S	S	S	P				
Circuses/Carnival Fairs*											P	P
Clothing Sales									P	P		
Coal Yards												P
Cold Storage Plants											P	P
Commercial Printing									P			
Commercial Recreational Facilities										S	P	P
Community Centers, Civic								P	S	P		

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Clubs, Fraternal Org.												
Contractors (gen. const., plumbing, heating, etc.)										P		
Contractors Storage Yards											P	P
Convalescent or Rest Homes								P				
Dairy Products Processing											P	P
Drug Stores									P			
Dry Cleaning/Laundry									S	P	P	P
Duplex Residences					P	P	P					
Electrical and Industrial Equipment											P	P

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Embroidery, Screen Printing and Graphic Art Studio								P	P	P	P	P
Equipment Manufacturers/Service/Repair												P
Event Venue									P			
Family Care Homes		P	P	P	P	P	P					
Farm Machinery Manufacturers											P	P
Farm Machinery Sales and Repairs										P		
Fertilizer Plants												P
Financial Establishments (banks, S&Ls)							P	P	P			
Fish and Seafood Markets								S	P			
Florists/Flowers								P	P			
Foundries												P
Fraternal Lodge/Hall										P		
Funeral Home or Mortuary								P		P		
Furniture Manufacturers											P	P



	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Furniture Sales									P	P		
Garages/Service Stations/ Convenient Stores											P	P
Gift Shops									P			
Golf Courses	S	S										
Governmental Offices								P*	P	P		
Grain Elevators											P	P
Green Power Production Facility								S			P	P
Greenhouses/Nurseries	P	P	P							P	P	P
Groceries									P	P		
Grounds and Facilities for Open Air Games and Sports											P	P
Hardware and Hardware Sales									P	P		

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Hobby and Craft Goods									P			
Home Appliance Sales and Services										P		
Home Occupations		S	S	S	S	S	S	S				
Hospitals								P				
Hotels, Motels, and Tourist Homes									P	P		
Ice Plants											P	P
Incinerators												P
Indoor Rec. Facilities (Public or Commercial)									S	S		
Industrial Research and Educational Facilities											P	P
Insurance Offices and Agencies								P	P			
Jewelry and Clock Manufacturers											P	P
Jewelry Sales									P			
Kennels/Pet Boarding										S	P	P

Laboratories (research and testing)											P	P
Laundromats									P	P		
Leather Goods (manufacturers)											P	P
Leather Goods (sales)									P			
Libraries						P		P				
Loan Companies and Pawn Shops										P		
Lumber Yards											P	P
Machine Shops											P	P
Machine Tool Manufacturers												P
Magazine and Book Stores									P			
Manufacturers/Processing/ Assembly/Fabricating Op.												P

	<i>C</i>	<i>R20</i>	<i>R2A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Meat Packing/Abattoir/ Stockyards												P
Medical Supplies and Services									P			
Medical and Dental Clinics								P				
Medical and Dental Services								P				
Mobile Homes - Class A			P				P					
Mobile Homes - Class B			P									
Mobile Home Parks							P					
Mobile Home Sales										P		
Motorcycles, Motorbike Sales										P		
Multi-Family Residences						P	P					
Museum and Art Galleries								P				
Musical Instrument Manufacturers											P	P
Musical Instrument Sales									P			
Nursing Homes								P		P		
Off-Street Parking Facilities											P	P
Optical and Scientific Instruments											P	P

Outdoor Recreational Uses									S	S	S	S
Paint Sales										P		
Parking Facilities (Commercial)										P		
Parking Lots									P	P		
Parsonages								P				
Personal Services*										P		
Pet Shops										P		
Pharmacies										P		
Pharmaceutical Product Manufacturers											P	P

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>CI</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Plumbing Supplies and Fixtures									P			
Pool Halls/Billiard Parlors										S		
Printing, Publishing and Reproduction Establishments											P	P
Professional Offices and Agencies								S	P	P		
Public and Private Schools		S	S	S	S	S	S	P		S		
Public Service Offices								P				
Public Utility Facilities	S	S	S	S	S	S	S	S	S	S	P	P
Radio and Television Sales									P			
Railroad Freight Yards												P
Real Estate Agencies								P	P			
Recreational Goods Rentals									P			
Recreational Uses and Facilities	P	P	P	P	P	P	S	P				
Repair and Servicing of Office and Household Equipment											P	P
Restaurants, Grills, Taverns, Snack Bars									P	P		

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Sanatariums								P		P		
Sanitary Landfills											S	P
Sewage Treatment Plants												P
Sheet Metal Shops and Tinsmith Shops											P	P
Shirt Manufacturers											P	P
Shoe Repairs									P	P		
Shoe Stores									P	P		
Shopping Centers										S		
Sign Manufacturers											P	P
Single Family Houses		P	P	P	P	P	P	P				
Sporting Goods									P			
Stenographic, Telephone Answering								P				

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Stone Cutting; Monument Manufacturers and Sales											P	P
Storage Warehouse Yards											P	P
Street Vendors									S			
Studios (artists, photographers, etc.)								P				
Taxi Stands									P			
Textile Manufacturers												P
Theaters									P			
Tire Sales and Services										P		
Toy Stores									P			
Transportation Terminals										P		
Tree Farming and Forestry	P	P	P									

	<i>C</i>	<i>R20</i>	<i>R20A</i>	<i>R15A</i>	<i>R10</i>	<i>R7</i>	<i>R7A</i>	<i>OI</i>	<i>C1</i>	<i>C2</i>	<i>IL</i>	<i>IH</i>
Upholstery and Refinishing									P	P		
Venetian Blind Manuf., Contractors and Cleaning Shops											P	P
Veterinary Medicine Clinic/ Animal Hospital								P		S	P	P
Video Gaming Arcade										S	P	P
Water Treatment Plants												P
Welding Shops											P	P
Wholesale and Jobbing Establishments											P	P
P = Permitted use, S = Special Use, Blank or Unlisted Activity = Prohibited Use												

### ***APPENDIX B: DISTRICT REQUIREMENTS***

<i>District</i>	<i>Square Feet Per Dwelling</i>	<i>Lot Depth</i>	<i>Lot Width at Front Setback Line</i>	<i>Front Yard Setback</i>	<i>*Side Yard Setback (each side)</i>	<i>Rear Yard Setback</i>	<i>Structural Height (max)</i>	<i>Coverage Allowed Percent and Feet</i>
C	NA	NA	NA	NA	NA	NA	NA	30%
R-20	20,000	150	100	30	15	25	35	40% 8,000
R-20A	20,000	150	100	30	15	25	35	40% 8,000
R-15	15,000	150	90	30	15	25	35	30% 4,500
R-10	10,000 single 16,000 duplex	150	75	30	15	20	35	40% 4,000
R-7	12,000 duplex 7,000 single 4,000/	125	60	20	10	20	35	40% 2,800

	add. unit							
R-7A	12,000 duplex 7,000 single 4,000/ add. unit	125	60	20	10	20	35	40% 2,800
OI	7,000	120	75	20	10	20	NA	40% 2,800
C1	NA	NA	NA	NA	NA	20 <sup>1</sup>	NA	NA
C2	15,000	NA	100	100	25	25	NA	NA

1. When abutting a residential use.