

# DREXEL ZONING ORDINANCE

Amended June 1, 2021

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## ARTICLE A

### INTRODUCTORY PROVISIONS

#### 9-3001 SHORT TITLE

This chapter shall be known and may be cited as the "Official Zoning Ordinance for the Town of Drexel, North Carolina."

#### 9-3002 JURISDICTION

- A. Planning area. The provisions of this Ordinance shall be applicable to all property within the corporate town limits of Drexel, North Carolina, and that land as designated by the official zoning map as authorized by G.S. 160D-201 and 160D-202, to be known as the Extraterritorial Jurisdiction (ETJ).
- B. Bona fide farms exempt. This chapter shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses within the planning area as defined in (a) above, except that use of such property for nonfarm purposes shall be subject to these regulations.

#### 9-3003 DEFINITIONS OF TERMS USED IN THIS CHAPTER

For the purpose of interpreting this chapter, certain words or terms are herein defined. Unless otherwise expressly stated, the following words shall, for the purpose of this chapter, have the meaning herein indicated.

- A. Interpretation of certain terms and words:
  - 1) Words used in the present tense include the future tense.
  - 2) Words used in the singular number include the plural and words used in the plural number include the singular.
  - 3) The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
  - 4) The word "lot" includes the words "plot," "tract" and "parcel."
  - 5) The word "building" includes the word "structure."
  - 6) The word "shall" is mandatory, not optional.
  - 7) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
  - 8) The words "map", "zoning map" or "Drexel Zoning Map" shall mean the "official

zoning map of the 9Town of Drexel, North Carolina.

- 9) The term "administrative officer" shall include the term "watershed administrator."

## B. Definitions

- 1) *Accessory use*. A use customary and subordinate to the principal use or building and located on the same lot with such principal use or building.
- 2) *Administrative decision*. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.
- 3) *Administrative officer*. The official charged with the enforcement of the Zoning Ordinance.
- 4) *Apartment house*. See "Dwelling, Multi-family."
- 5) *Approval authority*. The board of aldermen, planning and zoning board, board of adjustment, town manager, or other board or official designated by this Ordinance as being authorized to grant the specific zoning or land use permit approval that constitutes a site specific development plan.
- 6) *Basement*. A story partly underground but having at least one-half of its height above the average level of the adjoining ground. A basement shall be connected as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet, or used for business purposes.
- 7) *Best Management Practice (BMP)*. A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- 8) *Billboard*. Any notice or advertisement, pictorial or otherwise, with an area of three hundred (300) or more square feet, and/or all those used as an outdoor display for the purpose of making anything known, the origin or place of sale of which is not on the lot with such display.
- 9) *Boarding house*. A house or other structure in which the bedrooms or other sleeping quarters are rented for compensation to the tenants or the guests by special arrangement with the owner. Any arrangement in which the rent or other fees which are paid for the right to use the premises are determined by the number of occupants (i.e., determined by person or per head) and any arrangement where the tenant subleases to others by a fee arrangement determined by the number of occupants shall be presumed to be a boarding house. A boarding house may also be known as a tourist home or as a rooming house.
- 10) *Buffer strip*. A buffer strip consists of a planting strip at least ten (10) feet in width, composed of deciduous or ever- green trees or a mixture of each, spaced not more than twenty (20) feet apart and not less than one (1) row of dense shrubs, spaced

not more than five (5) feet apart, and said strip shall be planted and maintained in a healthy, growing condition by the property owner. No buffer strip shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining lot.

- 11) *Buffer; watershed.* An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded waters and from the bank of each side of free-flowing streams.
- 12) *Building.* Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto.
- 13) *Building, accessory.* A building subordinate to the principal building, the use of which is incidental to that of a principal building or use on the same lot.
- 14) *Building, principal.* A building in which is conducted the principal use of the lot on which it is situated.
- 15) *Building setback line.* A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, gutters and similar fixtures, and the right-of-way line of any street when measured perpendicular thereto.
- 16) *Building, height.* The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean highest level between the eaves and ridge of the gable, hip, or gambrel roof.
- 17) *Built-upon area.* That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel recreation facilities, etc., excluding wooden slatted decks and the water area of swimming pools.
- 18) *Cluster development.* The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes nonresidential development as well as single-family residential and multifamily developments. For the purpose of this Ordinance, planned unit development and mixed use development are considered as cluster development.
- 19) *Condominium.* A system of separate ownership of individual units in a multiple unit building, having common areas and facilities.
- 20) *Determination.* A written, final, and binding order, requirement, or determination regarding an administrative decision.
- 21) *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.

- 22) *Development*. Unless the context clearly indicates otherwise, the term means any of the following:
- a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
  - b) The excavation, grading, filling, clearing, or alteration of land.
  - c) The subdivision of land as defined in G.S. 160D-802.
  - d) The initiation or substantial change in the use of land or the intensity of use of land.
- 23) *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, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.
- 24) *Development regulation*. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.
- 25) *Dwelling*. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.
- 26) *Dwelling unit*. A building, or portion thereof, designed, arranged and used for living quarters for one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels, or other structures designed for transient residence.
- 27) *Dwelling, single-family*. A building arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.
- 28) *Dwelling, two-family*. A building arranged or designed to be occupied by two (2) families, the structure having two (2) dwelling units.
- 29) *Dwelling, multifamily*. A building arranged or designed to be occupied by three (3)

or more families.

- 30) *Electronic Gaming Establishment.* Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or predetermined odds. This includes, but is not limited to, internet sweepstakes or video sweepstakes. This does not include any lottery approved by the State of North Carolina.
- 31) *Evidentiary hearing.* A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this Chapter.
- 32) *Existing development.* Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of October 1, 1993, based on at least one of the following criteria:
  - a) Having expended substantial resources (time, labor, money) based on a good faith reliance upon having a valid local government approval to proceed with the project; or
  - b) Having an outstanding building permit as authorized by G.S. 160D-102; or
  - c) Having an approved site specific phased development plan as authorized by G.S. 160D-102.
- 33) *Family.* An individual or two (2) or more persons related by blood, marriage or adoption or a group of not more than five (5) persons, one or more of whom are not related by blood, marriage or adoption to the others living together as a single housekeeping unit in a single dwelling unit.
- 34) *Family care home.* A residential use allowed in all residential districts and subject to the regulations of G.S. 160D-907.
- 35) *Gross floor area.* The total area of all buildings in the project including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the building such as boiler rooms and maintenance shops.
- 36) *Group housing Development.* A group of two (2) or more structures built on a single lot, tract or parcel of land not subdivided into the customary streets and lots and which will not be so subdivided, and designed for occupancy by separate families (see section 9-3016).
- 37) *Hazardous material.* Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).
- 38) *Home occupation.* Any use conducted entirely within a dwelling unit and carried on by the occupants thereof, which use is clearly incidental and secondary to the



use of the dwelling for residence purposes and does not change the character thereof, and in connection with which there is no display, no stock-in-trade nor commodity sold upon the premises, and no person not a resident on the premises is employed specifically in connection with the home occupation, except that not more than one assistant may be employed by the following occupations: dentist, lawyer, physician, chiropractor, and osteopath. Provided further, that no mechanical equipment is installed or used except such as is normally used for domestic or professional purposes, and that not more than twenty-five (25) percent of the total floor space of any dwelling unit is used for such home occupation.

- 39) *Hotel*. A building used as an abiding place of more than (10) persons, who for compensation, are lodged with or without meals and in which no provisions are made for cooking in any individual room or suite.
- 40) *Industrial development*. Any nonresidential development that requires a NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, finishing, cleaning or developing any product.
- 41) *Junkyard*. The use of any unenclosed portion of a lot or tract for the storage or abandonment of junk, including scrap metals and other scrap material, or dismantling or abandonment of automobiles or other vehicles or machinery, but not including temporary storage of damaged vehicles in connection with the operation of a repair garage. The deposit or the storage of one or more wrecked or broken-down vehicles titled in the name of the property owner for more than ninety (90) days shall not be deemed a junkyard.
- 42) *Land fill*. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the North Carolina General Statutes. For the purpose of this Ordinance, this term does not include composting facilities.
- 43) *Legislative decision*. The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of this Chapter.
- 44) *Legislative hearing*. A hearing to solicit public comment on a proposed legislative decision.
- 45) *Lot*. A parcel of land occupied or to be occupied by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as are required by the Ordinance, and having not less than the minimum required frontage upon a street, either shown on a plot of record, or considered as a unit of property and described by metes and bounds.
- 46) *Lot, width*. The average horizontal distance between side lot lines.
- 47) *Major watershed variance*. A variance from the minimum statewide water supply watershed protection criteria that results in one or more of the following:

- a) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater systems;
- b) The relaxation by a factor greater than ten (10) percent of any watershed protection requirement under the low density option;
- c) The relaxation, by a factor greater than five (5) percent, of any buffer or built-upon area requirement under the high density option.

48) *Manufactured home*. Any of the following:

- a) *Single*. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, (ii) is composed of one or more subcomponent each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) exceeds sixty (60) feet in length and twelve (12) feet in width.
- b) *Double*. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, (ii) 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 on its own chassis, and (iii) exceeds forty (40) feet in length and twenty-four (24) feet in width.

49) *Manufactured home park*. Any tract of land maintained, offered, or used for two or more manufactured homes, used or intended to be used for living purposes (see section 9-3015).

50) *Mini warehouses*. A structure containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

51) *Minor watershed variance*. A variance from the minimum statewide watershed protection rules that result in a relaxation, by a factor up to five (5) percent of any buffer, density, or built-upon requirement under the high density option; or that results in a relaxation, by a factor up to ten (10) percent, of any management requirement under the low density option.

52) *Modular home*. Any building which is of "closed construction" or which is made or assembled in manufacturing facilities, on or off the building site, for installation or assembly and installation, on the building site and is constructed according to the North Carolina State Building Code. It does not include manufactured homes or recreational vehicles.

53) *Motel or motor lodge*. A building or a group of buildings containing sleeping rooms, designed for or used temporarily by automobile transients, with garage or parking space conveniently located to each unit.

54) *Nonconforming lot of record*. A lot described by a plat or a deed that was recorded prior to the effective date of this Ordinance that does not meet the minimum lot

size or other development requirements of the statewide watershed protection rules.

- 55) *Nonconforming use*. A legal use of a building and/or land that pre-dates the adoption or future amendment of these regulations and does not conform to the regulations for the district in which it is located.
- 56) *Open storage*. The storing, depositing or accumulating of materials, goods, equipment, etc., for any use or sale, within any uncovered area, whether enclosed by a fence, etc., or not
- 57) *Parking space*. A storage space of not less than nine (9) feet by eighteen (18) feet for one (1) automobile, plus the necessary access space. It shall always be located outside the street right-of-way, except for on-street parking.
- 58) *Planning and development regulation jurisdiction*. The geographic area defined in the adopted zoning map within which the town may undertake planning and apply the development regulations authorized by this Chapter.
- 59) *Protected area (PA)*. Area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of protected areas are defined as five (5) miles upstream and draining to water supply reservoirs, or ten (10) miles upstream and draining to water intakes located in streams or rivers, to the ridge lines of the watershed, whichever comes first.
- 60) *Quasi-judicial decision*. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.
- 61) *Rooming house*. See "Boarding House."
- 62) *Service station*. Any building or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, lubricants, or tires, except that indoor car washing, minor motor adjustment, and flat tire repair are only performed incidental to the conduct of the service station.
- 63) *Sign area*. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular forms comprising all of the display area of the sign and including all the elements of the matter displayed. However, in computing sign area only one side of a double-faced sign structure shall be considered. Frames and structural members not bearing advertising matter shall not be included in computation of the surface area.

- 64) *Sign, business.* A structure or display used as an advertisement or notice with an area of less than three hundred (300) square feet, and accessory to the principal use on a lot.
- 65) *Single-family development.* Any development where: no building contains more than one dwelling unit; every dwelling unit is on separate lot; and where no lot contains more than one dwelling unit.
- 66) *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:
- a) Zoning permit;
  - b) Special Use Permit;
  - c) Variance;
  - d) Major subdivision approval
  - e) Minor subdivision approval
  - f) 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 parcels for property shall constitute a site specific development plan.
- 67) *Solar Energy System.* Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy for onsite power needs. Residential scale systems are considered accessory structures.
- 68) *Street.* A public thoroughfare which affords the principal means of access to abutting property, but excluding alleys.
- 69) *Street line.* The dividing line between a street or road right-of-way and the contiguous property.
- 70) *Structure.* Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including fences, business signs, and billboards.
- 71) *Tourist home.* See "Boarding House."
- 72) *Townhouse.* A system of separate ownership of individual units and land in a multiple unit building.
- 73) *Water dependent structure.* Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boating supplies, parking lots and commercial boat storage area are not water dependent structures.
- 74) *Watershed.* The entire land area contributing surface drainage to a specific point.

- 75) *Watershed administrator*. See “Administrative Officer.”
- 76) *Watershed protection occupancy permit*. See "Zoning Certificate of Occupancy."
- 77) *Watershed protection permit*. See “Zoning Permit.”
- 78) *Watershed Variance*. A permission to develop or use property granted by the board of adjustment or water shed review board relaxing or waiving a water supply watershed protection requirement adopted by the environmental management commission that is incorporated into this Ordinance.
- 79) *Yard, front*. An open space on the same lot with a principal building, between the setback line of the building (exclusive of steps) and the front street right-of-way line and extending the full width of the lot.
- 80) *Yard, rear*. An open space between the rear line of the principal building (exclusive of steps) and the rear line of the lot and extending the full width of the lot.
- 81) *Yard, side*. An open, unoccupied space on the same lot with a principal building between the side line of the building (exclusive of steps) and the side line of the lot and extending from the front yard line to the rear yard line.
- 82) *Zoning certificate of occupancy*. Certificate issued by the administrative officer certifying that the work authorized by the zoning permit has been completed in compliance with the requirements and standards of this Ordinance. This term shall include the term "watershed protection occupancy permit.”
- 83) *Zoning permit*. Permit issued by the administrative officer indicating that a proposed use is in compliance with the requirements of this Ordinance.
- 84) *Zoning vested right*. A right pursuant to G.S. 160D-102 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan, provided that such development shall begin within two (2) years following issuance of the zoning vested right.

## ARTICLE B

### USE REQUIREMENTS BY DISTRICT

#### 9-3004 ESTABLISHMENT OF DISTRICTS

- A. *Use districts.* For the purpose of this chapter, the Town of Drexel and its extraterritorial zoning jurisdiction are hereby divided into six (6) districts designated as follows:
- 1) R-20 Residential District;
  - 2) R-12 Residential District;
  - 3) R-8 Residential District;
  - 4) B-1 Central Business District;
  - 5) B-2 General Business District; and
  - 6) M-1 Manufacturing District.
- B. *District boundaries.* The boundaries of these districts are hereby established as shown on a map entitled "Official Zoning Map, Town of Drexel, North Carolina," adopted April 8, 1968, by the town board of aldermen and certified by the town clerk. Said map and all explanatory matter thereon accompanies and is hereby made part of this chapter. The Zoning Map shall be maintained for public inspection in the office of the local government clerk. The maps may be in paper or a digital format approved by the local government (G.S. 160D-105).
- C. *Rules governing boundaries.* Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:
- 1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or railroad right-of-way lines or such lines extended, such center lines, street lines, or railroad right-of-way lines shall be construed to be such boundaries.
  - 2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
  - 3) Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, or railroads, or right-of-way same, such district boundaries shall be constructed as being parallel there to and such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.
  - 4) Where a district boundary line divides a lot in single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole.

## 9-3005 APPLICATION

Except as hereinafter provided:

- A. *Use.* No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered, except in conformity with the regulations of this chapter or amendments thereto, for the district in which it is located.
- B. *Height and density.* No building shall hereafter be erected or altered so as to exceed the height limit or to exceed the density regulations of this chapter for the district in which it is located.
- C. *Lot size.* No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit or other requirement of this chapter are not maintained, except in cases of street widening.
- D. *Yard use limitations.* No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of yard or other open space similarly required for another building.
- E. *Only one principal building on any lot.* Only one principal building and its customary accessory buildings may hereafter be erected on any lot, except as authorized by section 9-3016, nor shall any building be erected on any lot which does not abut at least twenty-five (25) feet on a publicly dedicated street.
- F. *Necessary repairs permitted.* Nothing in this chapter shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building structure declared unsafe or unlawful by the administrative officer, the fire chief or any other duly authorized town official.
- G. *Nonconforming use.* Any building, structure or use of land existing at the time of the enactment of this chapter or any amendment thereto that does not conform to the requirements of the district in which it is located may be continued and maintained subject to the following provisions. They shall not be:
  - 1) Changed to another nonconforming use.
  - 2) Enlarged or extended except in conformity with this chapter.
  - 3) Re-established after discontinuance for one hundred eighty (180) days.
  - 4) Rebuilt, altered, or repaired damage exceeding sixty (60) percent of the fair market value immediately prior to damage. (The zoning board of adjustment shall determine fair market value.)
  - 5) Nevertheless, the erection of a single-family dwelling unit shall be permitted on any lot of record which contains an area or width less than that required for a single-family dwelling in the district in which such lot is located. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership on the effective date of this chapter.

## 9-3006 R-20 RESIDENTIAL DISTRICT

The regulations of this district are intended to provide areas for low-density residential development, and to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at sufficiently low densities to provide a healthful environment. Within an R-20 Residential District, the following uses shall be permitted:

### A. *Principal uses.*

- 1) Bona fide farms and their customary appurtenances
- 2) Single-family, modular homes and two-family dwellings.
- 3) Manufactured homes, double, subject to the provisions of sections 9-3013 through 9-3015.
- 4) Manufactured homes, single, subject to the provisions of sections 9-3013 through 9-3015.
- 5) Manufactured home parks, subject to the provisions of sections 9-3013 through 9-3015.
- 6) Churches and their customary related uses, including cemeteries, provided that all buildings and graves shall be set back at least twenty (20) feet from any property line.
- 7) Parks, playgrounds, community centers, clubs and lodges, swimming pools, golf courses, and other recreational facilities operated on a non-profit basis.
- 8) Public and private elementary and secondary schools, but not schools primarily engaged in commercial or industrial trades education.
- 9) Kindergartens or day nurseries, provided that not less than two hundred (200) square feet of outdoor play area is provided for each child, and provided further that such aggregate play space is surrounded by a fence at least four (4) feet in height.
- 10) Nursing or rest homes.
- 11) Fire and police stations.
- 12) Public works and public utility facilities such as distribution lines, transmission lines and towers, electric substations, water tanks and towers, pumping stations, water treatments plants, sewage lagoons and plants, telephone exchanges, and fire stations, provided:
  - a) Such facilities are essential to the service of the immediate area.
  - b) No vehicles or materials shall be stored on the premises and no offices shall be permitted, except in the case of fire stations, water treatment plants, sewage lagoons and plants.
  - c) All buildings and facilities shall be back at least twenty (20) feet from all



property lines, and shall be designed and landscaped in such a way as to blend in with the surrounding area

- d) All dangerous apparatus shall be enclosed by a chain link fence at least eight (8) feet in height.
- e) There shall be a densely planted and maintained buffer strip along the rear and side lot lines. No such buffer strip along the rear and side lot lines. No such buffer shall, however, extend nearer to a street right-of-way line than the established building setback line of the adjoining lots.

13) Multifamily dwellings.

14) Condominiums and townhouses.

B. *Accessory uses.*

- 1) Home occupations, subject to the provisions of section 9-3003 (b) (30).
- 2) Customary accessory buildings or uses, provided such shall be permitted only in a rear yard and shall be situated not less than ten (10) feet from any property line; and further provided that in the case of corner lots such buildings or structures shall be set back at least twenty-five (25) feet from any side street right-of-way line; and provided further that no mobile home, manufactured home, trailer, or any other structure which has or ever had a manufacturers' certificate of origin or a motor vehicle certificate of title shall be used as an accessory building or for any accessory use.
- 3) Signs, subject to the provisions of section 9-3017.
- 4) Backyard Chicken Keeping, subject to the provisions of section 9-3018.

C. *Special uses.* Within the R-20 District, certain uses are permitted only as a special use to be reviewed and approved by the zoning board of adjustment in accordance with the conditions, limitations, and requirements set forth herein:

- 1) Group housing developments, subject to section 9-3016.

D. *Off Street parking requirements,* subject to section 9-3020 (b).

E. *Dimensional requirements.* Within an R-20 District as shown on the zoning map, the following dimensional requirements shall be complied with:

- 1) Minimum required lot area for the first dwelling unit, twenty thousand (20,000) square feet.
- 2) Minimum additional lot area per dwelling unit for each unit in excess of two (2) shall be three thousand (3,000) square feet, not to exceed thirteen (13) units per acre.
- 3) Minimum required lot width, one hundred (100) feet.
- 4) Minimum required front setback line, thirty (30) feet.
- 5) Minimum required side yard, fifteen

- a) Fifteen (15) Feet each. Corner lots must have an additional ten (10) feet along the side street line.
- 6) Minimum required rear yard, forty (40) feet.
- 7) Maximum permissible lot coverage. The total ground area covered by the principal building and all accessory building shall not exceed fifty (50) percent of the total land area.
- 8) All buildings (exclusive of church spires, flagpoles, antennas, chimneys, or similar accessories to structure) more than fifteen (15) feet in height from the foundation of the building measured at the center of the house, shall be required to increase the original side yard requirements by one foot for every additional foot of height. (Ord. of 10-1-02)

## **9-3007 R-12 RESIDENTIAL DISTRICT**

This district is intended as a quiet, low to medium density residential neighborhood for single-family dwellings. The regulations for this district are designed to provide a high standard of privacy. Some of these areas are within the town limits, some outside. Within an R-12 Residential District, the following uses shall be permitted:

### *A. Principal uses.*

- 1) Bona fide farms and their customary appurtenances.
- 2) Single-family and modular homes.
- 3) Manufactured homes, double.
- 4) Churches and their customary related uses, including cemeteries, provided that all buildings and graves shall be set back at least twenty (20) feet from any property line.
- 5) Parks, playgrounds, community centers, clubs and lodges, swimming pools, golf courses, and other recreational facilities operated on a non-profit basis.
- 6) Public and private elementary and secondary schools, but not schools primarily engaged in commercial or industrial trades education.
- 7) Kindergartens or day nurseries, provided that not less than two hundred (200) square feet of outdoor play area is provided for each child and provided further that such aggregate play space is surrounded by a fence at least four (4) feet in height.
- 8) Nursing or rest homes.
- 9) Fire and police stations.
- 10) Public works and public utility facilities such as distribution lines, transmission lines and towers, electric substation, water tanks and towers, pumping station, water treatment plants, sewage lagoons and plants, telephone exchanges, and fire stations provided:

- a) Such facilities are essential to the service of the immediate area.
- b) No vehicles or material shall be stored on the premises and no offices shall be permitted except in the case of fire stations, water treatment plants, sewage lagoons and plants.
- c) All buildings and facilities shall be set back at least twenty (20) feet from all property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.
- d) All dangerous apparatus shall be enclosed by a chain link fence at least eight (8) feet in height.
- e) There shall be a densely planted and maintained buffer strip along rear and side lot lines. No such buffer shall, however, extend nearer to a street right-of-way line than the established building setback line of the adjoining lots.

11) Condominiums and townhouses.

B. *Accessory uses.*

- 1) Home occupations as defined in section 9-3003 (b)(30).
- 2) Customary accessory buildings or uses, provided such shall be permitted only in a rear yard and shall be situated not less than ten (10) feet from any property line; and further provided that in the case of corner lots such buildings or structures shall be set back at least twenty-five (25) feet from any side street right-of-way line; and provided further that no mobile home, manufactured home, trailer, or any other structure which has or ever had a manufacturers' certificate of origin or a motor vehicle certificate of title shall be used as an accessory building or for any accessorial use.
- 3) Signs, subject to section 9-3017.
- 4) Backyard Chicken Keeping, subject to the provisions of section 9-3018.

C. *Special uses.* Within the R-12 District, certain uses are permitted only as a special use to be reviewed and approved by the zoning board of adjustment in accordance with the conditions, limitations and requirements set forth herein:

- 1) Group housing developments, subject to section 9-3016.

D. *Off-street parking requirements,* subject to section 9-3020(b).

E. *Dimensional requirements.* Within an R-12 District, as shown on the zoning map, the following dimensional requirements shall be complied with:

- 1) Minimum required lot area shall be twelve thousand (12,000) square feet for single-family dwellings.
- 2) Minimum required lot width for single-family dwellings shall be eighty (80) feet.
- 3) Minimum required front setback line, thirty-five (35) feet.

- 4) Minimum required side yard, ten (10) feet. Corner lots must have an additional ten (10) feet along the side street line.
- 5) Minimum required rear yard, thirty (30) feet.
- 6) Maximum permissible lot coverage. The total ground area covered by the principal building and all accessory buildings shall not exceed fifty (50) percent of the total lot area.
- 7) Height of buildings shall not exceed thirty-five (35) feet.

(Ord. of 10-1-02)

## **9-3008 R-8 RESIDENTIAL DISTRICT**

This density is intended to be a quiet, medium-density residential neighborhood, consisting of single-family, two-family and multiple-family dwellings along with limited home occupations and limited private and public community uses. This district will accommodate dwellings with access to both public water and sewerage. Within an R-8 District, the following uses shall be permitted:

### *A. Principal uses.*

- 1) Single-family, modular homes and two-family dwellings.
- 2) Multifamily dwellings.
- 3) Manufactured homes, double.
- 4) Rooming and boarding houses.
- 5) Churches and their customary related uses, including cemeteries, provided that all buildings and graves shall be set back at least twenty (20) feet from any property line.
- 6) Public libraries, museums, and art galleries, fire and police stations, hospitals and related buildings not less than thirty (30) feet from any property line.
- 7) Parks, playgrounds, community centers, clubs and lodges, swimming pools, golf courses, and other recreational facilities operated on a non-profit basis.
- 8) Public and private elementary and secondary schools, but not schools primarily engaged in commercial or industrial trade education.
- 9) Kindergartens or day nurseries, provided that not less than two hundred (200) square feet or outdoor play area is provided for each child and provided further that such aggregate play space is surrounded by a sturdy fence at least four (4) feet in height.
- 10) Nursing or rest homes.
- 11) Public works and public facilities such as distribution lines, transmission lines and tower, electric substations, water tanks and towers, pumping stations, water treatment plants, sewage lagoons and plants, telephone exchanges, and fire

stations, provided that:

- a) Such facilities are essential to the service of the immediate area
- b) No Vehicles or materials shall be stored on the premises and no offices shall be permitted except in the case of fire stations, water treatment plants, sewage lagoons and plants.
- c) All buildings and facilities shall be back at least twenty (20) feet from all property lines, and shall be designed and landscaped in such a way as to blend in with the surrounding area.
- d) All dangerous apparatus shall be enclosed by a chain link fence at least eight (8) feet in height,
- e) There shall be a densely planted and maintained buffer strip along the rear and side lot lines. No such buffer shall, however, extend nearer to a street right-of-way line than the established building setback line of adjoining lots.

12) Condominiums and townhomes

B. *Accessory uses.*

- 1) Home occupations as defined in section 9-3003 (b)(30).
- 2) Customary accessory buildings or uses, provided such shall be permitted only in a rear yard and shall be situated not less than ten (10) feet from any property line; and further provided that in the case of corner lots such buildings or structures shall be set back at least twenty-five (25) feet from any side street right-of-way line; and provided further that no mobile home, manufactured home, trailer, or any other structure which has or ever had a manufacturers' certificate of origin or a motor vehicle certificate of title shall be used as an accessory building or for any accessory use.
- 3) Signs, subject to section 9-3017.
- 4) Backyard Chicken Keeping, subject to the provisions of section 9-3018.

C. *Special Uses.* Within the R-8 District, certain uses are permitted only as a special use to be reviewed and approved by the zoning board of adjustment in accordance with the conditions, limitations, and requirements set forth herein:

- 1) Group housing developments subject to section 9-3016.
- 2) Off-street parking requirements, subject to section 9-3020(b).

D. *Dimensional requirements.* Within an R-8 District, as shown on the zoning map, the following dimensional requirements shall be complied with:

- 1) Minimum required lot area shall be eight thousand (8,000) square feet for single-family dwellings and twelve thousand (12,000) square feet for two-family dwellings. For residential structures having three (3) or more dwellings units the lot area shall be increased by three thousand (3,000) square feet for each dwelling unit in excess of two (2). In no case shall dwelling unit density exceed

thirteen (13) units per acre.

- 2) Minimum required lot width for single-family dwellings shall be sixty (60) feet; two-family dwellings, seventy (70) feet, multiple family dwellings, eighty-five feet (85) plus an additional ten (10) feet of lot width for each unit in excess of two (2)
- 3) Minimum required front setback line thirty-five (35) feet.
- 4) Minimum required side yard ten (10) feet each. Corner lots must have an additional ten (10) feet along side street line. Multiple-family lots fifteen (15) feet each.
- 5) Minimum required rear yard, thirty (30) feet.
- 6) Maximum permissible lot coverage. The total ground area covered by the principal building and all accessory buildings shall not exceed forty (40) percent of the total lot area.
- 7) Height of building shall not exceed thirty-five (35) feet.

(Ord. 10-1-02)

### **9-3009 B-1 CENTRAL BUSINESS DISTRICT**

This district is established as a centrally located trade and commercial service area of the community and region. The regulations of this district are designed to encourage the continued use the land for regional trade and commercial services uses while maintaining compatibility of uses. Within a B-1 Central Business District the following uses shall be permitted:

A. Permitted uses.

- 1) Alcohol beverages, packaged, retail sales.
- 2) Automatic teller machines (ATMs)
- 3) Automobile parking lots
- 4) Automobile parts and supplies
- 5) Automobile repairs garages, but excluding open storage of wrecked or junked vehicles
- 6) Automobile sales, new and used
- 7) Automobile washing establishments
- 8) Bakeries where the products are sold exclusive to retail on the premises
- 9) Banks and other financial institutions, including loan and finance companies
- 10) Barber and beauty shops
- 11) Bicycle sales and repair shops
- 12) Billiard or pool halls

- 13) Billboard, provided such are not located within one hundred (100) feet of any residential district provided further that not more than one (1) structure shall be allowed per two hundred (200) feet or less of lot frontage in single ownership with one (1) additional billboard structure allowed per two hundred (200) feet of additional lot frontage.
- 14) Bowling alleys
- 15) Building supply and material sales, excluding open storage
- 16) Bus terminals and railroad stations
- 17) Business colleges, barber and beauty school, art schools, music and dance studios, and similar organizations but not vocational trade schools, all without students in residence.
- 18) Camera supplies
- 19) Churches and their customary uses, including cemeteries
- 20) Club and lodges
- 21) Dairy bars and ice cream manufacturing
- 22) Drug stores
- 23) Dry cleaning and laundry pick-up stations and dry cleaning plants having not more than two thousand (2,000) square feet of floor space and no emission of steam
- 24) Electrical appliance and equipment sales and repair, but excluding open storage
- 25) Fabricating shops, such as cabinet, upholstery and sheet metal shops
- 26) Feed, seed and fertilizer sales
- 27) Fire and police stations
- 28) Florist shops
- 29) Food stores, retail only, but excluding the killing or dressing of any flesh or fowl
- 30) Funeral homes and mortuaries
- 31) Golf courses
- 32) Greenhouses and horticulture nurseries
- 33) Hotels and motels
- 34) Jewelry stores
- 35) Laundromats
- 36) Locksmiths and gunsmiths
- 37) Medical and dental clinics laboratories
- 38) Mini-warehouses
- 39) Newspaper offices and printing plants and incidental to such offices

- 40) Newsstands
- 41) Offices, business, professional, medical and public
- 42) Office equipment and supplies, sales and services.
- 43) Opticians and optical goods stores
- 44) Pawn shops
- 45) Photographic studios
- 46) Printing, publishing, and reproducing establishments
- 47) Product stand and market, retail only
- 48) Public parks and playgrounds and community centers
- 49) Public works and public utility facilities such as distribution lines, transmission lines and towers electric substations water tanks and towers, pumping stations, water treatments plants, sewage lagoons and plants, telephone exchanges and fire stations provided:
  - a) Such facilities are essential to the service of the immediate area
  - b) No Vehicles or materials shall be stored on the premises and no offices shall be permitted except in the case of fire stations, water treatment plants, sewage lagoons and plants.
  - c) All buildings and facilities shall be back at least twenty (20) feet from all property lines, and shall be designed and landscaped in such a way as to blend in with the surrounding area.
  - d) All dangerous apparatus shall be enclosed by a chain link fence at least eight (8) feet in height,
  - e) There shall be a densely planted and maintained buffer strip along the rear and side lot lines. No such buffer shall, however, extend nearer to a street right-of-way line than the established building setback line of adjoining lots.
- 50) Radio and television repair shops
- 51) Radio and television stations, studios and offices
- 52) Restaurants
- 53) Retail establishments such as department, clothing, fabric, shoe, variety, notion, drug, hardware, furniture, appliance, music, art, antique, jewelry, sporting goods, toy, hobby, book and stationery stores but not excluding similar retail establishments.
- 54) Service station, provided that all gasoline pumps be located at least thirty (30) feet from any property line
- 55) Swimming pools
- 56) Tailor and dressmaking shops



- 57) Taxi stands
- 58) Telephone offices
- 59) Theater, indoor
- 60) Veterinary clinics, excluding open kennels.

B. *The following uses when authorized by the town board of alderman:* commercial uses not otherwise named herein upon approval of the town board of aldermen, provided that no use shall be permitted in the district which is likely to be dangerous, offensive or detrimental to the health, safety, welfare or general character of this zoning district or of the community by reason of the emission of dust, gas, smoke, fumes, odors, glare, noise, vibrations or otherwise.

C. *Accessory uses.*

- 1) Customary accessory uses and structures when located on the same lots as the main structure, excluding open storage
- 2) Business signs, subject to Section 9-3017

D. *Off-street parking requirements.* Subject to Section 9-3020(b)

E. *Dimensional Requirements.* Within the B-1 Central Business District, as shown on the zoning map, the following dimensional requirements shall be complied with:

- 1) Minimum required side yard and rear yards: None required but if provided, each side and rear yard shall be at least four (4) feet in width. Also, where a lot abuts any residential district there shall be a side or rear yard clearance of at least ten (10) feet. Furthermore, upon any side or rear lot line which abuts a residential district there shall be densely planted and maintained buffer strip. No such buffer shall, however, be extended nearer to a street right-of-way line than the established building line of the adjoining residential lot. No buffer shall be required upon a side or rear yard which abuts a public street.

F. Maximum height of any building shall not be more than fifty (50) feet.

## **9-3010 B-2 GENERAL BUSINESS**

These districts are normally located along major radial highways leading out of town where they provide for the retailing of goods and services to the traveling public as well as local townspeople. The regulations of the district are designed to provide areas for these commercial activities while protecting the surrounding residential districts and maintaining an appropriate community appearance. Within a B-2 General Business District the following uses shall be permitted:

A. *Permitted uses.*

- 1) Alcohol beverages, packaged, retail sales.
- 2) Automatic teller machines (ATMs)

- 3) Automobile parking lots
- 4) Automobile parts and supplies
- 5) Automobile repairs garages, but excluding open storage of wrecked or junked vehicles
- 6) Automobile sales, new and used
- 7) Automobile washing establishments
- 8) Bakeries where the products are sold exclusive to retail on the premises
- 9) Banks and other financial institutions, including loan and finance companies
- 10) Barber and beauty shops
- 11) Bicycle sales and repair shops
- 12) Billiard or pool halls
- 13) Billboard, provided such are not located within one hundred (100) feet of any residential district provided further that not more than one (1) structure shall be allowed per two hundred (200) feet or less of lot frontage in single ownership with one (1) additional billboard structure allowed per two hundred (200) feet of additional lot frontage.
- 14) Bowling alleys
- 15) Building supply and material sales, excluding open storage
- 16) Bus terminals and railroad stations
- 17) Business colleges, barber and beauty school, art schools, music and dance studios, and similar organizations but not vocational trade schools, all without students in residence.
- 18) Camera supplies
- 19) Churches and their customary uses, including cemeteries
- 20) Club and lodges
- 21) Dairy bars and ice cream manufacturing
- 22) Drug stores
- 23) Dry cleaning and laundry pick-up stations and dry cleaning plants having not more than two thousand (2,000) square feet of floor space and no emission of steam
- 24) Electrical appliance and equipment sales and repair, but excluding open storage
- 25) Electronic gaming establishments, subject to the provisions of section 9-3018
- 26) Fabricating shops, such as cabinet, upholstery and sheet metal shops
- 27) Feed, seed and fertilizer sales
- 28) Fire and police stations

- 29) Florist shops
- 30) Food stores, retail only, but excluding the killing or dressing of any flesh or fowl
- 31) Funeral homes and mortuaries
- 32) Golf courses
- 33) Greenhouses and horticulture nurseries
- 34) Hotels and motels
- 35) Jewelry stores
- 36) Laundromats
- 37) Locksmiths and gunsmiths
- 38) Medical and dental clinics laboratories
- 39) Mini-warehouses
- 40) Newspaper offices and printing plants and incidental to such offices
- 41) Newsstands
- 42) Offices, business, professional, medical and public
- 43) Office equipment and supplies, sales and services.
- 44) Opticians and optical goods stores
- 45) Pawn shops
- 46) Photographic studios
- 47) Printing, publishing, and reproducing establishments
- 48) Product stand and market, retail only
- 49) Public parks and playgrounds and community centers
- 50) Public works and public utility facilities such as distribution lines, transmission lines and towers electric substations water tanks and towers, pumping stations, water treatments plants, sewage lagoons and plants, telephone exchanges and fire stations provided:
  - a) Such facilities are essential to the service of the immediate area
  - b) No Vehicles or materials shall be stored on the premises and no offices shall be permitted except in the case of fire stations, water treatment plants, sewage lagoons and plants.
  - c) All buildings and facilities shall be back at least twenty (20) feet from all property lines, and shall be designed and landscaped in such a way as to blend in with the surrounding area.
  - d) All dangerous apparatus shall be enclosed by a chain link fence at least eight (8) feet in height,

- e) There shall be a densely planted and maintained buffer strip along the rear and side lot lines. No such buffer shall, however, extend nearer to a street right-of-way line than the established building setback line of adjoining lots.

- 51) Radio and television repair shops
- 52) Radio and television stations, studios and offices
- 53) Radio television towers and telecommunication towers subject to section 9-3021(c).
- 54) Restaurants
- 55) Retail establishments such as department, clothing, fabric, shoe, variety, notion, drug, hardware, furniture, appliance, music, art, antique, jewelry, sporting goods, toy, hobby, book and stationery stores but not excluding similar retail establishments.
- 56) Service station, provided that all gasoline pumps be located at least thirty (30) feet from any property line
- 57) Swimming pools
- 58) Tailor and dressmaking shops
- 59) Taxi stands
- 60) Telephone offices
- 61) Theater, indoor
- 62) Veterinary clinics, excluding open kennels.

B. *Accessory uses.*

- 1) Customary accessory uses and structures when located on the same lot as the main structure, excluding open storage, and provided that no mobile home, manufactured home or any other structure which has or ever had a manufacturer's certificate of origin or a motor vehicle certificate of title shall be used as an accessory building or for any accessory use.
- 2) Business signs, subject to Section 9-3017

C. *Off-street parking requirements.* Subject to Section 9-3020(b)

D. *Dimensional Requirements.* Within the B-2 General Business District, as shown on the zoning map, the following dimensional requirements shall be complied with:

- 1) Minimum required front setback line: Forty (40) feet
- 2) Minimum side yard and rear yards: Ten (10) feet. Where a lot abuts any residential district there shall be a side or rear yard clearance of at least twenty (20) feet. Furthermore, upon any side or rear lot line which abuts a residential district there shall be a densely planted and maintained buffer strip. No such buffer shall, however, be extended nearer to a street right-of-way line than the established building line of the adjoining residential lot. No buffer shall be required upon a

side or rear yard which abuts a public street.

3) Maximum height of any building shall not be more than thirty-five (35)

(Ord. of 10-2-02)

## **9-3011 M-1 MANUFACTURING DISTRICT**

This district is established for those areas of the community where the principal use of the land is for industries that by their nature may create some nuisance and which are not properly associated with residential, commercial and/or service establishments. Selected business uses of a convenience character are also permitted in this district. Within an M-1 Manufacturing District the following uses shall be permitted:

### *A. Principal uses.*

- 1) Automobile parking lots
- 2) Automobile repair garages
- 3) Automobile wrecking yards and scrap metal dealers provided the premises are enclosed by a fence at least eight (8) feet in height and densely planted and maintained buffer strip.
- 4) Bakeries and other establishments manufacturing prepared food and miscellaneous food products
- 5) Bedding, carpet, and pillow manufacturing and cleaning establishments.
- 6) Billboards, provided such are not located within one hundred (100) feet of any residential district provided further that not more than one (1) structure shall be allowed per two hundred (200) feet or less of lot frontage in single ownership with one (1) additional billboard structure allowed per two hundred (200) feet of additional lot frontage.
- 7) Boat work and sales
- 8) Bottling plants
- 9) Brick, tile and pottery yards.
- 10) Bus repair and storage terminals
- 11) Cabinet and woodworking shops
- 12) Circuses, carnivals, fairs revival grounds and similar events where admission is charged
- 13) Clothing manufacturing
- 14) Concrete and asphalt products plants
- 15) Contractors' plants and storage yards
- 16) Dairy products processing plants

- 17) Electrical appliance manufacturing repair shops
- 18) Farm machinery assembly, repair and sales
- 19) Feed mills and grain elevators
- 20) Food processing in wholesale quantity
- 21) Furniture manufacturing
- 22) Glass products manufacturing
- 23) Greenhouses and horticultural nurseries
- 24) Hatcheries
- 25) Ice plants and cold storage lockers
- 26) Industrial equipment, sales and repairs.
- 27) Leather products and luggage manufacturing
- 28) Lumber yards, building materials, storage and sales
- 29) Machine and welding shops
- 30) Machine tool manufacturing
- 31) Manufactured home sales lots
- 32) Metal fabrication plants
- 33) Mini warehouses
- 34) Monument works and sales
- 35) Offices pertaining to any permitted use
- 36) Paint and household chemicals manufacturing
- 37) Paper goods manufacturing
- 38) Pharmaceutical manufacturing
- 39) Plastic and rubber goods manufacturing
- 40) Plumbing, heating, refrigeration shops and storage yards.
- 41) Precision instrument manufacturing
- 42) Printing, publishing, reproducing establishments
- 43) Public works and public utility facilities including service and storage yards
- 44) Quarries
- 45) Radio and television stations and towers, and telecommunication towers, subject to section 9-3021 (c)
- 46) Railroad freight and classification yards
- 47) Sawmills

- 48) Service stations, provided that all gasoline pumps shall be located at least twenty (20) feet from any property line.
  - 49) Sheet metal and roofing shops
  - 50) Sign painting and fabricating shops
  - 51) Textile manufacturing
  - 52) Tire recapping and retreading shops
  - 53) Tobacco processing and storage
  - 54) Trucking terminals, transfers companies
  - 55) Upholstery shops
  - 56) Venetian blind and awning manufacturing and cleaning shops
  - 57) Wholesale and warehouse establishments
  - 58) Wholesale storage of gasoline or oil in bulk terminal plants
- B. *The following uses when authorized by the town board of alderman:* manufacturing uses not otherwise named herein upon approval of the town board of aldermen, provided that no use shall be permitted in the district which is likely to be dangerous, offensive or detrimental to the health, safety, welfare or general character of this zoning district or of the community by reason of the emission of dust, gas, smoke, fumes, odors, glare, noise, vibrations or otherwise.
- C. *Accessory uses.*
- 1) Accessory uses and buildings which are clearly incidental to a permitted use and which will not create a nuisance or hazard.
  - 2) Manufacturing signs, subject to Section 9-3017
- D. *Off-street parking requirements.* One off-street parking space shall be required for each two (2) employees at maximum employment. Also, see section 9-3020(b)
- E. *Dimensional Requirements.* Within any M-1 Manufacturing District, as shown on the zoning map, the following dimensional requirements shall be complied with:
- 1) Minimum required front setback line: Twenty-five (25) feet.
  - 2) Minimum required side and rear yards: None required but if provided, each side and rear yard shall be at least four (4) feet in width. Also, where a lot abuts any residential district there shall be a side or rear yard clearance of at least ten (10) feet. Furthermore, upon any side or rear lot line which abuts a residential district there shall be densely planted and maintained buffer strip. No such buffer shall, however, be extended nearer to a street right-of-way line than the established building line of the adjoining residential lot. No buffer shall be required upon a side or rear yard which abuts a public street.

## 9-3012 PERMITTED USES CHART

USE TYPES	R-20	R-12	R-8	B-1	B-2	M-1
Accessory buildings	A	A	A	A	A	A
<b>Agriculture</b>						
Bona fide farms	X	X	X	X	X	X
Greenhouses and horticulture nurseries				X	X	X
Backyard chicken keeping	PC	PC	PC			
<b>Residential</b>						
Condominiums	X	X	X			
Group Housing developments	Y	Y	Y			
Home Occupations	A	A	A			
Manufactured home, double	X	X	X			
Manufactured home, single	X					
Manufactured home park	X					
Modular homes	X	X	X			
Multifamily	X		X			
Room and boarding houses			X			
Single family	X	X	X			
Townhouses	X	X	X			
Two-family	X		X			
<b>Recreational</b>						
Clubs and lodges	X	X	X	X	X	
Community centers	X	X	X	X	X	
Electronic gaming establishments					PC	
Gold courses	X	X	X	X	X	
Parks	X	X	X	X	X	
Playgrounds	X	X	X	X	X	
Swimming pools	X	X	X	X	X	
<b>Institutional</b>						
Art galleries			X	X	X	
Cemeteries	X	X	X	X	X	
Churches	X	X	X	X	X	
Day cares	X	X	X			
Elementary schools	X	X	X			
Family care home	X	X	X			
Fire and police stations	X	X	X	X	X	
Hospitals			X			
Kindergartens	X	X	X			



USE TYPES	R-20	R-12	R-8	B-1	B-2	M-1
<b>Institutional (continued)</b>						
Museums			X			
Nursing/rest homes	X	X	X			
Public libraries			X			
Public works facilities	X	X	X	X	X	X
Secondary schools	X	X	X			
<b>Business</b>						
Alcoholic beverages, packaged, retail sales				X	X	
Art schools (see section 9-3010 (1)(q))				X	X	
Antique store (see section 9-3010 (1)(zz))				X	X	
Appliance sales (see section 9-3010 (1)(zz))				X	X	
Art sales (see section 9-3010 (1)(zz))				X	X	
Automatic teller machines (ATMs)				X	X	
Automobile parking lots				X	X	X
Automobile parts and supplies				X	X	
Automobile repairs garages				X	X	X
Automobile sales, new and used				X	X	
Automobile washing establishments				X	X	
Bakeries				X	X	
Banks and financial institutions				X	X	
Barber and beauty schools (see section 9-3010 (1)(a))				X	X	
Barber and beauty shops				X	X	
Bicycle sales and repair shops				X	X	
Billboards				X	X	X
Billiard or pool halls				X	X	
Book and stationery sales (see section 9-3010 (1)(zz))				X	X	
Bowling alleys				X	X	
Building supply and material sales				X	X	
Bus terminals and railroad stations				X	X	
Business colleges				X	X	
Camera supplies				X	X	
Clothing stores (see section 9-3010 (1)(zz))				X	X	
Dairy bars and ice cream manufacturing				X	X	
Dental clinics (see section 9-3010 (1)(q))				X	X	
Drug store				X	X	
Dry cleaning and laundering				X	X	
Electrical appliance and equipment, sales and repair				X	X	
Fabric store (see section 9-3010 (1)(q))				X	X	
Fabricating shops				X	X	
Feed, seed and fertilizer sales, retail				X	X	

USE TYPES	R-20	R-12	R-8	B-1	B-2	M-1
<b>Business (continued)</b>						
Florist shops				X	X	
Food stores, retail only				X	X	
Funeral homes and mortuaries				X	X	
Furniture sales (see section 9-3010 (1)(zz))				X	X	
Greenhouses and nurseries				X	X	X
Hardware store (see section 9-3010 (1)(q))				X	X	
Hobby shops (see section 9-3010 (1)(q))				X	X	
Hotels and motels (see section 9-3010 (1)(q))				X	X	
Jewelry store				X	X	
Laundromats				X	X	
Locksmiths and				X	X	
Medical clinics				X	X	
Mini warehouses				X	X	X
Music and dance studios (see section 9-3010 (1)(a))				X	X	
Music store (see section 9-3010 (1)(zz))				X	X	
Newspaper office				X	X	
News stands				X	X	
Notion (gift and novelty store) (see section 9-3010 (1)(q))				X	X	
Offices, business and professional				X	X	
Office equipment and supplies				X	X	
Opticians and optical goods				X	X	
Pawn shops				X	X	
Photographic shops				X	X	
Printing, publishing, and reproducing				X	X	
Produce stands and markets				X	X	
Radio and television repair shops				X	X	
Radio and television stations, studios and offices				X	X	
Restaurants				X	X	
Retails sales				X	X	
Service stations				X	X	X
Shoe store (see section 9-3010 (1)(q))				X	X	
Sporting goods				X	X	
Tailors and dressmaking shops				X	X	
Taxi stands				X	X	
Telephone offices				X	X	
Theatres, indoor				X	X	
Toy store (see section 9-3010 (1)(q))				X	X	
Variety store				X	X	
Veterinary clinics				X	X	

USE TYPES	R-20	R-12	R-8	B-1	B-2	M-1
<b>Manufacturing</b>						
Automobile wrecking yards						X
Bakeries						X
Bedding, carpet and pillow						X
Billboards				X	X	X
Boat works and sales						X
Bottling plants						X
Brick, tile and pottery yards						X
Bus repair						X
Cabinet and woodworking shops						X
Circuses, carnivals, fairs, etc						X
Clothing manufacturing						X
Concrete plants and storage yards						X
Dairy products processing						X
Electrical appliances manufacturing						X
Farm machinery assembly or repair						X
Feed mills and grain elevators						X
Food processing						X
Furniture manufacturing						X
Glass products manufacturing						X
Hatcheries						X
Ice plants and cold storage lockers						X
Industrial equipment sales and repairs						X
Leather products and luggage manufacturing						X
Lumber yards, building materials, storage and sales						X
Machines and welding shops						X
Machine tool manufacturing						X
Metal fabrication plants						X
Mini warehouses				X	X	X
Monument works and sales						X
Offices pertaining to any permitted use						X
Paint and household chemical manufacturing						X
Paper goods manufacturing						X
Pharmaceutical manufacturing						X
Plastic and rubber goods manufacturing						X
Plumbing, heating and refrigeration shops and storage						X
Precision instrument manufacturing						X
Printing, publishing, reproducing establishments						X
Quarries						X
Radio and television stations				X	X	X
Radio, television and telecommunication towers					X	X

USE TYPES	R-20	R-12	R-8	B-1	B-2	M-1
<b>Manufacturing (continued)</b>						
Railroad freight and classification yards						X
Sawmills						X
Sheet metal and roofing shops						X
Sign painting and fabricating shops						X
Solar energy systems						PC
Textile manufacturing						X
Tire recapping and retreading shops						X
Tobacco processing and storage						X
Trucking terminals, transfer companies						X
Upholstery shops						X
Wholesale and warehouse establishments						X
Wholesale storage of gasoline and oil						X
<b>Key</b>						
X = Permitted use						
Y = Special use						
A = Accessory use						
PC = Permitted with conditions						

## MANUFACTURED HOMES AND GROUP HOUSING

### 9-3013 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS; DEFINITIONS

For the purpose of this chapter a "manufactured home" and a "manufactured home park" are defined as follows:

- A. *Manufactured home* See section 9-3003 (b)(38).
- B. *Manufacture home park* See section 9-3003 (b)(39).

### 9-3014 PROVISIONS FOR INDIVIDUAL MANUFACTURED HOMES

The purpose of these regulations is to promote sound neighborhood development and appearance, protect community property values, and to preserve the integrity and character of neighborhoods. Manufactured homes, double, are permitted on individual lots in the R-20, R-12 and R-8 Districts and manufactured homes, single, are permitted on individual lots in the R-20 District. Both manufactured homes - double and manufactured homes-single are subject to the following conditions:

- A. The lot must be recorded as an individual lot.
- B. If municipal utilities are not available, the well and/or septic tank must be approved by the Burke County Health Department.
- C. All yard dimensional requirements for the respective district must be met
- D. The lot must front a public street and said street frontage will be considered the front of the lot. All manufactured homes shall be placed with the front of the home parallel to the street that provides access to manufactured home.
- E. Exterior finishes shall be in good repair and in no case shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white. The exterior siding shall be comparable in composition, appearance, and durability to the exterior siding commonly used in standard construction.
- F. The exterior of the manufactured home must be vinyl, wood, or similar lap siding or simulated cut stone. The exterior siding shall be comparable in composition, appearance, and durability to the exterior siding commonly used in standard construction.
- G. A continuous foundation enclosure, unpierced except for required ventilation and access shall be installed. The enclosure may consist of brick, concrete block or other masonry type material. The under skirting must be installed within thirty (30) days after the final inspection date by the Burke County Building Inspections.
- H. The running lights and hitch shall be removed.

- I. All roofs must be shingled and have a minimum pitch of three (3) feet for every twelve (12) feet of linear distance. Such roof shall be the original rood of the structure as installed by the manufacture.
- J. A patio or porch of at least fifty (50) square feet must be located at the main front or rear entrance and shall be constructed of treated lumber or masonry. All other entrances shall have a landing of a minimum of ten square feet. Permanent stairs shall be required at all entrances and be constructed of treated lumber or masonry. Porches and decks must be skirted so as to screen the area under decks and porches from view from adjacent property.
- K. All manufactured homes, double shall have a minimum width of twenty-four (24) feet and a minimum length of forty (40) feet of a minimum of nine hundred sixty (960) square feet of livable space and all manufactured homes, single shall have a minimum width of twelve (12) feet and a minimum length of sixty (60) feet or a minimum of seven hundred twenty (720) square feet of livable space.
- L. Each manufactured home site must provide a minimum of two (2) parking spaces and all driveways must be paved.

Nonconforming manufactured homes existing at the time of this Ordinance shall be allowed to continue in their present existence. Replacement of individual manufactured homes must meet criteria of this section. New or replacement manufactured homes, single, are not permitted in the R-12 and R-8 districts unless permitted by the Board of Adjustment. The Board of Adjustment may grant a Special use permit allowing for replacement of manufactured homes, single, in an R-12 or R-8 District if the current parcel cannot accommodate any other housing options.

### **9-3015 PROVISIONS FOR NEW AND EXISTING MANUFACTURED HOME PARKS**

Manufactured home parks may only be developed in the R-20 District and are subject to the following regulations and all other ordinances or regulations which may be applicable:

- A. *General provisions.* Manufactured homes because of their use, transportability, manufacture and manner of construction, location and susceptibility for use in high density concentration both as units and persons tend to place inhabitants of manufactured home in an unfavorable position to obtain services necessary for a safe and healthful living environment. It is the purpose of this subsection to the provide protection to the public against unwise and hazardous manufactured home development and proved a reasonable safe and sound environment for manufactured home inhabitant and to:
  - 1) Promote public health, safety and orderly residential development;
  - 2) Prevent overcrowding of the land;
  - 3) Provide adequate open space to ensure privacy, natural light and ventilation for each manufactured home;

- 4) Provide sufficient open space for outdoor uses essential to manufactured homes;
- 5) Ensure the furnishing of adequate water supply and sewage disposal systems;  
and
- 6) To provide an acceptable environment for small communities of manufactured homes.

Manufactured home parks are, therefore, strictly regulated with respect to their location, installations, and provisions for services, privacy and additional specific regulations contained herein.

B. *Permits and procedures.* No person may construct, maintain, occupy or operate a manufactured home park unless a preliminary plat for such park has been reviewed by the planning and zoning board and approved by the Board of Alderman. Upon approval by the board, a building permit may be issued by the building inspector, and construction of the park began. In connection with its review of the proposed manufactured home park, the board may specify certain conditions which must be met in order to bring the proposed park layout in conformity with this Ordinance. Prior to occupancy, a final plat of the manufactured home park must be reviewed by the planning board and approved by the board. Once the final plat is recorded at the register of deeds, a certificate of occupancy may then be issued by Burke County for the park. In the case of extreme hardship owing to special conditions not generally applicable to other such developments an applicant may request a variance from the Drexel Board of Adjustment.

C. *Contents of preliminary and final plats.* Applications to construct, develop, operate, alter or maintain a manufactured home park shall be made to the town manager. The application shall consist of preliminary and final plats which include at least the following:

- 1) Name of manufactured home park, name and address of owner, name and address of the registered engineer or land surveyor responsible for preparation of the plat.
- 2) A manufactured home park design drawn onto a plat at a scale of one (1) inch equals fifty (50) feet.
- 3) Date, north arrow and scale.
- 4) Boundaries of manufactured home park property to include intersections of adjacent property with the boundaries of the manufactured home park property and names and addresses of all adjoining property owners.
- 5) The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems. Plans for water supply and/or sewage disposal must be accompanied by letters of preliminary approval by appropriate city, county, and state authorities. Plans must show line sizes, the location of fire hydrants, blowoffs, manholes, pumps, force mains, and gate valves, and shall include profiles based upon mean sea level datum for sanitary sewers and storm sewers.

- 6) Proposed streets, existing and platted streets on adjoining properties and in the proposed subdivision, rights-of-way, pavement widths, approximate grades, design engineering data for all corners and curves, and typical street cross sections. If any street is proposed to intersect with a state maintained road, the plat shall be accompanied by driveway approval as required by the North Carolina Department of Transportation, Division of Highways' Manual on Driveway Regulations.
- 7) Outline of all existing and proposed buildings within the manufactured home park property with appropriate setbacks.
- 8) Location of parking spaces, patios, walkways, service and accessory buildings, utilities easements, utility poles, and buffer and screening areas.
- 9) The location of outlets for utilities connection to manufactured homes.
- 10) Indications of how future expansions will be made, if applicable.
- 11) Location and quantity of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, recreation and utility areas, and utility rooms.
- 12) Method and plan of sewage disposal in accordance with existing city, county, and state regulations.
- 13) Location and quantity of refuse containers.
- 14) Plan of water supply in accordance with existing city, county, and state regulations.
- 15) Plan of electric lighting.
- 16) In the case of land with irregular topographic features, show finished contours, and (by separate map or otherwise) existing contours.

*D. Development standards.*

- 1) Any site, tract of land, or lot to be developed as a manufactured home park shall be not less than two (2) acres in area, excluding street rights- of-way, but including utility easements, and it shall have not less than seven (7) manufactured home spaces completed at first occupancy.
- 2) Two-way access streets within the site proposed shall have a pavement width of at least twenty (20) feet. One-way access streets shall have a pavement width of no less than eighteen (18) feet. Permanent dead-end streets or cul-de-sacs shall not exceed six hundred (600) feet in length unless necessitated by topography and shall be provided with a turnaround of at least eighty (80) feet in diameter. Streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than sixty (60) degrees. Where a street intersects a highway, the design standards of the North Carolina Department of Transportation shall apply. Street jogs of less than one hundred fifty (150) feet shall not be allowed. All manufactured home spaces shall have access to a street and there shall be no less than two (2) off-street parking spaces, which shall be accommodated in parking bays. Each parking space shall be provided by the owner or operator of the park.



- 3) All manufactured homes shall be properly tied down in accordance with the provision of the North Carolina Uniform Residential Building Code.
- 4) The manufactured home park shall be divided into lots, the limits of which shall be clearly marked on the ground by permanent flush stakes or markers. No manufactured homes lot shall be occupied or partially occupied by any structure, park driveway or common area of facility, other than:
  - a) The manufactured home
  - b) Its related automobile parking spaces and
  - c) Utility storage
- 5) Every manufactured home park shall be located on ground that is above any probable flooding from any natural watercourse and shall be graded so as to prevent the accumulation or ponding of water on the premises.
- 6) The minimum area of manufactured home lot shall be eight thousand (8,000) square feet and shall not have a width of less than forty (40) feet or a length of less than eighty (80) feet at the narrowest point of the width or length.
- 7) No manufactured home or other structures within a manufactured home park shall be closer to each than twenty (20) feet except that storage of other auxiliary structure for the exclusive use of the manufactured home may be closer to the manufactured home than twenty (20) feet.
- 8) No manufactured home or other structure shall be located closer than thirty (30) feet to an exterior boundary of the park or a bounding street right-of-way.
- 9) All manufactured home lots shall abut upon a paved street.
- 10) At least ten (10) percent of the gross land area of the manufactured home park shall be designed and developed as a recreation area. Recreation areas shall be located so as to be free of traffic hazards and easily accessible to the park residents.
- 11) A densely planted buffer strip consisting of trees, shrubs, other planting, or screen fence, at least ten (10) feet in height shall be provided along the rear and side line of the manufactured home park or the park property. No such buffer shall however, be upon or extend into the street right-of-way.
- 12) Utility storage structures shall be provided for each manufactured home and shall not be less than one hundred (100) square feet in size.
- 13) The site proposed shall provide covered racks or holders for all refuse containers at each manufactured home space. Such container racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them. There shall be one (1) rack or holder to each manufactured home space of a sufficient size to accommodate a refuse container of thirty (30) gallons capacity. The site proposed shall also provide rack or holder for large commercial type refuse

container racks or holders shall be designed to facilitate cleaning around them and shall be located not more than one hundred fifty (150) feet from the manufactured home space served.

- 14) The site proposed will have safe outdoor lighting provide by the owner of the park.
- 15) In every Manufactured Home Park and related building, all installations of plumbing, electrical wiring, and all gas and oil appliances shall comply with the provisions of the state building code and any other applicable regulations of the Town of Drexel. In additions the following requirements must be met:
  - a) Each manufactured home lot shall be provided with plumbing and electrical connections
  - b) The water supply for each manufactured home shall be obtained only from faucets located inside each manufactured home.
- 16) A manufactured home park shall have direct access to a dedicated street or road.
- 17) No parking bay shall be located with direct access to a public street or road.
- 18) Water system shall be in conformance with applicable state, county and town regulations.
- 19) Sewage disposal shall be in conformance with applicable state, county and town regulations.
- 20) Individual homes within the park must comply with Section 9-3014.

E. *Extension of Use.* Nonconforming manufactured home parks existing at the time of the adoption of this Ordinance shall be allowed to continue in their present existence. Existing mobile home parks shall not hereafter be enlarged or extended in any way, unless the entire development is in compliance with the above Section.

F. *Replacement of Manufactured Homes in Existing Manufactured Home Parks.* Manufactured home parks that are operating as existing parks as of the effective date of this Ordinance may continue to operate. The replacement of nonconforming manufactured homes in manufactured home parks is allowed and must have the same dimensions as the original and must meet all other criteria of Section 9-3014 and 9-3015 of this Ordinance. Replacement units must be placed within six (6) months of the removal of the original.

## **9-3016 GROUP HOUSING DEVELOPMENTS**

The purpose of the group housing development concept is to use land efficiently by developing dwelling units on individual lots, but to allow such units to be connected along one or more property lines, thereby permitting outdoor spaces to be grouped and utilized to maximum benefit. Group housing developments shall comply with all requirements of the R-20, R-12 or R-8 District, except as modified below:

- A. *Use.* Buildings constructed, erected, or altered in connection with a group housing or townhouse development shall be used solely for single family dwelling purposes, including customary accessory uses.
- B. *Dimensional requirements.* The yard and dimensional requirements set forth in the zoning district in which the property is located are applicable, except:
- 1) A front setback of not less than thirty-five (35) feet along any major or collector street and twenty-five feet along any local or interior street of cul-de-sac shall be required.
  - 2) On connecting sides of units, a side yard setback shall not be required. On non-connecting sides a side yard setback of ten (10) feet shall be required except on corner lots, a side yard of at least fifteen (15) feet shall be maintained along the side street line
  - 3) A rear setback of at least twenty (20) feet shall be maintained.
  - 4) The minimum plot of overall project area shall be one (1) acre with a minimum width of at least two hundred (200) feet. Individual lots within the project shall not have a minimum width.
  - 5) No more that thirteen (13) units may be developed or erected per acre.
  - 6) The spacing of buildings within the interior of the development shall be as approved by the zoning board of adjustment after due consideration of a design plan which must show an appropriate spacing of the various buildings constituting the group housing development, but in no event shall any building be located within ten (10) feet to another building.
  - 7) The height of any building shall not exceed thirty-five (35) feet unless all setbacks are increased at least one additional foot for each foot the building exceeds thirty-five (35) feet in height.
- C. *Connecting wall.* Each dwelling unit shall be connected to one or more adjacent dwelling units by a load-bearing common wall, at least ten (10) feet in depth. Carports, trellises, and other similar structures shall not be used as connecting elements.
- D. *Common area.* A minimum of ten (10) percent of the project area, excluding swimming pool and all related facilities, shall be designated and developed as a recreation or play area in common ownership.
- E. *Public streets.* All interior streets to be dedicated as publicly maintained streets shall comply with the subdivision regulations of this Ordinance unless varied otherwise by the town engineer and approved by the town manager.
- F. *Plat.* A preliminary design layout shall be submitted to the board of adjustment for review and for its approval and recommendation. A final corrected design shall then be prepared and approved by the board of adjustment before a building permit may be issued.

## SIGN REGULATIONS

### 9-3017 SIGNS

All announcement signs and structures, which include business signs as defined by this Ordinance, shall be approved by the administrative officer of Drexel and shall comply with the following regulations:

- A. *Location.* No advertising sign or structure shall be erected, constructed, or maintained so as to interfere with vision clearance along any street, road or highway or at any intersection or junction of two (2) or more traffic arteries, nor shall any advertising sign or structure be located within the street, road or highway right-of-way.
- B. *Signs permitted in each use district.* Signs are permitted in the following districts provided they meet the requirements of that district as follows:
  - 1) *Residential districts (R-20, R-12, R-8):* Professional or announcement signs relating to the permitted uses within these districts are permitted and may not exceed sixteen (16) square feet in surface area and six (6) feet in height. All signs must be a minimum of ten (10) feet from any property line or right-of-way. Illuminated, flashing or intermittent lights are not permitted in any residential district.
  - 2) *Business and manufacturing districts (B-1, B-2, M-1):* Professional or announcement signs relating to permitted uses within these districts are permitted and may not exceed one hundred (100) square feet in surface area and thirty-five (35) feet in height. All signs must be a minimum of ten (10) feet from any property line or right-of-way. The following types of signs are permitted in the B-1, B-2 and M-1 districts:
    - a) *Freestanding signs* are permitted within the dimensional requirements set forth in the section.
    - b) *Wall mounted signs* shall not exceed more than six (6) inches outside of the building's wall surface, and shall not exceed thirty (30) square feet in area for any one premise.
    - c) *Roof mounted signs* shall not exceed six (6) feet in height above the roof and shall not exceed one hundred (100) square feet on all sides for any one premise.
    - d) *Window signs* shall be placed on the inside of commercial buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.
    - e) *Portable signs* are permitted in the Town of Drexel and its Extra-territorial Jurisdiction. Signs must be located the (10) feet from nay property line or right-of-way and may not exceed thirty-two (32) square feet, per side in surface area.

- f) *Flashing or intermittent light* are not permitted in any business district; all illuminated signs or structures shall be placed so as to prevent the light rays or illumination there from being cast upon residential dwellings.
- C. *Maintenance.* All advertising structures, together with any supports, braces, guys and anchors shall be kept in good repair and in a safe state of preservation. All sign, including political signs, erected to serve a temporary purpose shall be removed within sixty (60) days.
- D. *Administration.* The administrative officer of Drexel shall refuse a permit for the erection or construction of any advertising sign or structure which does not meet the requirements of this section. The administrative officer of Drexel shall order the removal of any signs that are not constructed or maintained in accordance with the provisions of this section.
- E. *Nonconforming signs.* Nonconforming signs in existence at the time of adoption of this Ordinance will be allowed to remain, provided they are kept in good repair.

**CONDITIONS FOR CERTAIN USES**

**9-3018 SPECIAL REQUIREMENTS FOR CERTAIN USES.**

- A. *Chicken Keeping.* The keeping of chickens is permitted in the R-8, R-12, and R-20 Residential Districts, provided the following conditions are met:
- B. *Chicken Keeping.* The keeping of chickens is permitted in the R-8, R-12, and R-20 Residential Districts, provided the following conditions are met:
  - 1) The maximum number of chickens on the property is five (5).
  - 2) No roosters are permitted.
  - 3) Placement of the pen shall be in the rear yard only.
  - 4) No free ranging; chickens are penned at all times.
  - 5) Minimum lot size for keeping of backyard chickens shall be one-half acre (21,780 square feet) .
  - 6) Pens shall be a minimum of 75 feet from all adjoining residences.
  - 7) Pens shall be a minimum of 40 feet from all property lines.
  - 8) Maximum of twenty-five (25) square feet of enclosed housing is necessary.
  - 9) No butchering of fowl on the premises is allowed.
  - 10) Must comply with all applicable provisions of the Town of Drexel Animal Code (ex. Cleanliness, odor).
  - 11) Zoning Permit is required for all new Chicken Keeping activities. ***Amendment Adopted June 1, 2021.***

C. *Electronic Gaming Establishments.* Electronic gaming establishments are permitted in the B-2 General Business District as a principle use, provided the following conditions are met. Electronic Gaming Establishments are not allowed as an accessory use in any zoning district.

- 1) No electronic gaming establishment shall be located within one thousand (1,000) feet of another electronic gaming operation.
- 2) No electronic gaming establishment shall be located within one thousand (1,000) feet of any nursing home, retirement home, church, child care center, school, park, or playground.
- 3) All distances related to electronic gaming establishments shall be measured as follows:
  - a) The distance for the separation from protected uses shall be measured from the closest edge of the building in which an electronic gaming establishment is located to the nearest property line of each protected use.
  - b) The distance for separation between electronic gaming establishments shall be measured from the closest edges of the buildings in which an electronic gaming establishment is located.
- 4) Each electronic gaming establishment shall have all required state permits and licenses and shall have paid all applicable fees.

D. *Solar Energy Systems.* Solar energy systems are permitted as accessory structures provided that a building inspection is administered prior to construction.

**PLANNING BOARD**

**9-3019 PLANNING BOARD ESTABLISHED**

A Planning Board is hereby established as provided in Section 106D-301 of the General Statutes of North Carolina. Said Board shall consist of five (5) regular members and two (2) alternate members and shall have proportional representation from within the corporate limits and the Extraterritorial Jurisdiction (ETJ) of the Town of Drexel. The populations estimates for this calculation shall be updates no less frequently than after each decennial census (G.S. 160D - 307). Three (3) regular members and one (1) alternate member shall reside inside Town limits and be appointed by the Town of Drexel. Two (2) regular members and one (1) alternate member shall reside outside Town limits but inside the Town's ETJ and be appointed by the Burke County Board of Commissioners. Members shall serve overlapping terms of three (3) years. Initially the Board of Alderman and County Commissioners shall appoint one (1) regular member for a three (3) year term, one (1) regular member for a two (2) year term and one (1) alternate member for a one (1) year term. Board of Alderman will appoint the remaining member to a one (1) year term. The alternate member of the Planning Board shall be called on

to attend only those meetings and hearings at which one or more regular members are absent or are unable to participate in hearing a case (considering a text or zoning amendment) because of an impermissible conflict of interest as set out in NCGS 160A-388. Except at the election of officers, at no time shall more than five (5) members participate officially in any meeting or hearing. Should population in either the Town or Extraterritorial Jurisdiction change enough to require an additional member to the Planning Board or the Zoning Board of Adjustment then numbers appointed by the Board of Alderman and the Burke County Board of Commissioners will be changed accordingly.

The Planning Board shall keep minutes of its proceedings (G.S. 160D-308). Additionally, all Planning Board members, before entering their duties, must take an oath of office (G.S. 160D-309).

Members of the Planning Board shall not vote on advisory or legislative decisions regarding a development regulation where the outcome of the matter being considered is likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship (G.S. 160D-109).

**OFF-STREET PARKING AND LOADING REQUIREMENTS**

**9-3020 OFF-STREET PARKING REQUIREMENTS**

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seat, or floor area; or before conversion from one type of use or occupancy to another, permanent off-street paved parking spaces in the amount specified by this section. Such parking spaces may be provided in a parking garage or properly graded open space.

- A. *Certification of minimum parking requirements.* Each application for a zoning permit submitted to the zoning enforcement officer as provided for in this Ordinance shall include information as to the means of entrance and exit to such space. This information shall be in sufficient detail to enable the zoning enforcement officer to determine whether or not the requirements of this section are met.
- B. *Minimum off-street parking requirements.* The following off-street parking spaces shall be required:

TYPE OF USE	REQUIRED OFF-STREET PARKING
<b><i>Residential and Related Uses</i></b>	
Any residential use consisting of one or more dwelling units	Two parking spaces for each dwelling unit
Manufactured and modular homes	Two spaces for each modular or manufactured home

Rooming and boarding houses	One space for each 2 guest rooms, plus 2 additional spaces for the owner or manager
Customary home occupations	One parking space per 100 square feet devoted to the home occupation
<b><i>Institutional, Public and Semipublic Uses</i></b>	
Churches and funeral homes	One space for every 4 seats in the main chapel
Elementary schools, private schools and day care	One space for each employee, plus 1 additional space for visitors
Hospitals	One space for each 4 patient beds plus 1 space for every 4 staff and 1 space for each hospital vehicle
Libraries	One space for every 4 seats provided for patron use
Medical offices and clinics	Four spaces for each doctor practicing at the clinic, plus 1 space for each employee
Places of public assembly, including private clubs and lodges, auditoriums, dance halls, pool halls, theaters, stadiums, gymnasiums, amusement parks, community centers and all similar places of public assembly	One space for each 4 fixed seats provided for patron use, plus one space for each 100 square feet of floor or ground area used for amusement or assembly not including fixed seats
Nursing/Rest Homes	One space for each 6 patient beds, plus 1 space for each staff or visiting doctor plus 1 space for each 4 employees.
<b><i>Business Uses</i></b>	
Furniture outlet showrooms	One space for each 1,000 square feet of gross floor area.
Hotels, motels, tourist homes, and inns	One space for each accommodation plus 4 additional spaces for employees
Offices, business, professional, public, including banks	One space for each 200 square feet of gross floor area
Restaurants	One space for each 3 seating accommodations, plus one space for each 2 employees of shift of largest employment
Retail business and consumer service outlets	One space for each 200 square feet of gross floor area
Service stations and car washes	Two spaces for each gas pump plus 3 spaces for each repair bay or similar facility



Shopping centers	One space for each 200 square feet of gross floor area
<b><i>Wholesale and Industrial Uses</i></b>	
Wholesale and industrial operations	One space for each 2 employees at maximum employment on a single shift

C. *Off-street loading and unloading space.* Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley, or if there is no alley available, then to a street. For the purposes of this section, an off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet and overhead clearance of fourteen (14) feet in height above the alley or street grade.

- 1) *Retail operations:* One loading space for each 5,000 square feet of gross floor area or fraction thereof.
- 2) *Wholesale and industrial operations:* One loading space for each 10,000 square feet of gross floor area or fraction thereof.

**EXEMPTIONS AND MODIFICATIONS**

**9-3021 EXCEPTIONS AND MODIFICATIONS**

- A. *Lot of record.* Where the owner of a lot consisting of one (1) or more lots of record in any district at the time of the adoption of this chapter or his successor in title thereto does not own sufficient contiguous land to enable him to conform to the minimum area and width requirements of this chapter, such lot may be used as a building site provided, however, that the requirements of the district are complied with or a variance is obtained from the zoning board of adjustment.
- B. *Front yard setbacks for dwellings.* The front yard setback requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same street as such lot is less than the minimum required front yard depth. In such case the setback on such lots may be less than the required setback but not less than the average of the existing setback on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way line whichever is greater.
- C. *Height limitations.* The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, chimneys, smokestacks, conveyors, or flag poles except as otherwise noted in the vicinity of airports. Communication towers, including but not

limited to, radio, television and telecommunication towers, masts, aerials and similar structures shall be permitted only in the B-2 General Business District and the M-1 Manufacturing District. Communication towers must also meet the following requirements:

- 1) Towers exceeding seventy-five (75) feet in height shall increase the front, rear and side yard setbacks by one (1) foot for each five (5) feet or fraction thereof of tower height in excess of seventy-five (75) feet not to exceed two hundred (200) feet. Towers that are not designed to collapse upon themselves shall have setbacks equal to or greater than the height of the tower.
  - 2) Distance of any guy anchorage or similar device shall be at least ten (10) feet from any property line.
  - 3) Suitable anti-climb fencing and a landscape planting screen shall be required and maintained around the structure and accessory attachments.
  - 4) The applicant shall present documentation of the possession of any required license by any federal, state or local agency.
  - 5) Application for the permit must include construction drawings showing the proposed method of installation, structural engineering analysis, and site plan depicting structures and plantings on the property.
  - 6) The owner of such a structure shall assume complete liability in case of personal or personal property damage.
  - 7) Telecommunication towers shall be shared with other telecommunication providers when feasible.
  - 8) Towers shall in no way be used for advertising purposes.
- D. *Height restrictions of fences.* Fences consisting of either masonry, rock, wire or wooden material and hedges may be installed on the boundaries no closer than one (1) foot from all property lines of any residential lot, provided that the height of such fencing or screening shall be limited to a maximum height of three (3) feet between the street right-of-way line and the normal building line for that section adjacent to the street. Fencing and hedges on all other boundaries of residential property shall be limited to a maximum of eight (8) feet in height. Retaining walls shall not be subject to the above height requirements.
- E. *Visibility at intersections.* On a corner lot in any residential district no planting, structure, fence, wall or obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street lines each of which is twenty-five (25) feet distant from the point of intersection.
- F. *Corner lots.* In any residential district the side yard requirements for corner lots along the side street line shall have an extra width of ten (10) feet. Accessory building shall observe all setback requirements.

## ADMINISTRATION, ENFORCEMENT AND PENALTIES

### 9-3022 ADMINISTRATION, ENFORCEMENT, AND PENALTIES; ADMINISTRATIVE OFFICER

This chapter shall be administered and enforced by an administrative officer or his/her designated representative who shall be named by the board of aldermen and is hereby empowered:

- A. To issue a certificate of zoning compliance when these regulations have been followed, or to refuse to issue the same in the event of noncompliance. Written notice of such determination therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the administrative officer may provide their determination in print or electronic form; if electronic form is used then it must be protected from further editing (G.S. 160D-403(a));
- B. To collect the designated fees as set forth in this chapter for certificates of zoning compliance, variances, and appeals;
- C. To make and keep all records necessary and appropriate to the office, including record of the issuance and denial of all certificates of zoning compliance and of receipt of complaints of violation of this chapter and action taken on the same;
- D. To inspect any building and/or land to determine whether any violations of this chapter have been committed or exist;
- E. To enforce this chapter and take all necessary steps to remedy any condition found in violation by ordering in writing the discontinuance of illegal uses and illegal work in progress, and may institute injunction, mandamus or other appropriate action; and
- F. To keep the zoning board of adjustment advised of all matters other than routine duties pertaining to the enforcement of this chapter and to transmit all applications and records pertaining to appeals, variances, or requests for special use approval.

The administrative officer or other staff member shall not make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship (G.S. 160D-109).

The administrative officer may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the city local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials, provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured (G.S. 160D-403(e)).

## 9-3023 BUILDING OR ZONING PERMITS

- A. *Building and Zoning Permit Required.* Within the town limits of the Town of Drexel, no building, sign, or other structure shall be erected, moved, added to, or structurally altered before a zoning permit has been issued by the administrative officer of Drexel.

Within the extraterritorial zoning area (ETJ) of Drexel, no building, sign, or other structure shall be erected, moved, added to, or structurally altered before a zoning permit has been issued by the administrative officer of Drexel.

- B. Zoning permits expire one year after issuance unless work has substantially commenced. Expiration of a local development approval does not affect the duration of a vested right established as a site specific vesting plan, a multiphase development plan, a development agreement, or vested rights established under common law. A site specific vesting plan or planned unit development shall remain vested for a period exceeding two years, but not exceeding five years (G.S. 160D-108(d)).
- C. *Application for a building or zoning permit.* Each application for a building or zoning permit to the administrative officer of Drexel shall be accompanied by a plan in duplicate, drawn to scale, one copy of which shall be returned to the owner upon approval. The plan shall show the following:
- 1) The actual dimensions of the lot to be built upon;
  - 2) The size and location of all buildings existing on the lot;
  - 3) The size and location of the proposed new construction;
  - 4) The existing and intended use of parts of the land or building; and
  - 5) Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter.
- D. *Fees.* When making application for a zoning permit, an investigation and compliance fee shall be paid.
- E. *Certificate of occupancy required.* No land within the Town of Drexel or its planning area shall be used or occupied except for agricultural purposes, and no building within the Town of Drexel or its extraterritorial zoning area shall hereafter be erected, structurally altered, converted or changed in use until a certificate of occupancy shall have been issued. A certificate of occupancy either for the whole or a part of the building shall be applied for coincident with the application for a building or zoning permit and shall be issued within ten (10) days after the erection or structural alteration of such building, or part, shall have been completed in conformity with the provisions of this chapter.
- A temporary certificate of occupancy may be issued by the administrative officer for a period not exceeding six (6) months during alterations or construction for partial occupancy of a building pending its completion, or for bazaars, carnivals, and revivals, provided that such temporary permit shall require such conditions and safeguards as will protect the safety of the occupants and the public.

A record of all certificates shall be kept on file in the office of the administrative officer and copies shall be furnished on request to any person.

- F. *Revocation of development approvals.* Development approvals may be revoked by the local government issuing the development approval by notifying the permit holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals 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 local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the permit approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed to the board of adjustment pursuant to G.S. 160D-4-5. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-4-5(e) regarding stays shall be applicable (G.S. 160D-403(f)).

## **9-3024 DEMOLITION PERMITS**

- A. *Demolition Permit required.* Within the town limits of the Town of Drexel, no building, sign, or other structure shall be demolished before a demolition permit has been issued by the administrative officer of Drexel.

Within the extraterritorial zoning area of Drexel, no building, sign, or other structure shall be demolished before a demolition permit has been issued by the administrative officer of Drexel.

- B. *Application for a demolition permit.* The applicant for the proposed project must agree to abide by the following conditions:
- 1) Attach proof of having obtained all necessary permits from the NC Department of Environmental Quality and/or the NC Department of Health & Human Services.
  - 2) Upon completion of demolition and with the exception of any state or federal environmental regulations to the contrary, no demolition materials may be left onsite prior to redevelopment of the subject property. “Redevelopment” shall not include storage, for business or non-business purposes, of demolition materials generated on the subject property.
  - 3) For Single-Family and Two-Family Residential projects, all material must be removed from the site within fourteen (14) days of demolition of the structure(s).
  - 4) Upon demolition, sewer line must be satisfactorily capped off by the property owner and/or contractor. Once capped, it must be inspected by the Town of Drexel Public Works Department.

- 5) Paved parking areas may be retained onsite, although the property owner is required to maintain such areas so that they do not detract from the overall appearance of the property.
- 6) Upon demolition, the lot where the demolition has occurred shall be sodded or hydro-seeded with a silt fence installed to prevent and eliminate erosion. This silt fence must be maintained in place until the lot has a vegetative cover of at least seventy percent (70%). Any resulting holes (e.g. from basement levels) must be filled and returned to normal grade.
- 7) Deadline for completion of the demolition will be determined by the administrative officer of the Town of Drexel and the applicant.
- 8) Administrative officer and applicant must agree to plans for post-demolition maintenance of the lot so that the condition of the lot does not rise to that of a Public Nuisance as defined in Town Code Part 8 Chapter 3 Abandoned, *Nuisance and Junked Motor Vehicles and Nuisances Relating to Property*.
- 9) Application for a Demolition shall be accompanied by payment of a secure bond in the form of cash, certified check, cashier's check or surety bond according to the size of the project as noted within the Town of Drexel Schedule of Fees as approved by the Board of Aldermen. Bonds shall be based upon square footages identified on the official Tax Cards of Burke County. Any bond in the form of cash or certified/cashier's check will be refunded within thirty (30) days upon satisfactory completion and inspection of the subject property by the Zoning Administrator.
- 10) Failure on the part of the property owner or his contractor to completely demolish, remove, and clear the premises as stipulated in this Demolition Plan after 30 days' notice by the Zoning Administrator shall be cause for forfeiture of the bond.
- 11) In the case of structures greater than 10,000 square feet, sub-sections thereof may be bonded and demolished individually provided that these sub-sections are bound by intact firewalls. In the case of such projects, the approved Demolition Plan shall apply fully to all structures, materials and foundations on the subject property as stipulated in Section 9-3024 B(2). A performance bond based upon square footage unit cost shall be posted for each sub-section demolished, regardless of that sub-section's size. The bond amount shall be determined by the cumulative square footage per story within the structure. Each permitted section of demolition shall require a performance bond from either: A) any bond company rated B+ or greater by A.M. Best; or B) cash or cashier's check to be deposited and held by the Town until the project is completed. Outlying and unattached structures less than 10,001 square feet located on the same parcel may be bonded according to the applicable per-structure rates within the Town of Drexel Fee Schedule as approved annually by the Board of Aldermen. All bond amount schedules shall be specified in the Town of Drexel Fee Schedule.
- 12) Bond shall not be released until all material generated by that section's demolition has been removed from the property. In the case of projects involving multiple

contractors or entities who may each post separate bonds, subsequent sections must be bonded before the Town will release the bond on the previous section. In the case of one entity who intends to post bond on the entire project, the bond for the final section on a parcel shall be held until the entire parcel is graded, sodded and finished according to the terms of this Ordinance. While complete foundation removal is required under Section 9-3024 B(2), the entire foundation may be scheduled up front in the approved Demolition Plan as the one, single final section in cases where complete removal at once is most practical for the developer. In such cases, the Town shall require one-third of every previous section's bond amount to serve as bond on the final section.

- 13) In addition to posting bond according to the terms of this ordinance, the applicant shall pay Inspection Fees to the Town as set forth in the Town of Drexel's Fee Schedule. The Zoning Administrator, or his/her designee, shall conduct random inspections and have the authority to issue an immediate Stop-Work Order if the terms of this Ordinance and the project's Demolition Plan are not met. Demolition activity shall be prohibited from sunset to sunrise, Eastern Standard Time, and all day on Sundays.
- 14) Failure to comply with the provisions of this Demolition Plan shall subject the violator to penalties, enforcement, and abatement as provided in Sections 8-30\_\_ through 8-30\_\_ of the Town of Drexel Code of Ordinances.

## **9-3025 PROPERTY MAINTENANCE**

This section shall apply to all properties within the Town of Drexel jurisdiction. The requirements contained herein shall become effective upon adoption of this Ordinance; however, no enforcement proceedings shall commence under this section until 60 days after adoption. This 60-day period is to allow property owners time to make necessary improvements required under this section.

- A. Construction. All new structures shall be designed, constructed and maintained in accordance with the following standards:
  - 1) All structures shall comply with applicable provisions of this Ordinance and the North Carolina State Building Code as adopted by the N.C. State Building Code Council, and the Town of Drexel Minimum Housing Code and such other building ordinances as may be adopted and or amended by the Town from time to time.
- B. All structures erected, occupied, or continued under this Ordinance shall be maintained in good structural condition, in compliance with all applicable codes and provisions of this Ordinance. Specifically:
  - 1) All existing structures shall comply with applicable provisions of this Ordinance and the following codes including but not limited to the: North Carolina State Building Code Volume IX—Existing Buildings, the requirements of the code under which the building was built and the Town of Drexel Minimum Housing Code.

- 2) A structure shall have no more than 20 percent of its exterior roofs, walls and other elements of the structure covered with disfigured, cracked, or peeling surface materials for a period of more than 30 consecutive days.
- 3) A structure shall not be maintained with broken windows, holes in exterior surfaces including roofs and walls, ripped awnings, loose materials, loose elements or other obvious defects for a period of more than 30 consecutive days. Exterior materials shall form a weather tight surface with no holes, excessive cracks or decayed surfaces that permit air to penetrate rooms where such rooms are designed, used, permitted, or intended for human occupancy or use.
- 4) A structure shall not have weeds, trees, vines, or other vegetation growing upon it greater than 12 inches in height in an untended manner for a period of more than 15 consecutive days.
- 5) All site lighting, parking areas, fences, railings, driveways, curbs, wheel stops, sidewalks, gutters, storm water management areas and systems and other improvements and appurtenances shall be maintained in working order and reasonably free of defects.
- 6) The owner or tenant shall maintain all landscape areas, trees and shrubs in a neat and healthy condition free of diseased, dead, or bare areas, free of debris and free of grass or weeds greater than 12 inches in height.
- 7) The owner or tenant shall maintain all required landscaped areas in a manner consistent with the requirements of this Ordinance. Dead plants shall be replaced as necessary to maintain compliance with the regulations contained herein.
- 8) The property owner shall maintain the property and the exterior portions of any structures thereupon free of accumulations of debris, junk, garbage, or trash including but not limited to discarded furniture and other household goods, inoperative vehicles, and inoperative equipment except within approved dumpsters or trash enclosures, enclosed storage areas or on land approved for the operation of a junk yard.

## **9-3026 [RESERVED]**

## **9-3027 PENALTIES FOR VIOLATION**

Notices of violation. When staff determines work or activity has been undertaken in violation of these development regulations a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud (160D-404(a)).



Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding fifty dollars (\$50.00) per day, except as provided in the Town of Drexel Code of Ordinances.

## **9-3028 REMEDIES**

In case any building is erected, constructed, reconstructed, altered, repaired, converted, maintained, or demolished, or any building or land is used in violation of this chapter, the administrative officer, or any other appropriate town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.

# **BOARD OF ADJUSTMENT**

## **9-3029 ZONING BOARD OF ADJUSTMENT; ESTABLISHMENT**

A Board of Adjustment is hereby established as provided in Section 160D-302 of the General Statutes of North Carolina. The Planning Board shall function as the Board of Adjustment as provided in Section 160D-301 of the General Statutes of North Carolina.

Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision (G.S. 160D-406).

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. If an objection is raised to a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.<sup>12</sup> (G.S. 160D-109(d), (e), (f)).

## **9-3030 JURISDICTION AND DECISION**

The concurring vote of four-fifths (4/5) of the members of the Board of Adjustment – four (4) of the five (5) voting members – shall be necessary to approve any variance of the Ordinance. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Enforcement Officer of the Town of Drexel. In accordance with NCGS 160A-388(e1) no member of the Board of Adjustment shall participate or vote in any quasi-judicial matter in a manner that would violate affected persons'

constitutional rights to an impartial decision maker. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. Vacant positions and members who are disqualified from voting are not calculated for the concurring four-fifths vote or simple majority vote. Alternate members may serve temporarily (including voting) in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a regular member. Alternate members shall be eligible for appointment by the Board of Alderman as a regular member of the Board of Adjustment.

On all appeals, applications and other matters brought before the zoning board of adjustment, said board shall inform in writing all parties involved of its decision and the reasons therefore.

### **9-3031 PROCEEDINGS**

The zoning board of adjustment shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The board shall appoint a secretary, who may be a municipal officer, an employee of the town or a member of the planning and zoning board. The board shall adopt rules and by-laws in accordance with the provisions of this chapter and of N.C.G.S.160D-302, of the General Statutes of North Carolina. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. The Chairman shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this Section, the Board of Adjustment or the person seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed pursuant to N.C.G.S. 160D-406(g). All meetings of the board shall be open to the public.

### **9-3032 APPEALS, HEARING AND NOTICE**

Appeals to the zoning board of adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the Town of Drexel, affected by any decision of the administrative officer or other town official based on this chapter. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to G.S. 160D-4-3(b) given by first class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service (G.S. 160D-405(d)). All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the zoning board of adjustment.

The zoning board of adjustment shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give due notice thereof to the parties in interest, and decide the same

within a reasonable time. Upon a hearing, any party may appeal in person, or by agent or by attorney.

### **9-3033 STAY OF PROCEEDINGS**

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the administrative officer certifies to the zoning board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning board of adjustment or by a court of records on application, on notice to the administrative officer and on due cause shown.

### **9-3034 FEES FOR VARIANCE OR APPEALS**

As set forth in the schedule of fees adopted by the Town of Drexel, a fee shall be paid to the town clerk for each application for a variance, special exception, or appeal, to cover administrative costs and advertising.

### **9-3035 POWERS AND DUTIES**

The zoning board of adjustment shall have the following powers and duties:

- A. *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative officer in the enforcement of this chapter.
- B. *Special exceptions.* To hear and decide special exceptions in the terms of the chapter upon which the zoning board of adjustment is required to pass under this chapter (e.g., group developments).
- C. *Variance.* To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special situations, a literal enforcement of the provisions of the chapter will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done. The existence of a nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. Such variance may be granted in an individual case of unnecessary hardship upon a finding by the zoning board of adjustment that the following conditions exist:
  - 1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district;
  - 2) Granting the variance requested will not confer upon the applicant any special

privileges that are denied to other residents in the district in which the property is located;

- 3) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
- 4) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;
- 5) The special circumstances are not the result of the actions of the applicant;
- 6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure; or the variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved.

D. *Planning and zoning commission.* To perform any or all of the duties of a planning and zoning commission including the power to advise and make recommendations to the board of aldermen concerning amendments to the zoning ordinance and other planning matters.

## **9-3036 APPEALS FROM THE ZONING BOARD OF ADJUSTMENT**

Any person or person, jointly or severally, aggrieved by any decision of the board, any tax-payer, or any officer, department, board or bureau of the Town of Drexel, may, within thirty (30) days after the filing of the decision in the office of the board, but not thereafter, present to a court of competent jurisdiction, a petition duly verified, setting forth that such decision is illegal in whole or in part, specifying the grounds of illegality, whereupon such decision of said board shall be subject to review by certiorari as provided by law.

## **9-3037 AMENDMENTS**

The board of aldermen may, on its own motion, or upon the request of the planning and zoning commission or upon petition by the owner of property within the zoning jurisdiction of the town or the property owner's agent, amend, supplement, change, modify or repeal the regulations herein established, amend any maps which are a part of this zoning ordinance, change the district boundary lines or rezone any property subject to this Ordinance in accordance with the following:

- A. Any petition to change zoning district boundaries or change the zoning classification of a parcel or parcels of land not initiated by the property owner or the property owner's agent shall be considered invalid and will not be accepted for processing. Further, petitions or requests for rezoning initiated by the property owner or the agent of the property owner shall comply with all of the other requirements set forth in this section, and any petition not in compliance with this section shall also be considered invalid and will not be accepted for processing.

- B. The application (petition) for any change or amendment shall be submitted on the form provided by the town, shall accurately set forth all information requested thereon, and shall contain a description of the property, a statement of the property, a statement of the present and proposed zoning districts to be applied, and the names and addresses of the owner or owners of the property as well as the names and addresses of each adjacent property owner. The application shall be submitted not later than three (3) weeks prior to the meeting of the board of aldermen at which the application is to be first considered.
- C. A fee as established and set forth in the schedule of fees adopted by the board of alderman of the Town of Drexel shall be paid for each application. The fee is to cover the cost of advertising and other administrative expenses involved except that the town shall bear all such expenses for requests originating from the board of aldermen and/or the planning and zoning commission.
- D. Every proposed amendment, supplement, change, modification or repeal to this chapter shall be referred to the planning and zoning commission for its recommendation and report (G.S. 160D-604(c), (e)). The owner 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. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. Additionally, the town shall prominently post a notice of the public hearing on the site proposed for rezoning the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within twenty-five days prior to the hearing until 10 days prior to the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons (G.S. 160D-602).
  - 1) The planning and zoning commission shall submit its recommendation to the board of Aldermen in writing; however if no recommendation is received from the planning and zoning commission prior to the public hearing required hereunder, the proposed change, modification or amendment shall be deemed to have been approved by the planning and zoning commission.
- E. The board of aldermen shall consider changes and amendments to this chapter as often as necessary, provided, however, that should the board of aldermen deny a petition or request by the property owner to have his or her property rezoned or to otherwise have the zoning boundaries changed, the board shall not thereafter accept any other application for the same change of zoning district affecting the same property or any portion thereof until the expiration of one year from the date of such previous denial.
- F. Before approving any rezoning request or adopting any ordinance which amends, supplements, changes modifies or repeals this chapter or any section thereof, the board of aldermen shall first hold a public hearing on such proposed changes. Notice of the public hearing shall be given a week for two (2) successive calendar weeks in a newspaper having general circulation in the Town of Drexel. The notice shall be published the first time not less than ten (10) days not more than twenty-five (25) days before the date fixed for such hearing.

G. Plan consistency. When adopting or rejecting any zoning text or map amendment, the Board of Alderman shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Alderman, that at the time of action on the amendment, the Board of Alderman was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-6-2(b), the Board of Alderman statement describing plan consistency may address the overall rezoning and describe how the analysis and polices in the relevant adopted plans were considered in the action taken.

This section is intended to comply with the notice requirements set forth in G.S. 160D-601 and any other related sections of the General Statutes of North Carolina, Should the general statutes be amended or should additional notice requirements be imposed by the General Statutes of North Carolina or by any cases interpreting or applying such sections or amendments thereto, this Ordinance shall be deemed to be amended to comply therewith and all notices and procedures so established shall be required under this Ordinance.

- A. In lieu of holding a separate meeting, the planning and zoning commission may meet concurrently with the board of aldermen at the public hearing required above and submit its recommendation to the town board of aldermen based on such meeting.
- B. In case of a protest against any change or amendment to this chapter signed by the owners of at least twenty ( 20) percent or more, either of the area of the lots included in the proposed change, or of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred (100) feet there- from, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of three- fourths (3/4) of all of the members of the town board of aldermen.
- C. Amendments, modifications, supplements, repeal or other changes in zoning regulations and restrictions and zone boundaries shall not be applicable or enforce- able without the consent of the owner with regard to buildings and uses for which either (1) building permits have been issued pursuant to G.S. 160D-403 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 160D-403(f), or (2) a vested right has been established pursuant to G.S. 160D-102 and such vested right remains valid and unexpired.

## LEGAL PROVISIONS

### 9-3038 CONFLICT WITH OTHER REGULATIONS

Whenever the regulations of this chapter require a greater width or size of yards, or other open space, or require a lower height of buildings or lesser number of stories or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards, the regulations and requirements of this chapter shall govern.

Whenever the provisions of any other statute require more restrictive standards than are required by this chapter, the provisions of such statute shall govern.

### 9-3039 VALIDITY

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

## WATERSHED PROTECTION REGULATIONS

### 9-3040 WATERSHED PROTECTION

Following are provisions pertaining to watershed protection

#### 9-3041. AUTHORITY AND ENACTMENT

The legislature of the State of North Carolina has, in Chapter 160A, Article 19, Planning and Regulation of Development; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Town of Drexel, North Carolina ("the town"), does hereby ordain to enact into law the following sections as the Watershed Protection Ordinance of Drexel, North Carolina.

#### 9-3042 JURISDICTION

The provision of this section shall apply within the municipal limits and extraterritorial jurisdiction of the Town of Drexel. The provisions of this section shall apply within the areas designated as a public water supply watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled "Watershed Protection Map for Connelly Springs, Drexel, Hildebran, Long View, Rutherford College, and Valdese" which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of the section.

## 9-3043 EXCEPTIONS TO APPLICABILITY

- A. Development activities that do not require a sedimentation/erosion control plan are exempt from the requirements of this section.
- B. Existing development, as defined in this section, is not subject to the requirements of this section. Existing development is defined as those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this section based on at least one of the following criteria:
  - 1) Having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
  - 2) Having an outstanding valid building permit as authorized by G.S.160D-102; or
  - 3) Having an approved site specific or phased development plan as authorized by G.S. 106D-102.
- C. Expansions to structure classified as existing development must meet the requirements of this section; however, the built-upon area of the existing development is not required to be included in the density calculations.
- D. Reconstruction of buildings or built-upon areas. Any existing building or built-upon area not in conformance with the restrictions of this section that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential redevelopment, provided:
  - 1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
  - 2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.
- E. If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot record shall not be subject to the development restrictions of this Ordinance if it is developed for single-family purposes, provided the property is zoned for this use.
- F. Nothing contained herein shall repeal, modify, or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this section amend, modify, or restrict any provisions of the Code of Ordinances of Drexel; however, the adoption of this section shall and does amend any and all ordinances, resolutions, and regulations in effect in the Town of Drexel at the time of the adoption of this section that may be construed to impair or reduce the effectiveness of this section or to conflict with any of its provisions.
- G. It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose



greater restrictions or higher standards for the use of a building or land, then the provision of these regulations shall control.

### **9-3044 CLUSTER OR GROUP HOUSING DEVELOPMENT**

Cluster or group housing development is allowed in all watershed areas under the following conditions:

- A. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in section 3006(3)(a). Built-upon area for the project shall not exceed that allowed for the critical area or protected area, which- ever applies.
- B. All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- C. The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management, to a local government for preservation as a park of open space or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be file with the deeds.

### **9-3045 BUFFER AREA REQUIRED**

- A. A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated in the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Artificial stream bank or shore-line stabilization is permitted.
- B. No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways and their appurtenances where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices, defined as a structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs receiving waters in order to achieve water quality goals.

### **9-3046 RULES GOVERNING THE INTERPRETATION OF WATERSHED AREA BOUNDARIES**

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the watershed map, the following rules shall apply:

- A. Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said

boundaries.

- B. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a survey plat prepared by a registered land surveyor may be submitted to the Watershed Administrator as evidence that one or more properties along these boundaries do not lie within the watershed area.
- C. Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- D. Where the watershed area boundaries lie at the scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- E. Where other uncertainty exists, the watershed administrator shall interpret the watershed map as to location of such boundaries. This decision may be appealed to the watershed review board.

### **9-3047 WATERSHED ADMINISTRATOR AND DUTIES THEREOF**

The Drexel Board of Aldermen shall appoint a watershed administrator, who shall be duly sworn in. It shall be the duty of the watershed administrator to administer and enforce the provisions of this section as follows:

- A. The watershed administrator shall issue watershed protection permits and watershed protection occupancy permits as pre- scribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the administrator.
- B. The watershed administrator shall serve as staff to the watershed review board.
- C. The watershed administrator shall keep records of all amendments to the local water supply watershed protection section and shall provide copies of all amendments upon adoption to the division of water quality.
- D. The watershed administrator is granted the authority to administer and enforce the provisions of this section, exercising in the fulfillment of his responsibility the full zoning and police power of the Town of Drexel. The watershed administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this section.
- E. The watershed administrator shall keep a record of variance to the local water supply watershed protection ordinance. This record shall be submitted each calendar year to the division of water quality on or before January 1 of the following calendar year and shall provide a description of each project receiving a variance and the reason for granting the variance.

## **9-3048 APPEAL FROM THE WATERSHED ADMINISTRATOR**

- A. Any order, requirement, decision or determination made by the watershed administrator may be appealed to and decided by the board of adjustment.
- B. An appeal from a decision of the watershed administrator must be submitted to the board of adjustment within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the watershed administrator shall transmit to the board all papers constituting the record upon which the action appealed from was taken.
- C. An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.
- D. The board shall fix a reasonable time for hearing and appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

## **9-3049 ESTABLISHMENT OF WATERSHED REVIEW BOARD**

There shall be and hereby is created the watershed review board consisting of the same membership as the Drexel Board of Aldermen. Terms for members of the watershed review board shall coincide with the membership terms for board of aldermen.

## **9-3050 POWERS AND DUTIES OF THE WATERSHED REVIEW BOARD AND BOARD OF ADJUSTMENT**

- A. The board of adjustment shall be responsible for reviewing and hearing all minor watershed variance cases, and shall proceed as provided in the Zoning Ordinance for zoning variances. Written notification shall be given to local governments having jurisdiction and any entity using the water supply for consumption where a variance is being considered. The local government and entity shall have a reasonable comment period prior to review by the board of adjustment.
- B. If the application calls for the granting of a major watershed variance, and if the watershed review board decides in favor of granting the major watershed variance, the board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
  - 1) The variance applications;
  - 2) The hearing notices;

- 3) The evidence presented;
- 4) Motions, offers of proof, objections to evidence, and rulings on them;
- 5) Proposed findings and exceptions;
- 6) The proposed decision, including all conditions proposed to be added to the permit.
- 7) The preliminary record shall be sent to the environmental management commission for its review as follows:
  - a) If the commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The commission shall prepare a commission decision and send it to the watershed review board. If the commission approves the variance as proposed, the board shall prepare a final decision granting the proposed variance. If the commission approves the variance with conditions and stipulations, the board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
  - b) If the commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance, or (2) the variance, if granted, will result in a serious threat to the water supply, then the commission shall deny approval of the variance as proposed. The commission shall prepare a commission decision and send it to the board of adjustment. The board shall prepare a final decision denying the variance as proposed.

C. Approval of all development greater than the low density option shall be the authority of the watershed review board.

### **9-3051 APPEALS FROM THE WATERSHED REVIEW BOARD OR BOARD OF ADJUSTMENT**

Appeals from the watershed review board must be filed with the Superior Court within thirty (30) days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari.

### **9-3052 LOW DENSITY DEVELOPMENT STANDARDS**

A. *WS-4-protected areas*: Density and built-upon limits:

- 1) *Residential*: Development shall not exceed three (3) dwelling units per acre or thirty-six (36) percent built-upon area, as defined by a project by project basis. For projects with a curb and gutter street system, residential development shall be allowed at a maximum of two (2) dwelling units per acre or twenty-four (24) percent built-upon area.
- 2) *Commercial and industrial*: Development shall not exceed thirty-six (36) percent built-upon area on a project by project area. For projects with a curb and gutter street system, commercial and industrial development shall be allowed at a maximum of twenty-four (24) percent built upon area.

### **9-3053 HIGH DENSITY STANDARDS**

- A. The watershed review board may approve high density development proposals consistent with the following standards:
  - 1) *WS-4-protected areas*. Where new development requires a sedimentation/erosion control plan and exceeds either two (2) dwelling units per acre, twenty-four (24) percent built-upon area (or three (3) dwelling units per acre or thirty-six (36) percent built-upon area for projects without curb and gutter street system), engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed seventy (70) percent built-upon area.

### **9-3054 HIGH DENSITY DEVELOPMENT PERMIT APPLICATION**

- A. A high density development permit shall be required for new development exceeding the requirements of the low density option.
- B. Application for a high density development permit shall be addressed and submitted to the watershed review board through the watershed administrator. Application for a high density development permit shall be made on the proper form and shall include the following information:
  - 1) A completed high density development permit application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization;
  - 2) Ten (10) reproducible copies of the development plan within the drainage basin including the applicable information listed in Appendix A: Application Forms, Subdivision Plat Checklist and detailed information concerning built-upon area;
  - 3) Ten (10) reproducible copies of the plans and specifications of the stormwater control structure consistent with section 9-3055;
  - 4) When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate state or local agency;
  - 5) Permit application fees consistent with section 9-3058.

- C. Prior to taking final action on any application, the board or the watershed administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations on the application. However, failure of the agencies to submit their comments and recommendations shall not delay the board's action within the prescribed time limit.
- D. Public hearing. Upon receipt of a completed application, the watershed review board shall hold a public hearing. Notice of the hearing shall be published in a newspaper of general circulation at least seven (7) days prior to the date of the hearing. The notice shall state the location of the building, lot or tract in question, the intended use of the property, the need for engineered stormwater controls and the time and place of the hearing. At the hearing, the applicant or designated representative thereof shall appear for the purposes of offering testimony and recommendations concerning the application. The board shall also allot reasonable time for the expression of views by any member of the public attending the meeting in person or represented by an attorney provided the testimony bears on the findings the board must make.
- E. The watershed review board shall issue a high density development permit within sixty-five (65) days of its first consideration upon finding that the proposal is consistent with the applicable standards set forth in the Watershed Protection Ordinance and the following conditions are met:
- 1) The use will not endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
  - 2) The use minimizes impacts to water quality through the best management practices, cluster development, and/or maximum setbacks from perennial waters;
  - 3) The use is vital to the continued growth and economic development of the Town of Drexel.
  - 4) The use is consistent with the officially adopted land development plans for the Town of Drexel.
- F. If the watershed review board finds that any one of the above conditions is not met, the board shall deny the application.
- G. In addition to any other requirements provided by this section, the board may designate additional permit conditions and requirements to assure that the use will be harmonious with the area in which it is proposed to be located and with the spirit of this section. All additional conditions shall be entered in the minutes of the meeting at which the permit is granted, on all plans and on the permit certificate. All conditions so imposed shall run with the land and shall be binding upon the applicant and the applicant's heirs, successors or assigns during the continuation of the permitted use.
- H. The board shall issue a written ruling and make copies available at the office of the watershed administrator and the town clerk. If the board approves the application based on its findings, such approval shall be indicated on the permit and all copies of the site plan and all copies of the plans and specifications of the stormwater control structure(s). A high density development permit shall be issued after the applicant posts a performance bond

or other acceptable security as required in section 9-3056(b)( 1) and executes an operation and maintenance agreement as required in section 9-3056(c). A copy of the permit and one copy of each set of plans shall be kept on file at the watershed administrator's office. The original permit and one copy of each set of plans shall be delivered to the applicant either by personal service or registered mail, return receipt requested.

## **9-3055 STORMWATER CONTROL STRUCTURES**

- A. All stormwater control structures shall be designed by a North Carolina registered professional engineer. Other stormwater systems shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers or landscape architects, to the extent that the General Statutes, Chapter 89A allow and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in G.S. 89(C)-3(7).
- B. All stormwater controls shall use wet detention ponds as a primary treatment system. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:
  - 1) Wet detention ponds shall be designed to remove eighty-five (85) percent of total suspended solids in the permanent pool and storage run-off from a one-inch rainfall from the site above the permanent pool;
  - 2) The designed run-off storage volume shall be above the permanent pool;
  - 3) The discharge rate from these systems following the one-inch rainfall design storm shall be such that the run-off does not draw down to the permanent pool level in less than two (2) days and that the pond is drawn down to the permanent pool level within at least five (5) days;
  - 4) The mean permanent pool depth shall be a minimum of three (3) feet;
  - 5) The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features;
  - 6) Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least thirty (30) feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow through the filter for a ten-year, 24-hour storm with a ten-year, one hour intensity with a slope of five (5) percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the sit characteristics; and
  - 7) All Stormwater control structures shall be enclosed by a fence with a minimum

height of six (6) feet.

- C. In addition to the vegetative filters required in section 9-3055(b)(6), all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty (30) day after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in section 9-3056(c).
- D. A description of the area containing the stormwater control structure shall be prepared and filed consistent with section 9-3059(a) and (b), as a separate deed with the Burke County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.
- E. Qualifying area of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.

## **9-3056 POSTING OF FINANCIAL SECURITY REQUIRED**

- A. All new stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, reconstruction, or repairs necessary for adequate performance of the stormwater control structures.
- B. Financial assurance shall be in the form of the following:
  - 1) *Security performance bond or other security.* The permit applicant shall obtain either a performance bond *from* a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the Town of Drexel or placed in escrow with a financial institution designated as an official depository of the Town of Drexel. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of the stormwater control structure, as estimated by the applicant and approved by the town. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.
  - 2) *Cash or equivalent security deposited after the release of the performance bond.* Consistent with section 9-3059(c)(1), the permit applicant shall deposit with the Town of Drexel either cash or other instrument approved by the Town Attorney that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen (15) percent of the total cost of the stormwater control structure over a ten (10) year period, which- ever is greater. The estimated cost of maintaining the stormwater control structure shall be consistent with the



approved operation and maintenance plan or manual provided by the developer under section 9-3057(a). The amount shall be computed by estimating the maintenance cost for twenty-five (25) years and multiplying this amount by two-fifths or 0.4.

- C. Consistent with section 9-5054(g), the permit applicant shall enter into a binding operation and maintenance agreement between the Town of Drexel and all interests in the development. Said agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual provided by the developer. The operation and maintenance agreement shall be filed with the Burke County Register of deeds by the Watershed administrator.
- D. Default under the performance bond or other security. Upon default of the permit applicant to complete and/or maintain the stormwater control structure as specifically provided in the performance bond or other security, the Town of Drexel may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The Town of Drexel shall return any funds not spent in completing the improvements to the owning entity.
- E. Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and maintenance agreement, the Town of Drexel shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the operation and maintenance agreement. The Town of Drexel shall not return any of the deposited cash funds.

## **9-3057 MAINTENANCE AND UPKEEP**

- A. An operation and maintenance plan or manual shall be provided by the developer for each stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the operation and maintenance agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
- B. Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement to the stormwater control structure.
- C. Except for general landscaping and grounds management, the owning entity shall notify the watershed administrator prior to any repair or reconstructions of the stormwater control structure. All improvements shall be made consistent with the approved plans

and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the town engineer shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements.

- D. Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual shall be approved by the watershed review board. Proposed changes shall be prepared by a North Carolina registered professional engineer and submitted to and reviewed by the watershed administrator prior to consideration by the watershed review board.
  - 1) The watershed review board approves the proposed change; the owning entity of the stormwater control structure shall file sealed copies of the revisions with the office of the watershed administrator.
  - 2) If the watershed review board disapproves the changes, the proposal may be revised and resubmitted to the watershed review board as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, it shall be returned to the applicant.

### **9-3058 APPLICATION AND INSPECTION FEES**

- A. Processing and inspection fees shall be submitted in the form of a check or money order made payable to the Town of Drexel. Applications shall be returned if not accompanied by the required fee.
- B. A permit and inspection fee schedule, as approved by the Town of Drexel, shall be posted in the office of the watershed administrator.
- C. Inspection fees shall be valid for sixty (60) days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with section 9-3057(c), except in the case when a similar fee has been paid within the last sixty (60) days.

### **9-3059 INSPECTIONS AND RELEASE OF THE PERFORMANCE BOND**

- A. The stormwater control structure shall be inspected by the town, after the owning entity notifies the watershed administrator that all work has been completed. At this inspection, the owning entity shall provide:
  - 1) The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the register of deeds;
  - 2) A certification sealed by an engineer or landscape architect (to the extent that General Statutes allow) stating that the stormwater control structure is complete and consistent with the approved plans and specifications.

- B. The Watershed administrator shall present the materials submitted by the developers and the inspection report and recommendations to the Drexel Board of Aldermen at its next regularly scheduled meeting.
- C. If the board of aldermen approves the inspection report and accepts the certification, deed and easements, the Town shall file the deed and easements with the Burke County Register of Deeds, release up to seventy-five (75) percent of the value of the performance bond or other security and issue a certificate of occupancy for the stormwater control structure.
- D. If deficiencies are found, the town shall direct that improvements and inspections be made and documents corrected and submitted to the town.
- E. No sooner than one year after the filing date of the deed, easements, and maintenance agreement, the developer may petition the town to release the remaining value of the performance bond or other security. Upon receipt of said petition, the town shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The watershed administrator shall present the petition and findings to the board of aldermen.
  - 1) If the Board of Aldermen approves the report and accept the petition, the developer shall deposit with the Town of Drexel a cash amount equal to that described in Section 9-3056(B)(2), after which the board of aldermen shall release the performance bond or other security.
  - 2) If the board of aldermen does not accept the report and rejects the petition, the town shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.
- F. A certificate of occupancy shall not be issued for any building within the permitted development until the board of aldermen has approved the stormwater control structure, as provided in section 9-3059(b).
- G. All stormwater control structures shall be inspected at least on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North Carolina Division of Environmental Management. Annual inspections shall begin within one year of filing date of the deed for the stormwater control structure.
- H. In the event the watershed administrator discovers the need for corrective action or improvements, the watershed administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the town shall inspect and approve the completed improvements.

## **9-3060 WATERSHED AMENDMENTS**

Amendments to the watershed protection portions of this Ordinance shall be made in accordance with the provisions set forth in section 9-3036. Under no circumstances shall the town board of aldermen adopt such amendments that would cause this Ordinance to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. Amendments affecting the watershed protection portions of this Ordinance shall be filed with the North Carolina Division of Environmental Management, the North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

## **9-3061 REMEDIES**

- A. If any subdivision, development and/or land use is found to be in violation of this section, the town may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of fifty dollars (\$50.00), institute actions or proceedings to restrain, correct, or abate the violations; to prevent occupancy of the building, structure, or land; or to prevent an illegal act, conduct, business, or use in or about the premises. In addition, the North Carolina Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day the violation continues shall constitute a separate offense.
- B. If the watershed administrator finds that any of the provisions of this section are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this section to ensure compliance with or to prevent violation of its provisions. If a ruling of the watershed administrator is questioned, the aggrieved party or parties may appeal such ruling to the board of adjustment.

## **9-3062 SANCTIONS**

In addition to the remedies described in section 9-3061 of this chapter and consistent with G.S. 160A-175, the Drexel Board of Aldermen may seek enforcement of this section by assessing a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the section. Such violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the rules of civil procedure in general and Rule 65 in particular. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt and the town may execute the order of abatement. The town shall have a lien on the property for the cost of

executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith. Enforcement of this section may be by any one, all or a combination of the remedies authorized in this section. Each day's continuing violation shall be a separate and distinct offense.

## ENACTMENT

### **9-3063 EFFECTIVE DATE**

This section shall become effective on July 7, 1998.

### **9-3064 ADOPTION DATE**

Adopted this the seventh day of July, 1998.