

ARTICLE II

LEGAL PROVISIONS

Section 9-3011 General Procedure for Plat Approval

After the effective date of this ordinance, no subdivision plat of land within the Town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Town Planning Board as set forth in Section 9-3005 of this ordinance, and until this approval is entered in writing on the face of the plat by the Chairman of the Planning Board and by the Town Clerk.

The Harnett County Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the Town of Erwin that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

Section 9-3012 Statement by the Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of Town of Erwin, North Carolina .

Section 9-3013 Effect of Plat Approval on Dedications

Pursuant to G. S. 160A-374, the approval of a plat does not constitute or effect the acceptance by the Town or public of the dedication of any street or other ground, public utility line; or other public facility shown on the plat and shall not be construed to do so.

Section 9-3014 Penalties for violation

9-3014.1 After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the Office of the Harnett County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town through its attorney or other official designated by the Town Board may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G. S. 14-4.

9-3014.2 The violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of \$50.00 to be recovered by the Town. Violators shall be issued a written citation which must be paid within ten (10) days.

9-3014.3 Each day's continuing violation of this ordinance shall be a separate and distinct offense.

9-3014.4 Notwithstanding Subsection 9-3014.2 above, this ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

9-3014.5 Nothing in this section shall be construed to limit the use of remedies available to the Town. The Town may seek to enforce this ordinance by using any one, all, or a combination of remedies.

Section 9-3015 Separability

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 9-3016 Variances

The Erwin Town Board may only authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Town Board shall make the findings required below, taking into account the nature of the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Town Board finds all four of the following conditions to exist:

- (a) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- (c) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance.
- (d) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.

Section 9-3017 Amendments

The Town Board may from time-to-time amend the terms of this ordinance (but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

No amendment shall be adopted by the governing body until they have held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the Town of Erwin at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) nor less than ten (10) days prior to the hearing date. In computing the ten (10) - twenty-five - (25) day period, the date of publication is not to be counted, but the date of the hearing is.

Section 9-3018 Abrogation

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

Section 9-3019 Effective Date

This ordinance shall take effect and be in force from and after _____

Section 9-3020 Adoption

Duly adopted by the Town of Erwin, North Carolina Board of Commissioners this the _____ day of _____.

Mayor

Clerk

Section 9-3021 Administration

This ordinance shall be administered and enforced by an Administrative Officer or the designated representative who shall be named by the Town Board.

Section 9-3022 Gift Lots

Reserved

Sections 9-3023 through 9-3024 Reserved