

CITY OF CLAREMONT  
NORTH CAROLINA  
ORDINANCE #30-23  
AN ORDINANCE TO AMEND TO THE CODE OF ORDINANCES  
OF THE CITY OF CLAREMONT  
TITLE 2, GOVERNMENT AND ADMINISTRATION  
CHAPTER 6, BOARDS AND COMMISSIONS  
Sec. 2-6-2, MEMBERSHIP AND VACANCY  
AND  
TITLE 9, PLANNING AND COMMUNITY DEVELOPMENT  
CHAPTER 3, ZONING REGULATIONS  
ARTICLE O, PLANNING BOARD  
SEC. 9-3-251, ESTABLISHMENT OF PLANNING BOARD  
AND  
TITLE 9, PLANNING AND COMMUNITY DEVELOPMENT  
CHAPTER 3, ZONING REGULATIONS  
ARTICLE P, BOARD OF ADJUSTMENT  
SEC. 9-3-262, JURISDICTION AND DECISION OF BOARD OF ADJUSTMENT

WHEREAS, the City of Claremont proposes to amend the Code of Ordinance to have a more evenly allocate representation of our City Planning Board;

WHEREAS, the City of Claremont currently has over the required limit of planning board representation; and

WHEREAS, this will give the City of Claremont a more apportioned number of extraterritorial jurisdiction members when compared to the municipal members of the planning board; and

WHEREAS, City Council has conducted a public hearing to consider comments relative to the proposed amendment; and

WHEREAS, notification of the public hearing was duly published,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLAREMONT,

**That Title Two (2), Chapter 6, Sec. 2-6-2 is hereby amended by changing the following (new language appears as highlighted; deleted language and/or deleted sections appear as “strike-throughs”):**

**Sec. 2-6-2 Membership and vacancies.**

The planning board shall consist of **seven** ~~eight~~ members and one (1) alternate. Five (5) members and the alternate shall be citizens of the City of Claremont and shall be appointed by the city council. The alternate shall be called on to attend and participate only in meetings and hearings at which one (1) or more regular members are absent or are unable to participate in hearing a case for any reason. Two of the initial members shall be appointed for terms of two (2) years, and three (3) for terms of three (3) years. At the expiration of these terms all appointments will be for a period of three (3) years. **Two (2)** ~~Three (3)~~ members shall be residents of the city's extraterritorial area, and shall be appointed by the Catawba County Board of Commissioners upon the recommendation of the Claremont City Council. Requests for appointment by Catawba County shall be by resolution of the City of Claremont.

**One (1)** ~~Two (2)~~ of the extraterritorial members shall be appointed for terms of two (2) years, and one (1) for a term of three (3) years. At the expiration of these terms, all appointments will be for a period of three (3) years. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term and shall be appointed by the appropriate board. Faithful attendance at the meetings of the board is considered a prerequisite for maintenance of membership on the board. Extraterritorial members shall have the full authority as granted the municipal members of the board. (Ord. of 5/4/04, No. 379-04)

**That Title Nine (9), Chapter 3, Article O, Sec. 9-3-251 is hereby amended by changing the following (new language appears as highlighted; deleted language and/or deleted sections appear as “strike-throughs”):**

**Sec. 9-3-251 Establishment of Planning Board.**

A Planning Board is hereby established as provided in Chapter 160D-301 of the General Statutes of North Carolina. Said Board shall consist of **seven (7)** ~~eight (8)~~ regular members and one (1) alternate member and shall have proportional representation from within the corporate limits and the extraterritorial jurisdiction (ETJ) of the City of Claremont. Five (5) regular members and one (1) alternate member shall reside inside city limits and be appointed by the City of Claremont. **Two (2)** ~~Three (3)~~ regular members shall reside outside city limits but inside the city’s ETJ and be appointed by the Catawba County Board of Commissioners. Members shall serve overlapping terms of three (3) years. Initially the City Council and County Commissioners shall appoint two (2) regular members for a three (3) year term, two (2) regular members for a two (2) year term and one (1) alternate member for 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 (1) 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 N.C.G.S. 160D-109(b). Except at the election of officers, at no time shall more than **seven (7)** ~~eight (8)~~ members participate officially in any meeting or hearing. Should population in either the city 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 City Council and the Catawba County Board of Commissioners will be changed accordingly. (Ord. of 12-7-04; No. 37-02; Ord. of 8-7-06; No. 18-06; Ord. of 1-5-15, No. 12-14; Ord. of 6-21-21, No. 41-21)

**That Title Nine (9), Chapter 3, Article P, Sec. 9-3-262 is hereby amended by changing the following (new language appears as highlighted; deleted language and/or deleted sections appear as “strike-throughs”):**

**Sec. 9-3-262 Jurisdiction and decision of Board of Adjustment.**

The concurring vote of four-fifths of the members of the Board of Adjustment – **six (6) of the seven (7)** ~~seven (7) of the eight (8)~~ 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 City of Claremont, or to decide in favor of the applicant any matter upon which it is required to pass under the ordinance. A simple majority vote shall be all that is required for issuance of a special use permit. In accordance with N.C.G.S. 160D-109(d), 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

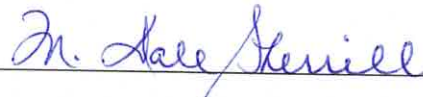
rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship 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.12 (G.S. 160D-109(d), (e), (f)). 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 City Council as a regular member of the Board of Adjustment. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06; Ord. of 3/3/14, No. 09-13; Ord. of 6-21-21, No. [41-21](#))

**Consistency Statement.**

City Council finds that the amendments as set forth in this Ordinance within TITLE 2 – GOVERNMENT AND ADMINISTRATION, CHAPTER 6 – BOARDS AND COMMISSIONS, SEC. 2-6-2 – MEMBERSHIP AND VACANCY; AND TITLE 9 – PLANNING AND COMMUNITY DEVELOPMENT, CHAPTER 3 – ZONING REGULATIONS, ARTICLE O – PLANNING BOARD, SEC. 9-3-251 – ESTABLISHMENT OF PLANNING BOARD; AND, TITLE 9 – PLANNING AND COMMUNITY DEVELOPMENT, CHAPTER 3 – ZONING REGULATIONS, ARTICLE P – BOARD OF ADJUSTMENT, SEC. 9-3-262, JURISDICTION AND DECISION OF BOARD OF ADJUSTMENT are reasonable and in the public interest because they promote a more accurate representation on the City of Claremont’s Zoning Board. Currently the board is over-represented with extraterritorial jurisdiction members.

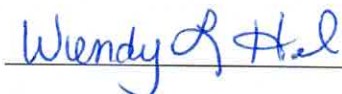
Section 3. This ordinance shall be effective upon passage.

Adopted this the 6<sup>th</sup> day of March 2023.



Dale Sherrill, Mayor Pro Tem

ATTEST:



Wendy Helms, City Clerk

APPROVED AS TO FORM:



Robert M. Grant, Jr., City Attorney