

CITY OF CLAREMONT
NORTH CAROLINA
ORDINANCE 41-21
AN ORDINANCE TO CONFORM WITH
THE NEW NORTH CAROLINA GENERAL STATUTES
CHAPTER 160D LOCAL PLANNING AND DEVELOPMENT REGULATIONS
WITH AMENDMENTS TO
TITLE 9, PLANNING AND COMMUNITY DEVELOPMENT
CHAPTER 1, EXTRATERRITORIAL JURISDICTION
CHAPTER 3, ZONING REGULATIONS
CHAPTER 4, SUBDIVISION REGULATIONS

WHEREAS, the new 160D of the North Carolina General Statutes (hereinafter G.S.) consolidates the previous county enabling statutes (previously in Article 18 of Chapter 153A) and the city enabling statutes for development regulations (previously in Article 19 of G.S. Chapters 160A);

WHEREAS, the Planning Board of the City of Claremont has considered the proposed amendments and recommend said amendments for approval by the City Council; and

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

WHEREAS, notification of the public hearing was duly published,

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

Section 1. That Title Nine (9), Planning and Community Development are hereby amended as follows:

Chapter 1 Extraterritorial Jurisdiction – N.C.G.S 160D Changes:

9-1-1 Jurisdiction established; purpose

- a) The territorial jurisdiction of all developmental controls enacted in this title is hereby established within an area outside the corporate limits; authority for establishing such jurisdiction being granted by G.S. ~~160A-360~~ 160D-200; 202; 903.
- b) The purpose of this chapter is to exercise extraterritorial jurisdiction as provided by G.S. ~~160A-360~~ 160D-200; 202; 903 in a specified area surrounding the corporate limits of the City of Claremont, not exceeding a distance of one (1) mile, for application of all the provisions of this title. (Ord. of 9/11/78, Sec. 2)

9-1-3 (4) Rules governing boundaries.

- (4) Where a perimeter boundary line divides a parcel in single ownership, the development of the parcel must conform to the standards set forth by the city as authorized under G.S. ~~160A-360~~ 160D-200; 202; 903, except development which is proven to be wholly and entirely outside of the city's perimeter area. Proof of location outside the perimeter area must be submitted in the form of a preliminary plat, for review and verification of the area to be developed. Review will be conducted by the planning board within sixty (60) days after the filing of the plat with the clerk.

9-1-4 Powers of regulations.

- (a) The city shall regulate all developmental control functions as authorized by G.S. ~~160A-360~~ **160D-200; 202; 903**, including zoning, subdivision regulations, building permits and inspection, and other controls which, from time to time, may be allowable under the general statutes.

Chapter 3 Zoning Regulations – N.C.G.S 160D Changes:

9-3-2 Authority and enactment clause

The City Council of the City of Claremont, in pursuance of the authority granted by the General Statutes of North Carolina, particularly ~~Article 19 of Chapter 160A~~ **G.S. § 160D-200**, and that land as designated by the official zoning map as authorized by G.S. § 160D-307, to be known as extraterritorial area, hereby ordains and enacts into law the following articles and sections. (Ord. of 12-7-04, No. 37-02)

9-3-5 Official Zoning Map

The districts established in Article C of this chapter as shown on the official zoning map, together with all explanatory matter thereon, are hereby adopted as 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).**

Conditional Use Permits are now required to be termed Special Use Permits. Anywhere in the ordinance where Conditional Use Permit was listed the term “conditional use” shall be replaced with “special use.”

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Conditional Special use permit. A permit granted by the Board of Adjustment after said Board holds a public hearing that authorizes a use which would not generally be appropriate throughout a particular zoning district, but which, if controlled as to number, size, location, or relation to the neighborhood, would promote the public health, safety, and general welfare.

9-3-23 Continuing nonconforming uses of land.

1. Extension of use. The enlargement or extension of nonconforming uses of land are discouraged; however, a nonconforming use of land may be enlarged or extended once with the following provisions:
 - a. An application for a **conditional special** use permit must be filed with the Board of Adjustment and a public hearing held. The application shall include a site plan with sufficient detail of the expansions and any alterations to be made.

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9-3-25 Interpretation of district regulations.

1. *Uses by right.* Uses not designated as permitted by right or subject to additional conditions shall be prohibited. **Conditional Special** uses are permitted according to the additional regulations imposed. These **conditional special** uses can be approved only by the Board of Adjustment. Additional uses when in character with the district may be added to the chapter by amendment.

9-3-39 Transportation impact study – second paragraph

When sufficient information on the proposed development is available for the City of Claremont to determine that the aforementioned criteria is met, a TIS shall be submitted with all preliminary plats, site plans, site plan revisions, **and** special use permit applications, ~~and conditional use permit applications~~. The trip rates shall be based on trip generation rates contained in the latest edition of Trip Generation published by the Institute of Transportation Engineers or any local trip generation rates either published or approved by the City of Claremont. Additional trips shall be determined by subtracting the gross trip generation of the existing use from the gross trip generation of the proposed use. The additional trip calculation shall apply to property that is occupied at the time of submittal or has been occupied at any time prior to submittal.

9-3-51 Neighborhood Residential District (R-1).

- c. Uses permitted with a **conditional special** use permit:

9-3-52 Residential Agriculture (R-2).

c. Uses permitted with a **conditional special** use permit:

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c. Uses permitted with a **conditional special** use permit:

9-3-57 Manufactured Home Overlay District (MH)

c. Uses permitted with a **conditional special** use permit:

- (1) All **conditional special** uses permitted in the underlying district, according to the standards and conditions associated with the underlying district.

9-3-59 Heavy Manufacturing District (M-2)

c. Uses permitted with a **conditional special** use permit:

9-3-77 Building type/industrial

2. Architectural standards:

a. Principles:

1. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face. Deviations from these standards require a **conditional special** use permit.

9-3-81 Accessory dwelling

6. A detached accessory dwelling without a **conditional special** use permit shall be housed in a building not exceeding six hundred fifty (650) square feet of first floor area (maximum footprint); any detached accessory dwelling that exceeds six hundred fifty (650) square feet of first floor area requires a **conditional special** use permit. To qualify for the **conditional special** use permit, the structure shall not exceed fifty percent (50%) of the first floor area of the principal dwelling or thirty percent (30%) of the required rear yard, whichever is less. The structure may be dwelling only or may combine dwelling with garage, workshop, studio, or similar use.

9-3-84 Airports.

Airports are permitted in the M-1 District subject to a **conditional special** use permit, according to the procedures of Section 9-3-267.2.

The Board of Adjustment shall issue a **conditional special** use permit for the subject facility in the Manufacturing District if, but not unless, the evidence presented at the **conditional special** use permit hearing establishes:

9-3-94 Essential Services 3.

Essential Services, Class 3, are permitted in any district subject to a **conditional special** use permit, according to the procedures of Section 9-3-267.2.

The Board of Adjustment shall issue a **conditional special** use permit for the subject facility if, but not unless, the evidence presented at the **conditional special** use permit hearing establishes:

9-3-261 Establishment of Board of Adjustment – removed special

A Board of Adjustment is hereby established as provided in Section 160A-388 of the General Statutes of North Carolina. The Planning Board shall function as the Board of Adjustment as provided in Section 160A-388 of the General Statutes of North Carolina. The Board of Adjustment shall hear and decide applications for ~~special and~~ conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the code of ordinances. As used in this section, the term “decision” includes any final and binding order, requirement or determination. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06; Ord. of 3/3/14, No. 09-13)

9-3-112 Severability.

2. Any **conditional special** use permit issued pursuant to this article shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city. (Ord. of 3/1/10)

9-3-113 Definitions

2. *Applicant.* Any wireless service provider submitting an application for a **conditional special** use permit for wireless telecommunications facilities.
3. *Application.* All necessary and required documentation that an applicant submits in order to receive a **conditional special** use permit or a zoning permit for wireless telecommunications facilities.
9. **Conditional Special** use permit. The official document or permit by which an applicant is allowed to file for a zoning permit to construct and use wireless telecommunications facilities as granted or issued by the city.
14. *Holder.* An applicant, or the assignee or successor in interest of the applicant, to whom a **conditional special** use permit for wireless telecommunications has been issued in accordance with Section 9-3-128.

9-3-114 Overall procedure and desired outcomes for approving and issuing permits for wireless telecommunications facilities.

1. In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the city’s health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this article, the city hereby

adopts an overall procedure with respect to the review, approval and issuance of permits for wireless telecommunications facilities for the express purpose of achieving the following outcomes:

- a. Requiring a **conditional special** use permit for any new, co-location or modification of a wireless telecommunications facility as required or otherwise specified in this article;
 - c. Establishing a procedure for examining an application and issuing a **conditional special** use permit and/or zoning permit and/or building permit for wireless telecommunications facilities that is both fair and consistent;
3. In issuing a **conditional special** use permit, the city may condition approval of an application for a new wireless support structure on condition that the wireless telecommunications facility be constructed and operational within a reasonable period of time, which shall be not less than twenty-four (24) nor greater than thirty-six (36) months from the date of issuance of the **conditional special** use permit. (Ord. of 3/1/10)

9-3-115 Exceptions from a **conditional special use permit for wireless telecommunications facilities.**

1. No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of a wireless telecommunications facility as of the effective date of this article as amended without having first obtained a **conditional special** use permit and zoning permit for a wireless telecommunications facility as defined in Section 9-3-113 or an administratively granted authorization (zoning permit) as defined in Section 9-3-118, whichever is applicable. Notwithstanding anything to the contrary in this article, no **conditional special** use permit shall be required for those non-commercial exceptions noted in Section 9-3-116, unless deemed in the public interest by the city.
3. Any repair and maintenance of a wireless telecommunications facility that does not increase the height of the structure, alter the profile, increase the footprint or otherwise exceed the conditions of the **conditional special** use permit does not require an application for a **conditional special** use permit but may require a building permit. However, no additional construction or site modification shall be considered to be repair or maintenance. (Ord. of 3/1/10)

9-3-117 **Conditional Special use permit application and other requirements for a new wireless telecommunications facility or modification of an existing facility.**

All applicants for a **conditional special** use permit for new wireless telecommunications facilities, including new towers or support structures or that otherwise increases the footprint, height, profile or number of co-locations or any modification of such facility beyond the conditions of an approved **conditional special** use permit shall comply with the requirements set forth in this article. The Board of Adjustment (Board) is the officially designated body of the city to whom applications for a **conditional special** use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting or revoking **conditional special** use permits for wireless telecommunications facilities. The Board may at its discretion delegate or designate other official agencies or officials of the city or outside consultants to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting or

revoking conditional special use permits for wireless telecommunications facilities. However, outside consultants shall have no authority to make or change policy for the city.

1. All applicants shall closely follow the instructions for preparing an application for a wireless telecommunications facility prior to the submittal of an application for a conditional special use permit. Not closely following the instructions without permission to deviate from such shall result in a tolling of the otherwise required forty-five (45) day notification period until the receipt of a complete and properly completed application. The applicant shall be notified in writing within forty-five (45) days of submission of an application as to the completeness of the wireless telecommunications facility application and any deficiencies. An amended application shall be required to correct any deficiencies.
3. The city may deny applications not meeting the requirements stated herein or which are otherwise not complete. In the event the application is denied, the portion of the wireless telecommunications facility application fee remaining from the retainer shall be refunded, but the conditional special use permit application fee is not refundable.
4. No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by the Board, the conditional special use permit has been approved and a zoning permit has been issued.
6. An application for a conditional special use permit for a wireless telecommunications facility shall be signed on behalf of the applicant by the person preparing the same with knowledge of its contents and representations and who is vested with authority to bind and commit the applicant to the conditions of the conditional special use permit.
8. The applicant shall include a statement in writing:
 - a. That the applicant's proposed wireless telecommunications facility shall be maintained in a safe manner, and in compliance with all conditions of the conditional special use permit, without exception, unless specifically granted relief by the Board in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable city, state and federal laws, rules, and regulations; and
12. Application for new wireless telecommunications facility versus co-location.
 - j. The owner of a proposed new wireless telecommunications facility, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed wireless telecommunications facility by other wireless service providers in the future, and shall:
 - (4) Failure to abide by the conditions outlined above may be grounds for revocation of the conditional special use permit.
21. A holder of a conditional special use permit granted under this article shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the city or other governmental entity or agency having jurisdiction over the applicant.
25. The holder of a conditional special use permit shall notify the city of any intended modification of a wireless telecommunication facility and shall apply to the city to modify, relocate or rebuild a wireless telecommunications facility.

9-3-118 Requirements for an application for the first antenna to be attached to an approved wireless telecommunications structure within the parameters of an approved ~~conditional~~ special use permit.

1. The fixed application fee for review of wireless telecommunications facilities applications for locating an antenna array on an approved wireless telecommunications facility within the parameters of an approved ~~conditional~~ special use permit shall be as set forth in the city's schedule of fees.
2. An application to increase the parameters or size of an approved wireless telecommunications facility as relates to conditioned height, profile, number of co-locations or footprint shall not qualify for treatment as an attachment to an approved wireless telecommunications facility within the parameters of an approved ~~conditional~~ special use permit under this article.
3. There shall be no ~~conditional~~ special use permit required for an application to attach the first antenna array on an approved wireless telecommunications facility within the parameters of an approved ~~conditional~~ special use permit, unless for good cause such shall be required by the City Council or planning staff. Instead, approval shall result in issuance of a zoning permit by the appropriate administrative officer.
7. An application for the first antenna to be attached to an approved wireless telecommunications facility subsequent to the issuance of the ~~conditional~~ special use permit and prior to issuance of a zoning permit for construction of the wireless telecommunications facility shall contain the requirements of the streamlined process for review of co- locations in Section 9-3-119 and the following information:
 - h. A statement certifying that the wireless telecommunications facility and all attachments thereto are in compliance with the conditions of the approved ~~conditional~~ special use permit;

9-3-119 Streamlined requirements for an application to co-locate on an existing telecommunications facility within the parameters of an approved ~~conditional~~ special use permit.

3. There shall be no ~~conditional~~ special use permit required for an application to modify or to co-locate an antenna array on an existing and properly permitted wireless telecommunications facility so long as the co-location or modification does not exceed the parameters of the conditions of the approved conditional use permit, unless for good cause such shall be required by the Board of Commissioners or Planning Director. Instead, approval shall result in issuance of a zoning permit by the appropriate administrative officer.
7. An application for attaching an antenna array under this section shall contain the following information:
 - b. Documentation that the design of the facility is what is necessary for the design service to serve the community (i.e. that the placement on the wireless telecommunications structure is the lowest available height necessary and that the design produces the least visual and is designed to operate within the conditions of the approved ~~conditional~~ special use permit as regards to height, profile, type and number of co-locations and footprint);
 - g. A statement certifying that the wireless telecommunications facility and all attachments thereto are in compliance with the conditions of the approved ~~conditional~~ special use permit;

9-3-121 Shared use of wireless telecommunications facilities structures

1. The city requires the co-location of antenna arrays on existing wireless telecommunications facilities as opposed to the construction of a new wireless telecommunications facility or increasing the height, footprint or profile beyond the conditions of the approved **conditional special** use permit for an existing wireless telecommunications facility, unless such is proven to be technologically impracticable. The applicant shall submit a comprehensive report inventorying all existing wireless telecommunications facilities and other suitable structures within one (1) mile of the location of any proposed new wireless telecommunications facility, unless the applicant can show that some other distance is more appropriate and reasonable and demonstrate conclusively why an existing wireless telecommunications facility or other suitable structure cannot be used.

9-3-122 Type and height of wireless telecommunications facilities

8. Relief from the maximum height for new wireless telecommunications facilities shall only be considered where evidence substantiates a taller height is necessary for the provision of wireless service to the community, to the exclusion of any alternative option that is not technologically or commercially impracticable, and where denial of a taller height would have the effect of prohibiting the provision of wireless service to the community. Such documentation shall be provided prior to consideration of a **conditional special** use permit when the requested height exceeds the ninety (90) foot maximum height.

9-3-126 Setbacks

1. All proposed telecommunications towers and any other proposed wireless telecommunications facility attachment structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed tower or other wireless telecommunications facility structure plus ten percent (10%) of the height of the telecommunications structure, otherwise known as the fall zone, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located within the footprint as approved in the **conditional special** use permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The fall zone shall be measured from the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile. Further, the nearest portion of any access road leading to a wireless telecommunications facility shall be no less than fifteen (15) feet from the nearest property line.

9-3-128 Procedural requirements for a **conditional special use permit.**

1. The procedures established for **conditional special** uses in Article P, Section 9-3-267 shall apply where wireless telecommunications facilities require a conditional use permit as required or otherwise specified in this article.
2. The city shall schedule the required public hearing once it finds the application is complete and is not required to set a date if the application is not complete. The city, at any stage prior to issuing a **conditional special** use permit, may require such additional information as

it deems necessary as such relates to the issue of the siting, construction or modification of a wireless telecommunications facility.

3. A **conditional special** use permit shall be issued for a wireless telecommunications structure upon Board review and approval, but the zoning permit for said telecommunications structure shall not be issued until an applicant has provided substantiating documentation under the section governing the placement of the first antenna array prior to construction of a new wireless telecommunications facility. (Ord. of 3/1/10)

9-3-129 Action on an application for a **conditional special use permit for wireless telecommunications facilities.**

3. After the public hearing and after formally considering the application, the city may approve, approve with conditions, or deny a **conditional special** use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.
4. If the city approves the **conditional special** use permit for the wireless telecommunications facility, then the applicant shall be notified of such approval at the Board meeting and in writing within thirty (30) calendar days of the city's action, and the **conditional special** use permit shall be issued within thirty (30) days after such approval. Except for necessary construction plan documents, zoning permits, building permits, and subsequent certificates of compliance, once a **conditional special** use permit has been granted hereunder, no additional site plan or zoning approvals shall be required by the city for the wireless telecommunications facilities covered by the **conditional special** use permit. Each modification or co-location of an antenna array shall require the submission of a wireless telecommunications facility application and zoning permit application.
5. If the city denies the **conditional special** use permit for the wireless telecommunications facilities, then the applicant shall be notified of such denial at the Board meeting and in writing within thirty (30) calendar days of the Board's action and shall set forth in writing the reason or reasons for the denial. (Ord. of 3/1/10)

9-3-130 Extent and parameters of **conditional special use permit for wireless telecommunications facilities.**

The extent and parameters of a **conditional special** use permit for wireless telecommunications facilities shall be as follows:

1. Such **conditional special** use permit shall not be assigned, transferred or conveyed without the express prior written notification to the city.
2. Following an opportunity to cure and, if not cured within the time frame set forth in the notice of violation, a hearing upon due prior notice to the applicant, such **conditional special** use permit may be revoked, canceled, or terminated for a violation of the conditions and provisions of the **conditional special** use permit, or for a material violation of this article or other applicable law, rule or regulation. Notice of a violation and of the date, time and place of a hearing shall be provided by registered mail to the last known address of the holder of the **conditional special** use permit. (Ord. of 3/1/10)

9-3-131 Application fee.

At the time that a person submits an application for a **conditional special** use permit for a new wireless telecommunications facility, such person shall pay a non-refundable application fee set forth in the city's fee schedule as may be amended or changed from time to time. (Ord. of 3/1/10)

9-3-132 Removal and performance security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the city a bond, or other form of security acceptable to the city as to type of security and the form and manner of execution, in an amount of at least seventy-five thousand dollars (\$75,000.00) for a tower and with such sureties as are deemed sufficient by the city to assure the faithful performance of the terms and conditions of this article and conditions of any **conditional special** use permit issued pursuant to this article. The full amount of the bond or security shall remain in full force and effect throughout the term of the **conditional special** use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original **conditional special** use permit. (Ord. of 3/1/10)

9-3-133 Reservation of authority to inspect wireless telecommunications facilities.

In order to verify that the holder of a **conditional special** use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the city may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site. (Ord. of 3/1/10)

9-3-134 Liability insurance.

1. A holder of a **conditional special** use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the **conditional special** use permit in amounts as set forth below:
6. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than fifteen (15) days prior to the grant of the zoning permit, the holder of the **conditional special** use permit shall deliver to the city a copy of each of the policies or certificates representing the insurance in the required amounts.

9-3-135 Indemnification

2. Notwithstanding the requirements noted in subsection 1. of this section, an indemnification provision will not be required in those instances where the city itself applies for and secures a **conditional special** use permit for wireless telecommunications facilities. (Ord. of 3/1/10)

9-3-136 Fines.

1. In the event of a violation of this article or any **conditional special** use permit issued pursuant to this article, the city may impose and collect, and the holder of the **conditional special** use permit for wireless telecommunications facilities shall pay to the city, fines or penalties as set forth in Section 9-3-245.
2. Notwithstanding anything in this article, the holder of the **conditional special** use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this article or any section of this zoning code. An attempt to do so shall subject the holder of the **conditional special** use permit to termination and revocation of the **conditional special** use permit. The city may also seek injunctive relief to prevent the continued violation of this article, without limiting other remedies available to the city. (Ord. of 3/1/10)

9-3-137 Default and/or revocation.

If a wireless telecommunications structure or facility is repaired, rebuilt, placed, and moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this article or of the **conditional special** use permit, then the city shall notify the holder of the **conditional special** use permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in Section 9-3-245 and if a violation is not corrected to the satisfaction of the city in a reasonable period of time the **conditional special** use permit shall be subject to revocation. (Ord. of 3/1/10)

9-3-138 Removal of wireless telecommunications structures and facilities

2. Under the following circumstances, the city may determine that the health, safety, and welfare interests of the city warrant and require the removal of wireless telecommunications facilities:
 - c. Wireless telecommunications structures or facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required **conditional special** use permit, or any other necessary authorization and the special permit may be revoked.
3. If the city makes such a determination as noted in subsection 1. of this section, then the city shall notify the holder of the **conditional special** use permit for the wireless telecommunications facilities within forty-eight (48) hours that said wireless telecommunications facilities are to be removed, the city may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.
4. The holder of the **conditional special** use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the city. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the city.
5. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within ninety (90) days

after the permit holder has received notice, then the city may order officials or representatives of the city to remove the wireless telecommunications facilities at the sole expense of the owner or **conditional special** use permit holder.

7. Notwithstanding anything in this article to the contrary, the city may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the **conditional special** use permit, subject to the approval of the city, and an agreement to such plan shall be executed by the holder of the **conditional special** use permit and the city. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the city may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this article and utilize the bond in Section 9-3-132. (Ord. of 3/1/10)

9-3-139 Relief.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this article may request such at the pre-application meeting, provided that the relief or exemption is contained in the submitted application for either a **conditional special** use permit, or in the case of an existing or previously granted **conditional special** use permit, a request for modification of its wireless telecommunications facility and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the city in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the city, its residents and other service providers. (Ord. of 3/1/10)

9-3-141 Adherence to state and/or federal rules and regulations.

1. To the extent that the holder of a **conditional special** use permit for a wireless telecommunications facility has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a **conditional special** use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
2. To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a **conditional special** use permit for wireless telecommunications facilities, then the holder of such a **conditional special** use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity. (Ord. of 3/1/10)

9-3-201 Planned Unit Developments

Intent: The purpose of the Planned Unit Development - Residential (PUD-R) and the Planned Unit Development - Business (PUD-B) is to encourage the development of environments, which meet the needs of the people who live and work in them by providing certain development privileges in exchange for preplanning and design considerations. The PUD-R and PUD-B provide flexibility in utilizing new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, variable lot size, and environmentally sensitive design which promotes the conservation of open space. The Board of Adjustment may approve this form of development in the districts that allow it as a **conditional special** use, provided that the conditions specified in this article are met.

1. Permitted uses and requirement

d. General requirements:

- (8) Site development within the PUD shall conform to the schematic plan and associated requirements of the **conditional special** use permit approved by the Board of Adjustment. Modification of the development plan may be made by the Board of Adjustment subsequent to their initial approval upon application by the owner of the property.
- (9) Following approval by the Board of Adjustment of a PUD **conditional special** use permit, the property for which approval was granted shall be labeled "PUD-R" or "PUD-B" on the official zoning map.
 - e. Application requirements: An application for a **conditional special** use permit to allow a PUD shall be accompanied by schematic plans showing the information listed below. In addition, the Board of Adjustment may require additional information necessary to ensure compliance with the provisions of this chapter.

9-3-220 10/70 bonus permit

1. In addition to the non-residential built-upon restrictions for the protected area of the WS-IV watershed as stated in Section 9-3-219, non-residential uses may occupy no more than ten percent (10%) of the protected area of the WS-IV watershed outside the water quality critical area, with a maximum of seventy percent (70%) built-upon area when approved as a 10/70 bonus permit. The 10/70 bonus permit shall be considered as a **conditional special** use permit that will be reviewed by the Watershed Review Board acting as a Board of Adjustment and be subject to all of the rules and procedures established in Section 9-3-236, hereinafter. Requests for a 10/70 bonus permit will be considered in order of receipt of completed applications. A 10/70 bonus permit shall be valid for two (2) years, and, if the development has not begun within that time period, the permit shall expire, and a reapplication cannot be made for an additional year.

9-3-241 Zoning Enforcement Officer.

2. To collect the fees set forth herein for a zoning permit, variances, appeals, rezonings, **conditional special** use permits and subdivisions.
6. To keep the 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 **conditional special** use approval. (Ord. of 12-7-04, No. 37-02)

9-3-266 Fees for variances, conditional special use permits and appeals.

A fee, set by the City Council, shall be paid to the City Clerk of the City of Claremont, North Carolina for each application for a variance, **conditional special** use permit, or appeal to cover the necessary administrative costs and advertising. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

9-3-9 Definitions – Existing Development

Existing development. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this chapter based on at least one (1) of the following criteria:

- a. 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, or
- b. Having an outstanding valid building permit as authorized by the General Statutes (~~G.S. 153A-344.1 and G.S. 160A-385.1~~ **G.S. 160D-102**), or
- c. Having an approved site specific or phased development plan as authorized by the General Statutes (~~G.S. 153A-344.1 and G.S. 160A-385.1~~ **G.S. 160D-102**).

9-3-9 Definitions – Development

Development. ~~The use or occupancy of any land or structure, or the construction, erection, alteration, or moving of any structure; any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.~~

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.**

9-3-9 Definitions – new definitions to be added

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.**

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

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development 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.

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.

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.

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.

Legislative Hearing. A hearing to solicit public comment on a proposed legislative decision.

Multi-Phase Development. A development containing 25 acres or more that is both of the following: (a) Submitted for development permit approval to occur in more than one phase, (b) Subject to a master development plan with committed elements showing the type and intensity of use if each phase. (G.S. 160D-108(j))

Quasi-Judicial 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.

9-3-35 Vested Rights

The purpose of this section is to implement the provisions of N.C.G.S. ~~160A-385.1~~ 160D-102 pursuant to which a statutory zoning vested right is established upon approval of a site specific development plan.

1. Definitions.
 - a. Approval authority. The City Council, Planning Board, Board of Adjustment, City Clerk, Zoning Administrator, or other board or official designated by this chapter as being authorized to grant the specific zoning or land use permit approval that constitutes a site specific development.
 - b. Site specific development plan. A plan of land development submitted to the City of Claremont for purposes of obtaining one (1) of the following zoning or land use permits or approvals:
 1. Zoning permit as provided by this chapter.
 2. **Conditional Special** use permit as provided by this chapter.
 3. Variance as provided by this chapter.
 4. Minor subdivision approval.
 5. Major subdivision approval.
 6. Notwithstanding the foregoing, neither a variance, a sketch plan, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.
 - c. Zoning vested rights. A right pursuant to N.C.G.S. ~~160A-385.1~~ **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. Under the terms of this chapter, a two (2) year zoning vested right shall be established upon issuance of a zoning permit. (Ord. of 12-7-04, No. 37-02)

9-3-111(1) Wireless and Telecommunication Facilities

1. The Telecommunications Act of 1996 affirmed the City of Claremont's authority concerning the placement, construction and modification of wireless telecommunication facilities. North Carolina General Statutes governing the regulation of wireless telecommunication facilities, ~~Section 160A, Article 19, Part 3E. Chapter 160D, Article 9, Part 3,~~ provide for the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunication services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies and first responders, with the intention of furthering the public safety and general welfare.

9-3-242 Zoning Permit Required

Within the corporate limits and extraterritorial jurisdiction of the City of Claremont no building, sign or other structure shall be erected, moved, added to or structurally altered before a zoning permit has been issued by the Zoning Enforcement Officer of the City of Claremont. **Written notice of such determination refusal and reason therefore shall be given to the applicant and property owner (G.S. 160D-403(b)), the Zoning Enforcement 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)).**

9-3-243 Application for Zoning Permit

1. Each application for a zoning permit to the Zoning Enforcement Officer of the City of Claremont shall be accompanied by a fee, set by the City Council, and a plan in duplicate, drawn to scale, one (1) 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 all parts of the land or building;
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.

~~Any zoning permit issued shall become invalid unless the work authorized by it does not commence within six (6) months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one (1) year.~~

2. Vesting. 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 plan or planned unit development shall remain vested for a period of two years. The City may provide for rights to be vested for a period exceeding two years but not exceeding five years. The determination for extension by the City shall be made following the processes specified for the approval of a site specific or planned unit development vesting plan (G.S. 160D-108.1). A multi-phase development shall remain vested for a period of seven years from the time a site plan is approved. For the purposes of this chapter, a multi-phase development must contain 25 acres or more and is submitted for site plan approval for construction to occur in more than one phase and is a master plan that includes a requirement to offer land for public use (G.S. 160D-108(d)).
3. 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-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays shall be applicable (G.S. 160D-403(f)).

9-3-246 Remedies

Notices of Violation - 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)).

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this chapter, the Zoning Enforcement Officer or any other appropriate city 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.

In case any sign shall be installed, erected or constructed in violation of any of the terms of this chapter, the Zoning Enforcement Officer shall notify by personal notice or registered mail the owner or lessee thereof to alter such sign so as to comply with this chapter and to secure the necessary permit therefore or to remove the sign. If such an order is not complied with within ten (10) days, the Zoning Enforcement Officer shall remove the sign at the expense of the owner or lessee thereof. In the event that such sign should become insecure, or in danger of falling, the person maintaining the same shall, upon written notice from the Zoning Enforcement Officer, forthwith, in case of immediate danger, and in any case, within ten (10) days secure it in a manner approved by the Zoning Enforcement Officer. (Ord. of 12-7-04, No. 37-02)

9-3-251 Establishment of Planning Board

A Planning Board is hereby established as provided in ~~Section 160A-361~~ Chapter 160D-301 of the General Statutes of North Carolina. Said Board shall consist of 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. 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. ~~160A-388~~ 160D-109(b). Except at the election of officers, at no time shall more than 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 Claremont 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)

9-3-252 Proceedings and duties of Planning Board

The Planning Board 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 or an employee of the city. The Planning Board shall adopt rules of procedure in accordance with the provisions of this chapter and in

~~Article 19, Chapter 160A~~ **Article 3, Chapter 160D** of the General Statutes of North Carolina. Meetings of the Planning Board shall be held once a month or at the call of the Chairman. All meetings of the Planning Board shall be open to the public.

It shall be the duty of the planning board, in general:

1. To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in those conditions;
2. To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;
3. To establish principles and policies for guiding action in the development of the area;
4. To prepare and recommend to the City Council ordinances providing orderly development along the lines indicated by the comprehensive plan;
5. To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;
6. To keep the City Council and general public informed and advised as to those matters;
7. To perform any other duties that may lawfully be assigned to it. (Ord. of 12-7-04; No. 37-02)

9-3-261 Establishment of Board of Adjustment

A Board of Adjustment is hereby established as provided in Section ~~160A-388~~ **160D-302** of the General Statutes of North Carolina. The Planning Board shall function as the Board of Adjustment as provided in Section ~~160A-388~~ **160D-302(b)** of the General Statutes of North Carolina. The Board of Adjustment shall hear and decide applications for special ~~and conditional~~ use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the code of ordinances. As used in this section, the term "decision" includes any final and binding order, requirement or determination. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06; Ord. of 3/3/14, No. 09-13)

9-3-262 Jurisdiction and decision of Board of Adjustment

The concurring vote of four-fifths of the members of the Board of Adjustment - 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 ~~conditional~~ **special** use permit.

In accordance with N.C.G.S. ~~160A-388(e)~~ **160D-109(d)**, ~~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.~~ 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.

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).

9-3-263 Proceedings of Board of Adjustment

The 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 or an employee of the city. The Board shall adopt rules of procedure in accordance with the provisions of this chapter and in ~~Article 19, Chapter 160A~~ Article 3, Chapter 160D of the General Statutes of North Carolina. Meetings of the Board shall be held once a month or at the call of the Chairman. The Chairman, or in his or her 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 subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed pursuant to ~~N.C.G.S. 160A-388(g)~~ 160D-406(g). All meetings of the Board shall be open to the public. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06; Ord. of 3/3/14, No. 09-13)

9-3-264 (2)(a) – Hearing, appeals and notice

2. *Appeals.* The Board of Adjustment shall hear and decide appeals decisions of administrative officials charged with enforcement of the zoning ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to ~~N.C.G.S. 160D-405~~, except as provided by 160D-1403.1, and all of the following:
 - a. Any person who has standing under N.C.G.S. ~~160A-393(d)~~ 160D-1402(c) or the city may appeal a decision to the Board of Adjustment. An appeal is taken by filing a

notice of appeal with the City Clerk. The notice of appeal shall state the grounds for the appeal.

9-3-267 Powers and duties of Board of Adjustment

The Board of Adjustment shall have the powers and duties enumerated below:

1. Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement of this chapter. A majority vote of the Board of Adjustment members is required to decide any appeal.
2. **Conditional Special** uses. To grant in particular cases and subject to the appropriate conditions and safeguards, permits for **conditional special** uses as authorized by this chapter and set forth as **conditional special** uses under the various use districts. A majority vote of the Board of Adjustment members is required to grant any **conditional special** use. The Board shall not grant a **conditional special** use permit unless and until:
 - a. A written application for a **conditional special** use permit is submitted to the Zoning Enforcement Officer indicating the section of this chapter under which the **conditional special** use permit is sought;
 - b. A public hearing is held. In accordance with Section 9-3-264, notice of such public hearing shall be mailed to the person or entity whose appeal, application or request is the subject of the hearing, to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing, to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing or within one hundred (100) feet of the property for which the **conditional special** use permit is sought.
 - c. The Board of Adjustment finds that in the particular case in question the use for which the **conditional special** use permit is sought.
 1. Does not materially endanger the public health or safety.
 2. Meets all required conditions and specifications
 3. Would not substantially injure the value of adjoining property or, that if it does, there is a public necessity for siting the use as proposed.
 4. Will be in harmony with the area in which it is located and will be in general conformity with adopted plans (including but not limited to Thoroughfare Plans, Metropolitan Transportation Plans, Small Area Plans, Action Plans, Comprehensive or Land Development Plans, Recreation Plans, Downtown Development Plans and Economic Development Plans).

- d. Compliance with other codes. Granting a **conditional special** use permit does not exempt the applicant from complying with all of the requirements of building codes or other ordinances.
- e. Revocation. If at any time after a **conditional special** use permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a conditional use permit, the permit shall be terminated and the operation of such a use discontinued. If a conditional use permit is terminated for any reason, it may be reinstated only after a public hearing is held.
- f. Expiration. In any case where a **conditional special** use permit has not been exercised within the time limit set by the Board of Adjustment or within a period of one year if no specific time limit has been set the without further action the permit shall be null and void. Exercised, as set forth in this division, shall mean that binding contracts for construction of the main building shall have been let, or in the absence of contracts, that the main building is under construction to a substantial degree, or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc). When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions set forth in the permit.
- g. Careful record. A careful record of such application and plat, together with a record of the action taken thereon, shall be kept in the office of the Zoning Enforcement Officer.
- h. **Minor modifications to a special use permit may be administratively approved by the zoning administrator if issues arise after the special use permit has been approved by the Board of Adjustment that keep the applicant from carrying out the strict interpretation of the ruling. The Zoning Administrator is authorized to review and approve administratively a minor modification to an approved special use permit. Minor modifications include reconfiguring parking design, changing landscaping or buffering arrangements, or slightly altering road and lot configurations for a development that has already gone through the full approval process, or similar minor modifications subject to the following limitations.**
 - 1. **General Limitations. The minor modification:**
 - i. **Does not involve a change in uses permitted or the density of overall development permitted;**
 - ii. **Does not increase the impacts generated by the development on traffic or similar impacts beyond what was projected for the original development approval; and**
 - iii. **Meets all other ordinance requirements.**
 - iv. **An adjustment to landscape standards up to 10% percent of required landscaping.**

9-3-268 Appeals from Board of Adjustment.

Any person or persons, jointly or severally, that have standing under G.S. 160D-1402, aggrieved by may appeal a decision of the Board. An appeal is taken by presenting to the Superior Court of Catawba County 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 G.S. 160D-1402. The petition to appeal shall be filed within thirty (30) days after the filing of the decision in the office of the City Clerk, but not thereafter, or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. G.S. 160D-1405(d).

When hearing an appeal, the hearing shall be based on the record stated in G.S. 160D-406(h)(i)(j) and (k). Quasi-judicial decisions shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402.

9-3-272 Action by Planning Board.

The Planning Board shall consider and make recommendations to the City Council concerning every proposed amendment, supplement, change, modification or repeal to this chapter as directed in G.S. 160D-604. ~~each proposed zoning amendment.~~ The Planning Board, at its own discretion, may hold a public hearing if deemed necessary by the Planning Board. Otherwise, the Planning Board will send its recommendation directly to the City Council who shall hold a public hearing for every proposed zoning amendment.

Members of the Planning Board shall not participate in or vote on any zoning amendment 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 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)).

9-3-273 City Council Consideration.

The City Council shall consider changes and amendments to this chapter as often as necessary, provided, however, that should the City Council deny a request for a zoning amendment, it shall not thereafter accept any other petition for the same change of zoning district affecting the same property, or any portion thereof, until the expiration of one (1) year from the date of such previous denial.

Plan consistency. When adopting or rejecting any zoning text or map amendment, the City Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the City Council, that at the

time of action on the amendment, the City Council 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-602(b), the City Council 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.

Members of the City Council shall not participate in or vote on any zoning amendment 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 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)).

9-3-274 (1), (2), and (3)(a) – Required notifications.

1. Legal notice of public hearing. No amendment shall be adopted by the City Council until after public notice and hearing. In accordance with N.C.G.S. ~~160A-364~~ 160D-601, notice of public hearing shall be published in a newspaper of general circulation in the City of Claremont at least once each week for two (2) successive weeks prior to the hearing. The first notice shall appear in the newspaper at least ten (10) days but not more than twenty-five (25) days prior to the hearing.
2. Mail notice requirements. In accordance with N.C.G.S. ~~160A-384~~ 160D-601, whenever the amendment involves a change in the zoning classification of a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting or within one hundred (100) linear feet of that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed reclassification and a notice of the public hearing required in subsection 1. above. Such notice shall be sent by first class mail to the last address listed for such owners on the county tax listing. The person responsible for making the mailed notice shall certify to the City Council that such notice was indeed prepared and mailed.
3. Substitute notice.
 - a. In accordance with N.C.G.S. ~~160A-384(b)(3), (4) and (5)~~ 160D-601 individual mailed notices may be waived in lieu of a substitute notice if the amendment meets at least one of the following criteria: ...

Sec. 9-3-275 City Council action.

Before taking such lawful action as it may deem advisable, the City Council shall consider the Planning Board's recommendations on each proposed zoning amendment. If no recommendations are received from the Planning Board within thirty (30) days after their meeting, **the governing board may act on the amendment without the planning board report.** ~~the proposed amendment shall be deemed to have been approved by the Planning Board.~~ Under no circumstances shall the City Council adopt such amendments that would cause this chapter to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. Amendments affecting the watershed protection portions of this chapter 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.

Chapter 4 Subdivision Regulations – N.C.G.S 160D Changes:

Sec. 9-4-3 Authority.

This chapter is hereby adopted under the authority and provisions of the General Statutes of North Carolina, Chapter ~~160A, Article 19, Part 2~~ **160D, Article 8.**

Sec. 9-4-4 Jurisdiction.

The regulations contained herein, as provided in G.S. ~~160A, Article 19~~ **160D Article 8; 160D-903** shall govern each and every subdivision within the city and the city's extraterritorial jurisdiction.

Sec. 9-4-11 General procedure for final plat approval.

- (a) After the effective date of this chapter, no subdivision plat of land within the city's jurisdiction shall be filed or recorded until it has been submitted to and approved by the appropriate Board or official as set forth in section 9-4-5 of this chapter, and until this approval is entered in writing on the face of the plat by the City Council and attested by the City Clerk for major subdivisions, or the ~~City Manager~~ **Subdivision Administrator** for minor subdivisions.
- (b) The Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the city 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.

Sec. 9-4-13 Effect of plat approval on dedications.

Pursuant to G.S. ~~160A-374~~ **160D-806**, the approval of a plat shall not be deemed to constitute or affect the acceptance by the municipality or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the City Council may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the municipality shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the municipality shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.

Sec. 9-4-14 Penalties for violation.

- (a) After the effective date of this chapter, any person who, being the owner or agent of the owner of any land within the territorial jurisdiction of this chapter, thereafter subdivides his land by reference to, exhibition of, or any other use of the plat showing a subdivision of land before the plat has been properly recorded in the Office of the Catawba County Register of Deeds, shall be guilty of a **Class I** 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 city, through its attorney or other official designated by the City Council, may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this chapter shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4 (**G.S. 160D-807**).
- (b) The violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of \$50 to be recovered by the city. Violators shall be issued a written citation which must be paid within ten days.
- (c) Each day's continuing violation of this chapter shall be a separate and distinct offense.
- (d) Notwithstanding subsection (b) above, this chapter may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.
- (e) Nothing in this section shall be construed to limit the use of remedies available to the city. The city may seek to enforce this chapter by using any one, all, or a combination of remedies.
- (f) **The provisions of this section do not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the register of deeds, provided the contract does all of the following:**
 - (1) **Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.**
 - (2) **Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.**
 - (3) **Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.**
 - (4) **Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.**

- (g) The provisions of this section do not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the register of deeds.

Sec. 9-4-16 Variances.

The Board of Adjustments may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Board finds:

- ~~(a) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter 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 chapter.~~
- ~~(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.~~
- (a) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- (d) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance (G.S. 160D-705).

Sec. 9-4-30 Plat required.

Pursuant to G.S. ~~160A-372~~ 160D-804; 804.1, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this chapter whenever any subdivision of land takes place. Whenever any manipulation of property lines or property boundaries takes place within the jurisdiction of the city as established in section 9-4-4 of this chapter that is exempt from these regulations as provided by section 9-4-70 of this chapter, a plat clearly displaying such change must be presented to the subdivision administrator. Said plat must also be presented to the Catawba County Register of Deeds for recordation.

Sec. 9-4-31 Approval prerequisite to plat recordation.

Pursuant to G.S. ~~160A-373~~ 160D-803, no final plat of a subdivision within the jurisdiction of the city as established in section 9-4-4 of this chapter shall be recorded by the Register of Deeds of Catawba County until it has been approved by the proper board or official as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this article.

Sec. 9-4-37 Certifications to be depicted on final plat.

...

- (c) If the subdivision administrator finds that the minor subdivision final plat is in full compliance with the requirements of this article, he or she may then sign the following certification:

I hereby certify that the minor subdivision plat hereon has been found to comply with the minor subdivision regulations for the City of Claremont and is hereby approved for recording in the office of the Register of Deeds by the subdivider within ninety (90) days of the date of this approval.

~~City Manager~~ Subdivision Administrator

Date

....

Sec. 9-4-8 School sites on land use plan.

If the city and the Catawba County Board of Education have jointly determined the specific location and size of any school sites to be reserved and this information appears in the land development plan, the Planning Board shall immediately notify the Board of Education whenever a sketch plan for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Planning Board. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation (G.S. 160D-804).

Sec. 9-4-40 Performance, defects, and maintenance guarantees. – Added a new subsection C, which moves all subsequent existing subsections down one letter.

(a) Upon approval of the preliminary plat by the City Council, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provided herein. No final plat will be accepted for review by the Planning Board or City Council unless accompanied by written notice by the City Manager and/or City Engineer acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this chapter.

(b) **Type -** In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the city may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. **The type of performance guarantee shall be at the election of the developer.** Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by City Council, if all other requirements of this chapter are met. To secure this agreement, the subdivider shall provide, subject to the approval of City Council, either one, or a combination of the following guarantees not exceeding 125% of the entire cost as provided herein **(G.S. 160D-804.1)**:

- (1) Surety performance bond(s). The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bonds shall be payable to the city and shall be in an amount equal to 125% of the entire cost, as estimated by the subdivider and approved by City Council, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by City Council.
- (2) Cash or equivalent security. The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the city or in escrow with a financial institution designated as an official depository of the city. The use of any instrument other than cash shall be subject to the approval of City Council. The amount of deposit shall be equal to 125% of the cost, as estimated by the subdivider and approved by City Council, of installing all required improvements. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with City Council an agreement between the financial institution and himself guaranteeing the following:
 - a. That the escrow account shall be held in trust until released by the City Council and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and
 - b. That in case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the City Council, and submission by City Council to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the city the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the city

any other instruments fully endorsed or otherwise made payable in full to the city.

- (3) Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- (c) Duration - The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
- (d) Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the City Council, pay all or any portion of the bond or escrow fund to the city up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the City Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The city shall return to the subdivider any funds not spent in completing the improvements.
- (e) Release - The City Council may release a portion of any security posted as the improvements are completed ~~and recommended for approval by Planning Board. Within 30 days after receiving the Planning Board recommendation, the City Council shall approve said improvements.~~ If the City Council approves said improvements, then it shall immediately release any security posted. The city shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to city acceptance. When required improvements that are secured by a bond are completed to the specifications of the city, or are accepted by the city, if subject to its acceptance, upon request by the developer, the city shall timely provide written acknowledgment that the required improvements have been completed.
- (f) The City Council shall require a bond guaranteeing utility taps, curbs, gutters, street pavement, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for one year. The bond shall be determined by the city manager or consulting engineer and shall be in cash or made by a surety company authorized to do business in North Carolina.
- (g) The City Council shall require the subdivider to submit a letter to the City Clerk in which he agrees to maintain all improvements and any ditch which has been dug in connection with the installation of such improvements. The letter shall be binding to the subdivider for a period of one year following acceptance of the improvements by the city.
- (h) Amount. - The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The city may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

- (i) Timing. - The city, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.
- (j) Coverage. - The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.
- (k) Legal responsibilities. - No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:
 - (1) The city to whom the performance guarantee is provided.
 - (2) The developer at whose request or for whose benefit the performance guarantee is given.
 - (3) The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.
- (l) Multiple guarantees. - The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (b) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.
- (m) Exclusion. - Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

Sec. 9-4-70 Subdivision defined.

- (a) For the purposes of this chapter, “subdivision” means all divisions of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to any regulations enacted pursuant to this chapter (G.S. 160D-802).
 - (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city subdivision regulations, as amended;
 - (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
 - (3) The public acquisition by purchase of strips of land for the widening or opening of streets; or for public transportation corridors and
 - (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the city subdivision regulations, as amended.
 - (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (b) Any plat to be recorded with the Catawba County Register of Deeds that does not meet the definition of a subdivision above must include the following certificate:

I hereby certify that this plat does not fall under the definition of a subdivision in the Claremont Subdivision Ordinance and is exempt from all requirements of new subdivisions in the City of Claremont.

Subdivision Administrator Date

- (c) The terms "Major Subdivision" and "Minor Subdivision" shall have the meaning for each term as defined in Section 9-4-32 of this chapter.

Section 2. Consistency Statement.

City Council finds that the amendments as set forth in this Ordinance to Title 9 are reasonable and in the public interest.

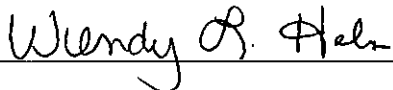
Section 3. This ordinance shall be effective on July 1, 2021.

Adopted this the 21st day of June 2021.



Shawn Brown, Mayor

ATTEST:



Wendy Helms, City Clerk