

CHAPTER 3

Zoning Regulations

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ARTICLE A **Authority and Enactment**

Sec. 9-3-1 Purpose.

An ordinance regulating the uses of buildings, structures, and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, courts and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures, the density and distribution of population; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, amendment and enforcement; providing penalties for violations; providing for a Board of Adjustment and defining the duties and powers of said Board; repealing conflicting ordinances; and for other purposes. (Ord. of 12-7-04, No. 37-02)

Sec. 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, hereby ordains and enacts into law the following articles and sections. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-3 Short title.

This chapter (Articles A through R) shall be known and may be cited as the Zoning Ordinance of the City of Claremont, North Carolina. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-4 Jurisdiction.

The provisions of this chapter shall be applicable not only within the corporate limits of the City of Claremont, North Carolina, but also within the territory beyond such corporate limits, as now or hereafter fixed, for a distance of up to one (1) mile in all directions as shown on the official zoning map. (Ord. of 12-7-04, No. 37-02)

Sec. 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. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-6 Identification of official zoning map.

The official zoning map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City of Claremont. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-7 Definition of terms used in this chapter.

For the purpose of interpreting this chapter, certain words and terms are herein defined. Unless otherwise expressly stated, the following words shall, for the purpose of this chapter, have the meaning herein indicated. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-8 Interpretation of certain terms and words.

1. Words used in the present tense include the future tense.
2. Words used in the singular number include the plural, and words used in the plural number include the singular.
3. The word “person” includes a firm, association, organization, partnership, corporation, trust and company, as well as an individual.
4. The word “lot” includes the word “plot” and “parcel.”
5. The word “building” includes the word “structure.”
6. The word “shall” is mandatory, not directory.
7. The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
8. The words “map,” “zoning map” or “Claremont zoning map” shall mean the “official zoning map of the City of Claremont, North Carolina.” (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-9 Definitions.

Accessory use, accessory structure. A use or structure customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure. Manufactured homes and tractor-trailers are not considered accessory uses or structures.

Adult business. Any business which, as one of its principal business purposes, offers the viewing, selling or rental of sexual materials or performances.

Alley. A public thoroughfare, which affords only a secondary means of access to abutting property.

Agricultural industry. Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries), commercial fish or poultry hatcheries, and other similar activities.

Amusement, commercial outdoor. Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters.

Animal unit. A unit of measurement developed by the United States Environmental Protection Agency that is used to compare different types of animal operations.

Apartment. A room or suite of one (1) or more rooms in a multiple structure intended for use as a residence by a single family.

Automotive repair. A building and its premises used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. Minor repairs shall be limited to battery and tire changes, light and fuse replacement, wiper blade changes and similar activities. Also referred to as *vehicle repair*.

Automotive service station (gas, filling station). A building used for the sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto; facilities for washing and for chassis and gear lubrication of vehicles are permitted if enclosed in a building. Also referred to as *retail sale of gasoline*.

Automotive wrecking yard. The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot of four (4) or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute an *automobile wrecking yard*.

Bed & breakfast. A use that takes place within a building that, prior to such an establishment, was a single family residence, that consists of renting from one (1) to six (6) dwelling rooms on a daily basis to tourists, vacationers, and business travelers, where the breakfast meal only is provided and is available only to guests. The homeowner shall reside on site and employment shall not exceed two (2) full time employees in addition to the owner(s). Duration of stay may not exceed three (3) weeks.

Best management practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Billboard. An off-premise sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

Boarding house. A dwelling unit with up to six (6) rooms for rent to boarders, or designed and intended to

be rented to boarders, but which rooms individually or collectively do not constitute separate dwelling units. No separate cooking facilities will be provided for any boarder. A building where, for compensation, lodging and/or meals are provided for not more than ten (10) persons.

Buffer strip. A buffer strip shall consist of a planting strip at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than ten (10) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and five (5) feet or more in height after one (1) growing season, and said strip shall be planted and maintained in a healthy, growing condition by the property owner. No such buffer strip shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining lot.

Buffer, watershed. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded waters and from the bank of each side of free-flowing streams, river, branches, etc.

Build-to-line. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principal vertical plane of the front building elevation must be erected; intended to create an even building facade line on a street.

Building. An independent enclosed structure, anchored to a permanent foundation and having exterior or party walls and a roof designed for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The connection of two (2) buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one (1) building.

Building, accessory. A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith. Manufactured homes and tractor-trailers are not considered *accessory buildings*.

Building face. The dominant structural feature of the elevation of any side of a building. For example, the building face of a two (2) story dwelling with one (1) story porch is the two (2) story elevation of the structure.

Building, height. The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in case of a flat roof; to the average height of the gables in the case of a pitched roof; and to the deck line in the case of a mansard roof.

Building lines. Lines extended from the exterior surface of buildings or structures, or the surfaces of cantilevered projections, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

Building, principal. A building in which is conducted the principal use of the lot on which said building is situated. In any residential district any structure containing a dwelling unit shall be defined to be the principal building on the plot on which the same is situated.

Building, setback line. A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost five (5) feet of any overhang, uncovered porches, steps, gutters, and similar fixtures, and the related front, rear, or side property or right-of-way line, whichever is closest to the building.

Built-upon area. That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel, recreation facilities, etc., excluding wooden slatted decks and the water area of a swimming pool.

Business, convenience. Commercial establishments designed to attract and to be dependent upon large volumes of stop-and-go traffic, including, but not limited to, all types of convenience stores and fast food restaurants, with or without drive-in windows.

Business, general. Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs of a whole community, including supermarkets, department stores, discount stores, variety stores, hardware and garden supply stores, apparel and footwear stores, florists, gift shops, jewelry stores, book and stationery stores, specialty shops, sporting goods stores, furniture and home furnishing stores, automotive supply stores, and appliance stores.

Business, office-type. Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, and drafting occupations, and including offices

of a charitable, philanthropic, religious, or educational nature.

Business, neighborhood. Small scale unified or independent commercial establishments with a per-unit floor area no more than three thousand (3,000) square feet that generally serve the day-to-day commercial needs of a residential neighborhood, including but not limited to: small drugstores, neighborhood gasoline stations, tobacco shops, newsstands, bakeries, confectioneries, delicatessens, food markets, beauty salons, barber shops and child daycare facilities.

Business, wholesale. Commercial establishments that generally sell commodities in large quantities or by the price to retailers, jobbers, other wholesale establishments, or manufacturing establishments, basically for use in the fabrication of a product or for use by a business service.

Canopy tree. Any large maturing tree which at maturity provides a crown width sufficient to shade a minimum of one thousand twelve hundred (1,200) square feet.

Church. A structure in which persons regularly assemble for religious worship and which is maintained by a religious body organized to sustain public worship.

Civic, social service, or fraternal organization facility. A building or meeting facility, which is restricted to members and guests of members of a non-profit association or corporation, including accessory uses such as recreational facilities, banquet facilities, and overnight lodging for members, but not including the sale of goods or services to the public on the premises on a regular basis, or commercial outdoor recreational or entertainment activities involving the use of animals or firearms.

Clinic. An organization of professional specialists such as physicians or dentists, who have their offices in a common building. A *clinic* may include laboratory facilities in conjunction with normal clinic services.

Cluster development. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential and multi-family developments that do not involve the subdivision of land.

Cluster subdivision. A development design technique that allows the subdivision of land into not more than the number of lots permissible in a conventional subdivision of the same property in the same zone, but where the size of individual lots may be reduced in order to gain land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

Commercial use. A category of uses that includes retail establishments, offices, professional and personal services, financial services, health care services, indoor motion picture theatres, conference centers, laboratories and associated research facilities whose products or waste products entail no special environmental handling requirements, studios, broadcast facilities (excluding towers), hotels and inns, theatres, restaurants without drive-through windows, bars, and day care facility as a principal use. Each use permitted in the *commercial use* category shall also meet any applicable conditions set out in Article F, Conditions for Certain Uses. Excluded from the *commercial use* category are adult businesses; vehicle, boat, or manufactured home sales, service, and repair; drive-through windows as a principal or accessory use; wholesale sales; heavy manufacturing; outdoor storage; outside commercial kennels, and other uses that, by their nature or service characteristics are auto dependent, have potential for environment degradation, or are otherwise incompatible with nearby residential use.

Composting facility. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

Conditional 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.

Custodial care facility. A facility providing custodial care and treatment in a protective living environment for persons residing voluntarily or by court placement, including, without limitation, correctional and post-correctional facilities, juvenile detention facilities, and temporary detention facilities.

Day care center. Day care, as a principal use or an accessory use, provided on a less than twenty-four (24) hour basis for either children or adults, according to the following limiting definitions.

a. *Child day care center.* An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult; usually serving more than ten (10) children at a time; not an accessory to residential use.

b. *Adult day care center.* An individual, agency, or organization providing supervision or care on a

regular basis for more than six (6) adults in a place other than their usual place of abode, on less than a twenty-four(24) hour basis.

Day care home (small, accessory use). Day care provided on a less than twenty-four (24) hour basis for either children or adults, according to the following limiting definitions.

a. *Child day care home (small, accessory use).* Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to six (6) children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

b. *Adult day care home (small, accessory use).* Care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to six (6) adults who do not reside in the dwelling.

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.

Discharging landfill. A facility with liners, monitoring equipment, and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Dwelling, multiple or multi-family. A building or portion thereof, containing two (2) or more dwelling units designed for occupancy by two (2) or more families living independently of each other.

Dwelling, single-family. A building arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.

Dwelling unit. A building, or portion thereof, designed and arranged, and used for living quarters for one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.

a. *Detached house.* A dwelling unit that is developed with no parti-walls and with open yards on at least three (3) sides, including modular homes, but not including manufactured homes, mobile homes, or recreational or motor vehicles.

b. *Duplex house.* Two (2) dwelling units, including modular homes, placed one (1) on top of another or attached side by side and sharing one (1) or more common walls.

c. *Attached house.* Rowhouse, city house, duplex, triplex, or quadriplex houses, generally developed side-by- side for condominium unit sale, or where land is sold with the dwelling unit. Attached dwellings on individually deeded lots are excluded from the definition of (apartment) multi-family dwellings.

d. *Apartment house.* More than four (4) dwelling units placed one (1) on top of another and/or side-by-side and sharing common walls and common floors and ceilings, and which are located on a single lot of record.

e. *Accessory dwelling.* A dwelling unit which is located on the same lot as a detached or attached single family house, has a first floor area no greater than six hundred fifty (650) square feet, is owned by the owner of the principal dwelling unit but occupied by another. If the principal dwelling is a group home, use of an accessory dwelling shall not increase the number of residents otherwise permitted in a single group home.

Easement. The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

Electronic gaming operations. Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines. For the purposes of this section “electronic machine or device” means a mechanically, electronically or electronically operated machine or device, that is owned, leased or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor’s or promoter’s partners, affiliates, subsidiaries or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism. This definition is applicable to an electronic machine or device whether or not:

a. It is server based;

b. It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;

c. It utilizes software such that the simulated games influences or determines the winning or values of the prize;

- d. It selects from a finite pool of entries;
- e. It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry;
- f. It predetermines the prize and result and stores those results for delivery at a time the sweepstakes entry results are revealed;
- g. It utilizes software to create a game result;
- h. It requires the deposit of any money, coin, or token or the use of any credit card, debit card, prepaid card or any other method of payment to activate the electronic game of device;
- i. It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device;
- j. It requires purchase of a related product;
- k. The related product, if any, has legitimate value;
- l. It reveals the prize incrementally, even though it may not influence if a prize is awarded of the values of any prize is awarded;
- m. It determines and associated the prize with an entry or entries at the time the sweepstakes is entered; or
- n. It is a slot machine or other form or electrical, mechanical, or computer game.

Elementary and secondary schools. Publicly-owned or privately-owned pre-schools, elementary schools, middle schools, junior high schools, and high schools; but not including institutions the primary function of which is child day care.

Essential services. Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services, provided no transmitter or antenna tower exceeds 180 feet in height. Essential services are divided into three classes:

- a. *Class 1.* Transmission lines (above and below ground) including electrical, natural gas, and water/wastewater distribution lines; pumping stations, lift stations, and telephone switching facilities (up to 200 square feet);
- b. *Class 2.* Elevated water storage tanks; package treatment plants; telephone switching facilities (over 200 square feet), substations, or other similar facilities used in connection with telephone, electric, steam, and water facilities; raw water treatment facilities; solar and wind energy systems for the production of electricity, notwithstanding any other regulation regarding wind and solar facilities within this Section. Solar energy systems shall adhere to requirements in Article 9-3-109.
- c. *Class 3.* Active generation, production, or treatment facilities such as power plants, not including solar and wind energy systems for production of electricity, and sewage treatment plants.

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), 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).

Exterior features. The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

Facade. The principal vertical surface of a building which is set along a frontage line. The elevation of a facade is the vertical surface area. *Facades* are subject to visual definition by building height, setback or build-to-lines, (a line prescribed for the full width of the facade above which the facade sets back; the location of a recess line is determined by the desired height to width ratio of the fronting space or by a desired compatibility with existing buildings), and transition lines (a line prescribed for the full width of the facade expressed by a variation of material or by a limited projection such as a cornice or balcony).

Family. An individual or two (2) or more persons related by blood, marriage, or adoption living together

in a dwelling unit; or a group of not more than six (6) persons, one (1) or more of whom is not related by blood, marriage, or adoption to the others.

Family care home. A single family home that, in accordance with N.C.G.S. 168-21(1), provides room, board and care for six (6) or fewer handicapped persons in a family environment and is licensed by the North Carolina Department of Health and Human Services. Handicapped persons include those with physical, emotional, or mental disabilities, but not those who have been deemed dangerous to others as defined by N.C.G.S. 122C-3(11)b. As allowed by N.C.G.S. 168-22(a) there shall be a 0.5 mile radius between family care home sites as to not place undue hardship on city and county emergency personnel. The facility shall be properly licensed by the State of North Carolina and notifies the city upon any changes to the permit.

Farm, bona fide. Any tract of land containing at least three (3) acres which is used for dairying or for the raising of agricultural products, forest products, livestock or poultry, and which may include facilities for the sale of such products from the premises where produced. The definition of *bona fide farm* shall not include agricultural industries.

Financial institution. A use or structure where financial, pecuniary, fiscal, or monetary services are made available to the public, including but not limited to depository institutions (i.e. banks, credit unions, savings and loans, etc.), non-depository credit institutions (i.e. credit agencies, loan brokers, etc.), holding companies (but not predominantly operating companies), other investment companies, brokers and dealers in securities and commodities contracts, and security and commodity exchanges.

Floor area, gross. The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, open patios, open atriums, open balconies, open carport garages, and breezeways.

Floor area, ratio. Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

Garage, residential detached. A residential accessory building that meets the requirements of Section 9-3-27 and Section 9-3-33 and where the footprint does not exceed seventy-five percent (75%) of the gross floor area of the primary residence, used primarily for the storage of non-commercial motor vehicles and commercial motor vehicles that do not exceed a gross vehicle weight of thirteen thousand five hundred (13,500) pounds.

Government building. A building, use, or facility serving as a governmental agency office, police station, fire station, library, post office, or similar facility, but not including a vehicle storage yard, correctional facility, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

Hazardous material. Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Home occupation. An accessory use of a dwelling unit for gainful employment that is clearly a customary, incidental and secondary use of a dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Hotel or motel. A building containing more than four (4) individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services.

Indoor recreation. Public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCA's, YWCA's or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. *Indoor recreation* structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Industrial development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product.

Junked vehicle. Any wrecked or non-operable automobile, truck, or other vehicle which does not bear a

current license plate and current state inspection sticker.

Junkyard. The use of any unenclosed portion of a lot or tract for the storage or abandonment of junk, including scrap metals and other scrap material, or dismantling or abandonment of automobiles or other vehicles or machinery, but not including the temporary storage of damaged vehicles in connection with the operation of a repair garage. The deposit or the storage on a lot not in use as a repair garage of one or more wrecked or broken down vehicles titled in the name of the property owner for more than ninety (90) days shall also be deemed a *junkyard*.

Kennel, commercial. A use or structure intended and used for the breeding or accommodation of small domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

Kennel, private. A structure used for the outdoor accommodation of no more than five (5) small domestic animals and not operated on a commercial basis.

Land development plan. A plan or any portion thereof, adopted by the Claremont Planning Board and City Council, establishing goals, objectives and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the corporate limits and ETJ of Claremont.

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the North Carolina General Statutes. For the purpose of these rules, this term does not include composting facilities.

Large maturing tree. A tree whose height is greater than thirty-five (35) feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen. See also *canopy tree*.

Loading, off-street. Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

Lot. A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such access ways, parking area, yards, and open spaces required in these regulations.

Lot, corner. A lot that occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other.

Lot, coverage. The percentage of a lot which may be covered with buildings or structures (excluding walks, drives, and other similar uses) and recreational facilities which are accessory to a permitted use (such as swimming pools). Properties within the protected areas as defined by the Water Supply Watershed Protection Act shall include walks, drives, and all other impervious and graveled surfaces in the total lot coverage.

Lot, depth. The mean horizontal distance between front and rear lot lines.

Lot, width. The distance between side lot lines measured at the building line.

Lot of record. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds, or a lot described by metes and bounds, the description of which has been so recorded.

Manufactured home. A manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of forty (40) feet or more in length and eight (8) feet or more in width. It shall also comply with the National Mobile Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development. This definition shall also include the term *mobile home*.

Manufactured home park. Land used or intended to be used, leased or rented for occupancy by two (2) or more manufactured homes which are mounted on wheels, anchored in place by a foundation or other stationary support, to be used for living purposes and accompanied by automobile parking spaces and incidental utility structures and facilities required and provided in connection therewith. This definition shall not include sales lots on which unoccupied manufactured homes are parked for purposes of inspection and/or sale.

Mini-warehouse. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Minor watershed variance. A variance that does not qualify as a major variance from the minimum statewide watershed protection rules that results in a relaxation by a factor up to five percent (5%) of any

buffer, density, or built-upon requirements under the high density option; or that results in a relaxation, by a factor up to ten percent (10%), of any management requirement under the low density option.

Mixed use. The combination of both commercial and residential uses within a single building of two (2) or more stories, wherein at least fifty percent (50%) of the heated floor area contains residential dwelling unit(s).

Modular home. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Neighborhood gasoline station. A building and use for the sale of gasoline primarily to non-commercial vehicle operators, having no more than one (1) pumping canopy, with no more than four (4) pumping stations allowing a maximum simultaneous fueling of eight (8) motor vehicles.

Neighborhood recreation. Public or private neighborhood, tennis, or other courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in the neighborhood that the facility is located. *Neighborhood recreation* structures shall include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Non-conforming lot of record. A lot described by a plat or deed that was recorded prior to and lawfully existed prior to the adoption of this chapter, but which does not meet the limitations on size, depth, width, street frontage, or other development requirements of the statewide watershed protection rules for the district in which such lot is located.

Non-conforming use. A building or land lawfully occupied by a use that does not conform to use regulations of the district in which it is situated.

Non-residential development. All development other than residential development, agriculture and silviculture.

Nursing home. A home for the aged or ill persons in which three (3) or more persons not of the same immediate family are provided with food, shelter and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to diagnosis and treatment.

Office. A building or portion thereof wherein services are performed involving predominately administrative, professional, or clerical operations.

Open space. Any front, side, or rear yards, courts, or usable open space provided around a building in order to meet the requirements of this chapter.

Open storage. The storing, depositing or accumulating (for more than twenty-four (24) hours) of materials, goods, equipment, etc., for any use or sale, within any uncovered area, whether enclosed by a fence, etc., or not.

Parking lot. Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operating condition, for a fee or as a service.

Parking space. An area of appropriate dimensions, exclusive of drives, of not less than nine (9) feet by eighteen (18) feet to be used exclusively as a temporary storage space for private motor vehicles.

Planned Unit Development (PUD). A form of development characterized by a unified site design for multiple housing units, clustering of buildings, common spaces, increased density, and a mix of building types and uses. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. The site plan must include two (2) or more principal buildings. Such development shall be based on a plan, which allows for flexibility of design most available under normal district requirements.

Plat. A map or plan of a parcel of land which is to be, or has been, subdivided.

Protected area (PA) or balance of the watershed. Area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five (5) miles upstream of and draining to a water supply reservoir, or to the ridge line of the watershed, whichever comes first; or within ten (10) miles of and draining to a water intake in a stream or river, or to the ridgeline of the watershed, whichever comes first.

Religious institution. A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as a school, day care center, or dwelling, located on the same lot.

Residential development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, city houses, cottages, etc., and their associated outbuildings such as

garages, storage buildings, gazebos, etc.

Residential care facility. A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

Sign. Any object, devise, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify an object, person, institution, organization, business, product, service, event or location by any means; or scoreboards located on athletic fields.

Single family residential. Any development where: 1) no building contains more than one (1) dwelling unit; 2) every dwelling unit is on a separate lot; and 3) where no lot contains more than one (1) dwelling unit.

Site plan. A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features for a specific parcel of land.

Solar energy system, small. Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy for use onsite. However, the energy output may be delivered to a power grid to offset the cost of energy on site. Small systems will typically generate less than 10 kilowatts per hour (rated 10kW system) and will be an accessory use to a lawful, principle use. Small systems shall be located and situated so glare is not to interfere with traffic on public streets or highways or the reasonable use of neighboring property. Roof mounted small systems shall not extend more than 10 feet from the top of the roof. The total height of the building including the solar collection devices shall comply with the height regulations.

Solar energy system, utility scale (solar farm). Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy primarily for use off-site or for resale. Energy generated may be used to serve on site power needs. This will typically be the primary use of a property and generate more than 10 kilowatts per hour (rated 10kW system) of electricity.

Story. That portion of a building comprised between a floor and a floor or roof next above. The first floor of a two- (2-) or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.

Street (public road, public street, lane, way, terrace, drive). A dedicated and accepted public right-of-way used, or intended to be used, for passage or travel by motor vehicles which affords the principal means of access to abutting properties.

Street, private. Any right-of-way or area set aside to provide vehicular access which is not dedicated or intended to be dedicated to the City of Claremont or the State of North Carolina, and which is not maintained by the City of Claremont or the State of North Carolina.

Structure. Anything constructed or erected the use of which required more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground.

Structural alterations. Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division 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 the regulations authorized by these rules:

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 these rules;
2. The division of land into parcels greater than ten (10) 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;
4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not

more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of these rules;

5. The division of a tract into plots or lots used as a cemetery.

Toxic substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

Variance, zoning. A modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

Variance, watershed. A permission to develop or use property granted by the Board of Adjustment or Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this chapter. A *watershed variance* shall be either major or minor.

Water dependent structure. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Watershed. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

Watershed Administrator. An official designated by the City of Claremont responsible for administration and enforcement of Article M. This term shall also include the term *Zoning Enforcement Officer*.

Yard. A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

Yard, front. An open space on the same lot with a principal building, extending the full width of the lot, and situated between the front property or street right-of-way line and the front line of the building (exclusive of steps) projected to the sidelines of the lot.

Yard, rear. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the rear line of the lot and the rear line of the building projected to the sidelines of the lot.

Yard, side. An open, unoccupied space on the same lot with the principal building between the side line of the building and the side line of the lot and extending from the front yard line to the rear yard line.

Zoning Enforcement Officer. The City of Claremont official charged with the responsibility of enforcing this chapter. This term shall also include the term *Watershed Administrator*. This shall also mean the same as *Zoning Administrator*.

Zoning permit. Permit issued by the Zoning Enforcement Officer indicating proposed use is in compliance with the requirements of this chapter. This term shall also include the term *watershed protection permit*. (Ord. of 12-7-04, No. 37-02; Ord. of 10-2-06, No. 21-06; Ord. of 6-4-12, No. 15-11; Ord. of 9-4-12, No. 03-12)

Secs. 9-3-10 through 9-3-20 reserved.

ARTICLE B

General Provisions

Sec. 9-3-21 Application.

1. *Use.* No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this chapter or amendments thereto, for the district in which it is located.

2. *Height and density.* No building shall hereafter be erected or altered so as to exceed the height limit, or to exceed the density regulations of this chapter for the district in which it is located.

3. *Lot size.* No lot shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per family or other requirements of this chapter are not maintained, except in cases of street widening.

4. *Yard use limitations.* No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

5. *One principal building on any lot.* Every building hereafter erected, moved, or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal building and its customary accessory buildings on any lot, except in the case of a specially designed complex of institutional, residential, or commercial buildings in an appropriate zoning district, as permitted by Article L of this chapter. Furthermore, no building shall be constructed or erected upon any lot which does not abut a public street by twenty-five (25) feet.

6. *Necessary repairs permitted.* Nothing in this chapter shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by the Building Inspector, the Fire Chief, or any other duly authorized city officials. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-22 Nonconforming uses.

After the effective date of this chapter, existing structures, or the uses of land or structures which would be prohibited under the regulations for the district in which it is located (if they existed on the adoption date of this chapter), shall be considered as nonconforming. Nonconforming structures or uses (as defined in Article A of this chapter) may be continued provided they conform to the following provisions. (Ord. of 12-7-04, No. 37-02)

Sec. 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 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.

b. Enlargement or alterations may not exceed twenty-five percent (25%) of the original floor area existing at the time of enactment of this chapter.

c. No nonconforming use may be enlarged or altered if the intensity of the current use will be increased substantially, as determined by the Board of Adjustment. In determining whether the degree of intensity is increased, the Board of Adjustment shall consider:

(1) Probable traffic increase of each use.

(2) Parking requirements of each use.

(3) Probable number of persons on the premises at a time of peak demand.

(4) Off-site impacts of each use, such as noise, glare, dust, vibration, or smoke and other impacts on surrounding properties or public health and safety.

d. No such nonconforming use shall be moved in whole or in part to any portion of the lot other than occupied at the time of enactment of this chapter.

e. Changing from one nonconforming use to another shall not permit expansion more than once.

f. All dimensional requirements of the district in which the nonconforming use is located must be met.

2. *Change of use.* Any nonconforming uses of land may be changed to a conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in the district in question.

3. *Cessation of use.* When a non-conforming use of land is discontinued for a consecutive period of one hundred eighty (180) days the property involved may thereafter be used only for conforming purposes. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-24 Continuing the use of nonconforming buildings.

1. *Extension of use.* Nonconforming buildings and nonconforming uses may be enlarged provided the provisions of this section are met. Additionally, no nonconforming structure or use may be enlarged or altered in anyway which increases its dimensional deficiencies.

2. *Change of use.* The lawful use of a building existing at the time of the adoption of this chapter may be continued, even though such use does not conform to the provisions of this chapter. Furthermore, such building may be reconstructed or structurally altered and any nonconforming use therein changed subject to the following regulations:

a. The order of classification of uses from highest to lowest for the purpose of this section shall be as follows: residential district uses, business district uses, industrial district uses, as permitted by this chapter.

b. A nonconforming use may be changed to a use of higher classification but not to a use of lower classification. A nonconforming use may not be changed to another use of the same classification unless the new use shall be deemed by the Board of Adjustment, after public notice and hearing, to be less harmful to the surrounding neighborhood, than the existing nonconforming use.

c. A nonconforming commercial or industrial use may not be extended, but the extension of a use to any portion of a building, which portion is at the time of the adoption of this chapter primarily designed for such nonconforming use, shall not be deemed to be an extension of a nonconforming use.

d. Existing single-family residential structures in the business or industrial districts may be enlarged, extended or structurally altered or rebuilt, provided that no additional dwelling units result therefrom.

3. *Cessation of use.* If a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, any future use of the buildings and premises shall be in conformity with the provisions of this chapter.

(Ord. of 12-7-04, No. 37-02)

Sec. 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 uses are permitted according to the additional regulations imposed. These conditional 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.

2. *Minimum regulations.* Regulations set forth by this chapter shall be minimum regulations. If the district requirements set forth in this section are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.

3. *Land covenants.* Unless restrictions established by covenants for the land are prohibited by or are contrary to the provisions of this chapter, nothing herein contained shall be construed to render such covenants inoperative. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-26 Zoning of annexed areas.

Any areas annexed into the City of Claremont, upon annexation, shall be rezoned to an appropriate zoning district, upon recommendation by the Planning Board and approval by the City Council and following notifications and public hearings as required by North Carolina General Statutes. When property that was previously assigned a municipal zoning classification by the City of Claremont because it was located within the extra-territorial jurisdiction prior to annexation, it will not be necessary to rezone the property. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-27 Standards for residential garages and parking in residential districts.

1. On lots greater than sixty (60) feet in width, front loading garages may be built flush with, but may not project in front of, the primary plane of the front facade of the structure.

2. On lots sixty (60) feet or less in width, alley access is required if on-site parking is provided.

3. In no case shall on-site residential parking extend into the public right-of-way, or into an easement for a public sidewalk on private property.

4. On-street parking at lot front, when specifically provided, may be counted toward all or part of the parking requirement of a dwelling unit.

5. Detached residential garages may only be placed in the established rear or side yard. If the garage is located in the side yard it must be constructed of similar materials as the principal residence located on the lot and must meet the minimum setbacks required for a principal structure. At minimum it will have at least one (1) door that is large enough to allow entry of an automobile with two (2) axles. In addition, the outside walls shall not be clad with metal siding and the building shall be completely enclosed.

6. The gross floor area residential garages shall not exceed seventy-five percent (75%) of the gross floor area of the residence.

7. Vehicles used primarily for commercial purposes and with more than two (2) axles are prohibited from parking on streets, in driveways, or on private property in residential districts. This shall not be construed as preventing the temporary parking of delivery trucks, moving vans, and similar vehicles which deliver goods or services. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-28 Lot of record.

Where the owner of property consisting of one (1) or more lots of record in any district at the time of adoption of this chapter or his or her successor in title does not own sufficient contiguous land to conform to the minimum area and width requirements of this chapter, such property may be used as a building site,

provided that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in single ownership at any time after the adoption of this chapter and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this chapter for the district in which such lots are located.

Every lot to be built upon shall abut, by at least twenty-five (25) feet, a public street or other public way, and no dwelling shall be placed or built upon a lot that does not abut upon a public street or other public way by the same distance except as provided in Section 9-3-34. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-29 Front yard setbacks for dwellings.

The front yard setback requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the same block and use district as such lot is less than the minimum required front yard depth. In such case the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way line, whichever is greater. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-30 Height limitations.

The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, chimneys, smokestacks, conveyors, flag poles, masts, serials and similar structures except as otherwise noted in the vicinity of airports. Telecommunications towers shall adhere to the height restrictions of Article G. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-31 Visibility at intersections.

On a corner lot in any district no planting, structure, fence, wall or obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street lines each of which is twenty-five (25) feet in distance from the point of intersection. Utility poles and street signs shall be permitted if located in a non-obstructive position. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-32 Corner lots.

In any residential district the side yard requirements for corner lots along the side street line shall have an extra width of five (5) feet. Accessory buildings shall have an extra width of five (5) feet added to the side yard setback requirement. In addition, no wall, fence, or shrubbery shall be erected, placed, planted, or maintained on any lot, which unreasonably obstructs or interferes with traffic visibility on a curve or street intersection. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-33 Location of accessory buildings.

On any lot, accessory buildings shall be located in the rear yard (except as allowed in Section 9-3-27), shall not cover more than thirty percent (30%) of any required rear yard and shall be at least five (5) feet from any other building on the same lot and at least fifteen (15) feet from any buildings used for human habitation on adjoining lots. All parts of the building, including the footings and roof overhang, shall be a minimum of five (5) feet from any lot line; and further provided that in the case of corner lots such buildings or structures shall be set back at least twenty (20) feet from any side line right-of-way line. Accessory buildings shall be placed according to Article E. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-34 Provisions for landlocked lots.

Existing landlocked lots within the residential zoning district, defined as a lot that does not abut a public street and therefore does not meet the requirements that the lot have a minimum frontage on a public street of twenty-five (25) feet, may nevertheless be developed for one (1) single family dwelling unit if the lot otherwise meets the zoning requirements of the zone in which the lot is located and provided that the lot has a recorded easement of ingress and egress to and from a public street which is appurtenant to the lot and which meets the following requirements:

1. A private easement with a minimum continuous width of twenty-five (25) feet is acquired from intervening property owners;
2. An easement with a minimum continuous width of less than twenty-five (25) feet may be permitted only in situations where an easement with a minimum continuous width of twenty-five (25) feet would create

a nonconformity with respect to this chapter;

3. The recorded documents creating the easement shall specify that public service, utility and emergency personnel and vehicles shall have freedom of ingress and egress from the landlocked property;

4. The recorded documents shall also specify that public utilities (water, sewer, electricity, telephone, cable, etc.) may be located within the easement;

5. The recorded documents shall include a maintenance agreement specifying the party responsible for maintaining the easement and its traveled surface;

6. The easement must have an all weather surface of gravel, concrete or asphalt with a minimum continuous width of ten (10) feet to ensure access of public service, utility, and emergency personnel and vehicles;

7. Easements existing prior to the adoption of this chapter with widths less than twenty-five (25) feet may be used to access landlocked lots provided that such easements abut a dedicated street;

8. Subdivision of landlocked parcels will require a publicly dedicated street constructed to city standards and must meet all requirements of the city's subdivision regulations. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-35 Vested rights.

The purpose of this section is to implement the provisions of N.C.G.S. 160A-385.1 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 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 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)

Sec. 9-3-36 Permitted accessory uses in all districts.

1. Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot (Section 9-3-33).

2. *Fences and walls.* Fences consisting of masonry, rock, wire or wooden material and hedges may be installed on the boundaries of any residential lot, provided that the height of such fencing, walls or hedges shall be limited to a maximum height of five (5) feet between the street right-of-way line and the normal building line for that section adjacent to the street. Fencing, walls and hedges on all other boundaries of residential property shall be limited to a maximum of eight (8) feet in height. Retaining walls and required screenings shall not be subject to the above height requirements. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-37 Location of driveways.

All new driveways on city-maintained rights-of-way shall be a minimum of one-hundred (100) feet from the nearest street intersection, or as close to one-hundred (100) feet as possible without prohibiting access for that property onto at least one public right-of-way on which it fronts. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-38 Sidewalks.

New developments shall construct sidewalk along the public right-of-way if the property is within three hundred (300) feet of existing sidewalk on the same side of the right-of-way. If sidewalk already exists on the other side of the right-of-way, no new sidewalk is required. However, all new development on the south side of Centennial Boulevard shall construct sidewalk. All new sidewalks shall meet the following

requirements:

1. Concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to city specifications (four (4) inches thick except at non-residential driveways it shall be six (6) inches thick). The sidewalk shall be separated from the street by a minimum four (4) foot wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-39 Transportation impact study.

A transportation impact study (TIS) may be required by the City of Claremont for any development or property that experiences a change in zoning classification after the effective date of this chapter and is projected to generate one thousand (1,000) daily trips. A TIS shall be required for all development that experiences a change in zoning classification after the effective date of this chapter and is projected to generate one thousand five hundred (1,500) daily trips. A TIS may be required by the City of Claremont for any redevelopment or change in use of an existing occupied development that has experienced a change in zoning classification after the effective date of this chapter that would generate one thousand (1,000) additional daily trips, and shall be required when the subject development is expected to generate one thousand five hundred (1,500) additional daily trips, subject to the exception set out below.

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, 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.

If a development or property experiences a change in zoning classification after the effective date of this chapter and special circumstances exist, the City of Claremont may require a TIS without regard to the expected trip generation of the development. Factors that would warrant such a requirement are:

1. There are existing levels of service deficiencies in the area of the proposed development. (“Level of Service” as defined in the Highway Capacity Manual - Transportation Research Board Special Report 209) and/or

2. Available accident data and/or operational and geometric factors indicate safety concerns.

Notwithstanding the above, a TIS shall not be required if the property to be rezoned or developed has been the subject of a TIS within the previous three (3) years and the projected trip generation of the newly proposed development is equal to or less than the previous study performed and the trip distribution has not significantly changed. As a part of subdivision, site plan and driveway permit approval, the City of Claremont may require needed transportation improvements for the property requesting development approval; however, a TIS shall not be utilized as a means for staff to require the party developing the property to make needed transportation improvements remote from the property for which the TIS is submitted, nor shall identified deficiencies in level of service automatically preclude approval of the proposed development.

The TIS shall address the proposed land use, the trip generation therefrom, site access, modal splits if appropriate, impacts on the transportation system from the proposed development, and physical improvements or enforceable management strategies to mitigate negative impacts. At a minimum, the TIS shall identify the improvements necessary to maintain Level of Service D for streets and intersections as defined in the Highway Capacity Manual - Transportation Research Board Special Report 209. Any TIS, whether required or voluntarily prepared, must be prepared by a licensed engineer in accordance with city guidelines. Additionally, the TIS should be reviewed and approved by city staff before being considered by City Council or any planning agency of the city.

Developments/properties that have not experienced a change in zoning classification since the effective date of this chapter are not required to prepare a TIS as a part of their site plan approval. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-40 reserved.

ARTICLE C

Establishment of Districts

Sec. 9-3-41 Use districts.

For the purpose of this chapter, the City of Claremont and its extraterritorial zoning jurisdiction is hereby divided into six (6) base districts and two (2) overlay districts designated as follows:

Neighborhood Residential District (R-1)

Residential Agricultural District (R-2)

Central Business District (B-1)

Community Business District (B-2)

Highway Business District (B-3)

Manufacturing District (M-1)

Manufactured Home Overlay District (MHO)

High Rise Sign Overlay District (HRSO)

(Ord. of 12-7-04, No. 37-02; Ord. of 8-1-11, No. 02-11)

Sec. 9-3-42 District boundaries.

The boundaries of these districts are hereby established as shown on a map entitled “Official Zoning Map, City of Claremont, North Carolina.” The zoning map and all the notations, references and amendments thereto, and other information shown thereon are hereby made a part of this chapter the same as if such information set forth on the map were all fully described as set forth herein. The zoning map shall be retained in the office of the City Clerk. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-43 Rules governing boundaries.

Where, due to the scale, lack of detail or illegibility of the zoning map, there is uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereof, the Zoning Enforcement Officer shall make an interpretation of said map upon request of any person. Any person aggrieved by such interpretation may appeal such interpretation to the Board of Adjustment. The Zoning Enforcement Officer and the Board of Adjustment, in interpreting the zoning map or deciding any appeal, shall apply the following standards:

1. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or railroad right-of-way lines or such lines extended, such centerlines, street lines or railroad right-of-way lines shall be construed to be such boundaries.

2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

3. Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

4. Where a district boundary line divides a lot in single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than thirty-five (35) feet beyond the district boundary line. The term “least restrictive” shall refer to zoning restrictions, not lot or tract size. (Ord. of 12-7-04, No. 37-02)

Secs. 9-3-44 through 9-3-50 reserved.

ARTICLE D

Use Requirements by District

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

Intent: The district shall provide for urban residential development within walking distance (generally one-fourth (1/4) mile) of services. Streets shall be interconnected and a range of lot sizes is encouraged. The Neighborhood Residential District permits the completion and conformity of residential subdivisions.

1. Permitted uses:

a. Uses permitted by right:

(1) Single-family dwellings excluding manufactured homes.

(2) Family care homes.

b. Uses permitted with conditions (see Article F):

(1) Cemeteries.

(2) Churches.

- (3) Essential Services 1 and 2.
- (4) Government buildings up to five thousand (5,000) square feet of gross floor area.
- (5) Neighborhood and outdoor recreation.
- (6) Parks.
- (7) Temporary health care structures.

c. Uses permitted with a conditional use permit:

- (1) Multi-family dwellings.
- (2) Planned Unit Development - Residential.
- (3) Elementary and secondary schools.
- (4) Essential Services 3.
- (5) Neighborhood business.

d. Permitted building and lot types (See Article E):

- (1) Civic building.
- (2) Detached house.
- (3) Attached house.
- (4) Apartment building.

e. Permitted accessory structures and uses:

- (1) Accessory dwellings.
- (2) Day care home (small).
- (3) Home occupations.
- (4) Accessory uses permitted in all districts.

f. General requirements:

(1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

(2) New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.

(3) On new streets, allowable building and lot types will establish the development pattern.

2. Off-street parking and loading requirements. Off-street parking and loading requirements shall be provided for all uses as required by Article H of this chapter.

3. Sign requirements. See Article I of this chapter.

4. Dimensional requirements. See Article E (Lot and Building Types) and M (Watershed) of this chapter. (Ord. of 12-7-04; No. 37-02; Ord. of 10-2-06; No. 21-06; Ord. of 10-5-15; No. 07-15)

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

Intent: The district shall provide for non-urban single-family development as well as agricultural uses. The purpose of the R-2 District is to provide an adequate amount of land for agricultural uses while also making provisions for single-family residential development that is rural in character. Multi-family and commercial uses are not appropriate in this district. Manufactured homes are allowed in the R-2 District only where the Manufactured Home Overlay (MHO) District is present.

1. Permitted uses:

a. Uses permitted by right:

(1) Single-family dwellings built in accordance with the N.C. Building Code (Manufactured homes are only allowed where the MHO District is present).

(2) Bona fide farms.

(3) Family care homes.

b. Uses permitted with conditions (see Article F):

(1) Cemeteries.

(2) Churches.

(3) Essential Services 1 and 2.

(4) Government buildings up to five thousand (5,000) square feet of gross floor area.

(5) Neighborhood and outdoor recreation.

(6) Parks.

(7) Utility scale solar energy systems.

- (8) Temporary health care structures.
 - c. Uses permitted with a conditional use permit:
 - (1) Elementary and secondary schools.
 - (2) Essential Services 3.
 - (3) Neighborhood business.
 - d. Permitted building and lot types (See Article E):
 - (1) Civic building.
 - (2) Detached house.
 - e. Permitted accessory structures and uses:
 - (1) Accessory dwellings.
 - (2) Day care home (small).
 - (3) Home occupations.
 - (4) Accessory uses permitted in all districts.
 - f. General requirements:
 - (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - (2) New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - (3) On new streets, allowable building and lot types will establish the development pattern.
 - 2. Off-street parking and loading requirements. Off-street parking and loading requirements shall be provided for all uses as required by Article H of this chapter.
 - 3. Sign requirements. See Article I of this chapter.
 - 4. Dimensional requirements. See Article E (Lot and Building Types) and M (Watershed) of this chapter.
- (Ord. of 12-7-04; No. 37-02; Ord. of 10-2-06; No. 21-06; Ord. of 9-4-12; No. 03-12; Ord. of 10-5-15; No. 07-15)

Sec. 9-3-53 Central Business District (B-1).

Intent: The Central Business District (B-1) is intended to be the central commercial area of city. A broad array of uses is expected in a pattern which integrates shops, restaurants, services, work places, civic, educational, and religious facilities, and higher density housing in a compact, pedestrian-oriented environment. The Central Business District anchors the surrounding residential neighborhoods while also serving the broader community.

- 1. Permitted uses.
 - a. Uses permitted by right:
 - (1) Bed and breakfast inns.
 - (2) Boarding or rooming houses for up to six (6) boarders.
 - (3) Churches.
 - (4) Civic, fraternal, cultural, community, or club facilities.
 - (5) Commercial uses.
 - (6) Financial services.
 - (7) Government buildings.
 - (8) Indoor recreation.
 - (9) Offices.
 - (10) Professional services.
 - (11) Single-family dwellings.
 - b. Uses permitted with conditions (See Article F):
 - (1) Cemeteries.
 - (2) Essential Services 1 and 2.
 - (3) Parking lot as a principal use.
 - (4) Parks.
 - (5) Temporary sales of seasonal agricultural products and customary accessory products (example: farmers' markets, Christmas tree/pumpkin sales).
 - c. Uses permitted with a conditional use permit:

- (1) Multi-family dwellings.
 - (2) Mixed use development.
 - (3) Elementary and secondary schools.
 - (4) Planned Unit Development - Business.
 - (5) Planned Unit Development - Residential.
 - d. Permitted building and lot types (See Article E):
 - (1) Apartment building.
 - (2) Attached house.
 - (3) Civic building.
 - (4) Detached house.
 - (5) Mixed use up to fifteen thousand (15,000) square feet of first floor area.
 - (6) The mixed-use building duplicates the shopfront building type and has at least two (2) occupiable stories; at least fifty percent (50%) of the habitable area of the building shall be in residential use, the remainder shall be in commercial use.
 - (7) Shopfront up to fifteen thousand (15,000) square feet of first floor area.
 - (8) Workplace up to fifteen thousand (15,000) square feet of first floor area.
 - e. Permitted accessory structures and uses:
 - (1) Accessory dwellings.
 - (2) Day care home (small).
 - (3) Drive through windows, excluding those associated with restaurants.
 - (4) Home occupations.
 - (5) Stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with city); outdoor storage is expressly prohibited.
 - (6) Items for outdoor sales are sold outside and returned to inside the building at the end of each business day; goods not brought in at the close of business each day are considered outdoor storage.
 - (7) Accessory uses permitted in all districts.
 - f. General requirements:
 - (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - (2) New buildings, which exceed the scale and volume of existing buildings, may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - (3) On new streets, allowable building and lot types will establish the development pattern.
 - (4) New construction should favor retail on first floor, office and/or residential on upper floors.
 - (5) Every building lot shall have frontage upon a public street or square.
2. Off-street parking and loading requirements. Off-street parking and loading requirements shall be provided for all uses as required by Article H of this chapter.
3. Sign requirements. See Article I of this chapter.
4. Dimensional requirements. See Article E (Lot and Building Types) and M (Watershed) of this chapter.

(Ord. of 12-7-04, No. 37-02)

Sec. 9-3-54 Community Business District (B-2).

Intent: The Community Business District (B-2) is intended for general business uses and other uses which are properly and necessarily located near residential areas and which cater to the everyday needs of surrounding residential neighborhoods.

1. Permitted uses:
 - a. Uses permitted by right:
 - (1) Bed and breakfast inns.
 - (2) Boarding or rooming houses for up to six (6) boarders.
 - (3) Churches.
 - (4) Civic, fraternal, cultural, community, or club facilities.
 - (5) Small-scale retail services (five thousand (5,000) square feet or less), excluding automobile, boat, camper, or any other retail service requiring outdoor storage of goods.
 - (6) Financial services.

- (7) Government and other institutional uses.
 - (8) Offices.
 - (9) Professional services.
 - b. Uses permitted with conditions (See Article F):
 - (1) Cemeteries.
 - (2) Day care center.
 - (3) Essential Services 1 and 2.
 - (4) Neighborhood gasoline stations, excluding major service and repair of motor vehicles.
 - (5) Parking lot as a principal use.
 - (6) Parks.
 - (7) Temporary sales of seasonal agricultural products and customary accessory products (example: farmers' markets, Christmas tree/pumpkin sales).
 - c. Uses permitted with a conditional use permit:
 - (1) Single-family homes.
 - (2) Multi-family homes.
 - (3) Elementary and secondary schools.
 - (4) Planned Unit Development - Business.
 - (5) Essential Services 3.
 - d. Permitted building and lot types (See Article E):
 - (1) Apartment building.
 - (2) Attached house.
 - (3) Civic building.
 - (4) Detached house.
 - (5) Mixed use up to fifteen thousand (15,000) square feet of first floor area.
 - (6) The mixed-use building duplicates the shopfront building type and has at least two (2) occupiable stories; at least fifty percent (50%) of the habitable area of the building shall be in residential use, the remainder shall be in commercial use.
 - (7) Shopfront up to fifteen thousand (15,000) square feet of first floor area.
 - (8) Workplace up to fifteen thousand (15,000) square feet of first floor area.
 - e. Permitted accessory structures and uses:
 - (1) Accessory dwellings.
 - (2) Day care home (small).
 - (3) Drive through windows, excluding those associated with restaurants.
 - (4) Home occupations.
 - (5) Stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with city); outdoor storage is expressly prohibited.
 - (6) Items for outdoor sales are returned to inside the building at the end of each business day; goods not brought in at the close of business each day are considered outdoor storage.
 - (7) Accessory uses permitted in all districts.
 - f. General requirements:
 - (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - (2) New buildings, which exceed the scale and volume of existing buildings, may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - (3) On new streets, allowable building and lot types will establish the development pattern.
 - (4) New construction should favor retail on first floor, office and/or residential on upper floors.
 - (5) Every building lot shall have frontage upon a public street or square.
 2. Off-street parking and loading requirements. Off-street parking and loading requirements shall be provided for all uses as required by Article H of this chapter.
 3. Sign requirements. See Article I of this chapter.
 4. Dimensional requirements. See Article E (Lot and Building Types) and M (Watershed) of this chapter.
- (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-55 Highway Business District (B-3).

Intent: The Highway Business District (B-3) is established to provide primarily for auto-dependent uses in areas not easily developed for easy pedestrian access and comfortable pedestrian environment. The Highway Business District (B-3) will serve not only the local community, but interstate and highway travelers as well. Because of the scale and access requirements of uses for this category, they often cannot be compatibly integrated with the Central Business and Community Business Districts. Development at district boundaries must provide a compatible transition to uses outside the district; property boundaries adjacent Interstate 40 will require a fifty (50) foot foliated buffer yard and frontages on major or minor arterials will require formal street tree planting.

1. Permitted uses:

a. Uses permitted by right:

- (1) Amusement facilities: all indoor uses.
- (2) Bed and breakfast inns.
- (3) Boarding or rooming houses for up to six (6) boarders.
- (4) Civic, fraternal, cultural, community, or club facilities.
- (5) Commercial uses.
- (6) Government buildings.
- (7) Indoor and outdoor recreation.
- (8) Motels.
- (9) Wholesale sales with related offices, storage and warehousing entirely within an enclosed building;

truck terminals not permitted.

b. Uses permitted with conditions (See Article F):

- (1) Adult business.
- (2) Car wash.
- (3) Cemeteries.
- (4) Churches.
- (5) Commercial kennel.
- (6) Day care center.
- (7) Electronic gaming operations.
- (8) Essential Services 1 and 2.
- (9) Gasoline service stations, including service and repair of motor vehicles.
- (10) Parks.
- (11) Temporary sales of seasonal agricultural products and customary accessory products (example: farmers' markets, Christmas tree/pumpkin sales).
- (12) Vehicle and boat sales, service, rental, cleaning, mechanical repair and body repair.

c. Uses permitted with a conditional use permit:

- (1) Vocational and technical schools.
- (2) Planned Unit Development - Business.
- (3) Essential Services 3.
- (4) Mini-warehouse.
- (5) Wireless telecommunications facilities.

d. Permitted building and lot types (See Article E):

- (1) Civic building.
- (2) Highway business up to sixty-five thousand (65,000) square feet of first floor area on major thoroughfare; up to fifteen thousand (15,000) square feet of first floor area on minor thoroughfare.
- (3) The maximum first floor area for highway business buildings may be exceeded only where massing of building is varied to reduce perceived scale and volume.
- (4) Shopfront, up to sixty-five thousand (65,000) square feet of first floor area on major thoroughfare; up to fifteen thousand (15,000) square feet of first floor area on minor thoroughfare; second floor apartments or offices encouraged for most uses.
- (5) Workplace up to sixty-five thousand (65,000) square feet of first floor area on major thoroughfare; up to fifteen thousand (15,000) square feet of first floor area on minor thoroughfare; second floor apartments or offices encouraged for most uses.

e. Permitted accessory structures and uses:

- (1) Day care home (small).
- (2) Drive through windows associated with any use.
- (3) Outdoor storage.
- (4) Stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with city); outdoor storage is expressly prohibited.
- (5) Items for outdoor sales are returned to inside the building at the end of each business day; goods not brought in at the close of business each day are considered outdoor storage.
- (6) Warehousing accessory to merchandise showroom, within an enclosed building.
- (7) Accessory uses permitted in all districts.

f. General requirements:

(1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

(2) New buildings, which exceed the scale and volume of existing buildings, may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.

(3) On new streets, allowable building and lot types will establish the development pattern.

(4) Where screening is required by Article F for activities involving any sale, use, repair, storage, or cleaning operation, the specified standard of Article K shall apply.

(5) Any Highway Business District shall be bordered on at least one (1) side by a major or minor thoroughfare.

(6) The arrangement of multiple buildings on a single lot shall establish facades generally parallel to the frontage property lines along existing streets and proposed interior streets.

(7) Every building lot shall have frontage upon a public street or square.

2. Off-street parking and loading requirements. Off-street parking and loading requirements shall be provided for all uses as required by Article H of this chapter.

3. Sign requirements. See Article I of this chapter.

4. Dimensional requirements. See Article E (Lot and Building Types) and M (Watershed) of this chapter. (Ord. of 12-7-04, No. 37-02; Ord. of 6-4-12, No. 15-11)

Sec. 9-3-56 Manufacturing District (M-1).

Intent: The Manufacturing (M-1) District is established as a district in which the principal use of land is for industrial and warehousing uses which normally seek locations on large tracts where the operation involved does not detract from the development potential of nearby undeveloped properties. Development at district boundaries must provide a compatible transition to uses outside the district. Frontages on major or minor arterials will require formal street tree planting.

1. Permitted uses:

a. Uses permitted by right:

- (1) Bakeries, wholesale.
- (2) Bedding/Carpet manufacturing.
- (3) Boat works.
- (4) Bottling plants.
- (5) Brick, tile & pottery yard.
- (6) Building/cleaning/maintenance service.
- (7) Cabinet shops.
- (8) Canvas goods manufacturing.
- (9) Clothing/textile manufacturing.
- (10) Concrete production.
- (11) Contractor storage yards.
- (12) Electrical equipment manufacturing and repair.
- (13) Exterminators.
- (14) Farm machinery manufacturing and repair.
- (15) Food manufacturing.
- (16) Furniture manufacturing and repair.
- (17) Greenhouse, commercial.

- (18) Ice manufacturing.
 - (19) Landscaping and lawn services.
 - (20) Leather product manufacturing.
 - (21) Linen/uniform service.
 - (22) Monument works/sales.
 - (23) Nurseries, agriculture (commercial).
 - (24) Plastic products manufacturing.
 - (25) Publishing and printing.
 - (26) Rubber product manufacturing.
 - (27) Sheet metal shops.
 - (28) Springs manufacturing.
 - (29) Stone and clay product manufacturing.
 - (30) Tobacco products manufacturing.
 - (31) Warehouses.
 - (32) Wholesale distribution facilities.
 - (33) Woodworking shops.
- b. Uses permitted with conditions (See Article F):
- (1) Amusement facilities, outdoor.
 - (2) Commercial outdoor kennel.
 - (3) Essential Services 1 and 2.
 - (4) Parks.
 - (5) Utility scale solar energy systems.
 - (6) Temporary sales of seasonal agricultural products and customary accessory products (example: farmers' markets, Christmas tree/pumpkin sales).
 - (7) Truck terminals.
- c. Uses permitted with a conditional use permit:
- (1) Agricultural industry.
 - (2) Airports.
 - (3) Deviations from the architectural standards set forth in 9-3-77. Any deviations must have a proven need, that the building would not be able to serve its purpose adhering to the architectural standards.
 - (4) Essential Services Class 3.
 - (5) Mini-warehouse.
 - (6) Petroleum storage facilities.
 - (7) Planned Unit Development - Business.
 - (8) Sawmills.
 - (9) Wireless telecommunications facilities.
 - (10) Other industrial or manufacturing uses not listed.
 - (11) Only permitted upon finding by the Board of Adjustment that the proposed use is not likely to be dangerous, offensive or detrimental to the health, safety, welfare, or general character of the zoning district or community by reason of the emission of dust, gas, fumes, odors, glare, noise, vibrations, low-level radioactive waste, or otherwise.
- d. Permitted building and lot types:
- (1) Industrial.
- e. Permitted accessory structures and uses:
- (1) Outdoor storage.
 - (2) Accessory uses permitted in all districts.
- f. General requirements:
- (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
 - (2) New buildings, which exceed the scale and volume of existing buildings, may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
 - (3) On new streets, allowable building and lot types will establish the development pattern.

(4) Where screening is required by Article F for activities involving any sale, use, repair, storage, or cleaning operation, the specified standard of Article K shall apply.

(5) The arrangement of multiple buildings on a single lot shall establish facades generally parallel to the frontage property lines along existing streets and proposed interior streets.

(6) Every building lot shall have frontage upon a public street or square.

2. Off-street parking and loading requirements. Off-street parking and loading requirements shall be provided for all uses as required by Article H of this chapter.

3. Sign requirements. See Article I of this chapter.

4. Dimensional requirements. See Article E (Lot and Building Types) and M (Watershed) of this chapter. (Ord. of 12-7-04, No. 37-02; Ord. of 3/18/10, No. 07-10; Ord. of 9/4/12, No. 03-12)

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

Intent: The Manufactured Home Overlay District (MH) is established to provide for existing and proposed neighborhoods, which include or are proposed to include manufactured homes. The requirements herein are intended to ensure compatibility with existing housing stock by imposing supplemental appearance standards for manufactured housing. The Manufactured Home Overlay district may only be applied to tracts zoned Residential Agriculture (R-2), supplementing the range of residential types permitted in the underlying district. For existing neighborhoods, the MH District may be established by map adoption; for proposed neighborhoods, the MH District requires zoning approval accompanied by a detailed development plan and supporting materials.

1. Permitted uses:

a. Uses permitted by right:

(1) All uses permitted by right in the underlying district, according to the standards of the underlying district.

b. Uses permitted with conditions (See Article F):

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

(2) Manufactured homes on individual lots in accordance with the standards of Article J.

c. Uses permitted with a conditional use permit:

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

d. Permitted building and lot types (See Article E):

(1) All building and lot types permitted in the underlying zoning district.

(2) Manufactured homes will be placed according to the standards for a detached house.

e. Permitted accessory structures and uses:

(1) Accessory dwellings.

(2) Day care home (small).

(3) Home occupations.

(4) Accessory uses permitted in all districts.

f. General requirements:

(1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

(2) New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.

(3) On new streets, allowable building and lot types will establish the development pattern.

(4) All subdivision standards shall be met.

(5) For proposed neighborhoods, an application to classify property to the MH District shall require a master plan that shows the location and hierarchy of streets and public spaces, location of residential, non-residential, and civic building lots, street sections and/or plans, phasing, and any other information which may be required to evaluate the subdivision's adherence to the standards of this chapter and Chapter 4 of this title.

(6) Minimum size for new developments shall be five (5) acres.

(7) Maximum size for new developments shall be twenty (20) acres.

2. Off-street parking and loading requirements. Off-street parking and loading requirements shall be provided for all uses as required by Article H of this chapter.

3. Sign requirements. See Article I of this chapter.

4. Dimensional requirements. See Article E (Lot and Building Types) and M (Watershed) of this chapter. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-58 High Rise Sign Overlay District (HRS).

Intent: The High Rise Sign Overlay District (HRS) regulates signage and advertising apparatus for businesses that rely on motorists utilizing U.S. Interstate 40 (I-40). The boundaries of the HRS are shown on the City of Claremont's Official Zoning Map.

1. Sign Development Standards:

a. The maximum height of sign shall not exceed eighty (80) feet;

b. The maximum sign area shall not exceed one hundred and fifty (150) square feet;

c. All high rise signs must be set back ten (10) feet from any lot line;

d. Any high rise sign shall be located a minimum of one hundred and fifty (150) feet from any other high rise sign;

e. No high rise sign shall be located more than 350 feet from the Interstate 40 right-of-way f. There shall be only one high rise sign per business

f. Where a high rise sign is installed, one other ground mounted sign may be installed, not exceeding eight (8) feet in height or thirty-two (32) square feet in area and shall meet all the requirements of Article I. The area of the high rise sign shall be excluded from calculations permitted sign area as outlined in Article I.

2. All other development standards of the underlying zoning district shall be met.

(Ord. of 8-1-11, No. 02-11)

Secs. 9-3-59 and 9-3-60 reserved.

ARTICLE E Lot and Building Types

Sec. 9-3-61 Lots and Buildings.

1. All lots shall share a frontage line with a street or square. Lots fronting a square shall be provided rear alley access.

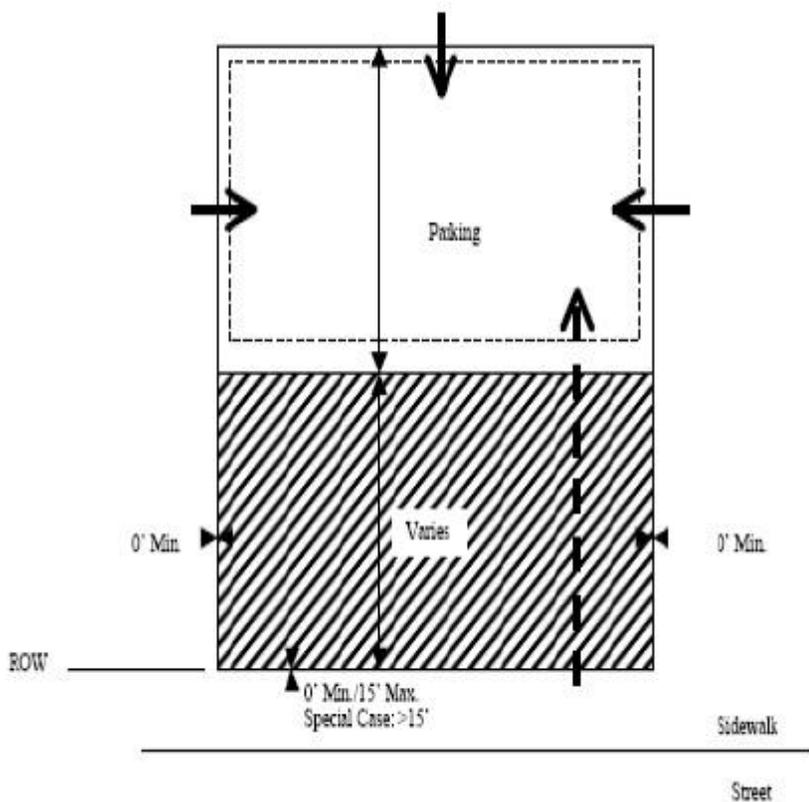
2. Consistent build-to-lines shall be established along all streets and public space frontages; build-to-lines determine the width and ratio of enclosure for each public street or space. A minimum percentage build-out at the build-to-line shall be established on the plan along all streets and public square frontages.

3. Building and lot types shall comply with this section.

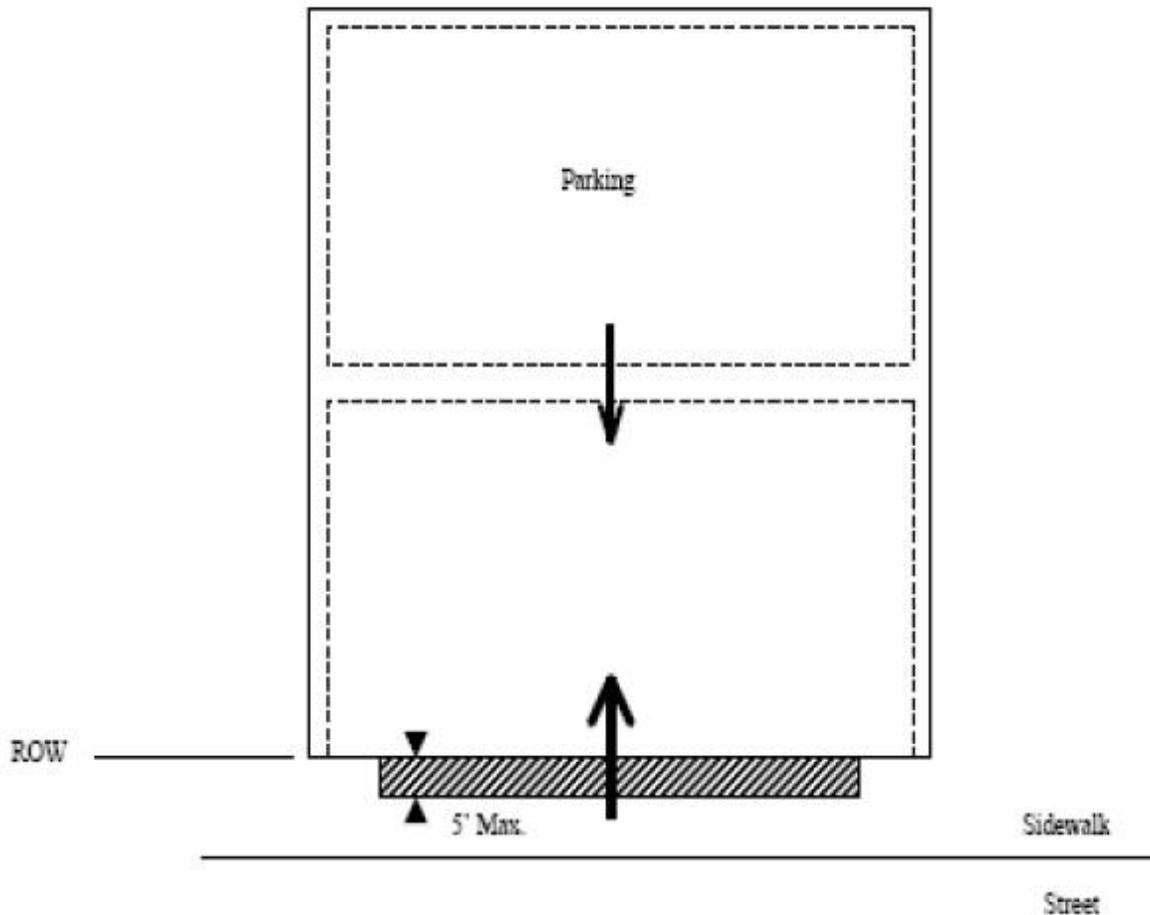
4. Large scale, single use facilities (conference spaces, theaters, athletic facilities, for example) shall generally occur behind or above smaller scale uses of pedestrian orientation. Such facilities may exceed maximum first floor area standards if so cited. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-62 Lot type/urban workplace.

1. *Building placement/parking/vehicular access:*



- a. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to-line will range from zero (0) feet to fifteen (15) feet behind street right-of-way. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger building setback.
 - b. Building facades generally shall be parallel to front property lines.
 - c. Parking shall be located primarily to the rear of the building; side yard parking shall occupy no more than thirty-five percent (35%) of the primary frontage line and shall not be placed in any side yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side yard parking may be modified.
 - d. Points of permitted access to parking are indicated by arrows.
 - e. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.
 - f. Parking areas on adjacent lots shall be connected wherever practical.
 - g. Trash containers shall be located in a rear parking area (Article H) and shall be screened from the right-of-way.
 - h. Mechanical equipment at ground level shall be placed on the parking lot side of building and away from buildings on adjacent sites.
 - i. Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale.
2. *Encroachment/pedestrian access to building:*



a. Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height (minimum seven (7) feet six (6) inches) are permitted within the sidewalk as shown by the hatched area. Encroaching arcades should cover the entire sidewalk.

b. Primary pedestrian access into the building shall be from the street frontage line (indicated by large arrow). Secondary access may be from parking areas (indicated by smaller arrow).

c. When required, concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to city specifications (four (4) inches thick except at non-residential driveways it shall be six (6) inches thick). The sidewalk shall be separated from the street by a minimum four (4) foot wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

3. *Description:*

The workplace building may be a large structure (fifteen thousand (15,000) plus square feet) and may have a single use tenant. Office, industrial, and commercial tenants are typical. These buildings are critical to the city as employment centers and commercial service locations. The buildings will provide space for industry, large offices, as well as large retail uses such as a full service grocery store.

4. *Special conditions:*

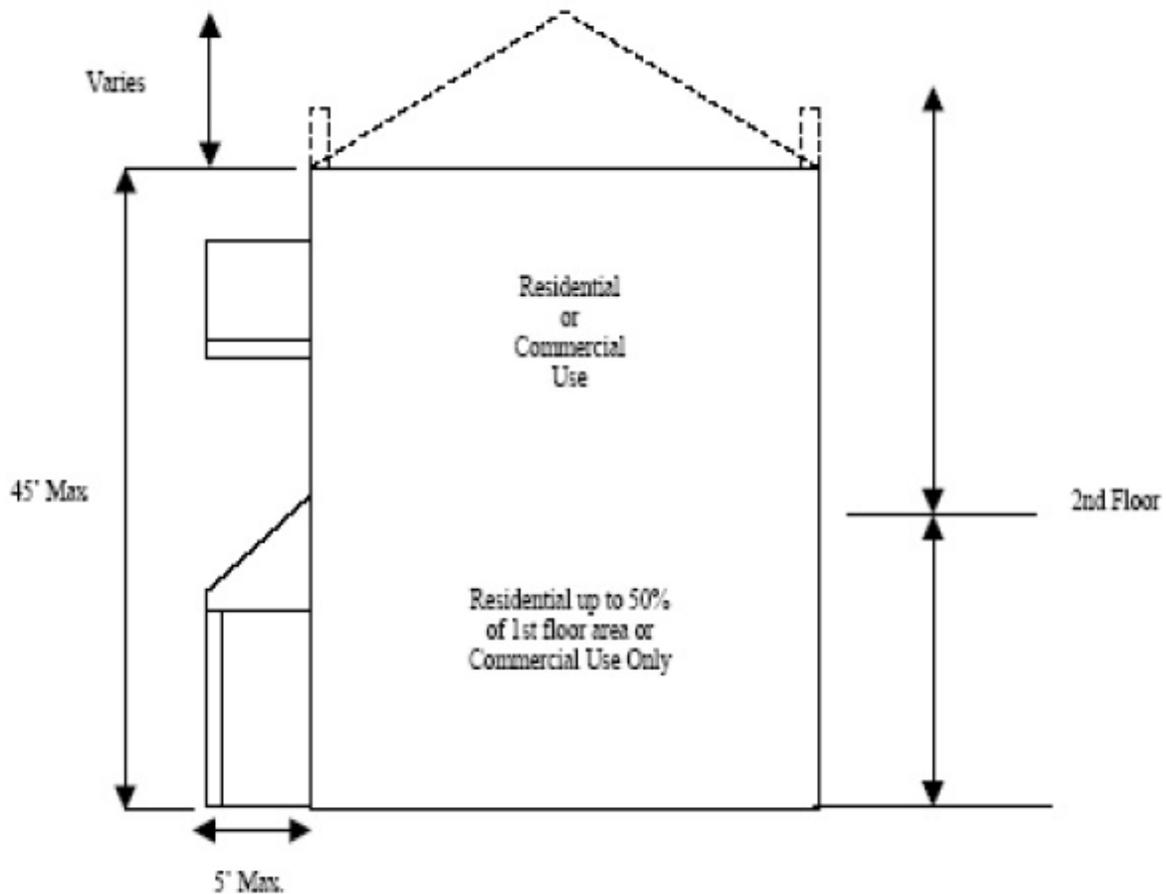
a. Buildings in all locations should relate the principal facade to the sidewalk and public space of the street.

b. Corners: Setback at street corners will generally replicate frontage conditions. Side setbacks on a minor street may be less than the front dimension.

c. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner that encourages pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-63 Building type/urban workplace.

1. *Permitted height and uses:*



a. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.

b. The height of parapet walls may vary depending upon the need to screen mechanical equipment.

c. Building height to the ridge may vary depending on the roof pitch.

d. Permitted uses are indicated above.

2. *Architectural standards:*

a. Principles:

(1) To perpetuate the unique building character of the city and its environs, and to re-establish its local identity, development shall generally employ building types that are compatible to the historic architectural vocabulary of the area in their massing and external treatment.

(2) 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. Building elevations fronting or visible from public streets shall not be covered with vinyl siding in the Central Business District (B-1).

(3) The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.

(4) Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.

(5) Mobile units may not be used as permanent workplace buildings.

(6) At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

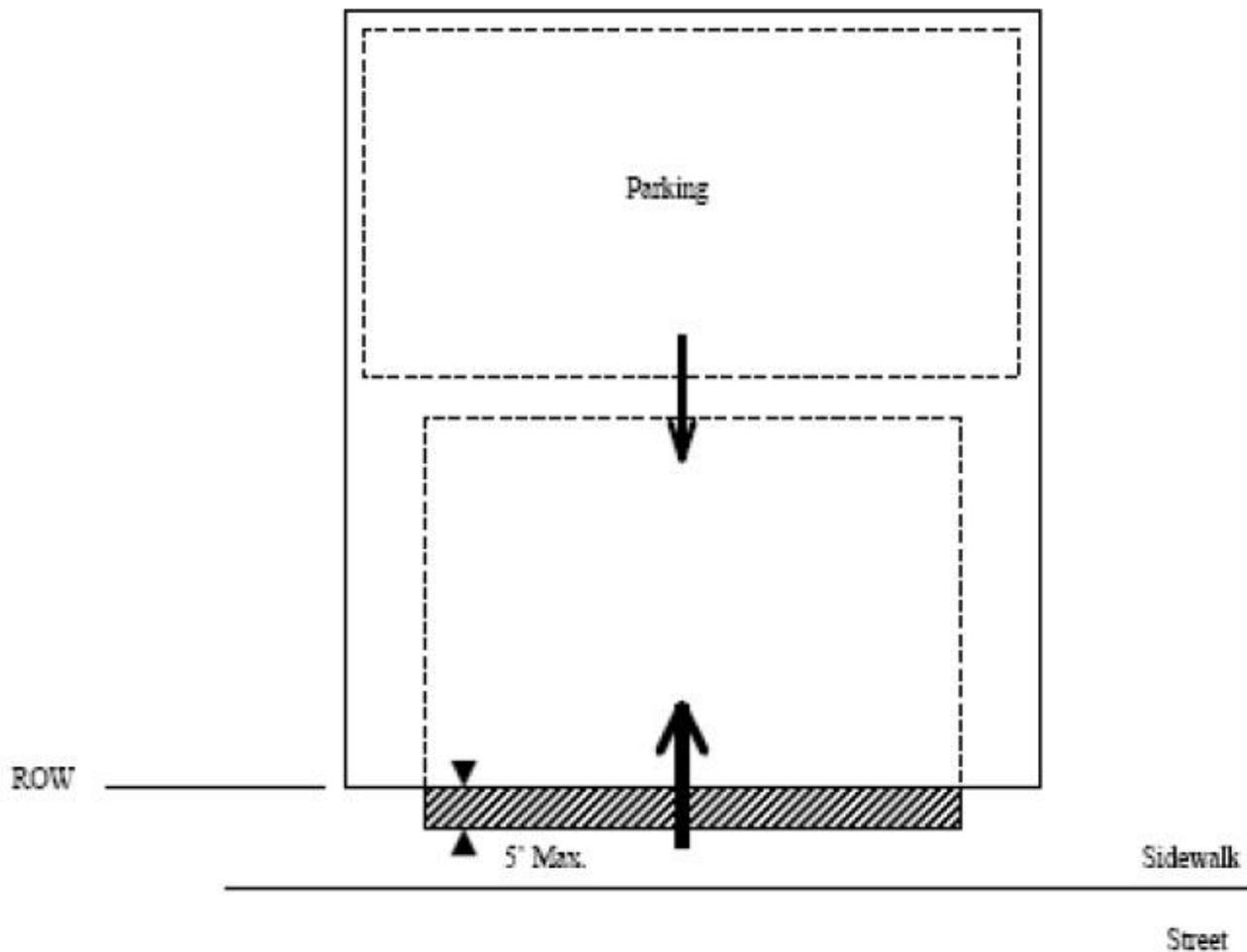
b. Configurations:

(1) Two (2) wall materials may be combined horizontally on one (1) facade. The "heavier" material should be below and can cover the first floor only (i.e. brick below wood siding).

(2) Street level windows shall be untinted. Tinted glass with minimum visual transmittance factor of 35 is permitted. Mirrored glass is not permitted in any location.

c. Techniques:

(1) Windows should be set to the inside of the building face wall.



a. Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height (minimum seven (7) feet six (6) inches) are permitted within the sidewalk as shown by the hatched area. Encroaching arcades should cover the entire sidewalk.

b. Primary pedestrian access into the building shall be from the street frontage line (indicated by large arrow). Secondary access may be from parking areas (indicated by smaller arrow).

c. When required, concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to city specifications (four (4) inches thick except at non-residential driveways it shall be six (6) inches thick). The sidewalk shall be separated from the street by a minimum four (4) foot wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

3. *Description:*

The shopfront building is a small-scale structure, which can accommodate a variety of uses. The structure is typically a maximum of fifteen thousand (15,000) square feet. A group of shopfront buildings can be combined to form a mixed-use neighborhood center. Individual shopfront buildings can be used to provide some commercial service, such as a convenience food store, in close proximity to homes. Traditional commercial buildings in the Central Business District provide good examples.

4. *Special conditions:*

a. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.

b. Drive-through customer services, if permitted in the district, must be located at the rear of the building or on a side that does not abut a street.

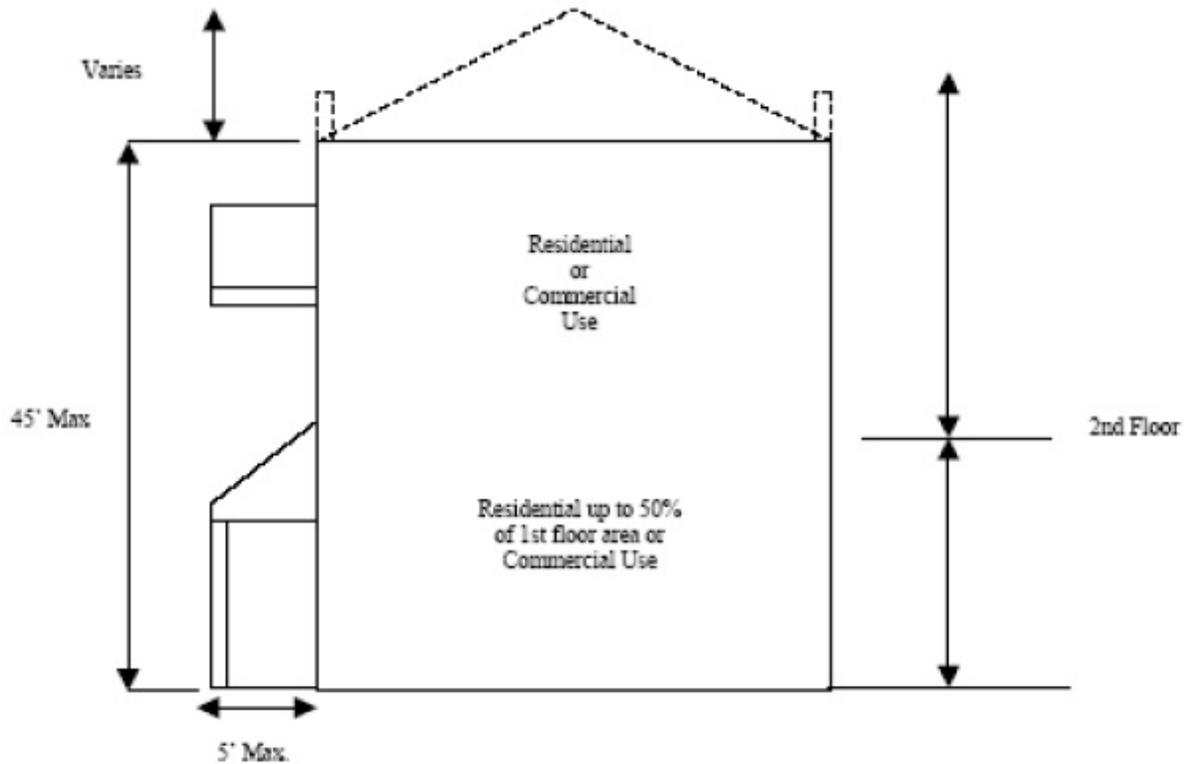
c. Corners: Setbacks at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.

d. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner that encourages pedestrian activity. For example, squares or spatially defined

plazas within building setback areas can act as focal points for pedestrians.
(Ord. of 12-7-04, No. 37-02; Ord. of 10-5-15, No. 05-15)

Sec. 9-3-65 Building type/shopfront building.

1. *Permitted height and uses:*



- a. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
- b. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
- c. Building height to the ridge may vary depending on the roof pitch.
- d. Permitted uses are indicated above.

2. *Architectural standards:*

a. Principles:

- (1) To perpetuate the unique building character of the city and its environs, and to re-establish its local identity, development shall generally employ building types that are compatible to the historic architectural vocabulary of the area in their massing and external treatment.
- (2) 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. Building elevations fronting or visible from public streets shall not be covered with vinyl siding in the Central Business District (B-1).
- (3) The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.
- (4) Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.
- (5) Mobile units may not be used as permanent workplace buildings.
- (6) At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

b. Configurations:

- (1) Two (2) wall materials may be combined horizontally on one (1) facade. The “heavier” material should be below and can cover the first floor only (i.e. brick below wood siding).
- (2) Street level windows shall be untinted. Mirrorized glass is not permitted in any location.
- (3) Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.

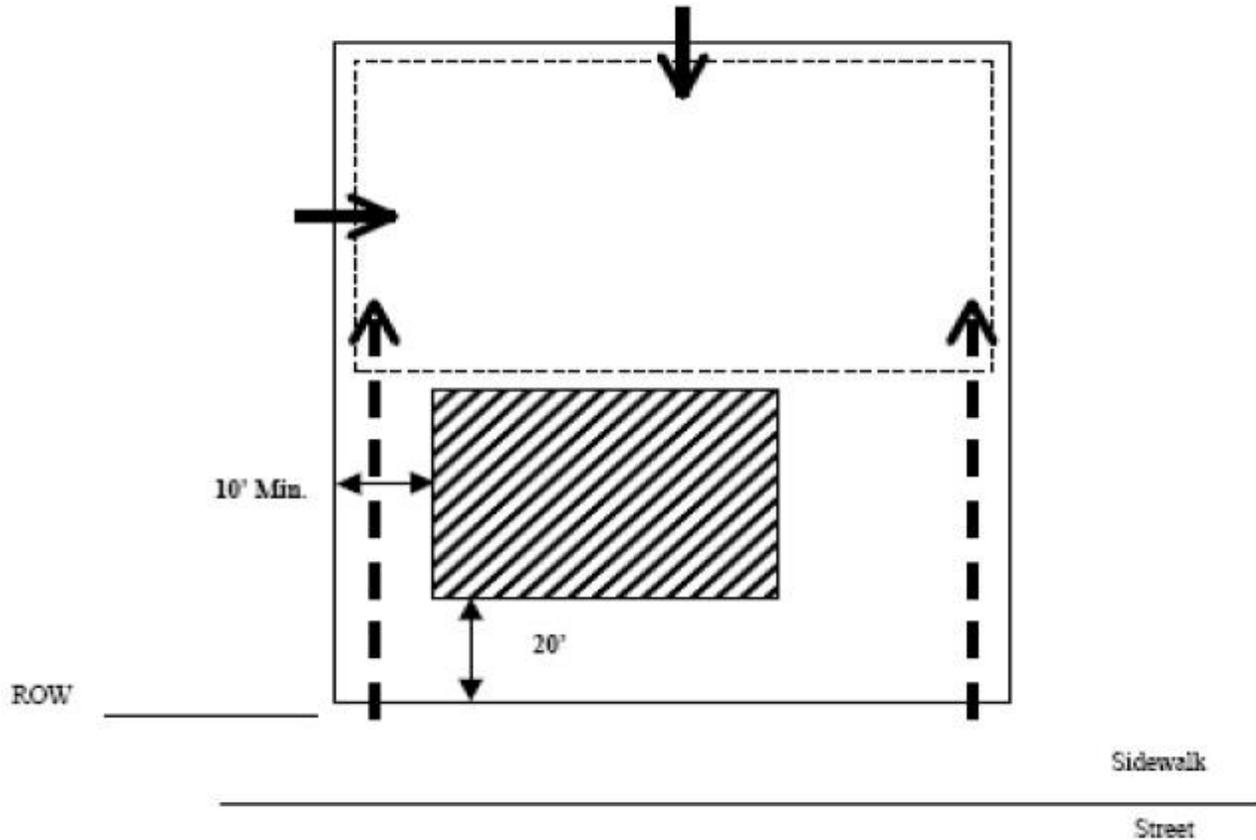
c. Techniques:

(1) Windows should be set to the inside of the building face wall.

(2) All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-66 Lot type/highway business.

1. *Building placement/parking/vehicular access:*



a. Setbacks may vary according to setting within limits indicated .

b. Building facades shall be generally parallel to front property lines.

c. Parking shall be located to the side, rear and front of the building. In no case shall more than two rows of parking or fifty percent (50%) of the total required parking, be placed in the front of the building. Side yard parking shall occupy no more than fifty percent (50%) of the primary frontage line and shall not be placed in any side yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side yard parking may be modified.

d. Points of permitted access to parking are indicated by arrows.

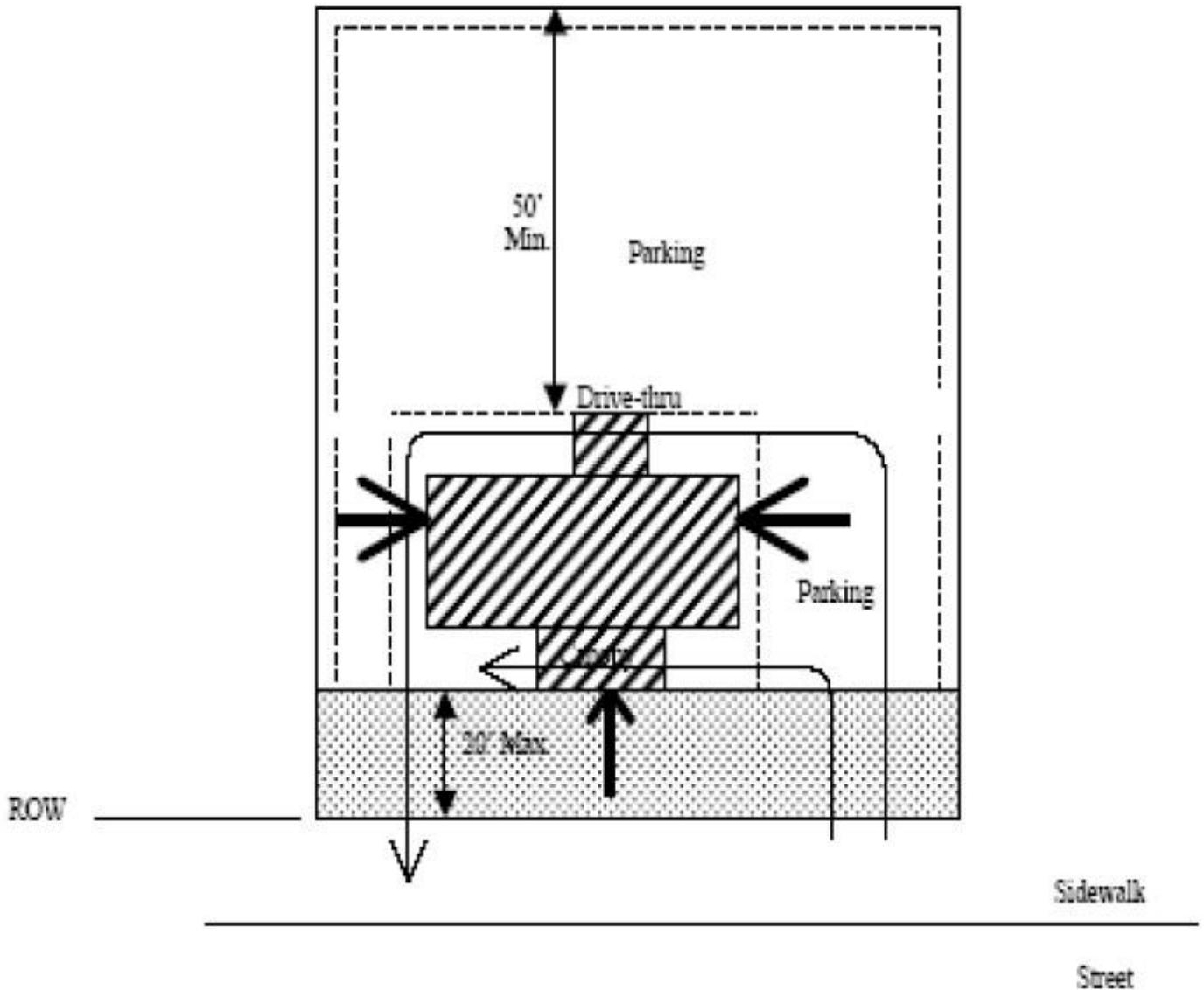
e. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.

f. Parking areas on adjacent lots shall be connected wherever practical.

g. Trash containers shall be located in a rear parking area (see parking regulations) and shall be screened from the right-of-way.

h. Mechanical equipment at ground level shall be placed on the parking lot side of building and away from buildings on adjacent sites.

2. *Vehicular circulation/pedestrian access:*



- a. Main pedestrian access to the building may be from the side (indicated by the larger arrows). Secondary access must be from the street frontage (indicated by smaller arrow).
- b. Drive-throughs shall be located to the rear of the building.
- c. Entrance canopies (for motels, etc.) shall face the street.
- d. Typical vehicular circulation movement is indicated by thin line arrows.
- e. When required, concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to city specifications (four (4) inches thick except at non-residential driveways it shall be six (6) inches thick). The sidewalk shall be separated from the street by a minimum four (4) foot wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

3. Description:

This building type generally comprises fast food retail, drive through banks, motels and other highway dependent uses. These regulations are designed to bring these building types into a framework of city streets. This building type shall be limited to the Highway Business District.

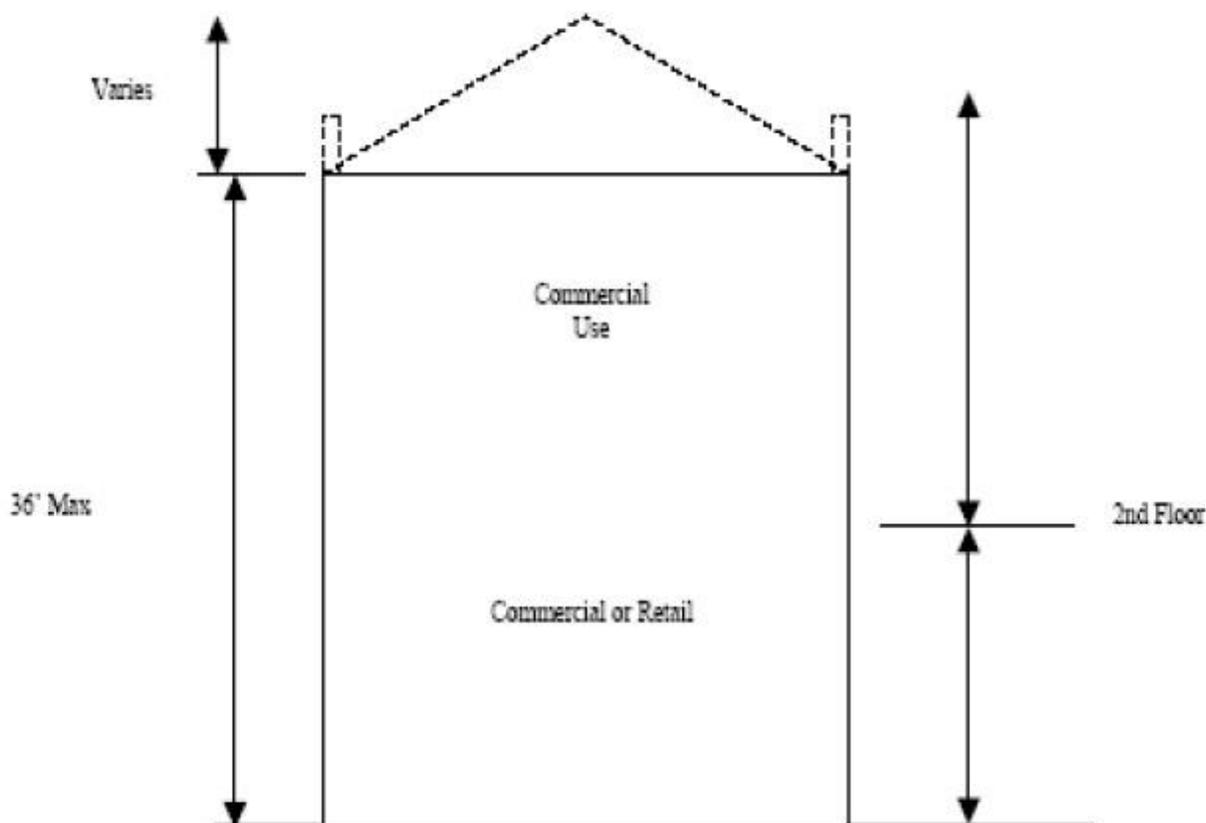
4. Special conditions:

- a. Buildings in all locations should relate a principal facade to the sidewalk and public space of the street.
- b. Corners: Setback at street corners will generally replicate frontage conditions.

(Ord. of 12-7-04, No. 37-02; Ord. of 10-5-15, No. 05-15)

Sec. 9-3-67 Building type/highway business.

1. *Permitted height and uses:*



- a. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
- b. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
- c. Building height to the ridge may vary depending on the roof pitch.
- d. Permitted uses are indicated above.

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.
- (2) All walls not visible from a public right-of-way may be constructed of split face block, bricks, wood or vinyl siding, or metal paneling but shall be painted to match the overall scheme of the rest of the building.
- (3) Mobile units may not be used as permanent workplace buildings.
- (4) At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

b. Configurations:

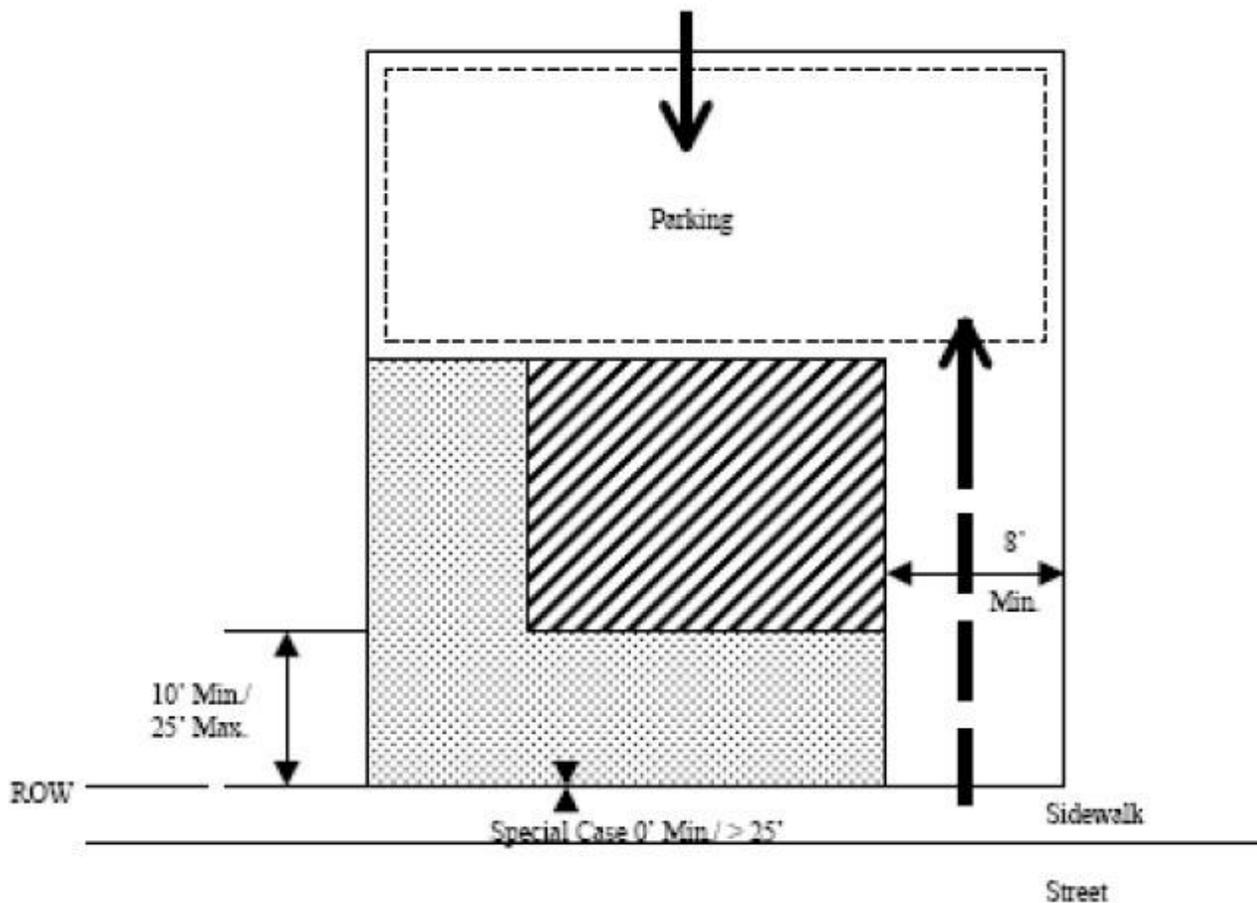
- (1) Two (2) wall materials may be combined horizontally on one (1) facade. The “heavier” material should be below and can cover the first floor only (i.e. brick below wood siding).

c. Techniques:

- (1) All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-68 Lot type/apartment building.

1. *Building placement/parking/vehicular access:*



a. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to-line will range from ten (10) feet to twenty-five (25) feet behind street right-of-way. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a smaller or larger building setback. In urban conditions, apartments may be set up to the property line at the sidewalk, including corner conditions.

b. Building facades shall be generally parallel to front property lines. All buildings shall front onto a public street.

c. Parking shall be located to the rear of the building.

d. Points of permitted access to the parking are indicated by arrows.

e. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.

f. Trash containers shall be located in the rear parking area (see parking regulations).

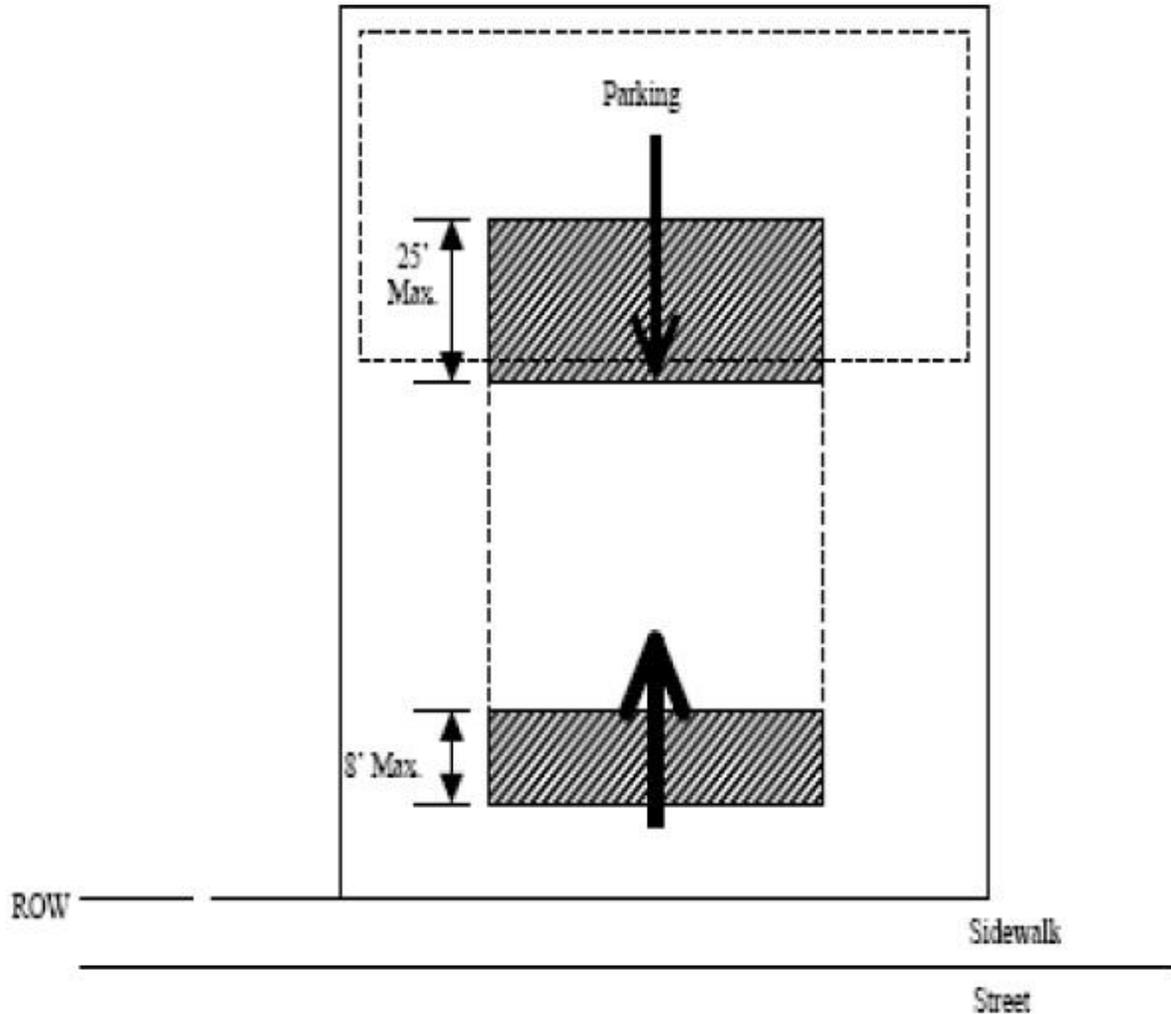
g. Mechanical equipment at ground level shall be placed on the parking lot side of building and away from buildings on adjacent sites.

h. Apartment buildings are only permitted as a Planned Unit Development - Residential.

i. Only permitted where both municipal water and sewer serve the site.

j. The density shall not exceed twelve (12) units per acre for any development.

2. *Encroachment/pedestrian access:*



- a. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to eight (8) feet.
- b. Decks, porches, and balconies are permitted to encroach into the established rear yard up to twenty-five (25) feet.
- c. For buildings set up to the sidewalk, upper level balconies and bay windows may encroach a maximum of five (5) feet zero (0) inches over the sidewalk.
- d. Main pedestrian access to the building is from the street (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).
- e. When required, concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to city specifications (four (4) inches thick except at non-residential driveways it shall be six (6) inches thick). The sidewalk shall be separated from the street by a minimum four (4) wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

3. Description:

The apartment building is a residential building accommodating several households. This building type traditionally coexists with a variety of other building types. A successful contemporary design permits its integration with other residential types through the coordination of site and building design (see architectural regulations). Apartment complexes should be one (1) or more separated buildings similar in their scale on the public street to large detached housing.

4. Special conditions:

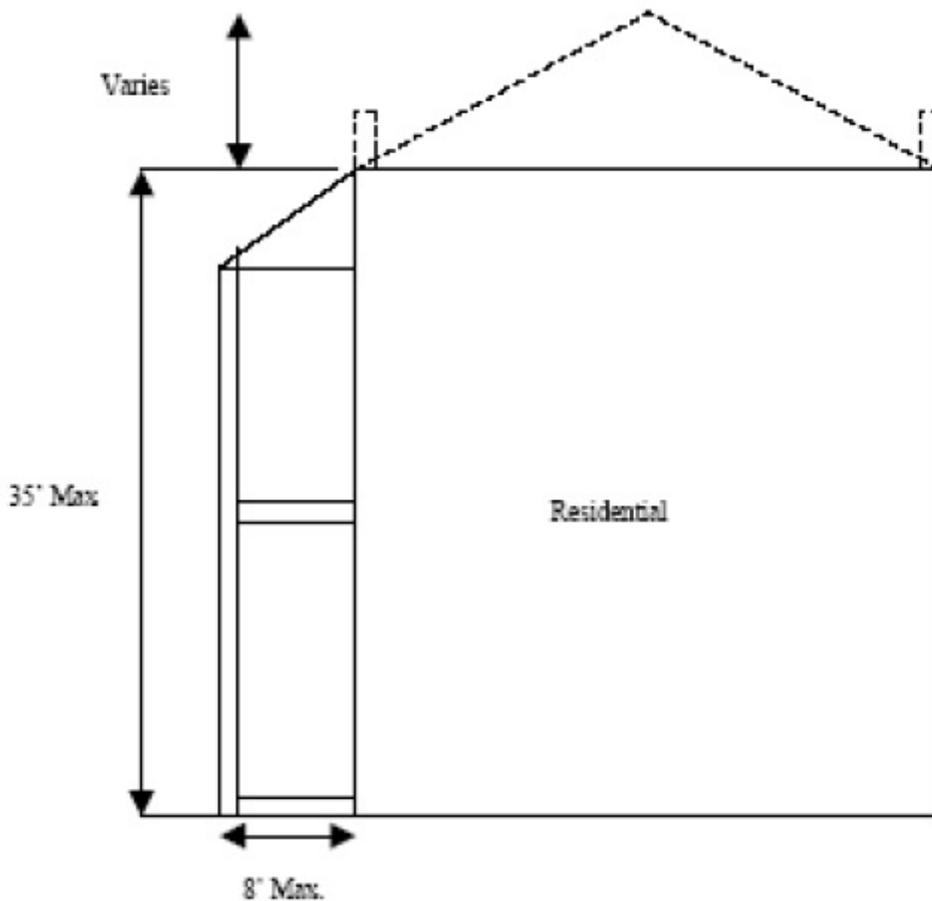
- a. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.

b. Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.

c. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity. Squares or spatially defined plazas within building setback areas can act as focal points for pedestrians. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-69 Building type/apartment building.

1. *Permitted height and uses:*



a. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.

b. The height of parapet walls may vary depending on the need to screen mechanical equipment.

c. Building height to ridge may vary depending on the roof pitch.

d. Permitted uses are indicated above.

2. *Architectural standards:*

a. Principles:

(1) To perpetuate the unique building character of the city and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external treatment.

(2) 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.

(3) The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.

(4) Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.

(5) Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings.

(6) Porches should form a predominant motif of house designs, and be located on the front or to the side of the dwelling. When attached to the front, they should extend over at least fifteen percent (15%) of the front

facade. All porches should be constructed of materials in keeping with those of the main building.

(7) Front loaded garages, if provided, shall meet the standards of Section 9-3-27.

(8) At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

b. Configurations:

(1) Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main building.

(2) Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets.

(3) Two (2) wall materials may be combined horizontally on one (1) facade. The “heavier” material should be below.

(4) Exterior chimneys should be finished in brick or stucco or compatible material to structure.

c. Techniques:

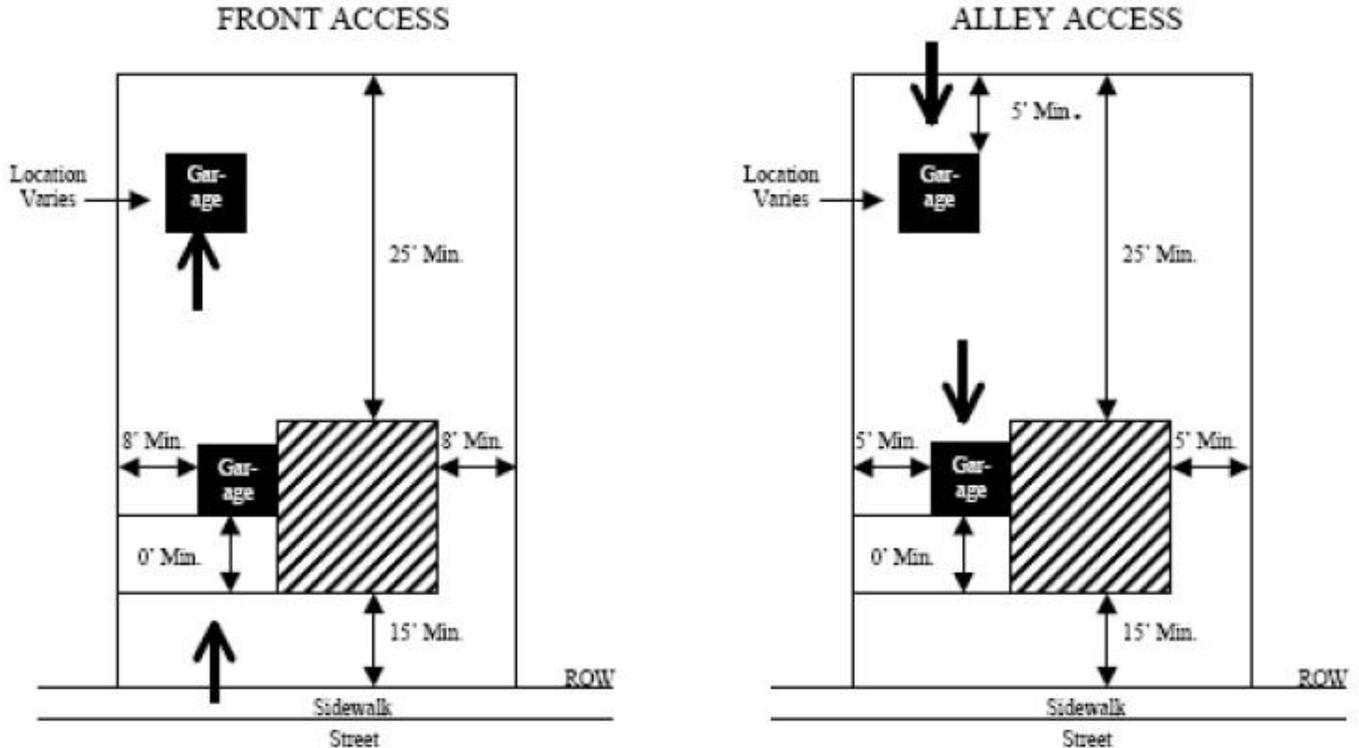
(1) Overhanging eaves may expose rafters.

(2) Flush eaves should be finished by profiled molding or gutters. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-70 Lot type/detached house.

1. Building placement/parking/vehicular access:

Type “A” Typical Condition – All Residential



a. Buildings shall be placed on the lot within the zone represented by the hatched area.

Along new streets, the build-to line is twenty-five (25) feet behind the street right-of-way. Special site conditions such as topography or lot widths permit a larger setback.

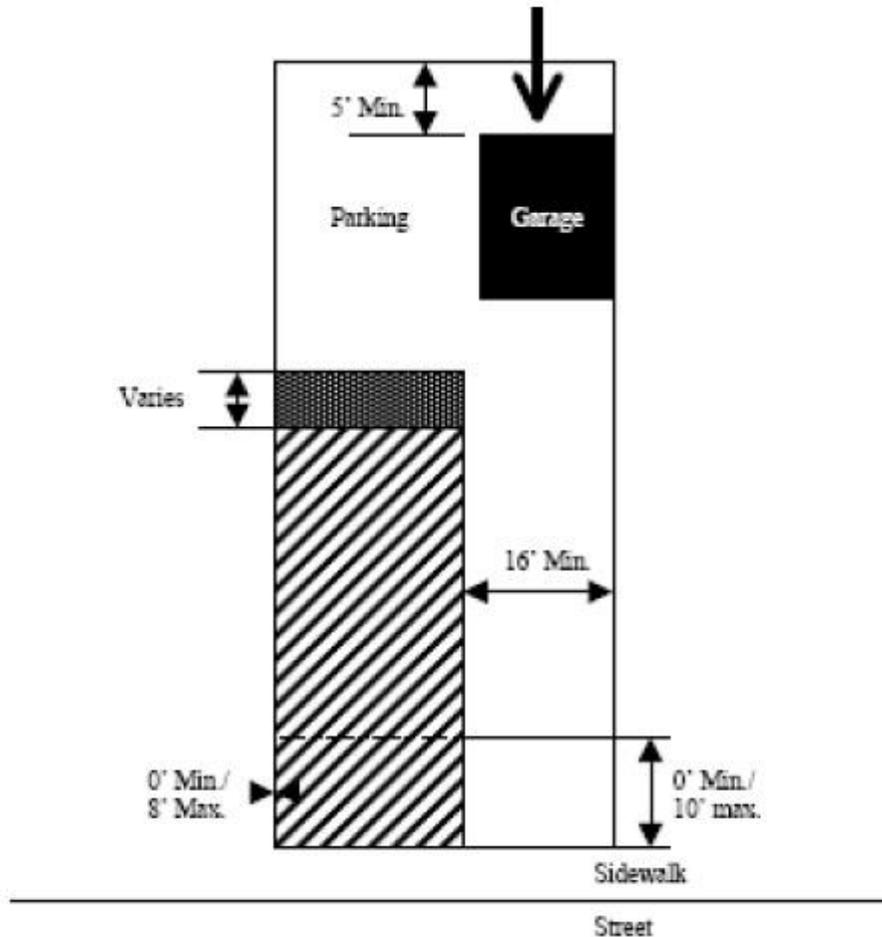
Along existing streets, front build-to lines shall be equal to the average setbacks for buildings on the same side of the street within three hundred (300) feet. Only in the most exceptional circumstances having to do with extreme topography or very special design composition may such placement be varied.

Side setbacks shown may be revised to twelve (12) feet on one side and four (4) feet on the other adjacent side to accommodate driveways as necessary in certain site conditions as determined by the Planning Board in new subdivision development only.

b. Garages may be detached (entered from front or rear), or attached to the main dwelling, with or without habitable rooms above. Front loaded garages, if provided, shall meet the standards of Section 9-3-27.

- c. A detached garage may be located only in the rear yard.
 - d. Points of permitted front or rear access to parking indicated by arrows.
 - e. Main pedestrian access to the building is from the street. Secondary access may be from parking areas.
 - f. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into the front setback area up to eight (8) feet.
 - g. Decks must be constructed only in rear yard area and are permitted to encroach into the rear setback up to twenty-five (25) feet.
2. *Building placement/parking/vehicular access:*

Type "B" Sideyard Condition



- a. Generally, buildings shall be placed on the lot within the zone represented by the hatched area.
 - b. The build-to-line will range from zero (0) feet to ten (10) feet behind street right-of-way. Special site conditions such as extreme topography may require a larger setback. Sideyard houses are not permitted on in-fill sites abutting existing all-yard houses.
 - c. A garage may be located only in the side or rear yard (Section 9-3-27).
 - d. Points of permitted rear access to parking indicated by arrow.
 - e. Main pedestrian access to the building is from the street. Secondary access may be from parking areas.
 - f. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into the front setback area up to eight (8) feet.
 - g. Decks must be constructed only in rear yard area and are permitted to encroach into the rear setback up to fifty percent (50%) of required setback.
 - h. The sideyard condition is only permitted as a part of a Planned Unit Development - Residential (Section 9-3-201)
 - i. The sideyard condition is only permitted where both municipal water and sewer serve the site.
3. *Description:*

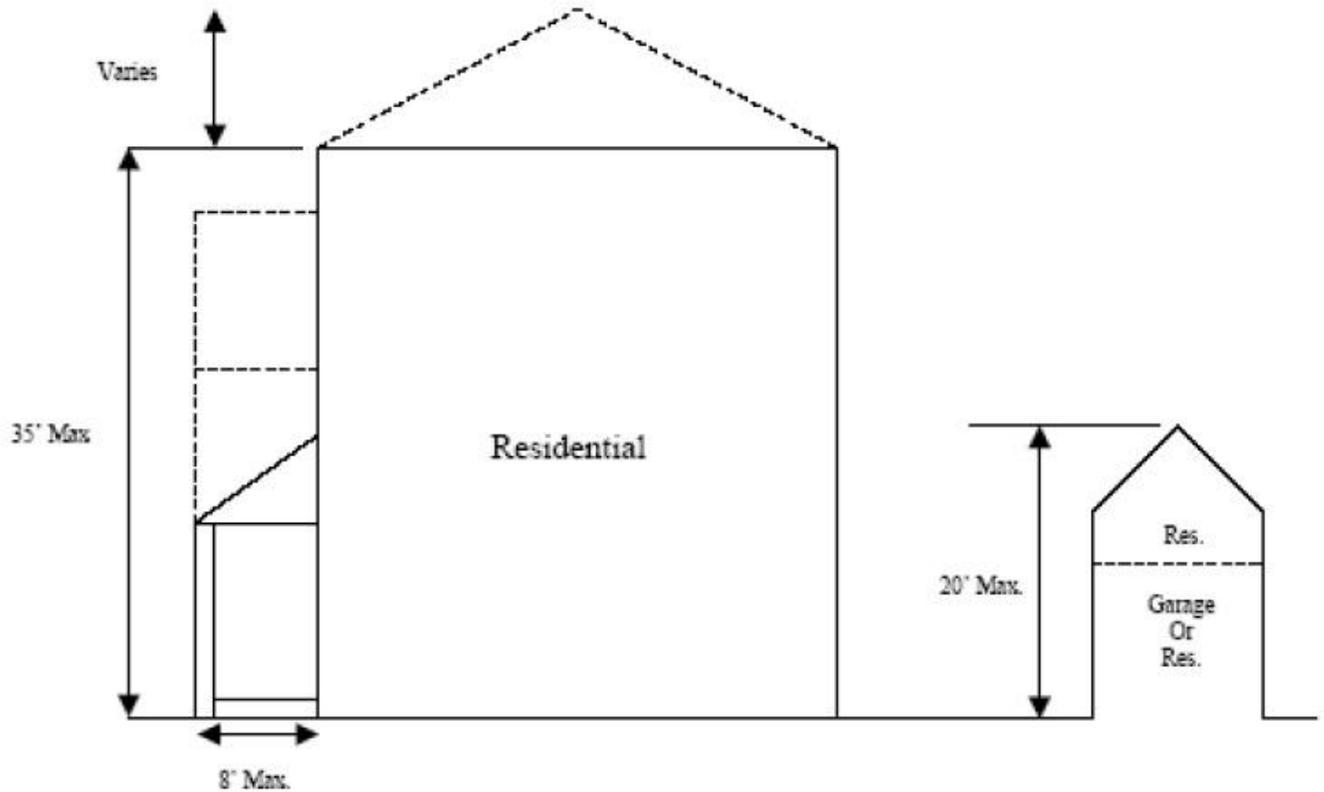
The detached house may coexist with other, similarly scaled buildings along city streets. When other building types are integrated with the detached house, the scale of the detached house type and lot shall control. Civic buildings, however, may exceed the scale of the detached house.

4. *Special conditions:*

- a. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
- b. Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be fifty percent (50%) of the front dimension.
- c. Within the limits described, these regulations apply to all houses built on public streets. For detached homes on large lots accessed by a private drive in rural neighborhoods, building placement and site planning will be dictated by landscape features and landscape preservation. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-71 Building type/detached house.

1. *Permitted height/uses/encroachments:*



- a. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves.
- b. Building height of main dwelling to ridge may vary depending on the roof pitch.
- c. Permitted uses are indicated above.
- d. Maximum footprint for a building housing a detached accessory dwelling is six hundred fifty (650) square feet.
- e. Balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to eight (8) feet.
- f. Decks, balconies, and porches are permitted to encroach into rear yard setback up to fifty percent (50%) of required setback.

2. *Architectural standards:*

a. Principles:

- (1) To perpetuate the unique building character of the city and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external treatment.
- (2) 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.

(3) The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.

(4) Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.

(5) Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings.

(6) Porches should form a predominant motif of house designs, and be located on the front or to the side of the dwelling. When attached to the front, they should extend over at least fifteen percent (15%) of the front facade. All porches should be constructed of materials in keeping with those of the main building.

(7) Front loaded garages, if provided, shall meet the standards of Section 9-3-27.

b. Configurations:

(1) Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main building.

(2) Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets.

(3) Two (2) wall materials may be combined horizontally on one (1) facade. The “heavier” material should be below.

(4) Exterior chimneys should be finished in brick or stucco or similar material to building.

(5) Columns should be simple wooden posts, typically five (5) inches square; or if columns with classical details, the dimensions and moldings should be of correct proportions. Extended and distorted classical proportions are not acceptable.

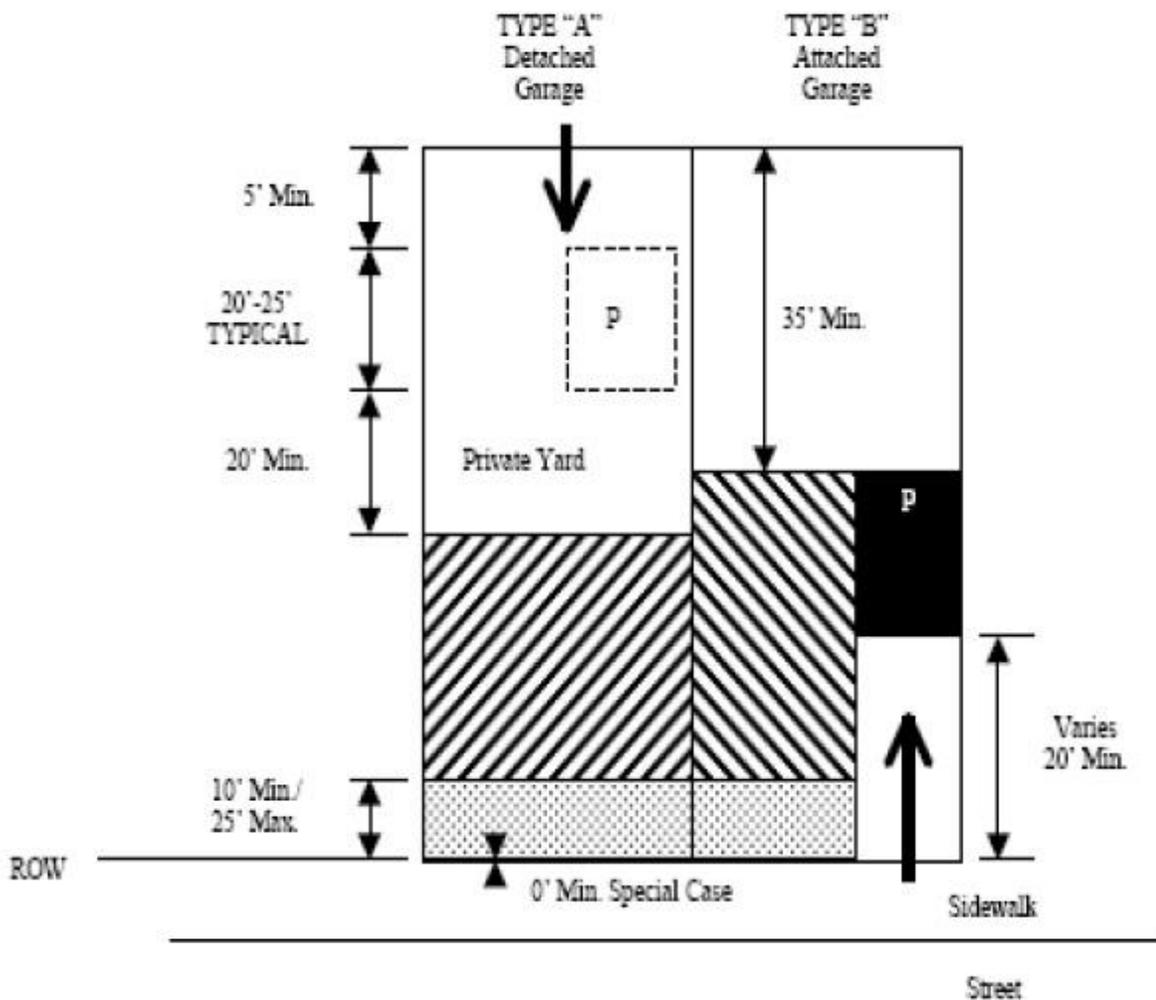
c. Techniques:

(1) Overhanging eaves may expose rafters.

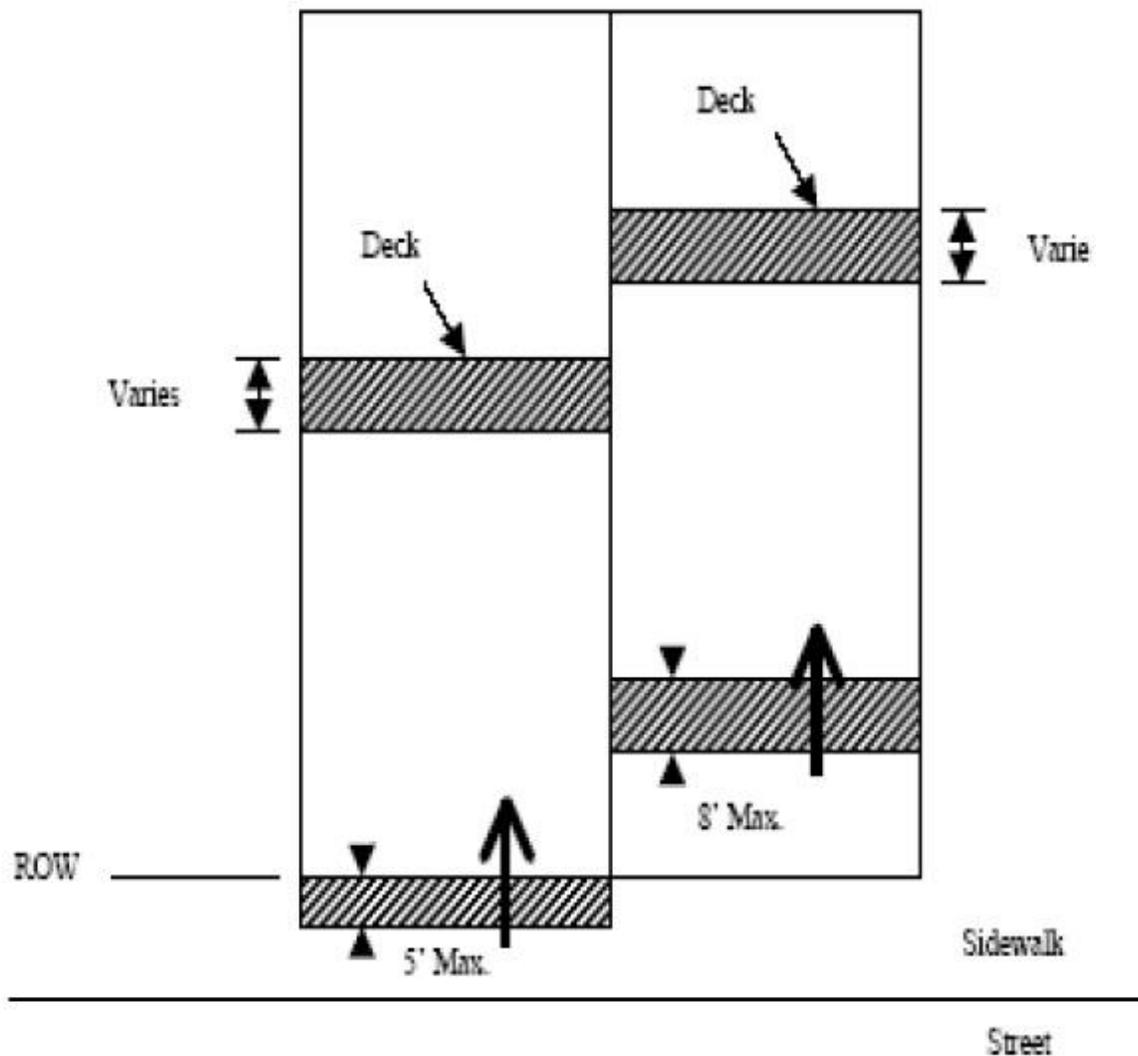
(2) Flush eaves should be finished by profiled molding or gutters. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-72 Lot type/attached house.

1. *Building placement/parking/vehicular access:*



- a. Buildings shall be placed on the lot within zone represented by the hatched area.
 - b. Along new streets, the build-to line will range from ten (10) feet to twenty-five (25) feet behind street right-of-way. Special site conditions such as topography or lot widths permit a larger setback. Along existing streets, front build-to-lines shall typically be equal to the average setbacks for buildings on the same side of the street within three hundred (300) feet. However, in more urban conditions, dwellings may be set up to the property line at the sidewalk.
 - c. Building facades shall be generally parallel to front property lines. All buildings shall front onto a public street.
 - d. Front loaded garages, if provided, shall meet the standards of Section 9-3-27.
 - e. Points of permitted access to parking indicated by arrows. Front access to parking at rear of Type 'A' is permitted for duplexes only.
 - f. Attached Houses are only permitted as a Planned Unit Development - Residential (9-3-201) for three (3) or more dwelling units.
 - g. Attached houses are only permitted where both municipal water and sewer serve the site.
 - h. The density shall not exceed twelve (12) dwelling units per acre for any development.
2. *Encroachment/pedestrian access:*



- a. For buildings set up to the sidewalk, balconies and upper level bay windows may encroach over the sidewalk area up to five (5) feet.
- b. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into the front setback area up to eight (8) feet.
- c. Main pedestrian access to the building is from the street (indicated by larger arrow). Secondary access may be from parking areas.
- d. Decks must be constructed only in rear yard area and are permitted to encroach into the rear setback up to fifty percent (50%) of required setback.
- e. When required, concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to city specifications (four (4) inches thick except at non-residential driveways it shall be six (6) inches thick). The sidewalk shall be separated from the street by a minimum four (4) wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

3. Description:

The attached house is a rowhouse, a city house, or a duplex. Traditional southern homes in Savannah and Charleston provide the historic model. Dilworth Crescent in Charlotte provides a good contemporary example. Generally, building plans will have narrow frontages with the lot depth being greater than its width.

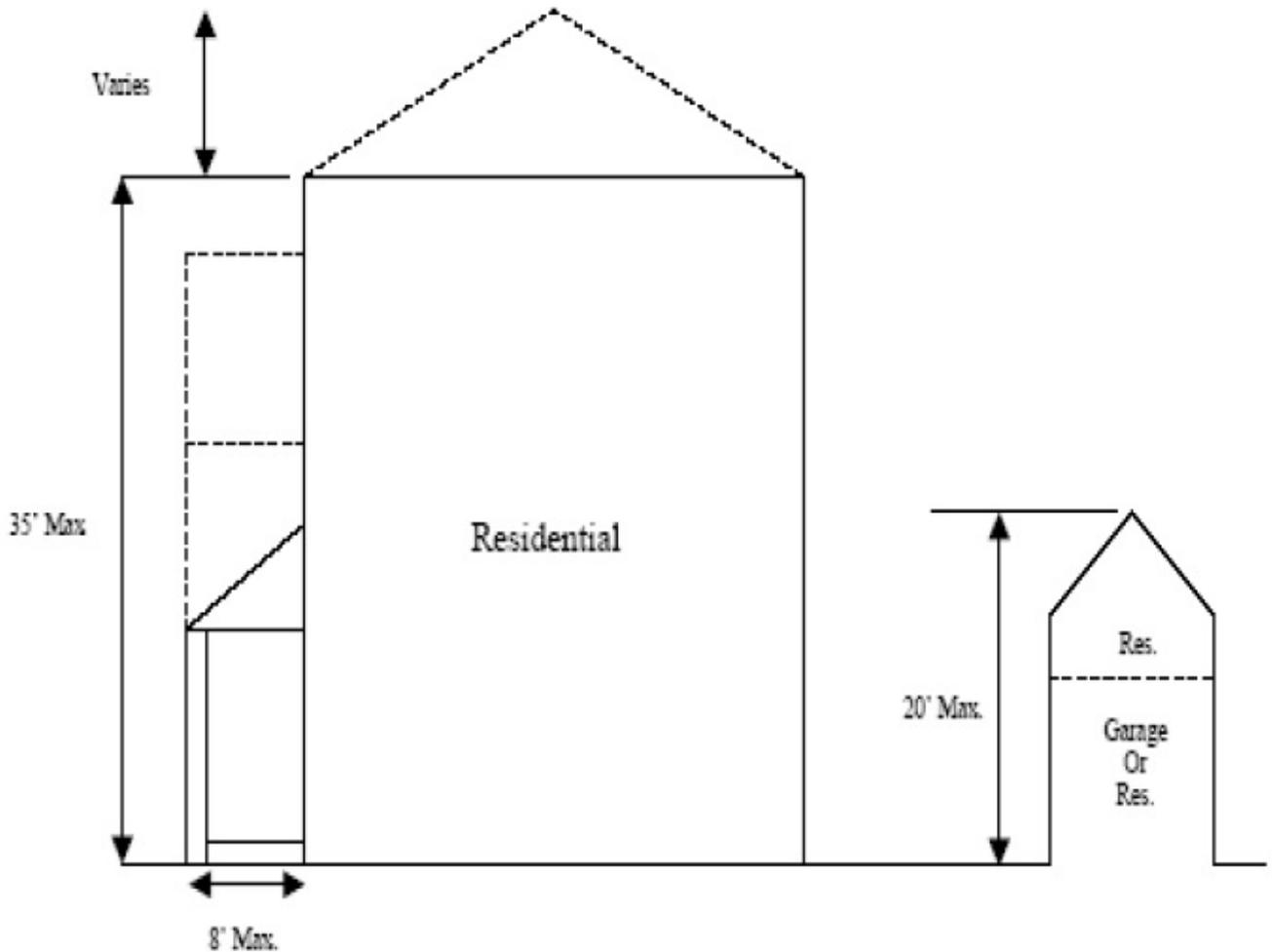
4. Special conditions:

- a. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
- b. Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.

c. Front and side setbacks may vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-73 Building type/attached house.

1. *Permitted height and uses:*



a. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves.

b. Building height to ridge will vary depending upon the roof pitch.

c. Permitted uses are indicated above.

d. Maximum footprint for a building housing a detached accessory dwelling is six hundred fifty (650) square feet.

2. *Architectural standards:*

a. Principles:

(1) To perpetuate the unique building character of the city and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external treatment. Manufactured homes will not be permitted as part of any multi-unit residential development under this division.

(2) 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.

(3) The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.

(4) Each building should be designed to form part of a larger composition of the area in which it is situated.

(5) Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings.

(6) Porches should form a predominant motif of house designs, and be located on the front or to the side

of the dwelling. When attached to the front, they should extend over at least fifteen percent (15%) of the front facade. All porches should be constructed of materials in keeping with those of the main building.

(7) Front loaded garages, if provided, shall meet the standards of Section 9-3-27.

b. Configurations:

(1) Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main buildings.

(2) Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets.

(3) Two (2) wall materials may be combined horizontally on one (1) facade. The “heavier” material should be below.

(4) Exterior chimneys should be finished in brick or stucco.

(5) Columns should be simple wooden posts, typically five (5) inch square, or if columns with classical details, the dimensions and moldings should be of correct proportions. Extended and distorted classical proportions are not acceptable.

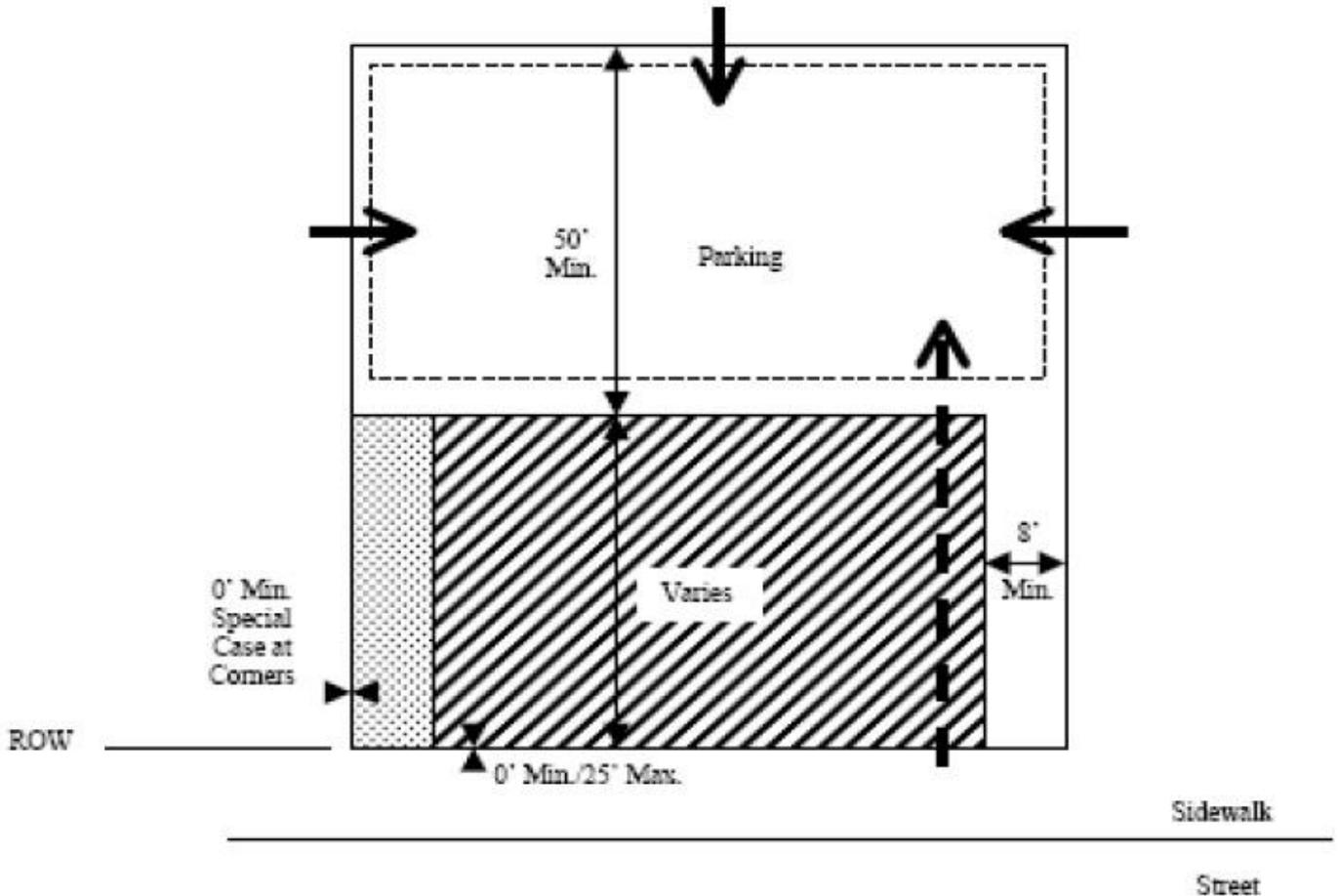
c. Techniques:

(1) Overhanging eaves may expose rafters.

(2) Flush eaves should be finished by profiled molding or gutters. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-74 Lot type/civic building.

1. Building placement/parking/vehicular access:



- A planting strip or defined plaza should be provided to relate the building to the street.
- Generally, building and street facades must extend parallel to frontage property lines.
- Parking shall be located to the side, rear and front of the building. In no case shall more than two rows of parking or fifty percent (50%) of the total required parking, be placed in the front of the building. Side yard parking shall occupy no more than fifty percent (50%) of the primary frontage line and shall not be placed in any side yard abutting an intersecting street. Where dimensions of existing lots restrict parking

behind buildings, the limitations on side yard parking may be modified.

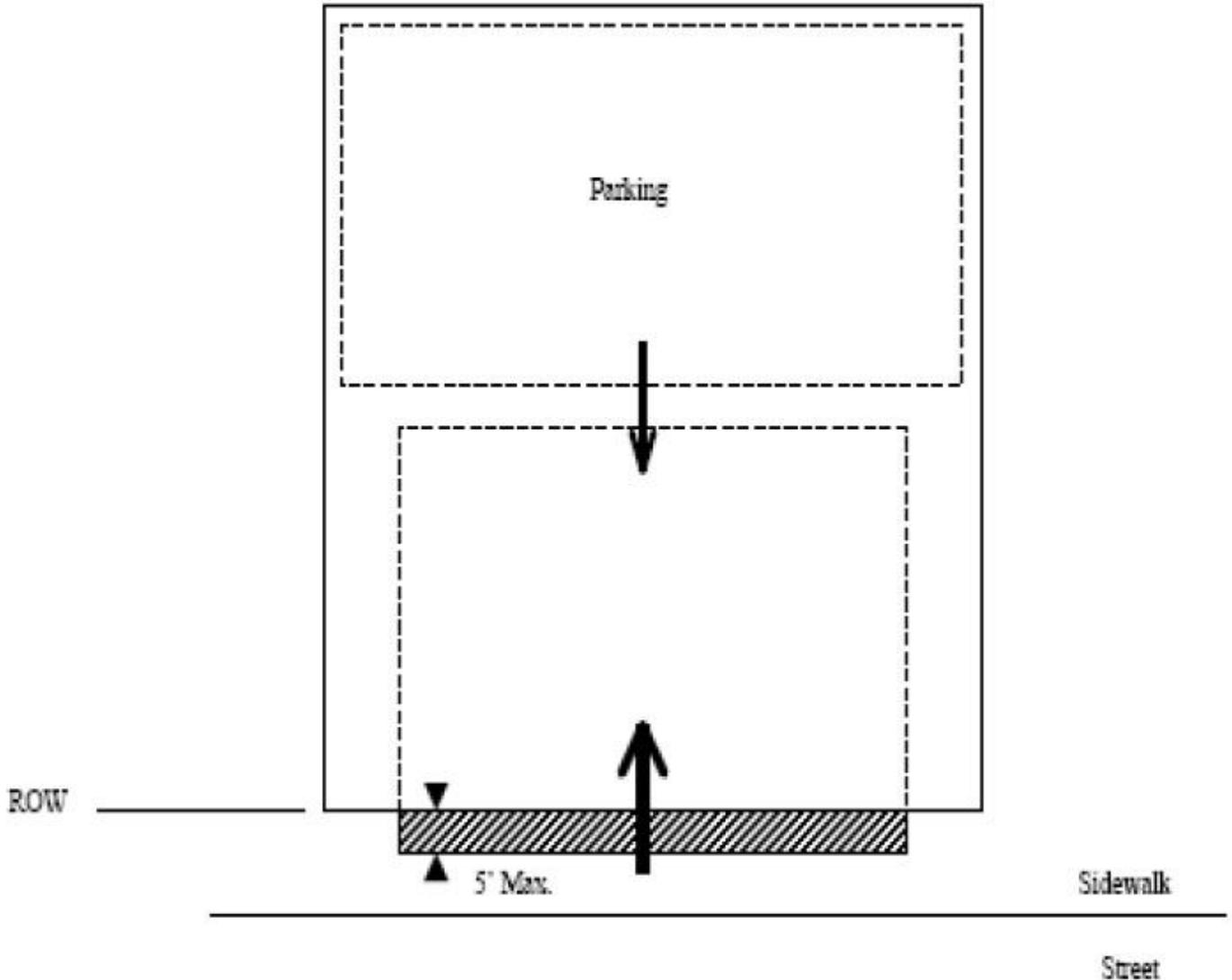
d. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.

e. Parking areas on adjacent lots should be connected.

f. Trash containers shall be located in the parking area (Article H).

g. Mechanical equipment at ground level should be placed on the parking lot side of building and away from buildings on adjacent sites.

2. *Encroachment/pedestrian access:*



a. For buildings set up to the sidewalk, upper level balconies and bay windows may encroach a maximum of five (5) feet, zero (0) inches over the sidewalk.

b. For buildings set back from the sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into front setback area up to eight (8) feet.

c. Main pedestrian access to the building is from the street (indicated by large arrow). Secondary access may be from parking areas (indicated by smaller arrow).

d. When required, concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to city specifications (four (4) inches thick except at non-residential driveways it shall be six (6) inches thick). The sidewalk shall be separated from the street by a minimum four (4) wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

3. *Description:*

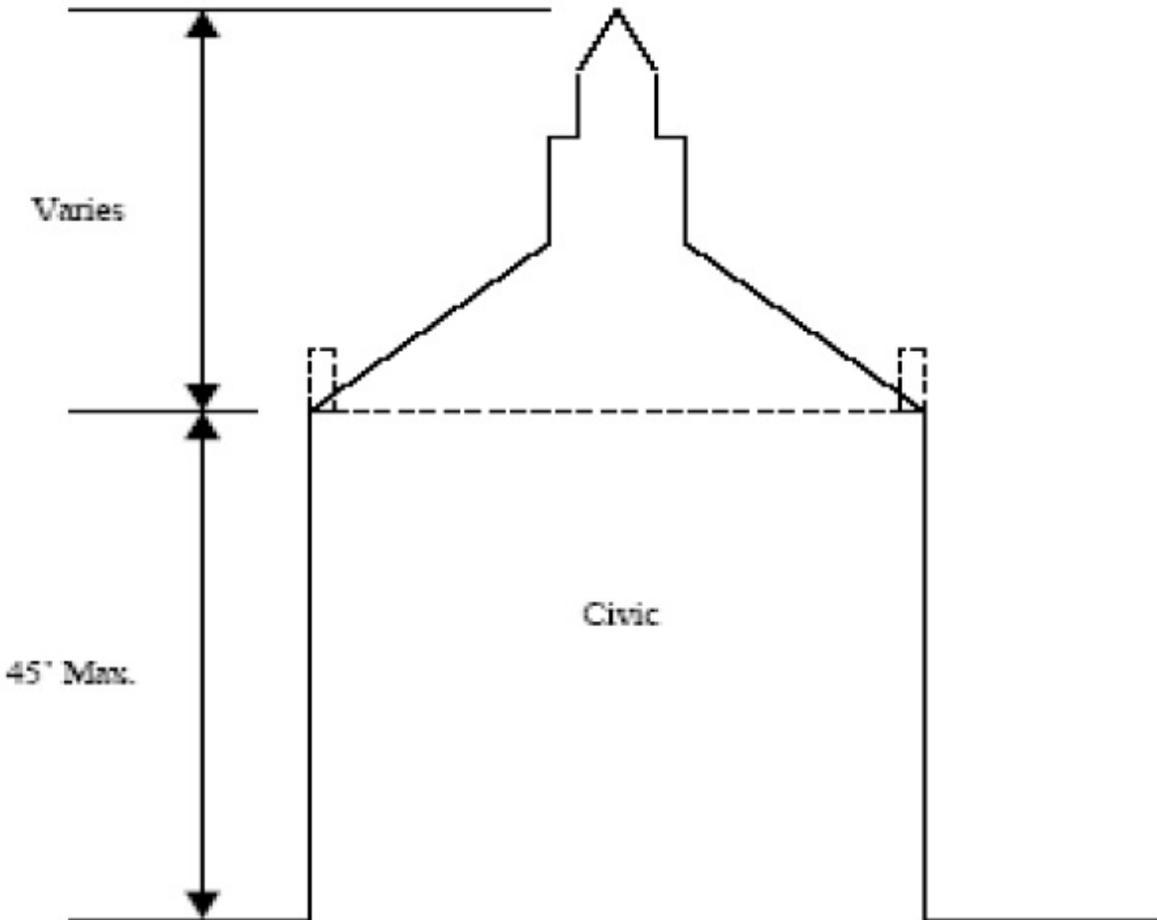
A civic building is a building used for purposes that are public in nature (e.g. schools, libraries, government

buildings, and churches). These buildings must be designed to take their appropriate places within neighborhoods as integral parts of the community. It is expected that the scale and architectural sophistication of these buildings will match their civic importance. Where possible, civic structures shall be designed to terminate vistas or serve as key focal points in the neighborhood. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street. Civic buildings shall not be set back on the lot behind a standard parking lot.

(Ord. of 12-7-04, No. 37-02; Ord. of 10-5-15, No. 05-15)

Sec. 9-3-75 Building type/civic building.

1. *Permitted height and uses:*



a. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.

b. The height of parapet, walls may vary depending upon the need to screen mechanical equipment.

c. Maximum height of occupiable building shall be forty-five (45) feet. Uninhabitable portions of buildings with footprint area five hundred (500) square feet or less may exceed forty-five (45) feet (example: spire, cupola).

d. Permitted uses are indicated above.

2. *Architectural standards:*

a. Principles:

(1) To perpetuate the unique building character of the city and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external treatment.

(2) 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.

(3) The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.

(4) Each building should be designed to form part of a larger composition of the area in which it is

situated.

(5) Trailers (mobile units) shall not be used as civic buildings.

(6) Schools, churches, and government buildings shall be built so that they terminate a street vista whenever possible, and should be of sufficient design quality to create visual anchors for the community.

(7) At a minimum the Americans with Disabilities Act standards for accessibility shall be met.

b. Configurations:

(1) Street level windows shall be untinted. Tinted glass with minimum visual transmittance factor of 35 is permitted. Mirrored glass is not permitted in any location. This does not prohibit the use of stain glass windows.

(2) Flat roof lines are allowed.

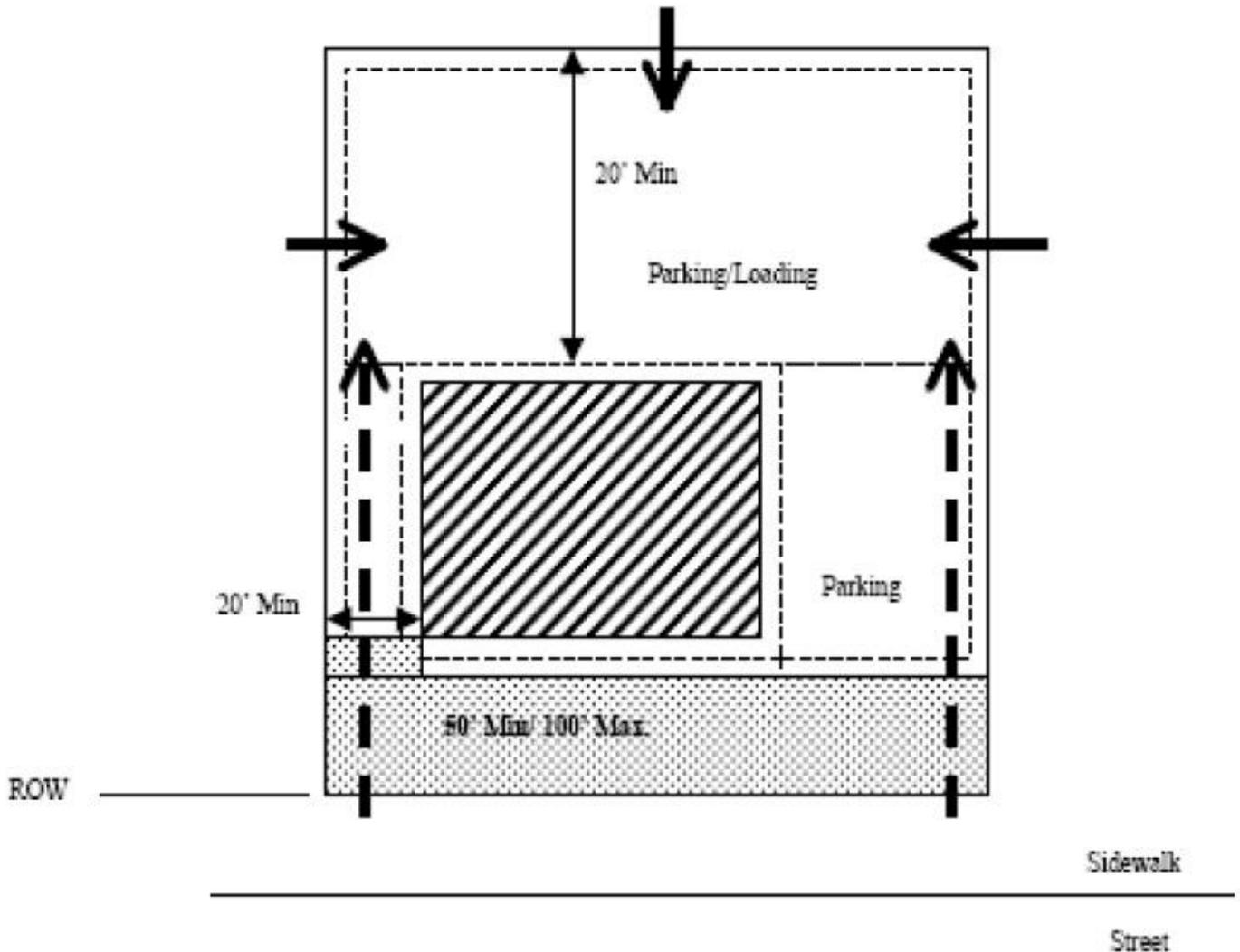
c. Techniques:

(1) Windows should be set to the inside of the building face wall.

(2) All rooftop equipment shall be enclosed in building material that matches the structure or is visually compatible with the structure. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-76 Lot type/industrial.

1. *Building placement/parking/vehicular access:*



a. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to-line will range from fifty (50) feet to one hundred (100) feet behind street right-of-way. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a smaller or larger building setback.

b. Setbacks may vary according to setting within limits indicated.

c. Building facades shall be generally parallel to front property lines.

d. Parking shall be located primarily to the rear of the building; side yard parking shall occupy no more than forty-five percent (45%) of the primary frontage line and shall not be placed in any side yard abutting an

intersecting street. Parking in front of the building shall be limited to ten (10) spaces for handicapped and visitor parking. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings may permit a modification of side and front yard parking requirements.

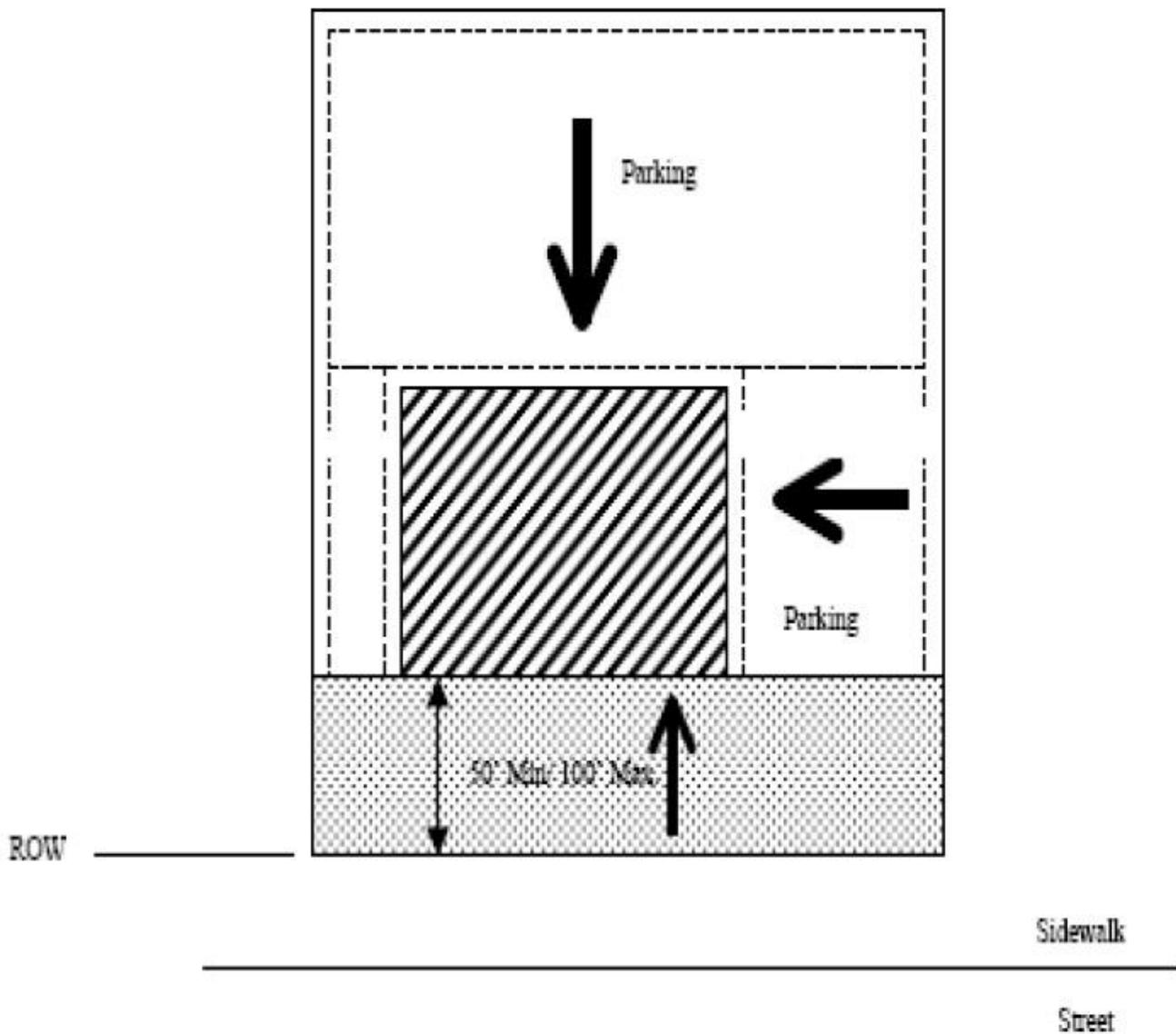
e. Points of permitted access to parking are indicated by arrows.

f. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.

g. Trash containers shall be located in a rear parking area (see parking regulations) and shall be screened from the right-of-way.

h. Mechanical equipment at ground level shall not be placed in front of buildings.

2. *Vehicular circulation/pedestrian access:*



a. Main pedestrian access to the building may be from the rear and side (indicated by the larger arrows). Secondary access must be from the street frontage (indicated by smaller arrow).

b. When required, concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to city specifications (four (4) inches thick except at non-residential driveways it shall be six (6) inches thick). The sidewalk shall be separated from the street by a minimum four (4) wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

3. *Description:*

This building type generally comprises manufacturing, warehousing and other industrial uses. These regulations are designed to bring these building types into a framework of city streets. This building type

shall be limited to the Manufacturing District (M-1).

4. *Special conditions:*

a. Buildings in all locations should relate a principal facade to the sidewalk or public space of the street. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-77 Building type/industrial.

1. *Permitted height and uses:*

a. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof, and shall be no greater than fifty (50) feet.

b. The height of parapet walls may vary depending upon the need to screen mechanical equipment.

c. Building height to the ridge may vary depending on the roof pitch.

d. Permitted uses include all uses listed in the M-1 District.

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 use permit.

(2) All walls not visible from a public right-of-way may be constructed of split face block, bricks, wood or vinyl siding, or metal paneling but shall be painted to match the overall scheme of the rest of the building.

(3) Mobile units may not be used as permanent workplace buildings.

(4) At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

b. Configurations:

(1) Two (2) wall materials may be combined horizontally on one (1) facade. The “heavier” material should be below and can cover the first floor only (i.e. brick below wood siding).

c. Techniques:

(1) All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure. (Ord. of 12/7/04, No. 37-02; Ord. of 3/18/10, No. 07-10)

Secs. 9-3-78 through 9-3-80 reserved.

ARTICLE F

Conditions for Certain Uses

Sec. 9-3-81 Accessory dwelling.

1. An accessory dwelling may be attached, within, or separate from the principal dwelling.

2. The principal use of the lot shall be a detached or attached dwelling, built to the standards of the North Carolina Housing Code. Manufactured homes shall not be used as accessory dwellings.

3. No more than one (1) accessory dwelling shall be permitted on a single deeded lot in conjunction with the principal dwelling unit.

4. The accessory dwelling shall be owned by the same person as the principal dwelling.

5. The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.

6. A detached accessory dwelling without a conditional 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 use permit. To qualify for the conditional 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.

7. A detached accessory dwelling shall be located in the established rear yard and meet the standards for the applicable building and lot type, Article E.

8. An accessory dwelling must be registered with the City Planner at the time a certificate of occupancy is obtained. (Ord. of 12-7-04; No. 37-02; Ord. of 12-4-06; No. 22-06)

Sec. 9-3-82 Adult business.

1. No adult business may locate within one thousand (1,000) feet of another adult business, residential zoning district, school (public or private), church, day care, public park or public playground, measured in a

straight line from entrance to entrance.

2. No adult business shall display complete nudity.
3. Operating hours may not begin before 8:00 a.m. or end after 2:00 a.m.
4. No adult business shall contain any overnight facilities.
5. No adult business shall include individual viewing rooms. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-83 Agricultural industry in the M-1 District.

Agricultural industry is limited to the production of commercial poultry or small livestock in enclosed buildings, according to the procedures of Section 9-3-267.2.

The Board of Adjustment shall issue a conditional use permit for the production of commercial poultry or small livestock in enclosed buildings in the M-1 District if, but not unless, the evidence presented at the conditional use permit hearing establishes:

1. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
2. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
3. That no part of the proposed use will be located or operated so as to emit dust, noise, fumes, or odors in concentrations or amounts that would constitute a nuisance to persons of ordinary sensitivities on nearby properties; and
4. That there will be a separation of no less than one thousand (1,000) feet between structures housing the agricultural industry and any property located in a residential district or developed for residential or mixed use purposes; and
5. That the proposed use shall be located on a lot of no less than ten (10) acres. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-84 Airports.

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

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

1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
3. That the proposed use will not constitute a nuisance to properties located in residential or mixed use districts or developed for residential purposes with respect to noise, dust, fumes, light, vibration, or traffic; and
4. That the proposed use will comply with all applicable Federal Aviation Administration regulations. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-85 Amusement facilities (outdoor).

1. Outdoor amusement facilities will be separated by an opaque screen from any abutting property located in a residential or mixed use district;
2. No amusement facilities, such as miniature golf courses, skateboard courses, or mechanical rides shall be located within two hundred (200) feet of any abutting property located in a residential district;
3. Hours of operation will be no earlier than 6:00 a.m. and no later than 12:00 midnight. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-86 Car wash.

The outdoor service area of a car wash shall be placed and screened in accordance with the standards for off-street parking, Article H. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-87 Cemeteries.

1. Tombstones, monuments and similar items must be located at least twenty-five (25) feet from any street right-of-way or abutting property line. Crypts, mausoleums and other similar structures must be located at least fifty (50) feet from any street right-of-way or abutting property line.
2. Buildings for maintenance, management, rent and/or sale of cemetery lots must conform to a building type permitted in the zoning district. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-88 Churches.

The scale and activity level of churches is a function of size and the range of accessory uses associated with the institution; very high activity levels have the potential to be disruptive to residential and small scale mixed use areas. To diminish disruptive impacts by ensuring appropriate location and design standards, the development and expansion of religious institutions and accessory uses in the R-1, R-2 and B-1 Districts shall meet the following standards:

1. Churches shall meet the standards for civic building and lot type, Article E.
2. Development standards:
 - a. Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties.
 - b. Accessory dwelling units for persons associated with or employed by the church may be provided at a ratio of one (1) unit for each three (3) acres of site; these limits do not apply to the placement of convents, rectories, parsonages or similar uses on the site.
3. Accessory uses such as church offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, and day care centers on the same site or sites contiguous to the principal use shall be permitted wherever churches are permitted and shall meet the civic building and lot type, or another building and lot type permitted in the zoning district. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such.
4. Church accessory uses which are not permitted as principal uses in a district shall adhere to the following restrictions:
 - a. No merchandise or merchandise display shall be visible from outside the building;
 - b. No business or identification sign pertaining to the accessory uses shall be visible from outside the building;
5. Except as noted in subsection 4. above, accessory uses not permitted as principal uses (including television stations, radio stations, printing presses, or sports complexes) are prohibited. This provision shall in no way restrict accessory use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.
6. Application for a zoning permit shall include a comprehensive site plan which addresses the required standards and conditions for the main site and all abutting holdings. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-89 Commercial kennel.

All animal-holding facilities of six (6) or more animals, enclosed or outdoor, shall be at least one hundred (100) feet from any property line. The outdoor containment of animals shall be at least five hundred (500) feet from any residential district or development. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-90 Day care centers and small day care homes.

1. *Child day care center.*
 - a. A center must meet a permitted building and lot type for the district in which it is to be located.
 - b. Play space must be provided in accordance with the regulations of North Carolina Department of Human Resources.
 - c. Outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.
2. *Adult day care center.*
 - a. A center must meet a permitted building and lot type for the district in which it is to be located.
 - b. There is no limit on the hours of operation of an adult day care center, but it shall not serve any client on more than a continuous twelve (12) hour basis.
3. *Child day care home, small.*
 - a. The day care operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to six (6) children not related to the operator.
 - b. A child day care home shall meet the following standards:
 - (1) Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources.
 - (2) Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; it is prohibited in any established building

setback from a street.

(3) Chain link and similar fencing materials shall be planted on exterior side with evergreen shrubs minimum three (3) feet in height and six (6) feet on center at installation, or be obscured by a comparable screening treatment.

(4) A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.

(5) There are no specific limitations on the hours of operation of a day care home, but no outdoor play shall be permitted after sundown.

4. *Adult day care home, small.*

a. An adult day care home must be located within the residential dwelling unit occupied by the operator of the service. Care is limited to no more than six (6) adults who do not reside in the dwelling.

b. An adult day care home shall meet the following standards:

(1) A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.

(2) There is no limit on the hours of operation of an adult day care center, but it shall not serve any client on a continuous twenty-four (24) hour basis. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-91 Drive-through windows as an accessory use.

1. Drive-through service windows, stacking lanes, and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street;

2. Drive-through service windows, stacking lanes, and circulation are treated as components of off-street parking for the purposes of screening (Article H);

3. The length of on-site stacking lane(s), taken together, shall be a minimum of two hundred (200) feet if window access is provided directly from a major or minor thoroughfare; a minimum of one hundred (100) feet if window access is provided directly from a street of lesser capacity.

4. The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provide for passage around and escape from the outermost drive-through service lane.

5. Screening is not required for walk-up service accessories such as depositories and ATM's. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-92 Duplex on corner lot.

Duplexes are permitted on corner lots in any residential or mixed-use district according to the following standards:

1. The entrances to each unit in the structure will face different streets;

2. The dwelling must meet the minimum front yard setback from both streets upon which a unit faces;

3. The lot has at least 1.5 times the minimum lot area, if any, for the district;

4. Duplexes which meet the standard for the attached house or the apartment building are permitted without corner lot restrictions in those districts which permit attached housing and apartment building types. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-93 Essential Services 1 and 2.

1. Utility distribution lines, which deliver service to the end user from a substation fed by a transmission line providing service to an area larger than the individual parcel or project area, should be installed underground, unless subsurface conditions make underground installation not possible or practical.

2. Facilities used for the operation of essential services should, whenever possible, be located on interior properties rather than on properties aligned with other lots that have continuous street frontage.

3. Buildings and other structures which cannot adhere to the scale, volume, spacing, setback and typology of existing buildings along fronting streets shall be provided an opaque screen to shield the view from all public rights-of-way and from abutting properties. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-94 Essential Services 3.

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

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

1. That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
2. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
3. That the proposed use will not constitute a nuisance to properties located in residential districts or developed for residential or institutional purposes with respect to noise, dust, odors, light, vibration, or traffic; and
4. That area of active use will be enclosed by a fence, not easily climbable, at least six (6) feet in height, and the fence must be located at least twenty (20) feet from the public street right-of-way and one hundred (100) feet from abutting property lines; and
5. That a minimum separation of one hundred (100) feet, fully vegetated, will be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties; and
6. That the site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least eight (8) feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence. (Ord. of 12-7-04; No. 37-02)

Sec. 9-3-95 Home occupation.

A home occupation is permitted accessory to any dwelling unit (except manufactured housing) in accordance with the following requirements:

1. The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
2. The use shall employ no more than one (1) person who is not a resident of the dwelling.
3. A home occupation housed within the dwelling shall occupy no more than twenty-five percent (25%) of the total floor area of the dwelling.
4. There shall be no visible outside display of stock in trade which is sold on the premises.
5. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
6. Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.
7. Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.
8. The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.
9. Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.
10. No business identification or advertising signs are permitted.
11. All home occupations shall require a zoning permit. Permits are not transferable from person to person or from address to address.
12. Hobbies shall not be subject to the requirements of this section unless such hobby generates a gross yearly income of one thousand dollars (\$1,000.00) or more.
13. There may be one (1) annual inspection by the city staff to ensure the home occupation is operating within the requirements specified by this chapter. The city staff shall have the right at any time, upon reasonable request, to enter and inspect the premises covered by the zoning permit for safety and compliance purposes.
14. In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 7:00 p.m.
15. No more than one (1) home occupation shall be permitted within any single dwelling unit.
16. There shall be no deliveries to or from a home occupation with a vehicle larger than a three-quarter ton truck.
17. No home occupation shall cause an increase in the use of any public utilities or services (water, sewer,

garbage collection, etc.) so that the combined total use for dwelling unit and home occupation purposes exceeds the average for residences in the neighborhood.

18. Home occupations shall comply with all local, state, and federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.

19. Any non-conforming home occupation shall be discontinued or comply with all applicable provisions of this section within sixty (60) days after the home occupation first became non-conforming.

20. The following uses are permitted in a home occupation:

- a. Architectural, drafting, and graphic services;
- b. Art restoration;
- c. Art/photography studio;
- d. Beauty salons;
- e. Consulting offices;
- f. Contracting offices;
- g. Data processing;
- h. Dressmaking, sewing, and tailoring;
- i. Electronic assembly and repair;
- j. Engineering services;
- k. Financial planning and investment services;
- l. Flower arranging;
- m. Gardening and landscaping services;
- n. Home catering and food preparation businesses, subject to the approval of the Catawba County Health Department;
- o. Home crafts;
- p. House cleaning services;
- q. Insurance sales broker;
- r. Interior design;
- s. Jewelry making and repair;
- t. Locksmith;
- u. Mail order (not including retail sales from the site);
- v. Real estate sales broker;
- w. General sales representative;
- x. Tutoring;
- y. Furniture upholstery.

21. The following uses are prohibited in a home occupation:

- a. Appliance and small engine repair;
- b. Auto repair, major and minor;
- c. Auto painting;
- d. Carpentry/cabinet making;
- e. Dance studios;
- f. Furniture construction;
- g. Machine shops;
- h. Rental businesses;
- i. Tow truck services;
- j. Welding shops;
- k. Other uses not listed as a permitted use. (Ord. of 12-7-04; No. 37-02; Ord. of 8-7-06; No. 18-06)

Sec. 9-3-96 Neighborhood and outdoor recreation.

1. Buildings constructed in association with neighborhood recreation or outdoor recreation shall meet one (1) of the building types permitted in the zoning district.

2. Permanent parking lots shall meet the standards of Article H.

3. Service areas will be separated by an opaque screen from the view from any street and from abutting properties.

4. Chain link and similar fencing materials, if used, shall be planted on exterior side with evergreen shrubs minimum three (3) feet in height and six (6) feet on center at installation.

5. Outdoor lighting associated with outdoor recreational facilities shall not shine directly into yards of a residential use or into the windows of a residential structure.

6. Hours of operation will be no earlier than 7:00 a.m. and no later than 11:00 p.m. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-97 Neighborhood and highway business gasoline stations.

1. Neighborhood gasoline stations, by definition, permit retail sale of gasoline and convenience products and the minor service and repair of motor vehicles; they have no more than one (1) fueling canopy for gasoline sales and may not have more than four (4) fuel pumping stations allowing the simultaneous fueling of eight (8) motor vehicles. Highway Business (B-3 District) gasoline stations permit major service and repair of motor vehicles and are unlimited as to gasoline sales area.

2. Buildings shall meet the requirements of Article E, Building and Lot Types.

3. Gasoline pumps, canopies, and associated service areas are prohibited in any established yard abutting a street. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-98 Outdoor display of vehicles and boats for sale.

1. Vehicles and boats for sale may be displayed in a side yard, so long as:

- a. Cars for sale are in operable condition;
- b. The display area meets the standards for a parking lot (Article H);
- c. The display area is screened from abutting properties (Article K).

2. Nothing in this section shall prohibit a break in a planted screen or wall for the crossing of a driveway which provides access to on-site parking from the fronting street or a rear alley, or access between the parking lots of abutting businesses.

(Ord. of 12-7-04, No. 37-02; Ord. of 10-5-15, No. 06-15)

Sec. 9-3-99 Outdoor storage.

1. *Outdoor storage* defined:

a. Includes all goods and materials not returned to an enclosed building at the end of each business day; regardless of whether such goods or materials are kept on the premises for retail sale, wholesale sale, storage, or use by a business on or off the lot; (to be classified as goods for sale and therefore exempt from regulation as outdoor storage, items must be placed within an enclosed building at the end of each business day);

b. Includes up to two (2) storage trailers placed on a single lot or in conjunction with a single principal use;

c. Includes all items awaiting or in process of repair except customary passenger vehicles awaiting repair which are not visibly damaged or are not used or intended to be used as “parts” vehicles; (rather than being considered outdoor storage, such vehicles may await repair in any conforming off-street parking lot associated with the principal use);

d. Includes vehicles with more than two (2) axles, boats, manufactured homes, and trailers of tractor trailers awaiting or in process of repair;

e. Does not include construction equipment.

2. Outdoor storage, where expressly permitted, may be established on a lot according to the following standards:

a. Where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any established yard abutting a street;

b. Where permitted as a principal use on a lot, the area of storage shall be no closer than forty (40) feet from an abutting street right-of-way;

c. All areas established for outdoor storage shall be screened from view from the street(s) and from all abutting properties (Article K); wherever security fencing is desired, it shall be placed on the interior side of the opaque screen. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-100 Outdoor storage of construction equipment.

Outdoor storage of construction equipment, where expressly permitted, may be established on a lot according to the following standards:

1. Where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any established yard abutting a street;

2. Where permitted as a principal use on a lot, the area of storage shall be no closer than forty (40) feet from an abutting street right-of-way;

3. The area of outdoor storage shall be screened from view from the street(s) and from all abutting properties by an opaque screen (Article K); wherever security fencing is desired, it shall be placed on the interior side of the opaque screen. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-101 Parking lot as principal use.

Parking lots not associated with a building shall adhere to the standards of Article H, except that parking lots may be constructed up to the prevailing established setback line for structures within three hundred (300) feet in either direction on the same side of the street. The prevailing established setback applies for both the fronting street and any abutting side street. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-102 Parks (including greenways).

1. Buildings constructed in association with a park or greenway shall meet one of the building types permitted in the zoning district.
2. Permanent parking lots associated with parks and greenways shall meet the standards of Article H.
3. Dust-free, pervious surface areas are encouraged for overflow or event parking; such areas, if maintained in a natural condition, need not conform to Article H.
4. Service areas shall be separated by an opaque screen from view from any street and from abutting properties (Article K).
5. Outdoor lighting associated with active outdoor recreation shall not shine directly into yards associated with a residential use or into the windows of a residential structure.
6. Hours of operation of outdoor recreation will be no earlier than 6:00 a.m. and no later than 11:00 p.m. for uses located in or abutting a residential district. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-103 Petroleum storage facilities.

1. The use shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NEPA 30" of the National Fire Protection Association.
2. All storage tanks and loading facilities will be located at least one hundred (100) feet from any exterior property line.
3. Vehicle access to the use shall be provided by way of a major or minor thoroughfare, or a commercial street directly intersecting a thoroughfare. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-104 Schools.

1. Schools shall design principal buildings to the standards of civic buildings and lots, Article E. Accessory and incidental buildings may be placed within a street fronting yard if they conform to a building and lot type permitted in the zoning district. Buildings which do not so conform shall be placed within established rear and side yards which do not abut a street.
2. Permanent parking lots associated with schools shall meet the standards of Article H.
3. Notwithstanding sections 1. and 2. above, where the safe transport of students requires functional separation of parking and circulation areas (i.e. school bus, auto drop-off, etc.), the location of parking and circulation according to building and lot type may be modified, so long as street abutting parking and circulation areas are, to the extent practicable, detailed as plazas.
4. Dust-free, pervious surface areas are encouraged for overflow or event parking; such areas need not conform to Article H if they are maintained in a natural condition (for example, as a grassed field).
5. Service areas shall be separated by an opaque screen from the view from any street and from abutting properties (Article K).
6. Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum three (3) feet in height (expected height at maturity minimum six (6) feet), six (6) feet on center at installation.
7. Outdoor lighting associated with active outdoor recreation shall not shine directly into yards of a residential use or into the windows of a residential structure.
8. Elementary and junior high/middle schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).
9. High schools shall be on a lot which abuts a minor or major thoroughfare; primary vehicular access shall be provided from the thoroughfare. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-105 Temporary uses and structures, including seasonal markets.

1. The establishment of temporary sales lots for farmers markets, Christmas trees, and other seasonal agricultural products, plus related goods, is permitted for up to a maximum of three (3) months upon the

issuance of a temporary use permit by the Zoning Administrator. The following conditions apply.

- a. Storage of goods in or sale of goods from trailer(s) on the site is prohibited.
- b. The use may only be located on a vacant lot or on a lot occupied by a nonresidential use.
- c. The use shall be conducted behind the prevailing established setback line for structures within three hundred (300) feet in either direction on the same side of the street.
- d. Off-street parking may be provided behind or to the side of the established use, but not forward of the prevailing established setback line, defined in c. above.
- e. On-site parking may be provided on a dust-free, pervious surface area and need not comply with Article H.
- f. Signs on the premises of a temporary use shall meet the same standards as the correlative building and lot type permitted in the district.

2. Temporary accessory structures, including but not limited to school mobile classrooms and temporary offices placed on development sites during construction and sale of buildings, are permitted for up to a maximum of two (2) years, renewable thereafter in one (1) year increments, upon the issuance of a temporary use permit by the Zoning Administrator. Such structures shall meet the standards for building and lot type to the extent practicable, given the location of existing buildings and improvements on the site and location of permitted construction areas. Temporary structures associated with construction projects shall be removed upon completion of construction. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-106 Transit shelter.

1. Transit shelters may be located within any street right-of-way or within an established yard fronting a street, but may not be located so as to obstruct the sight distance triangle.
2. Only governmental signs are permitted in association with a transit shelter.
3. If constructed by other than the City of Claremont, a schematic plan must be submitted and approved by the City Council. The plan must include the following:
 - a. The location of the proposed shelter relative to street, property lines, and established building yards; and
 - b. The size and design of the shelter, including front, side, and rear elevations, building materials, and any public convenience or safety features such as telephone, lighting, heating, or trash containers.
4. A building permit shall be issued only after approval by the City Council of the proposed schematic plan in subsection 3. above.
5. A transit shelter located within a street right-of-way or an established yard may be removed by the City of Claremont if the City Council determines that it no longer serves the best interest of the public. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-107 Trucking terminals.

Trucking terminals are permitted in the Manufacturing District provided:

1. The area designated for truck parking shall be located no closer than forty (40) feet from an abutting street right-of-way. Truck parking areas are not classified as parking lots. Therefore they are exempt from the standards of Article H, but subject to the alternative standard in subsection 2. below.
2. The area of truck parking shall be screened from view from the street(s) and from all abutting properties by an opaque screen; wherever security fencing is desired, it shall be placed on the interior side of the screening materials.
3. The use shall be located on or directly accessible to a major thoroughfare, expressway, or freeway; truck terminals shall not be sited such that residential or city streets are regularly traversed to access the larger capacity road. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-108 Electronic gaming operations.

Electronic gaming operations are permitted in the B-3 Highway Business district provided:

1. No more than ten machines/terminals/ computers for gaming operations may be permitted per licensed location.
2. Each gaming operation shall have a business license from the city and shall pay all applicable fees set forth in the city's fee schedule.
3. No portion of a zoning lot on which a gaming operation is located may be within 500 feet of another electronic gaming operation or a residential zoning district, or 1,500 feet of any religious institution, elementary school, middle school, high school, recreation center or park.
4. Gaming operation may only operate between the hours of 8:00 a.m. and 10:00 p.m.

5. No electronic gaming operation at any time shall be operated or supervised by a person less than 18 years of age.

6. No person under the age of 18 years shall be permitted to play, use, or otherwise operate electronic machine, terminal, computer or other electronic device permitted under this section.

7. Any violation of any of the city's code of ordinances shall be grounds for revocation of the license. (Ord. of 6-4-12, No. 15-11; Ord. of 9-4-12, No. 03-12)

Sec. 9-3-109 Solar energy systems, utility scale (solar farms).

Utility scale solar energy systems are permitted in the R-2 Residential Agriculture and M-1 Manufacturing districts provided:

1. Utility scale solar energy systems in M-1 district shall meet all setback, parking, and buffer requirements for that district.

2. Utility scale solar energy systems located in R-2 district shall meet the buffer requirements of and M-1 use abutting residential district.

3. Utility scale solar energy systems located in R-2 district must meet the setback requirements of M-1 district.

4. Ground mounted solar power collection and electrical generation structures shall not exceed 25 feet in height.

5. All equipment shall be located and situated so glare is not to interfere with traffic on public streets or highways or the reasonable use of residential property.

6. All components of a utility scale solar energy system must meet all applicable building, electrical and safety codes.

7. Utility scale solar energy systems shall be designed to blend into the architecture of the neighboring buildings and landscape or be screened from view.

8. Solar energy systems that exceed the 10kW threshold but will be used in conjunction with an existing, lawful use on the same property, are allowed, provided that:

a. They are located and situated so glare is not to interfere with traffic on public streets or highways or the reasonable use of neighboring property;

b. Roof mounted systems shall not extend more than 10 feet from the top of the roof;

c. The total height of the building including the solar collection and power generation devices shall comply with the District height regulations;

d. Ground-mounted systems shall not be located in any required front yard and shall be screened from view from neighboring property or public streets;

9. In the event a solar farm ceases operation as an ongoing business entity, the site must be restored to its former state of development. A plan for decommissioning shall be filed with the city; a fine of up to \$50 per day may be assessed if a plan is not filed with the city and a site is not longer in service. A fine of up to \$50 per day may be assessed each day that the site is not restored beyond the approved deadline for final removal. (Ord. of 9-4-12, No. 03-12)

Sec. 9-3-110 Temporary health care structures.

1. Temporary health care structures are permitted as accessory uses to single-family homes, if a zoning permit is obtained from the town.

2. A temporary health care structure is defined as a "transportable residential structure, providing an environment facilitating a caregivers's provision of care for a mentally or physically impaired person, that is (i) primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

3. Temporary health care structures should adhere to setbacks for principal structures in the R-1 district.

4. No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the building or elsewhere on the property.

5. Any temporary family health care structure installed shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary health care structure is needed for another mentally or physically impaired person, the temporary health care structure may continue to be used.

6. Only one temporary health care structure is permitted per lot.

ARTICLE G

Wireless Telecommunications Facilities

Sec. 9-3-111 Purpose and legislative intent.

1. The Telecommunications Act of 1996 affirmed the City of Claremont's authority concerning the placement, construction and modification of wireless telecommunications facilities. North Carolina General Statutes governing the regulation of wireless telecommunication facilities, Section 160A, Article 19, Part 3E., provide for the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications 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.

2. The City of Claremont finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the city and its inhabitants. The city also recognizes that facilitating the development of wireless service technology can be an economic development asset to the city and of significant benefit to the city and its residents. In order to assure that the placement, construction or modification of wireless telecommunications facilities is consistent with the city's land use policies, the city is adopting a single, comprehensive, wireless telecommunications facilities application and permitting process. The intent of this article is to minimize the physical impact of wireless telecommunications facilities on the community, protect the character of the community to the extent reasonably possible, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City of Claremont. (Ord. of 3/1/10)

Sec. 9-3-112 Severability.

1. If any word, phrase, sentence, part, section, subsection, or other portion of this article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this article, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

2. Any conditional 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)

Sec. 9-3-113 Definitions.

For purposes of this article, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. *Accessory facility or structure.* An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

2. *Applicant.* Any wireless service provider submitting an application for a conditional use permit for wireless telecommunications facilities.

3. *Application.* All necessary and required documentation that an applicant submits in order to receive a conditional use permit or a zoning permit for wireless telecommunications facilities.

4. *Antenna.* A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

5. *Board.* The Board of Adjustment.

6. *Co-location.* The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles and water tanks.

7. *Commercial impracticability or commercially impracticable.* The inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably

anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone and for a single site, shall not deem a situation to be *commercially impracticable* and shall not render an act or the terms of an agreement *commercially impracticable*.

8. *Completed application*. An application that contains all necessary and required information and/or data necessary to enable an informed decision to be made with respect to an application.

9. *Conditional 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.

10. *DAS or Distributive Access System*. A technology using antenna combining technology allowing for multiple earners or wireless service providers to use the same set of antennas, cabling or fiber optics.

11. *FAA*. The Federal Aviation Administration, or its duly designated and authorized successor agency.

12. *FCC*. The Federal Communications Commission, or its duly designated and authorized successor agency.

13. *Height*. When referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

14. *Holder*. An applicant, or the assignee or successor in interest of the applicant, to whom a conditional use permit for wireless telecommunications has been issued in accordance with Section 9-3-128.

15. *Maintenance*. Plumbing, electrical or mechanical work that may require a building permit but that does not constitute a modification to the WTF.

16. *Modification or modify*. The addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless earner or service provider to a telecommunications tower or telecommunications site as a co-location is a modification.

17. *Necessary*. What is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in prohibiting or acting in a manner that prohibits the provision of service as intended and described in the narrative of the application. *Necessary* does not mean what may be desired or preferred technically.

18. *NIER*. Non-Ionizing Electromagnetic Radiation.

19. *Person*. Any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

20. *Personal wireless facility*. See definition for *wireless telecommunications facilities*.

21. *Personal wireless services or PWS or personal telecommunications service or PTS*. Shall have the same meaning as defined and used in the 1996 Telecommunications Act, as amended.

22. *Repairs and maintenance*. The replacement or repair of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

23. *Stealth or stealth technology*. A design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean building the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances. *Stealth technology* includes such technology as DAS or its functional equivalent or camouflage where the tower is disguised to make it less visually obtrusive and not recognizable to the average person as a WTF.

24. *State*. The State of North Carolina.

25. *Telecommunications*. The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

26. *Telecommunications site*. See definition for *wireless telecommunications facilities*.

27. *Telecommunications structure*. A structure used in the provision of services described in the definition of *wireless telecommunications facilities*.

28. *Temporary.* Temporary in relation to all aspects and components of this article, something intended to, or that does, exist for fewer than ninety (90) days.

29. *Tower.* Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

30. *Wireless telecommunications facility or facilities (WTF or WTFs).* Means and includes a *telecommunications site* and *personal wireless facility*. It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types, kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the facility. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC. (Ord. of 3/1/10)

Sec. 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 use permit for any new, co-location or modification of a wireless telecommunications facility as required or otherwise specified in this article;
- b. Implementing an application process for person(s) seeking approval of wireless telecommunications facilities;
- c. Establishing a procedure for examining an application and issuing a conditional use permit and/or zoning permit and/or building permit for wireless telecommunications facilities that is both fair and consistent;
- d. Promoting, and requiring wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers; and
- e. Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth technology.

2. In approving a wireless telecommunications facility, the city shall find that the facility shall be the most appropriate site in regards to being the least visually intrusive among those available in the city given the facts and circumstances.

3. In issuing a conditional 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 use permit. (Ord. of 3/1/10)

Sec. 9-3-115 Exceptions from a conditional 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 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 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.

2. If constructed as required by permit, all legally permitted wireless telecommunications facilities that existed on or before the effective date of this article shall be allowed to continue as they presently exist, provided however, that they are operating as originally permitted and that any modification of an existing wireless telecommunications facility not permitted under this article will require the complete facility and any new installation to comply with this article, as will anything changing the structural load.

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 use permit does not require an application for a conditional 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)

Sec. 9-3-116 Exclusions.

The following shall be exempt from this article:

1. Any facilities expressly exempt from the city's siting, building and permitting authority.
2. Any reception or transmission devices expressly exempted under the Telecommunications Act of 1996.
3. Facilities used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.
4. Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a, b, g services (e.g. Wi-Fi and Bluetooth) where the facility does not require a new tower or increase the height of the structure being attached to. (Ord. of 3/1/10)

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

All applicants for a conditional 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 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 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 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 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 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.
2. When placing wireless facilities on government-owned property or facilities, only noncommercial wireless carriers and users are exempt from the permitting requirements of this article.
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 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 use permit has been approved and a zoning permit has been issued.
5. Any and all representations made by the applicant to the Board on the record during the application process, whether written or verbal, shall be deemed to have been relied upon in good faith by the city. Any verbal representation made during a meeting of the Board shall be treated as if it were made in writing if recorded in minutes of the meeting approved by the Board.
6. An application for a conditional 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 use permit.
7. The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This requires an executed copy of the lease with the landowner or landlord or a signed letter of agency

acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.

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 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

b. That the construction of the wireless telecommunications facility is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.

9. Where a certification is called for in this article, such certification shall bear the signature and seal of a professional engineer licensed in the state.

10. In addition to all other required information as stated in this article, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the information hereinafter set forth prior to the issuance of a zoning permit.

a. The name, address and phone number of the person preparing the application;

b. The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided;

c. The postal address and tax map parcel number of the property;

d. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;

e. Written acknowledgment that any new telecommunications tower shall be structurally designed to accommodate a minimum of six (6) antenna arrays and shall be managed so as not to restrict, prevent or prohibit competition among carriers;

f. The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs;

g. The zoning district or designation in which the property is situated;

h. The size of the property footprint on which the structure to be built or attached is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;

i. The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application;

j. A site plan showing the footprint and the type, location and dimensions of access drives, landscaping and buffers, fencing and any other requirements of site plans;

k. Elevations showing the profile or the vertical rendition of the wireless telecommunications facility identifying proposed attachments and all related fixtures, structures, appurtenances and apparatus, including the height above the pre-existing grade, materials, colors and lighting;

l. When considering a modification to an existing wireless telecommunications facility, provide all users and attachments to the facility, including all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;

m. Azimuth, size and center line height location of all proposed and existing antennas on the supporting structure;

n. The type and design of the wireless telecommunications facility, the number of antenna arrays proposed and the basis for the calculations of the wireless telecommunications facility's capacity to accommodate the required number of antenna arrays for which the structure must be designed;

o. The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs;

p. If modifying an existing wireless telecommunications facility:

(1) The age of the facility in years, including the date of the grant of the original permit;

(2) A description of the type of tower, e.g. guyed, self-supporting lattice or monopole;

(3) The make, model, type and manufacturer of the facility and the structural design calculations, certified by a professional engineer licensed in the state, proving the facility's capability to safely accommodate the facilities of the applicant without change or modification or if any change or modification of the facility is needed, a detailed narrative explaining what changes are needed, why they are needed and who will be

responsible to assure that the changes are made;

(4) A copy of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure; and

(5) For a tower that is five (5) years old or older, or for a guyed tower that is three (3) years old or older, a copy of the latest ANSI Report done pursuant to the latest edition of ANSI-EIA/TIA 222F - Annex E for any self-supporting tower. If an ANSI report has not been done pursuant to the preceding schedule, an ANSI report shall be done and submitted as part of the application. No zoning permit shall be issued for any wireless facility where the structure being attached to is in need of remediation, unless and until all remediation work needed has been completed or a schedule for the remediation work has been approved by the city planning staff;

q. A structural report signed by a professional engineer licensed to do business in the state and bearing that engineer's currently valid stamp, showing the structural adequacy of the proposed structure to accommodate the proposed wireless telecommunications facility, including any equipment shelter, unless the equipment shelter is located on the lowest floor of a building; in showing the structural adequacy of the proposed structure for a new wireless facility, this structural report shall include at least the following information:

(1) A description of the type of tower, e.g. guyed, self-supporting lattice or monopole;

(2) The make, model, type and manufacturer of the facility and the structural design calculations, certified by a professional engineer licensed in the state; and

(3) A copy of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure;

r. If attaching to a structure other than a tower or where the proposed attachment is within thirty (30) feet of areas to which the public has or could reasonably have or gain access to, documentation shall be provided, including all calculations, proving that the potential exposure to RF Radiation (i.e. NIER or Non-Ion Emitting Radiation), will be in compliance with the most recent Federal Communications Commission regulations governing RF Radiation and exposure thereto, and further denoting the minimum distance from any antennas an individual may safely stand without being exposed to RF Radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF Radiation in excess of the FCC's permitted standards. In compliance with the FCC's regulations, in such an instance the RF Radiation from all wireless facilities at that location shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public or workers. Such report or analysis shall be signed and sealed by a professional engineer licensed in the state;

s. In an instance involving a tower where the new wireless facilities will be ten (10) meters or more above ground level and not within thirty (30) feet of areas to which the public has or could reasonably have or gain access to, signed documentation such as the FCC's "Checklist to Determine whether a Facility may be Categorically Excluded" shall be provided to verify that the wireless telecommunication facility with the proposed installation will be in full compliance with the current FCC's RF Emissions regulations. If not categorically excluded, a complete RF Emissions study is required to enable verification of compliance, including providing all calculations so that such may be verified prior to issuance of a zoning permit;

t. In certain instances, the city may deem it appropriate to have an RF survey of the facility done after the construction or modification and activation of the facility, such to be done under the direction of the city or its designee, and an un-redacted copy of the survey results provided, along with all calculations prior to issuance of a certificate of compliance;

u. If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF Radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with yellow and black plastic chain and striped warning tape, as well as placing RF Radiation signs as needed and appropriate to warn individuals of the potential danger; and

v. A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.

11. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed wireless telecommunications facility is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any where the application increases the height of the wireless telecommunications facility. If this analysis

determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

12. Application for new wireless telecommunications facility versus co-location.

a. The applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing wireless telecommunications facilities or the use of alternative buildings or other structures within the city that are at or above the surrounding tree height or the tallest obstruction and are within one (1) mile of the proposed tower. Copies of written requests and responses for shared use shall be provided to the city in the application, along with any letters of rejection stating the reason for rejection.

b. Telecommunications towers shall be prohibited in residential districts, or historic districts, unless the applicant provides documentation (i.e. clear and convincing evidence that there is no technological option) to demonstrate that the telecommunications tower is necessary, that the area cannot be served from outside the district, that no existing or previously approved wireless telecommunications facility can reasonably be used for the antenna placement instead of the construction of a new wireless telecommunications facility or instead of increasing the height of an existing wireless telecommunications facility, and that no alternative wireless telecommunications facility or alternative type of wireless telecommunications facility can be used to provide wireless telecommunications service to the district.

c. In order to better inform the public, in the case of a new telecommunication tower, the applicant shall hold a "balloon test" prior to the initial public hearing on the application. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten (10) foot in length brightly colored balloon at the maximum height of the proposed new tower.

d. At least fourteen (14) days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than fourteen (14) days after the conduct of the balloon test. The sign shall be at least four (4) feet by eight (8) feet in size and shall be readable from the road by a person with 20/20 vision.

e. Such sign shall be placed off, but as near to, the public right-of-way as is possible.

f. Such sign shall contain the times and date(s) of the balloon test and contact information.

g. The dates, (including a second date, in case of poor visibility or wind in excess of fifteen (15) mph on the initial date) times and location of this balloon test shall be advertised by the applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the city and as agreed to by the city. The applicant shall inform the city in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four (4) consecutive hours between 10:00 a.m. and 2:00 p.m. on the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures from various locations of the balloon shall be provided with the application.

h. The applicant shall notify all property owners and residents located within one thousand five hundred feet (1,500) of the nearest property line of the subject property of the proposed construction of the tower and wireless facility and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least fourteen (14) days prior to the conduct of the balloon test and shall be delivered by first-class mail.

i. The wireless telecommunications facility shall be structurally designed to accommodate at least six (6) antenna arrays as regards the load and stress created on the structure, with each array to be sited in such a manner as to provide for flush attachments to the greatest extent possible with the minimum separation required without causing interference. An intermodulation study shall be submitted to justify design claims as related to interference. A claim of interference because of a need to have greater than six (6) feet of vertical clearance between facilities, measured from the vertical centerline of one (1) array to the vertical centerline of another, must be proven by technical data showing that there is no technological alternative that would enable the service to be provided that would require less vertical space, and not merely verbal or written assertions. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the wireless telecommunications facility is not reasonably feasible if co-location is technically or commercially impractical or impracticable. The applicant shall provide information necessary to determine whether co-location is reasonably feasible-based upon:

(1) The kind of wireless telecommunications facility site and structure proposed; and

(2) Available space on existing and approved wireless telecommunications facilities.

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:

- (1) Respond within sixty (60) days to a request for information from a potential shared-use applicant;
- (2) Negotiate in good faith concerning future requests for shared use of the new wireless telecommunications facility by other telecommunications providers; and
- (3) Allow shared use of the new wireless telecommunications facility if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the wireless telecommunications facility or equipment to accommodate a shared user without causing electromagnetic interference.
- (4) Failure to abide by the conditions outlined above may be grounds for revocation of the conditional use permit.

13. The applicant shall provide certification with documentation (i.e. structural analysis) including calculations that the telecommunications facility and foundation and attachments, rooftop support structure, water tank structure, or any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) guidelines.

14. All applications for proposed wireless telecommunications facilities shall contain a demonstration that the facility is sited and designed so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved, and thereby will have the least adverse visual effect on the environment and its character, on existing vegetation, and on the community in the area of the wireless telecommunications facility. The city expressly reserves the right to require the use of stealth or camouflage technology or techniques such as DAS (Distributive Antenna System technology) or its functional equivalent to achieve this goal and such shall be subject to approval by the Board.

15. The applicant shall furnish a visual impact assessment, which shall include:

- a. A computer generated “Zone of Visibility Map” at a minimum of one (1) mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage;
- b. Pictorial representations (photo simulations) of “before and after” views from key viewpoints inside of the city as may be appropriate and required, including but not limited to state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure; and
- c. A written description of the visual impact of the proposed facility, including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need for or appropriateness of screening.

16. The applicant shall demonstrate and provide a description in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.

17. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technology as may be required by the city.

18. All utilities at a wireless telecommunications facility site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

19. At a wireless telecommunications facility site an access road, turn around space for an emergency vehicle and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

20. All wireless telecommunications facility shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the city, state, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

21. A holder of a conditional 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.

22. There shall be a pre-application meeting for all intended applications. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process and certain issues or concerns the city may have. A pre-application meeting shall also include a site visit, if there has not been a prior site visit for the requested facility. Costs of the city's consultants to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of a retainer based on the fixed hourly rate to be set in the city's fee schedule applied to the anticipated time customarily required for the review of similar applications.

23. An applicant shall submit to the city the number of completed applications determined to be needed at the pre-application meeting. However, applications will not be transmitted to the Board for consideration until the application is deemed complete.

24. If the proposed site is within two (2) miles of another jurisdiction, written notification of the application shall be provided to the legislative body of all such adjacent municipalities as applicable and/or requested.

25. The holder of a conditional 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.

26. A zoning permit shall not be issued for construction of the wireless telecommunications facility until there is an application for a specific carrier that documents that the facility is necessary for that carrier to serve the community and that co-location on an existing telecommunications structure is not feasible within the applicant's search ring. Co-location on an existing structure is not reasonably feasible if co-location is technically or commercially impractical or impracticable or the owner of the wireless telecommunications facility is unwilling to enter into a contract for such use at fair market value. Sufficient documentation in the form of clear and convincing evidence to support such claims shall be submitted with a wireless telecommunications facility application for the first carrier to determine whether co-location on existing structures is reasonably feasible and to document the need for a specific height and that less height will serve to prohibit or have the effect of prohibiting the provision of service. (Ord. of 3/1/10)

Sec. 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 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 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 use permit under this article.

3. There shall be no conditional 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 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.

4. Documentation shall be provided to demonstrate that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the facility proposed to be

attached to, or a letter of agency, showing the right of the applicant to attach to the structure.

5. A pre-application meeting shall be held. Before the pre-application meeting, the applicant shall be provided instructions for completing an application. Said instructions are to be controlling as regards the form and substance of the issues addressed in the instructions and must be followed. Prior to the pre-application meeting, the applicant shall prepare and submit a project information form provided by the city and submit the retainer fee, but shall not prepare or submit the application at that time.

6. The applicant shall include a written statement that:

a. The applicant's proposed wireless telecommunications facility shall be maintained in a safe manner, and in compliance with all conditions of all applicable permits and authorizations, without exception, 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

b. The construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.

7. An application for the first antenna to be attached to an approved wireless telecommunications facility subsequent to the issuance of the conditional 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:

a. A detailed narrative description and explanation of the specific objective(s) for the new wireless telecommunications facility, expressly including and explaining the purpose for the facility, such as coverage and/or capacity, technical requirements, and the identified boundaries of the specific geographic area of intended coverage;

b. Technical documentation that proves the design of the wireless telecommunications facility is what is necessary to provide type and coverage of the service primarily and essentially within the city. Such documentation shall include a propagation study of the proposed site and all adjoining planned, proposed or existing sites, that demonstrates a significant gap in coverage and/or, if a capacity issue is involved, to include an analysis of the current and projected usage (traffic studies) using generally accepted industry methods and standards so as to conclusively prove the need for what is proposed. To enable the city to make its decision in regards to the design of the wireless telecommunications facility, the city may require the provision of all technical or engineering data and information used by the applicant that is necessary to enable an informed decision to be made to assure compliance with the intent of this section and that is based upon a written record, not to include information that by applicable law or regulation is deemed to be confidential or proprietary;

c. All of the modeling information (i.e. data) inputted into the software used to produce the propagation studies, including, but not limited to any assumptions made, such as ambient tree height, which shall include the completion of the city's propagation study data form;

d. A copy of the FCC license applicable for the intended use of the wireless telecommunications facility, as

well as a copy of the five (5) and ten (10) year build-out plan required by the FCC;

e. The frequency, modulation and class of service of radio or other transmitting equipment;

f. The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier;

g. The actual intended transmission power stated as the maximum effective radiated power (ERP), both in dBm's and watts;

h. A statement certifying that the wireless telecommunications facility and all attachments thereto are in compliance with the conditions of the approved conditional use permit;

i. The name, address and phone number of the person preparing the application;

j. The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided;

k. The postal address and tax map parcel number of the property; and

l. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities. (Ord. of 3/1/10)

Sec. 9-3-119 Streamlined requirements for an application to co-locate on an existing

telecommunications facility within the parameters of an approved conditional use permit.

1. The fixed application fee for review of wireless telecommunications facilities applications for co-locating an antenna array on an existing wireless telecommunications facility shall be as set forth in the city's schedule of fees.
2. An application to increase the parameters 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 existing tower or other structure under this section.
3. There shall be no conditional 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.
4. Documentation shall be provided to demonstrate that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the facility proposed to be attached to, or a letter of agency, showing the right of the applicant to attach to the structure.
5. A pre-application meeting shall be held before the pre-application meeting, the applicant shall be provided instructions for completing an application. Said instructions are to be controlling as regards the form and substance of the issues addressed in the instructions and must be followed. Prior to the pre-application meeting, the applicant shall prepare and submit the project information form and submit the retainer fee, but shall not prepare or submit the application.
6. The applicant shall include a written statement that:
 - a. The applicant's proposed wireless telecommunications facility shall be maintained in a safe manner, and in compliance with all conditions of all applicable permits and authorizations, without exception, 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
 - b. The construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.
7. An application for attaching an antenna array under this section shall contain the following information:
 - a. A detailed narrative description and explanation of the specific objective(s) for the new facility, or the modification of an existing wireless facility, expressly including and explaining the purpose for the facility, such as lack of coverage, and/or capacity, requirements, and the identified boundaries of the specific geographic area of intended coverage;
 - 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 use permit as regards to height, profile, type and number of co-locations and footprint);
 - c. A copy of the FCC license applicable for the intended use of the wireless telecommunications facility, as well as a copy of the five (5) and ten (10) year build-out plan required by the FCC;
 - d. The frequency, modulation and class of service of radio or other transmitting equipment;
 - e. The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier;
 - f. The actual intended transmission power stated as the maximum effective radiated power (ERP), both in dBm's and watts;
 - g. A statement certifying that the wireless telecommunications facility and all attachments thereto are in compliance with the conditions of the approved conditional use permit;
 - h. The name, address and phone number of the person preparing the application;
 - i. The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided;
 - j. The postal address and tax map parcel number of the property;
 - k. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;
 - l. The zoning district or designation in which the property is situated;

- m. The size of the property on which the structure to be attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
- n. The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application;
- o. A site plan showing the footprint, location and dimensions of access drives, landscaping and buffers, fencing and any other requirements of site plans;
- p. Elevations showing the vertical rendition of the wireless telecommunications facility identifying all users, attachments, and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- q. The azimuth, size and center line height location of all proposed and existing antennae on the supporting structure;
- r. The number, type and model of the antenna(s) proposed, along with a copy of the specification sheet(s) for the antennas;
- s. The age of the tower in years, including the date of the grant of the original permit or authorization for the tower;
- t. A description of the type of tower, e.g. guyed, self-supporting lattice or monopole;
- u. The make, model, type and manufacturer of the telecommunications structure and the structural design calculations, certified by a professional engineer licensed in the state, proving the structure's capability to safely accommodate the facilities of the applicant without change or modification, or if any change or modification of the structure is needed, a detailed narrative explaining what changes are needed, why they are needed and who will be responsible to assure that the changes are made;
- v. A copy of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure;
- w. For a tower that is five (5) years old or older, or for a guyed tower that is three (3) years old or older, a copy of the latest ANSI Report done pursuant to the latest edition of ANSI-EIA/TIA 222F - Annex E for any self-supporting tower. If an ANSI report has not been done pursuant to the preceding schedule, an ANSI report shall be done and submitted as part of the application. No zoning permit shall be issued for any wireless facility where the structure being attached to is in need of remediation, unless and until all remediation work needed has been completed or a schedule for the remediation work has been approved by the city planning staff;
- x. A structural report signed by a professional engineer licensed to do business in the state and bearing that engineer's currently valid stamp, showing the structural adequacy of the wireless telecommunications facility to accommodate the proposed modification or antenna array co-location, including any equipment shelter, unless the equipment shelter is located on the lowest floor of a building;
- y. If attaching to a structure other than a tower or where the proposed attachment is within thirty (30) feet of areas to which the public has or could reasonably have or gain access to, documentation shall be provided, including all calculations, proving that the potential exposure to RF Radiation (i.e. NIER or Non-Ion Emitting Radiation), will be in compliance with the most recent Federal Communications Commission regulations governing RF Radiation and exposure thereto, and further denoting the minimum distance from any antennas an individual may safely stand without being exposed to RF Radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF Radiation in excess of the FCC's permitted standards. In compliance with the FCC's regulations, in such an instance the RF Radiation from all wireless facilities at that location shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public or workers. Such report or analysis shall be signed and sealed by a professional engineer licensed in the state;
- z. In an instance involving a tower where the new wireless telecommunications facility will be ten (10) meters or more above ground level, signed documentation such as the FCC's "Checklist to Determine whether a Facility may be Categorically Excluded" shall be provided to verify that the wireless telecommunication facility with the proposed installation will be in full compliance with the current FCC's RF Emissions regulations. If not categorically excluded, a complete RF Emissions study is required to enable verification of compliance, including providing all calculations so that such may be verified prior to issuance of a zoning permit;
- aa. If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF Radiation, that section or portion must be barricaded with a suitable barrier to

discourage approaching into the area in excess of the FCC's regulations, and be marked off with yellow and black striped warning tape or a suitable warning barrier, as well as placing RF Radiation signs as needed and appropriate to warn individuals of the potential danger; and

bb. A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.

8. To protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade, unless it can be proven that such will prohibit or have the effect of prohibiting the provision of service, and all such attachments and exposed cabling shall use camouflage or stealth techniques to match as closely as possible the color and texture of the structure.

9. If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank or the use of a corral shall only be permitted if the applicant can prove that to locate elsewhere will prohibit or have the effect of prohibiting the provision of service. The provisions of the preceding subsection 8. of this section shall also apply to any attachment to a water tank.

10. The applicant shall provide a certification by a professional engineer licensed in the state, along with documentation (a structural analysis), including calculations, that prove that the wireless telecommunications facility and its foundation as proposed to be utilized are designed and were constructed to meet all local, city, state, federal and ANSI structural requirements for loads, including wind and ice loads and the placement of any equipment on the roof of a building after the addition of the proposed new facilities.

11. So as to be the least visually intrusive wireless telecommunications facility reasonably possible given the facts and circumstances involved, and thereby have the least adverse visual effect and create the least intrusive or lowest profile or visual silhouette reasonably possible, unless it can be proven that such would be technologically impracticable, all antennas attached to a tower or other structure shall be flush mounted or as near to flush mounted as is possible without prohibiting or having the effect of prohibiting the provision of service so as to minimize the visual profile of the antennas, or prove technically, with hard data and a detailed narrative, that flush mounting cannot be used and would serve to prohibit or have the effect of prohibiting the provision of service.

12. Unless it is deemed inappropriate or unnecessary by the city given the facts and circumstances, the applicant shall demonstrate and provide in writing and by drawing how it shall effectively buffer and screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility up to a height of ten (10) feet.

13. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth, camouflage or concealment technology as may be required by the city and as is not impracticable under the facts and circumstances.

14. All utilities installed for a new wireless telecommunications facility shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

15. If deemed necessary or appropriate, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion and shall comply with any local or state regulations for the construction of roads. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as determined at a site visit, the application shall contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations. (Ord. of 3/1/10)

Sec. 9-3-120 Location of wireless telecommunications facilities.

1. Applicants for telecommunications towers shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, in the following order:

a. On existing city-owned wireless telecommunications facilities without increasing the height of the tower or structure.

b. On existing wireless telecommunications facilities without increasing the height of the tower or

structure.

- c. On city-owned properties or facilities.
- d. On properties in areas zoned M-1 Manufacturing.
- e. On properties in areas zoned B-3 Highway Business.

2. Applicants for all other wireless telecommunications facilities (e.g. distributed antenna systems or buildings) shall locate, site and construct said wireless telecommunications facilities in accordance with the following priorities, in order:

a. On existing city-owned wireless telecommunications facilities without increasing the height of the structure.

b. On existing wireless telecommunications facilities without increasing the height of the structure.

c. On city-owned properties or facilities.

d. On properties in areas zoned M-1 Manufacturing.

e. On properties in areas zoned B-3 Highway Business.

f. On properties in areas zoned R-2 Residential Agriculture.

3. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation and justification must be provided as to why a site of all higher priority designations was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the wireless telecommunications facility as proposed.

4. An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected or because there is an existing lease with a landowner. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the city why co-location is technically or commercially impracticable. Agreements between wireless telecommunications facility owners limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.

5. Notwithstanding the above, the city may approve any site located within an area in the above list of priorities, provided that the city finds that the proposed site is in the best interest of the health, safety and welfare of the city and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. Conversely, the city may direct that the proposed location be changed to another location that is more in keeping with the goals of this article and the public interest as determined by the city.

6. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:

a. Conflict with safety and safety-related codes and requirements;

b. Conflict with the historic nature or character of a neighborhood or district;

c. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;

d. The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the city, or employees of the service provider or other service providers;

e. The placement and location of a wireless telecommunications facility would result in a conflict with or compromise in or change the nature or character of the surrounding area;

f. Conflicts with the provisions of this article; and

g. Failure to submit a complete application as required under this article.

7. Notwithstanding anything to the contrary in this article, for good cause shown, such as the ability to utilize a shorter or less intrusive facility elsewhere and still accomplish the primary service objective, the city may require the relocation of a proposed site, including allowing for the fact that relocating the site chosen by the applicant may require the use of more than one (1) site to provide substantially the same service if the relocation could result in a less intrusive facility or facilities, singly or in combination. The existence of a lease entered into prior to the approval of an application shall not be deemed justification for the requested location. (Ord. of 3/1/10)

Sec. 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 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.

2. An applicant intending to co-locate on an existing wireless telecommunications facility shall be required to document the intent of the existing owner to permit its use by the applicant.

3. Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the city, to the extent practicable, unless good cause is shown. (Ord. of 3/1/10)

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

1. All new towers shall be of the monopole type, unless such is able to be proven to be technologically impracticable. No new towers of a lattice or guyed type shall be permitted, unless relief is otherwise expressly granted.

2. The applicant shall submit documentation justifying the total height of any wireless telecommunications facility or antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to produce the studies at the requested height and a minimum of ten (10) feet lower height to enable verification of the need for the requested height.

3. For a new wireless telecommunications facility a reduction in the identified size of the identified service area of ten percent (10%) or less of the predicted service area shall not be deemed justification for exceeding the otherwise maximum allowable height of a wireless telecommunications facility.

4. The maximum permitted total height of a new wireless telecommunications facility shall be ninety (90) feet above pre-construction ground level, unless it can be proven that such height would prohibit or have the effect of prohibiting the provision of service in the intended service area within the community. The maximum permitted height is not an as-of-right height, but rather the maximum permitted height, absent proof of the technological need for a greater height.

5. For a wireless facility to be located on an existing wireless telecommunications facility, such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the city, to the extent practicable, unless good cause is shown. A reduction in the size of the identified service area of ten percent (10%) or less of the predicted service area shall not be deemed justification for increasing the height of a facility.

6. Notwithstanding the preceding subsection 4. of this section, wireless telecommunications facilities shall be no taller than the minimum height technologically necessary to enable the provision of wireless service coverage or capacity as needed within the community (i.e. the city, and its jurisdiction).

7. Documentation substantiating the height necessary to provide for the placement of an antennal array to provide wireless service to the community shall be submitted by the applicant prior to issuance of a zoning permit for a new wireless telecommunications facility, i.e. tower, but shall not be required prior to the issuance of the conditional use permit, unless the requested height exceeds the ninety (90) foot maximum height. Such documentation shall be provided with an application for the first attachment of an antenna array and for any proposed increase in the previously permitted height.

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 use permit when the requested height exceeds the ninety (90) foot maximum height.

9. Prior to issuing a zoning permit for the co-location of an antenna array on an existing wireless telecommunications facility, an applicant shall demonstrate that the co-location is located appropriately on the wireless telecommunications facility with the overall goal being to preserve the carrying capacity of the wireless telecommunications facility for future co-locations and to minimize the visual intrusiveness and impact, including the profile of the wireless telecommunications facility.

10. In determining the necessary height for a wireless telecommunications facility, or the height or

placement of a co-location on a wireless telecommunications facility, the signal strengths analyzed shall be the threshold or lowest signal strength at which the customer equipment is designed to function, which may be required to be determined by the manufacturer's published specifications for the customer equipment.

11. As the city has made the policy decision that more towers of a shorter height is in the public interest, as opposed to fewer taller towers, spacing, or the distance between towers, shall be such that the service may be provided without exceeding the maximum permitted height. (Ord. of 3/1/10)

Sec. 9-3-123 Visibility of wireless telecommunications facilities.

1. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by federal regulations.

2. *Stealth*: All new wireless telecommunications facilities, including but not limited to towers, shall utilize stealth or camouflage techniques and technology, unless such can be shown to be either commercially or technologically impracticable.

3. *Dual mode*: In order to minimize the number of antenna arrays and thus the visual impact, the city may require the use of dual mode antennas to be used, including by two (2) different carriers, unless it can be proven that such will not work technologically and that such would have the effect of prohibiting the provision of service in the city.

4. *Wireless telecommunications facilities finish/color*: Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this article.

5. *Lighting*: If lighting is legally required or proposed, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. For any wireless telecommunications facility for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least twelve (12) degrees vertical for a distance of at least one (1) mile in a level terrain situation. Such device must be compliant with or not in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA.

6. In the event a wireless telecommunications facility that is lighted is modified, at the time of the modification the city may require that the tower be retrofitted with the technology set forth in the preceding subsection 5.

7. *Flush mounting*: All new or replacement antennas, except omni-directional whip antennas, shall be flush-mounted or as close to flush-mounted as is technologically possible on any wireless telecommunications facility, so long as such does not have the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), unless the applicant can prove that it is technologically impracticable.

8. *Placement on building - facie*: If attached to a building, all antennas shall be mounted on the facade of the building and camouflaged so as to match the color and, if possible, texture of the building or in a manner so as to make the antennas as visually innocuous and undetectable as is possible given the facts and circumstances involved. (Ord. of 3/1/10)

Sec. 9-3-124 Security of wireless telecommunications facilities.

All wireless telecommunications facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All wireless telecommunications facilities, including antennas, towers and other supporting structures, such as guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and

2. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them. (Ord. of 3/1/10)

Sec. 9-3-125 Signage.

Wireless telecommunications facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF Radiation or to control exposure to RF Radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site

and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted. (Ord. of 3/1/10)

Sec. 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 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.

2. There shall be no development of habitable buildings within the fall zone set forth in the preceding subsection 1. (Ord. of 3/1/10)

Sec. 9-3-127 Fees and retention of expert assistance.

1. Non-refundable fees, which are set by the City Council and subject to change as may be warranted and justified, will be charged for the following:

- a. Zoning permit fees for the construction of a new tower or increasing the height of a tower by more than six (6) feet;
- b. Attaching or co-locating on an existing tower or structure, where the height is either not increased, or is increased by six (6) feet or less; or
- c. A modification to an existing facility.

2. The city may hire a consultant and/or expert necessary to assist the city in reviewing and evaluating the application for a proposed tower, co-location, or modification. The city may also request expert assistance for other issues, in order to ensure the general health, safety and welfare of the public. The cost of the expert assistance will be paid by the applicant. The cost is included in the zoning authorization permit fee. (Ord. of 3/1/10)

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

1. The procedures established for conditional 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 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 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)

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

1. The city will undertake a review of an application pursuant to this article in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

2. The city may refer any application or part thereof to any advisory or other committee for a non-binding recommendation.

3. After the public hearing and after formally considering the application, the city may approve, approve with conditions, or deny a conditional 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 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 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 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 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 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)

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

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

1. Such conditional 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 use permit may be revoked, canceled, or terminated for a violation of the conditions and provisions of the conditional 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 use permit. (Ord. of 3/1/10)

Sec. 9-3-131 Application fee.

At the time that a person submits an application for a conditional 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)

Sec. 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 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 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 use permit. (Ord. of 3/1/10)

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

In order to verify that the holder of a conditional 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)

Sec. 9-3-134 Liability insurance.

1. A holder of a conditional 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 use permit in amounts as set forth below:

a. Commercial general liability covering personal injuries, death and property damage: two million dollars (\$2,000,000.00) per occurrence/three million dollars (\$3,000,000.00) aggregate;

b. Automobile coverage: one million dollars (\$1,000,000.00) per occurrence/two million dollars (\$2,000,000.00) aggregate;

c. A three million dollar (\$3,000,000.00) umbrella coverage; and

- d. Worker's Compensation and Disability: statutory amounts.
2. For a wireless telecommunications facility on city property, the commercial general liability insurance policy shall specifically name the city and its officers, boards, employees, committee members, attorneys, agents and consultants as additional insureds.
3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.
4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the city with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
5. Renewal or replacement policies or certificates shall be delivered to the city at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
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 use permit shall deliver to the city a copy of each of the policies or certificates representing the insurance in the required amounts.
7. A certificate of insurance that states that it is for informational purposes only and does not confer rights upon the city shall not be deemed to comply with this section. (Ord. of 3/1/10)

Sec. 9-3-135 Indemnification.

1. Any application for wireless telecommunication facilities that is proposed for city property, pursuant to this article, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the article, to at all times defend, indemnify, protect, save, hold harmless, and exempt the city, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city.
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 use permit for wireless telecommunications facilities. (Ord. of 3/1/10)

Sec. 9-3-136 Fines.

1. In the event of a violation of this article or any conditional use permit issued pursuant to this article, the city may impose and collect, and the holder of the conditional 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 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 use permit to termination and revocation of the conditional 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)

Sec. 9-3-137 Default and/or revocation.

If a wireless telecommunications structure or facility is repaired, rebuilt, placed, 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 use permit, then the city shall notify the holder of the conditional 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 use permit shall be subject to revocation. (Ord. of 3/1/10)

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

1. The owner of any wireless telecommunications facility or wireless facility shall be required to provide a minimum of thirty (30) days written notice to the City Clerk prior to abandoning any wireless telecommunications facility or wireless facility.

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:

a. Wireless telecommunications facilities that have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding ninety (90) consecutive days or a total of one hundred eighty (180) days in any three hundred sixty-five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within ninety (90) days of abandonment;

b. Permitted wireless telecommunications structures or facilities fall into such a state of disrepair that it creates a health or safety hazard; and

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 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 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 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 use permit holder.

6. If, the city removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the city may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

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 use permit, subject to the approval of the city, and an agreement to such plan shall be executed by the holder of the conditional 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)

Sec. 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 use permit, or in the case of an existing or previously granted conditional 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)

Sec. 9-3-140 Periodic regulatory review by the city.

1. The city may at any time conduct a review and examination of this entire article.

2. If after such a periodic review and examination of this article, the city determines that one (1) or more provisions of this article should be amended, repealed, revised, clarified, or deleted, and then the city may

take whatever measures are necessary in accordance with applicable ordinance in order to accomplish the same. It is noted that where warranted, and in the best interests of the city, the city may repeal this entire article at any time.

3. Notwithstanding the provisions of subsections 1. and 2. of this section, the city may at any time and in any manner (to the extent permitted by federal, state, or local law), amend, add, repeal, and/or delete one (1) or more provisions of this article. (Ord. of 3/1/10)

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

1. To the extent that the holder of a conditional 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 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 use permit for wireless telecommunications facilities, then the holder of such a conditional 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)

Sec. 9-3-142 Bi-annual meeting.

In order to develop a logical, rational plan of deployment and siting of wireless telecommunications facilities within the city that provides reasonable coverage within the city based on the needs of the city and its residents, while minimizing the number and intrusiveness of the facilities and the most efficient use of wireless telecommunications facilities sites, twice annually within the months of January and June of each calendar year, the city shall hold a meeting of all carriers and tower companies who have filed applications the previous year or anyone who has expressed an interest in filing an application to construct a wireless telecommunications facility. The city shall notify each party of the date, time and place of the meeting no later than thirty (30) days prior to the meeting at the last known address of the party and attendance shall be expected. In order to allow the allocation of the city's resources to those applications deemed urgent or critical so that they may be permitted and service provided as expeditiously as is reasonably possible, lack of attendance shall be deemed as evidence of a lack of urgency or any critical need for the facility and subject the party not attending to a longer review process than for those attending. Consideration of applications by those not attending shall be addressed and considered by the Planning Board twice annually, at dates to be established by the Planning Board. Exceptions to this policy may be granted by the Director of Planning based on facts and circumstances deemed sufficient to warrant exception that are shown to be in the interest of the city and its residents. (Ord. of 3/1/10)

Sec. 9-3-143 Conflict with other laws.

Where this article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the city, state or federal government, this article shall apply. (Ord. of 3/1/10)

Sec. 9-3-144 Effective date.

This article shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements. (Ord. of 3/1/10)

Sec. 9-3-145 Authority.

This article is enacted pursuant to applicable authority granted by the state and federal government. (Ord. of 3/1/10)

Secs. 9-3-146 through 9-3-150 reserved.

ARTICLE H

Off-Street Parking and Loading Requirements

Sec. 9-3-151 Permanent parking space required.

1. Off-street parking space shall be provided in accordance with this article in all districts, except the B-1 Central Business District, if adequate public or on-street parking is available within fifty (50) feet of the

property. However, if provided in the B-1 District, off-street parking spaces shall be provided at one (1) space per five hundred (500) square feet of gross floor area and comply with the applicable landscaping requirements.

2. The off-street parking space required by this division shall be permanent space and shall not be used for any other purpose.

3. Each parking space shall be:

a. Angle parking: thirty (30) degree, forty-five (45) degree, sixty (60) degree and ninety (90) degree: minimum nine (9) feet by eighteen (18) feet.

b. Parallel parking: minimum nine (9) feet by twenty-two (22) feet.

c. The parking standards are for one (1) vehicle, exclusive of adequate egress and ingress, drives, maneuvering space and landscaping.

4. Off-street parking spaces shall not be located in such a manner that parked cars will extend onto a public street or sidewalk.

5. Off-street parking areas, loading, egress and ingress, and maneuvering space shall be paved with asphalt or concrete. Any parking area not paved at the time of adoption of this chapter shall be allowed to continue as such until an expansion of the building or parking area occurs. At such time, the parking area must be paved and meet current landscaping requirements.

6. Off-street parking areas shall be setback at least ten (10) feet from any public street.

7. All off-street parking areas shall provide curbing along the interior (islands) and exterior edges of the paved area.

(Ord. of 12-7-04, No. 37-02; Ord. of 10-5-15, No. 05-15)

Sec. 9-3-152 Use of parking lots permitted.

1. The required parking space for any number of separate uses may be combined in one (1) lot but the required space assigned to one (1) use may not be assigned to another use at the same time, except that one-half (1/2) of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at nights or on Sundays.

2. No portion of any street right-of-way shall be considered as fulfilling or partially fulfilling the area requirements for off-street parking required by the terms of this chapter. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-153 Enforcement.

1. Each application for a zoning permit or certificate of occupancy shall include information as to the location and dimensions of off-street parking space and the means of ingress and egress between such space and a street. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this chapter are met.

2. The certificate of occupancy of the use of any structure or land where off-street parking space is required shall be withheld by the Zoning Enforcement Officer until the provisions of this chapter are fully met. If at any time such compliance ceases, any certificate of occupancy which has been issued for the use of the property shall immediately become void and of no effect. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-154 Schedule of parking spaces.

Off-street parking spaces shall be provided and permanently maintained by the owners and occupants of the following types of property uses on the basis indicated:

	<p style="text-align: center;">Minimum Parking Space Requirement</p>
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	2 spaces for each dwelling unit
	1 space for each 250 square feet of gross floor area
	1 space for every 2 employees at the maximum shift
	1 space for each 500 square feet of gross floor area
	1 space for each 4,000 square feet of gross floor area
	1 space for each

	500 square feet of gross floor area
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(Ord. of 12-7-04, No. 37-02)

Sec. 9-3-155 Required loading and unloading.

Every building or structure used for business, trade, or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public right-of-way. Such space shall have access to an alley or street. For the purposes of this section, an off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet and overhead clearance of fourteen (14) feet in height above the alley or street grade. Off-street loading and unloading shall be permanently maintained by the owners and occupants of the following types of property uses on the basis indicated:

1. *Retail operations:* One (1) loading space for each five thousand (5,000) square feet of gross floor area or fraction thereof.
2. *Wholesale and industrial operations:* One (1) loading space for each ten thousand (10,000) square feet of gross floor area or fraction thereof. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-156 Landscaping of parking area.

The landscaping requirements of this section shall apply to land, public and private, designated as multi-family, recreational, institutional, industrial and commercial land uses which are required to have or provide ten (10) or more parking spaces or whose parking will cover more than five percent (5%) of the property.

1. Parking area landscaping requirements of this section are as follows:
 - a. Credit for using existing trees on site greater than or equal to those required by standards shall be two (2) trees for every one (1) tree retained.
 - b. When using an existing tree, the area under the drip line (maximum extension of branches) of the tree must remain undisturbed. This includes grading, fill, paving, etc.
 - c. If an existing tree dies, it must be replaced with two (2) trees during the next planting season.
 - d. If any vegetation dies, replacement is required within the next planting season.
 - e. Landscaping shall be placed in a manner, which meets the intent of this chapter, and shall be maintained.
 - f. Any fraction of requirements shall be rounded up to the next whole number.
 - g. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.
2. Landscaping requirements for interior areas of parking areas (Interior areas are defined as the area within the property used for vehicular storage, parking and movement):
 - a. Landscaped planting areas are to be located within or adjacent to the parking area as tree islands, at the end of parking bays, inside medians, or between rows or cars.
 - b. There shall be one (1) large shade tree for every one thousand five hundred (1,500) square feet of total parking area.
 - c. There shall be one (1) shrub for every five hundred (500) square feet of total parking area. Shrubs must be eighteen (18) inches tall at planting and reach a minimum height of thirty (30) inches in three (3) years.
 - d. All trees and shrubs are to be planted within a landscaped planting area not less than one hundred seventy-five (175) square feet in area.
 - e. No vehicular parking space shall be farther than fifty (50) feet from a planting area.
 - f. No more than forty percent (40%) of the trees and/or shrubs shall be deciduous.
3. Landscaping requirements for street yards of parking areas (Street yards are defined as the area between the public right-of-way and interior area):
 - a. Street yards are required to be a minimum of ten (10) feet in width.
 - b. One (1) large shade tree is required every fifty (50) feet or one (1) small tree is required every twenty-five (25) feet along the street frontage.
 - c. Shrub beds (fifty (50) square feet minimum and a minimum of ten (10) shrubs per shrub bed) are required every forty (40) feet along the street frontage. Berms may be used instead of shrubs with the

following stipulations: 1) berms must be the required height of shrubs with no more than a 3:1 slope; 2) shorter shrubs may be used in combination with berms as long as the required total height is met; 3) berms must be capped or topped with groundcover vegetation; 4) berms shall be grassed; 5) berms must occupy sixty percent (60%) of the frontage area; 6) fences may be used in combination with berms as long as the fence is compatible in materials and color to the building and is not more than forty percent (40%) of the required height.

4. Tree and shrub specifications:

a. *Tree* as used herein means any tree, evergreen or deciduous, whose mature height of its species can be expected to exceed fifteen (15) feet for a small tree and thirty-five (35) feet for a large tree (except in cases where this would require the planting of incompatible species with the surrounding environment, such as overhead utility lines, then acceptable species may be used). The tree, existing or planted, shall be at least eight (8) feet in height and six and one-quarter (6 1/4) inches in circumference (two (2) inches in diameter) measured at one-half (1/2) foot above grade for newly planted trees and measured at four (4) feet above grade for existing trees.

b. *Shrub* shall attain a minimum of thirty (30) inches in height within three (3) years of planting. All shrubs shall be a minimum of eighteen (18) inches tall when planted. All shrubs planted on berms may have lesser height provided the combined height of the berm and plantings after three (3) years is at least thirty (30) inches in height. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-157 Dumpsters/trash containers.

1. Dumpsters shall be set on a concrete bed and shall be hidden by an opaque fence or wall of sufficient height to screen the bin and any appurtenances, but not less than six (6) feet in height. The wall or fence shall enclose the dumpster on all four (4) sides. Gates or doors for access on one side are permitted.

2. Trash containers such as dumpsters shall not be located abutting residential property or within any front yard.

3. When used, fences and walls should match the architectural detail of the main building.

4. Temporary construction dumpsters shall be exempt from the requirements of this section. However, upon completion of construction all construction dumpsters shall be removed. (Ord. of 12-7-04, No. 37-02)

Secs. 9-3-158 through 9-3-160 reserved.

ARTICLE I Sign Regulations

Sec. 9-3-161 Purpose.

The purpose of this section is:

1. To maintain public safety and traffic safety by ensuring that signs are properly designed, constructed, installed, and maintained;

2. To minimize the distractions and obstruction of view that contribute to traffic hazards and endanger public safety;

3. To protect existing development and promote high standards of quality in new development by encouraging appropriately designed, placed, and sized signage;

4. To provide an effective guide for communicating identification through signage while preventing signs from dominating the visual appearance of the areas in which they are located. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-162 Applicability.

Except as otherwise provided in this chapter, it shall be unlawful to construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the City of Claremont. In addition, a certificate of occupancy for the change in the use of property shall require compliance with Article I. Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this chapter. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-163 General provisions.

The following provisions shall apply to all signs.

1. Construction standards. All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.

2. Electrical standards. All illuminated signs shall be installed in accordance with the applicable provisions of

the North Carolina State Electrical Code and all detached signs shall be illuminated by an underground electrical source.

3. Maintenance of signs. All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

4. Content. Content of message, commercial or non commercial, is not regulated by this chapter.

5. No sign shall be placed so as to obstruct the clear sight triangle at a street intersection. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-164 District classification.

For purposes of this article, zoning districts are classified as follows:

R-1 (Neighborhood Residential)	Residential
R-2 (Residential Agricultural)	Residential
MH (Manufactured Home Overlay)	Residential
B-1 (Central Business)	Mixed Use
B-2 (Community Business)	Mixed Use
B-3 (Highway Business)	Commercial
M-1 (Manufacturing)	Commercial

(Ord. of 12-7-04, No. 37-02)

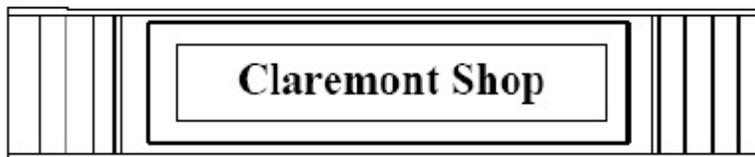
Sec. 9-3-165 Sign types.

Sign types are defined as follows:

1. *Wall mounted signs.*

a. One or a combination of the wall sign types below may be used on a building. Wall sign area is the total of the square footage of all wall signs associated with a business or structure.

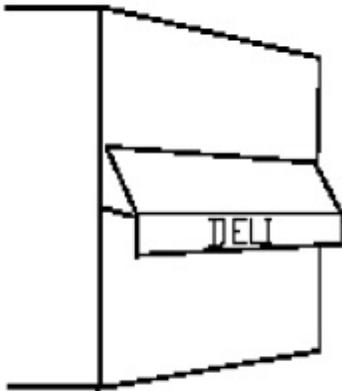
b. A flush wall sign is mounted or applied directly to the building wall, generally on the fascia. It may in no instance extend above the parapet; in the residential and mixed use districts, it must be located below the parapet.



c. A hanging sign is also a wall sign. A hanging sign is suspended from a simple bracket attached to a building wall and requires eight (8) or more feet of vertical clearance from the ground. It is most appropriately used along pedestrian-oriented streets to identify attached or closely spaced shops, restaurants, and service businesses. Only one (1) hanging sign is permitted per building or business bay (in a multi-tenant building). The sign face area does not include the area of the bracket. A hanging sign may project no more than four (4) feet from the building wall. It may project up to three (3) feet over a sidewalk in a city maintained right-of-way (or state ROW if permitted). However, in any case the sign shall no be closer than three (3) feet to a power or other utility line or the outside edge of street pavement.



d. A canopy or awning sign is sign copy applied directly onto a canopy or awning.

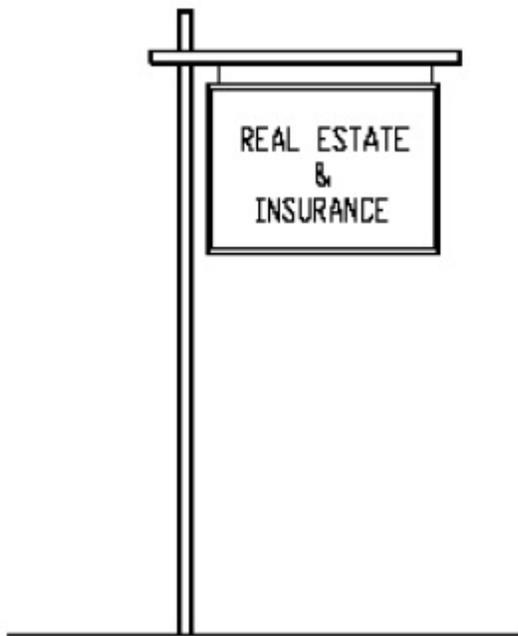


2. *Ground mounted signs* (defined as follows):

a. A monument sign is mounted generally flush with the ground plane. It may not be mounted on a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed three (3) feet in height and are included in measurement of sign height.



b. A raised sign may hang from a pole and beam frame as illustrated below, or be placed within a frame mounted on up to two (2) supporting poles.



(Ord. of 12-7-04, No. 37-02)

Sec. 9-3-166 Sign measurement.

1. *Sign face area.* The area within a single, continuous perimeter enclosing the characters, lettering, logos, illustrations, and ornamentation, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed.

2. *Sign height.* The distance from the ground plane beneath the sign to the highest point of the sign's frame. Ornamentation atop signs, such as small caps and spires, are not included in the height measurement. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-167 Permanent signs requiring a permit.

1. On-premise signs are allowed as indicated in the chart below:

<p style="text-align: center;">CIVIC OR RELIGIOUS INSTITUTIONAL BUILDINGS IN ANY DISTRICT</p> <p>Wall Mounted Sign 10% of any wall face area fronting a street, up to a maximum of 128 square feet</p> <p>Ground Mounted Sign Maximum Number: 2 per street front Maximum Area: 32 square feet per sign Maximum Height: 8 feet Not permitted for zero setback buildings</p>	<p style="text-align: center;">ANY SINGLE-OCCUPANT COMMERCIAL BUILDING TYPE IN A MIXED USE DISTRICT EXCEPT A DETACHED HOUSE (B-1, B-2)</p> <p>Wall Mounted Sign 10% of any wall face area fronting a street, up to a maximum of 128 square feet</p> <p>Ground Mounted Sign Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet Not permitted for zero setback buildings</p>
<p style="text-align: center;">ANY COMMERCIAL BUILDING TYPE IN THE B-3 HIGHWAY BUSINESS DISTRICT EXCEPT DETACHED HOUSE</p> <p>Wall Mounted Sign</p>	<p style="text-align: center;">PLANNED DEVELOPMENT ENTRANCE SIGN</p> <p>Maximum Number: 1 per street</p>

<p>10% of any wall face area fronting a street, up to a maximum of 128 square feet. Each secondary business is allowed secondary business sign, up to a maximum area of 26 square feet. Notwithstanding the above, the total area of all wall mounted signs shall not exceed 10% of the applicable wall face area.</p> <p>Ground Mounted Sign Maximum Number: 1 per street front</p> <p>Maximum Area: 32 square feet</p> <p>Maximum Height: 8 feet Not permitted for zero setback buildings</p>	<p>front;</p> <p>2 sign faces may be used with a wall, fence, or other architectural entrance feature</p> <p>Maximum Area: 24 square feet Maximum Height: 8 feet (permitted for all residential, mixed use, and non- residential projects of 10 acres or more) Limited to name and/or logo</p>
<p>ANY INDUSTRIAL BUILDING IN THE M-1 MANUFACTURING DISTRICT EXCEPT DETACHED HOUSE</p> <p>Wall Mounted Sign</p> <p>10% of any wall face area fronting a street, up to a maximum of 128 square feet. Each secondary business is allowed secondary business sign, up to a maximum area of 26 square feet. Notwithstanding the above, the total area of all wall mounted signs shall not exceed 10% of the applicable wall face area.</p> <p>Ground Mounted Sign Maximum Number: 1 per street front</p> <p>Maximum Area: 48 square feet</p> <p>Maximum Height: 12 feet</p> <p>Not permitted for zero setback buildings</p>	<p>ANY MULTI-OCCUPANT BUILDING TYPE IN ANY COMMERCIAL DISTRICT EXCEPT A DETACHED HOUSE (B-1, B-2, B-3, M-1)</p> <p>Wall Mounted Sign</p> <p>10% of any wall face area fronting a street, up to a maximum of 128 square feet. Each secondary business is allowed secondary business sign, up to a maximum area of 26 square feet. Notwithstanding the above, the total area of all wall mounted signs shall not exceed 10% of the applicable wall face area.</p> <p>Ground Mounted Sign Maximum Number: 1 per street front</p> <p>Maximum Area: 32 square feet for first business, 8 square feet for each additional business with a maximum of 48 square feet Maximum Height: 8 feet for first business, 2 feet for each additional business with a maximum of 12 feet Not permitted for zero setback buildings</p>

2. Permanent off-premise signs limited to non-commercial public service directional signs.
 - a. For the purpose of directing the public-at-large to non-commercial community facilities of general interest, permanent off-premise directional signs may be erected in addition to signs otherwise permitted in these regulations.
 - b. Non-commercial public service directional signs are permitted subject to the following standards:

(1) The community facility is open to the general public and operated by a non-commercial civic, charitable, religious, community, or similar organization.

(2) No more than two (2) directional signs shall be erected for each facility.

(3) Signs may not exceed four (4) square feet in area or five (5) feet in height.

(4) Signs may be placed no more than one (1) mile from the subject property.

(5) Along state roads, such signs shall be located outside of the right-of-way or farther than eleven (11) feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this chapter.

(6) Along city maintained roads, such signs shall be located at least eleven (11) feet from the edge of pavement and respect the sight distance triangle.

(7) No sign shall be placed on private property without the written consent of the property owner on the permit application.

(8) Every non-commercial public service directional sign shall be separated by a distance of four hundred (400) feet from any other such sign on the same side of the street, and by a distance of two hundred (200) feet from any other such sign on the opposite side of a street. (Ord. of 12-7-04, No. 37-02; Ord. of 5-6-13, No. 12-12)

Sec. 9-3-168 Temporary signs requiring a permit.

1. Commercial flags provided:

a. Only one per street front.

b. Only allowed in B-1, B-2, B-3 and M-1 districts.

c. Does not exceed 10 feet in height or 30 square feet in area.

d. The flag is returned inside at the end of each business day.

e. Not allowed at zero setback buildings.

2. A-frame (sandwich board) type signs provided:

a. Only one per street front.

b. Only allowed in B-1 and B-2 districts.

c. Does not exceed sign area of 6 square feet per sign face.

d. The placement of the sign allows for safe movement of both pedestrian and vehicle traffic and poses no safety issues.

e. The sign is returned inside at the end of each business day.

3. The following temporary signs shall be allowed subject to the standards below, in lieu of on-site real estate or construction signs.

a. Temporary planned development signs, provided:

(1) Only one (1) primary sign and two (2) secondary signs shall be allowed per street front of development.

(2) The maximum sign face area of a primary sign shall not exceed thirty-two (32) square feet; height of ground mounted signs shall not exceed six (6) feet.

(3) The maximum sign face area of secondary signs shall not exceed twelve (12) square feet; height of ground mounted signs shall not exceed six (6) feet.

(4) Only one (1) permit shall be required for all temporary planned development signs for each planned development. Permits shall be valid until a project is completed or two (2) years, whichever comes first. Completion shall be evidenced by the issuance of all certificates of occupancy for a development by the Building Inspections Department. If a project is not completed in two (2) years, a new permit must be obtained. However, in no instance shall more than five (5) permits be issued for a development. Additional permits shall not allow secondary signs. All secondary signs shall be removed when the first permit issued expires.

(5) Temporary directional signs within a planned development, but not visible from the road(s) fronting the overall development, shall be permitted so long as such signs do not exceed twelve (12) square feet in sign area, six (6) feet in height, and are removed upon completion of the portion of the project to which the signs are giving direction. (Ord. of 12-7-04, No. 37-02; Ord. of 5-6-13, No. 12-12)

Sec. 9-3-169 Temporary off-premise signs requiring approval.

The following temporary off-premise signs are permitted subject to the standards below.

1. Temporary off-premise signs or banners for special community events, open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations, provided:

- a. At least five (5) business days before signs are to be posted, the designated representative of the sponsoring group shall provide a sign installation and removal plan for review by the Zoning Enforcement Officer, who shall grant written permission for signs to be posted if the standards below are met.
 - b. Signs or banners shall be located outside of the public right-of-way or farther than eleven (11) feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall respect the sight distance triangle.
 - c. Signs or banners may be posted up to fourteen (14) days before the event and must be removed within seven (7) days following the event.
 - d. Every temporary off-premise sign or banner shall be separated by a distance of four hundred (400) feet from any other such temporary off-premise sign on the same side of a street, and by a distance of two hundred (200) feet from any other sign on the opposite side of a street.
 - e. Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner.
2. Temporary cross-street banners for community events as may be approved by the City Manager and installed by city personnel, according to policies established by the City Council. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-170 Signs permitted without a permit.

The following types of signs are exempt from permit requirements and allowed in all zones, but shall be in conformance with all other requirements of this chapter.

1. Memorial signs, plaques, or grave markers.
2. Public interest signs.
3. Public information kiosks on public or private property, subject to design approval by the City Council and written permission of the owner of property upon which the kiosk is to be placed.
4. On premises directional and instructional signs not exceeding six (6) square feet in area, unless such sign is a monument sign, in which case it may not exceed nine (9) square feet. Maximum height: four (4) feet.
5. Identification signs not exceeding one and one-half (1- 1/2) square feet in area that indicate the name and/or address of the occupant. Maximum height: four (4) feet.
6. Window signs with a total copy area not exceeding fifty percent (50%) of the window or glass door on which the sign(s) are located.
7. Incidental signs.
8. Flags on permanent poles.
9. Campaign or election signs provided that:
 - a. Individual signs shall not exceed sixteen (16) square feet in area or six (6) feet in height.
 - b. All signs shall be removed within seven (7) days after the election for which they were made.
 - c. No signs shall be permitted in the public right-of-way.
10. Real estate signs, other than the temporary signs described in Section 9-3-168:
 - a. Signs advertising a single family home or lot, a duplex, triplex, or quadraplex, or an individual unit within an attached housing development shall not exceed six (6) square feet. Rider signs not exceeding a total of two (2) square feet in sign face area shall be permitted in addition to the six (6) square feet. Maximum height: four (4) feet.
 - b. Signs advertising all other uses shall not exceed one (1) square foot for every five (5) linear feet of frontage of the advertised property, up to a maximum sign face area of thirty- two (32) square feet and maximum height of six (6) feet.
 - c. Only one (1) sign per street front of the advertised property shall be erected.
 - d. Properties having a continuous frontage in excess of eight hundred fifty (850) linear feet may be allowed an additional sign so long as such sign is no closer than eight hundred fifty (850) feet from another real estate sign on the property.
 - e. Signs shall not be illuminated.
 - f. Signs shall be removed within seven (7) days after the sale is closed or rent or lease transaction is finalized.
11. Construction signs, other than temporary planned development signs, Section 9-3-168, provided:
 - a. Signs located on single family lots or duplex, triplex, or quadraplex lots shall not exceed six (6) square

feet in area. Rider signs not exceeding two (2) square feet in area shall be permitted in addition to the six (6) square feet. Maximum height: four (4) feet.

b. Signs for all other uses shall not exceed one (1) square foot for every five (5) linear feet of frontage of property under construction, up to a maximum sign face area of thirty-two (32) square feet and a maximum height of six (6) feet.

c. Signs are confined to the site of construction.

d. Only one (1) sign per street front of the property under construction shall be erected.

e. Signs shall not be illuminated.

f. Signs shall be removed within seven (7) days after the completion of a project.

12. Temporary farm products signs provided:

a. Signs are located on the premises where the products are sold in conjunction with a bona fide farm use.

b. Signs shall not exceed thirty-two (32) square feet in area or six (6) feet in height.

c. Only one (1) sign shall be erected.

d. Signs shall be removed within seven (7) days of the termination of sale activities.

13. Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, provided:

a. No more than one (1) sign per street front shall be permitted per event.

b. Signs shall be located on the property on which the event will occur.

c. Signs shall not exceed thirty-two (32) square feet in area or six (6) feet in height.

d. Signs shall be erected no sooner than fourteen (14) days before and removed seven (7) days after the event.

14. Temporary banners in commercial and mixed use districts, provided:

a. Only one (1) banner per establishment shall be allowed at a time.

b. All banners shall be attached in total to a building wall or permanent canopy extending from a building.

c. No paper banners shall be allowed.

d. Banners shall be erected for a period not to exceed two (2) weeks.

e. No more than six (6) such signs per establishment shall be erected within a calendar year.

f. No banner shall extend above the second occupiable floor level of a building.

15. Public service and advertising signs in association with athletic fields.

16. Signs may be attached to the interior face of any fence which encloses or partially encloses an athletic playing field upon the property of a school or public park subject to the following conditions:

a. No sign face area shall be visible from any public street or from any abutting property in a residential or mixed use district.

b. No sign shall extend above the top of the enclosing fence.

c. The property owner or an authorized representative shall provide the city with a signed statement granting permission for signs to be displayed and assuming responsibility for management of the signs as well as the appropriate removal and disposal of damaged or obsolete signs. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-171 Master signage programs.

Master signage programs provide latitude to develop appropriate signage designs for new or existing areas with special unifying features. Master signage programs require approval by the City Council following review and recommendation by the Claremont Planning Board.

1. Planned development flexibility option: For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this ordinance may be approved by the City Council. The planned development flexibility option is initiated by the developer by submission of a master sign program to the City Planner, who shall first place the request on the agenda of the Planning Board for a recommendation, and then on the agenda of the City Council for approval, subject to the following:

a. The development is: a planned residential, nonresidential, or mixed use development, ten (10) acres or greater in size; a hospital or other large scale institutional complex; a large scale cultural, civic or recreational facility; or a similar large scale development.

b. A master sign program that includes the following information in booklet form is submitted:

1. Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.

2. Proposed number and location of signs.

3. Sign illumination plans.
4. Plans for landscaping or architectural features to be used in conjunction with such plans.
- c. The proposed signs meet the following criteria:
 1. All signs are coordinated in terms of design features.
 2. The maximum size of detached signs is not increased by more than twenty-five percent (25%).
 3. The number of detached signs along a street frontage does not exceed three (3).
 4. The maximum height of a detached sign does not exceed twelve (12) feet.
 5. Multi-information directional signs are no greater than sixteen (16) square feet and are located in the interior of a development.
 6. Changeable copy highlighting special events on signs for cultural, civic, or recreational facilities shall not exceed twenty-five percent (25%) of the sign face area of a sign. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-172 Prohibited signs.

The following signs are prohibited in all zoning districts:

1. Signs extending into the public right-of-way other than those permanent signs approved by the Zoning Enforcement Officer of Claremont along city-maintained streets and the North Carolina Department of Transportation along state system streets.
2. Roof signs.
3. Portable signs.
4. Flashing, fluttering, swinging, or rotating signs other than time and/or temperature signs and electronic scrolling signs.
5. Signs that are similar in color, design, and appearance to traffic control signs.
6. Vehicular signs as defined in this article.
7. Off-premise signs, including outdoor advertising signs. See Sections 9-3-167.2 and 9-3-169, special exceptions for certain non-commercial signs.
8. Obsolete signs: signs that do not comply with the provisions of this chapter and identify or advertise a use the operation of which has ceased for one (1) year or more.
9. Other signs not expressly allowed by this chapter. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-173 Application and issuance of sign permits.

1. *Application.* Applications for permits shall contain or have attached the following information:
 - a. The street name and street number of the building, structure or lot on which a sign is to be placed.
 - b. Names, addresses, and telephone numbers of the applicant, owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the licensed contractor erecting or affixing the sign.
 - c. If the applicant is not the owner or lessee of the lot on which the sign will be located, written permission from the property owner or a designated representative stating agreement that the sign may be erected on the parcel for which the permit has been applied shall be required.
 - d. A site or plat plan of the property involved, showing accurate placement of the proposed sign, intended use(s) of the property, and zoning district designation.
 - e. Two (2) blueprints or inked, scaled drawings of the plans and specifications of the sign to be erected or affixed as deemed necessary by the Zoning Enforcement Officer. Such plans may include but shall not be limited to details of dimensions, materials, copy, and size of the proposed sign. For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and size of existing wall signs shall also be included.
 - f. Locations of addresses. No permit for a sign shall be issued unless a street address has been assigned according to the requirements of the City of Claremont or the Claremont County 911 Address Ordinance, whichever is applicable.
 - g. Other information as the Zoning Enforcement Officer may require to determine full compliance with this and other applicable codes.
2. *Issuance of permit.* Upon the filing of an application for a sign permit, the Zoning Enforcement Officer shall examine the plans and specifications, and, as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this chapter and other applicable codes, a permit will be issued. Any permit issued in accordance with this section shall automatically become null and void unless the work for which it was issued has visibly commenced within six (6) months of the date of issue or if the work authorized by it is suspended or abandoned for one (1) year.

3. *Fees.* To obtain a sign permit, all fees, in accordance with the requirements of the permitting agency, shall be paid.

4. *Construction inspection.* The permit holder shall notify the City of Claremont upon completion of construction and installation of any sign for which a permit is required. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-174 Unlawful cutting of trees or shrubs.

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees, shrubs or other vegetation located:

1. Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the city or other agency having jurisdiction over the streets.

2. On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

3. In any areas where such trees or shrubs are required to remain under a permit issued under this chapter. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-175 Nonconforming signs.

Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this article may be continued provided they conform to the following provisions:

1. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.

2. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.

3. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this article, and the remnants of the former sign structure shall be cleared from the land within thirty (30) days of destruction. For purposes of this section, a nonconforming sign is *destroyed* if damaged to the extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.

4. The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premise sign under circumstances where such a sign would not be allowed).

5. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located or other party having control over such sign.

6. If a nonconforming billboard remains blank for a continuous period of one hundred eighty (180) days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be removed by the sign owner, owner of the property where the sign is located or other person having control over such sign. For purposes of this section, a sign is "blank" if:

a. It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted; or

b. The message displayed becomes illegible in whole or substantial part; or

c. The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-176 Sign definitions.

For the regulation of signs according to this chapter, the following words and phrases shall be defined as specified below.

Amortization. A provision requiring nonconforming signs to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

Awning. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

Building wall. The entire surface area, including windows and doors, of an exterior wall of a

building. For the purposes of this chapter, the area of a wall will be calculated for only the first three (3) stories, or forty-five (45) feet in height of a building, whichever is less.

Canopy. A permanent structure, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall.

Changeable copy. Copy that is or can be changed in the field, either manually or through mechanical means; e.g., reader boards with changeable letters.

Commercial message. A message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.

Copy. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

Farm product sales. Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

Grade. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the sign.

Linear frontage. The length of a property abutting a public right-of-way from one side lot line to another.

Logo. A business trademark or symbol.

Out parcel. A parcel of land associated with a shopping center or multi-tenant development, which is designated on an approved site plan as a location for a free standing structure with an intended use such as, but not limited to, banks, savings and loans, dry cleaners, service stations, offices, restaurants, retail establishments, or combination of uses thereof, and adjoins the shopping center or multi-tenant development, or the parking and service drives associated with it, on any side adjacent to a public right-of-way.

Parapet. A low wall encircling the perimeter of a flat building roof generally used to screen roof-mounted mechanical equipment.

Planned development. A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan (according to Article L).

Premises. A parcel of real property with a separate and distinct identifying number shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Out parcels of shopping centers shall be considered on the premises of the shopping center for the purpose of this chapter.

Roof line. The highest point of a flat roof or mansard roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

Sight distance triangle. The triangular area formed by the point of intersection of two (2) street right-of-way lines and a point located along each right-of-way line at a distance of thirty- five (35) feet from the point of intersection.

Sign. Any object, devise, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. *Signs* do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify an object, person, institution, organization, business, product, service, event or location by any means; or scoreboards located on athletic fields.

Sign structure or support. Any structure that supports or is capable of supporting a sign.

Sign types. The following are types of signs included in this chapter.

1. *A-frame (sandwich board).* A portable, movable sign intended to be placed near a pedestrian walkway or street thoroughfare; that does not exceed 6 square feet in area per sign face and is brought inside at the end of each business day.

2. *Banner.* A sign intended to be hung, with message or symbol applied to plastic or fabric of any kind, but excluding flags or emblems of any nation, organization of nations, state, city, or any fraternal, religious, or civic organization.

3. *Bulletin board.* A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

4. *Business sign.* A sign that directs attention to a business, to a product sold, manufactured, or assembled, or to services or entertainment offered upon the premises where the sign is displayed; but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

5. *Campaign or election sign.* A sign that advertises a candidate or issue to be voted upon on a definite election day.

6. *Canopy and awning signs.* A sign attached to or painted or printed onto a canopy or awning. The permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

7. *Commercial flags.* A piece of durable fabric of distinctive design attached to a movable device, that is used to advertise, identify, display, direct, or attract attention to a commercial business, service, product or event and is brought inside at the end of each business day.

8. *Construction sign.* A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

9. *Detached sign.* Any sign that is not affixed or attached to a building and is securely and permanently mounted in the ground. Such sign may be a ground mounted sign, or monument sign.

10. *Directional or instructional sign.* An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance," "Exit," "Parking," "One-Way," or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

11. *Directory sign.* A sign which identifies multiple uses in a planned development on a single sign; may be used for shopping centers, shopping streets or arcades, office complexes, schools, churches, institutional or business campuses, and similar large complexes which have a variety of tenants and/or uses.

12. *Flag.* A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature.

13. *Flashing sign.* A sign that uses an intermittent or flashing light source to attract attention.

14. *Ground mounted sign.* A sign which extends from the ground or which has a support which places the bottom thereof less than three (3) feet from the ground.

15. *Government sign.* Any temporary or permanent sign erected and maintained for any governmental purposes.

16. *Identification sign.* A sign which displays only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.

17. *Incidental sign.* A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive-through-window menu boards; signs on automatic teller machines, gas pumps, or vending machines; or newspaper delivery boxes.

18. *Memorial sign or plaque.* A sign designating the name of a building and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface.

19. *Monument sign.* A monolithic sign in which the bottom of the sign is flush with the ground and the vertical dimension of the sign is greater than the horizontal dimension.

20. *Nonconforming sign.* Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this chapter, and which fails to conform to all applicable standards and restrictions of this chapter.

21. *Off-premises sign.* A sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected.

22. *On-premises sign.* A sign that directs attention to a business, commodity, or service, that is conducted, sold, or offered on the premises on which the sign is erected.

23. *Outdoor advertising sign.* A type of sign, generally, but not always, consisting of a rigidly assembled sign, display, or devise, usually free standing, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters. Such signs commonly referred to as "billboards" are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease.

24. *Planned development sign.* A sign used in conjunction with an approved planned residential, office, business, industrial or mixed use development.

25. *Portable or movable sign.* A sign that is not permanently attached to the ground, a structure, or a building, and which can easily be moved from one location or another. For example, a sign on wheels.
26. *Projecting sign.* A sign which is affixed to a building and supported only by the wall on which it is mounted; considered a wall sign for purposes of this chapter.
27. *Public interest sign.* A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.
28. *Real estate sign.* A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.
29. *Primary sign.* The main or principal sign located on the premises.
30. *Roof sign.* A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.
31. *Secondary business identification sign.* An auxiliary wall sign, the purpose of which is to identify a business which is housed in the same structure as the principal business, but which is clearly subordinate to, and has separate ownership, management, and operation from, the principal business which occupies the building.
32. *Secondary sign.* A sign used in addition to a primary sign on a premises.
33. *Temporary sign.* A sign which is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time as permitted in this chapter.
34. *Temporary planned development sign.* A sign that pertains to the development of a new commercial, residential, or mixed use development while it is under construction.
35. *Vehicular sign.* Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this chapter, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.
36. *Wall sign.* Any sign directly attached to an exterior wall of a building or dependent upon a building for its support. Signs directly painted on walls shall be considered wall signs.
37. *Window sign.* Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of the building. (Ord. of 12-7-04, No. 37-02; Ord. of 5-6-13, No. 12-12)

Secs. 9-3-177 through 9-3-180 reserved.

ARTICLE J

Manufactured Homes

Sec. 9-3-181 Provisions for individual manufactured homes.

The purpose of these regulations is to promote sound neighborhood development and appearance, protect community property values, and to preserve the integrity and character of neighborhoods. Manufactured homes are permitted on individual lots in the MH (Manufactured Home Overlay) zoning district and are subject to the following conditions:

1. The lot must be recorded as an individual lot in the office of the Register of Deeds for the County in which the property is located.
2. If municipal utilities are not available, the County Health Department with jurisdiction must approve the well and/or septic tank.
3. All dimensional requirements for the underlying district must be met. Manufactured homes shall be placed according to the standards for a detached house.
4. The lot must front a public street and said street frontage will be considered the front of the lot.
5. All homes shall face the road lengthwise if setbacks allow. No lot shall be subdivided for a manufactured home that would not allow for adequate road frontage to place the home lengthwise on the property.
6. At least two (2) off-street parking spaces shall be provided.
7. The manufactured home must meet or exceed the construction standards established by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction. These standards became effective on July 15, 1976.
8. All areas not used for parking, manufactured home or required porches shall be grassed or otherwise suitably landscaped to prevent erosion.

9. Exterior finishes shall be in good repair and in no case shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white. The exterior of the manufactured home must be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: (1) vinyl or aluminum lap siding; (2) cedar or other wood siding; (3) wood grain, weather resistant press board siding; (4) stucco siding; or (5) brick or stone siding. Siding shall be horizontal.

10. A continuous, permanent masonry wall, having the appearance of a conventional load-bearing foundation wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home. All manufactured homes shall be tied down in accordance with North Carolina State Building Codes.

11. All manufactured homes shall have a deck, porch or a concrete patio with a minimum area of forty-eight (48) square feet. Permanent stairs shall be constructed at all exterior doors. They shall be self-supporting and anchored securely to the ground. A platform, measuring at least fifteen (15) square feet, is required at all exits where the exterior door swings out. Decks, porches and steps must be built in compliance with the North Carolina State Building Code.

12. The running lights and hitch shall be removed.

13. The pitch of the roof of the manufactured home shall have a minimum rise of three (3) feet for each twelve (12) feet of horizontal run and the roof shall be finished with a type of material that is commonly used in standard residential construction (i.e. wood shingle, wood shake, synthetic composite shingle, or ceramic tile).

14. All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter.

15. Manufactured homes may be used as temporary living quarters, in the event of a natural disaster such as fire, flooding, etc., which would render the former residence uninhabitable, for a maximum period of one (1) year.

16. Class A (Doublewide) manufactured homes are permitted in the MH Zoning District. Class B (Single-wide) manufactured homes are not permitted except in rare circumstances where a lot of record is configured in a way that prevents the placement of Class A manufactured home. A variance issued by the Board of Adjustment shall be required in such a case.

a. *Class A manufactured homes.* A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after July 15, 1976), which is of multi-sectional or double-wide design. Class A manufactured homes shall be a minimum of one thousand one hundred fifty (1,150) square feet.

b. *Class B manufactured homes.* A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after July 15, 1976), this home is typically referred to as a single-wide manufactured home. Class B manufactured homes shall be a minimum of nine hundred eighty (980) square feet. (Ord. of 12-7-04, No. 37-02)

Secs. 9-3-182 through 9-3-190 reserved.

ARTICLE K

Buffers

Sec. 9-3-191 Intent.

The purpose of this article is to preserve and protect the health, safety, and general welfare of the residents of Claremont by promoting the environmental and public benefits of buffers. It is intended to improve compatibility and provide transition between different zones and preserve the character and aesthetics of an area. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-192 Planting specifications.

1. *Industrial zones (M-1) that abut residential zones (R-1, R-2).* A planted buffer shall reach a minimum height of eight (8) feet. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within three (3) years after planting. The planted buffer shall be composed of two (2) rows of plants no more than ten (10) feet apart in each row. One (1) of the plant types listed in subsection 4. below shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

2. *Commercial or business zones (B-1, B-2, B-3) that abut residential zones (R-1, R-2) and*

non-residential uses in residential zones (R-1, R-2). A planted buffer shall reach a minimum height of six (6) feet. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within three (3) years after planting. The planted buffer shall be composed of one (1) row of plants no more than ten (10) feet apart in the row. One (1) of the plant types listed in subsection 4. below shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

3. *Required buffer heights and topographic considerations.* The required height of the planted buffer shall be measured in relation to the elevation of the edge of the adjacent area to be screened. In such cases as the ground elevation of the location at which the screen is to be planted is less than the elevation of the proposed building site, the required height of the screen shall be increased in an amount equal to said difference in elevation.

4. *Plant types and spacing.* Below are listed the types of plants that shall be used in planted buffers and the maximum distance each plant type shall be planted apart. Substitution for another plant type not listed is to be made in writing to the Zoning Administrator and is subject to verification that the proposed plant will thrive and provide adequate screening. No more than thirty percent (30%) of the total plantings in a buffer shall be deciduous plants.

Plant	Distance Apart (in feet)
Arbor Vitae	4
Ligustrum Japonicum and varieties	5
Photinia	5
Holly	5
a. Nellie R. Stevens	5
b. Fosters #2	4
c. Savannah	4
d. Bufordi	5
Eleangnus Pungens	5
Osmanthus Varieties	4
Pfizer Juniper	4
Doublefle Viburnum	5
Forsythia	3
White Pine	8 to 10
Scotch Pine	5 to 6
Deodara Cedar	8 to 10
Dogwood	8 to 10
Flowering Cherry	8 to 10
Flowering Crabapple	8 to 10
Bradford Pear	8 to 10
Oak	8 to 10
Linden	8 to 10
Leyland Cypress	8 to 10

(Ord. of 12-7-04, No. 37-02)

Sec. 9-3-193 Additional planting specifications.

1. The specifications for planted buffers in Article K shall be required in all industrial and commercial zones when these areas abut residential zones and for all nonresidential uses in residential zones.
2. All plant types required in this article shall consist of plants at least three (3) feet in height when planted.
3. When two (2) rows of plantings are required, plants shall be staggered in a triangular pattern so that there is a plant spaced the required distance apart as specified in Section 9-3-192.4.
4. When the existing natural buffer provides adequate screening, the existing buffer should remain. The Zoning Enforcement Officer shall determine if sufficient buffer does exist.
5. When industrial and commercial property is developed adjacent to vacant property zoned residential, a buffer shall be required.
6. The buffer shall be shown in detail on the site plan approved by the City of Claremont.
7. The buffer shall be installed and approved before a certificate of occupancy will be granted except when seasonal weather conditions are not conducive. In this situation a temporary certificate of occupancy may be issued for up to sixty (60) days.
8. The buffer shall be maintained, and dead and diseased plants replaced by the owner or occupant of the premises. The outside storage of materials shall be prohibited in the area between the planted buffer and the residential district. The owner or occupant of the premises shall properly and continuously maintain this area.
9. If a fence is erected on the residential district side of the planted buffer by the party establishing the buffer, the fence shall be one of the following types:
 - a. A six (6) foot high wood, basket weave type fence;
 - b. A six (6) foot high picket type fence;
 - c. A six (6) foot high chain link type fence;
 - d. A six (6) foot high open type fence;
 - e. A six (6) foot-high solid masonry wall.
10. Fences with barbed or razor wire shall be located on the inside of the buffer. (Ord. of 12-7-04, No. 37-02)

Secs. 9-3-194 through 9-3-200 reserved.

ARTICLE L

Planned Unit Developments

Sec. 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 use, provided that the conditions specified in this article are met.

1. *Permitted uses and requirements.*
 - a. Permitted uses within the PUD: Uses permitted within the zoning district for which the project site is located.
 - b. Permitted building and lot types: Building and lot types permitted within the zoning district for which the project site is located.
 - c. Permitted accessory structures and uses: Accessory structures and uses permitted within the zoning district for which the project site is located.
 - d. General requirements:
 - (1) At the time of application for a PUD, all land, structures and other real property shall be in single or joint ownership of whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the submission of an application for a Planned Unit Development - Residential.
 - (2) A PUD shall be located on a site containing at least two (2) contiguous acres.
 - (3) The development shall be in full compliance with all density and lot coverage limitations and requirements of the zoning district in which the development is to be located.

(4) At least ten percent (10%) of the land area for a PUD-R shall be dedicated as permanent open/recreational space. This area shall be identified as open/recreation space on the submitted plans and shall be recorded as such in the Office of the Register of Deeds. This requirement may be reduced or eliminated upon approval by the Board of Adjustment if the proposed PUD-R is located within one-quarter (1/4) mile of a city owned and maintained recreational area or park. The Board of Adjustment must also determine if the existing recreational area or park will meet the needs of the PUD-R and surrounding development before it reduces any of the open space requirements.

(5) All new PUDs in R-1, R-2, B-1, B-2 and B-3 districts shall provide concrete sidewalks along all existing and proposed public streets within. Sidewalks shall only be required on the internal side of existing streets that are on the perimeter of the PUD in the above listed zoning districts. Sidewalks shall be a minimum of five (5) feet wide and four (4) inches thick except that at non-residential driveway entrances the sidewalk shall be six (6) inches thick. Sidewalks will not be required along alleys. All pedestrian segments shall meet or exceed ADA standards and shall be constructed of concrete.

(6) The Board of Adjustment may require buffering around the proposed PUD.

(7) In approving an application for a PUD, the Board of Adjustment shall find that the proposed development will be compatible with comprehensive, land use, and neighborhood development plans, will not place an excessive traffic load on local streets, that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.

(8) Site development within the PUD shall conform to the schematic plan and associated requirements of the conditional 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 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 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.

(1) Proposed location of buildings and their general exterior dimensions;

(2) Proposed use of all the land within the area requested for a PUD;

(3) Dimensions between all buildings and from buildings to property lines;

(4) Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets;

(5) Proposed location and material of any screening walls, fences, or plantings;

(6) Proposed exterior design of buildings;

(7) Schedule of number and size of dwelling units within the project (PUD-R only);

(8) Proposed time schedule and staging, if any, for construction of the project. (Ord. of 12-7-04, No. 37-02; Ord. of 10-6-08, No. 02-09)

Secs. 9-3-202 through 9-3-210 reserved.

ARTICLE M

Watershed Protection Rules

Sec. 9-3-211 Statutory authorization.

The Legislature of the State of North Carolina has, in Chapter 160A, Article 8, Section 174, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, (N.C.G.S. 143-214.5), delegated the responsibility and directed local governmental units in the state to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. These rules are adopted pursuant to and in compliance with that delegation and directive. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-212 Jurisdiction.

The provision of these rules shall apply within the areas designated as a public water supply watershed by the North Carolina Environmental Management Commission which are also within the corporate limits of the City of Claremont or within the extraterritorial planning jurisdiction of the City of Claremont as now or hereafter fixed and shall be defined and established as an overlay on the official zoning map. The watershed overlay and all explanatory matter contained thereon accompany and are hereby made a part of these

rules. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-213 Exceptions to applicability.

1. Nothing contained herein shall repeal, modify, or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of these rules amend, modify or restrict any provisions of the Code of Ordinances of the City of Claremont; however, the adoption of these rules shall and does amend any and all ordinances, resolutions, and regulations in effect in the City of Claremont at the time of the adoption of these rules that may be construed to impair or reduce the effectiveness of these rules or to conflict with any of their provisions.

2. It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

3. Existing development, as defined in these rules, is not subject to the requirements of these rules. Expansions to structures classified as existing development must meet the requirements of these rules; however, the built-upon area of the existing development is not required to be included in the density calculations.

4. If a non-conforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this chapter if it is developed for single family purposes. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-214 Criminal penalties.

Any person violating any provisions of these rules shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with N.C.G.S. 14-4. The maximum fine for each offense shall not exceed five hundred dollars (\$500.00). Each day that the violation continues shall constitute a separate offense. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-215 Remedies.

1. If any subdivision, development, and/or land use is found to be in violation of these rules, the Claremont City Council may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of fifty dollars (\$50.00), action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business or use in or about the premises. In addition, the North Carolina Environmental Management Commission may assess civil penalties in accordance with N.C.G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.

2. If the Watershed Administrator finds that any of the provisions of these rules are being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by these rules to ensure compliance with or to prevent violation of their provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-216 Severability.

Should any section or provision of these rules be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of these rules as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-217 Effective date.

These rules shall be effective as of October 1, 1993. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-218 Establishment of watershed areas.

For purposes of these rules, the protected watershed of the City of Claremont and its extraterritorial planning jurisdiction are overlaid by the following district:

1. WS-IV-PA (Protected Area). (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-219 Watershed areas described.

WS-IV Watershed Areas - Protected Area (WS-IV-PA). Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of these rules when located in the WS-IV protected area. In order to address a moderate

to high land use intensity pattern, except as provided herein below, single family residential uses shall develop at a maximum of two (2) dwelling units per acre. Except as provided herein below, all other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. A maximum of three (3) dwelling units per acre or thirty-six percent (36%) built-upon area is allowed for projects without a curb and gutter street system. In addition, non-residential uses may occupy ten percent (10%) of the protected area outside the Water Quality Critical Area with a seventy percent (70%) built-upon area when approved as a 10/70 bonus permit as provided for in Section 9-3-220, hereinafter.

1. *Uses allowed.*

a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

c. Residential development.

d. Non-residential development, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented.

2. *Density and built-upon limits.*

a. Single family residential. Development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis except for projects without a curb and gutter system. No residential lot shall be less than one-half (1/2) acre, or one-third (1/3) acre for projects without a curb and gutter system, except within an approved cluster development.

b. All other residential and non-residential. Development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis, except that, for projects without a curb and gutter street system, development shall not exceed thirty-six (36%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed, and except that up to ten percent (10%) of the protected area of the watershed may be developed for non-residential uses to seventy percent (70%) built-upon area on a project by project basis subject to approval of a 10/70 bonus permit as provided for in Section 9-3-220, hereinafter. (Ord. of 12-7-04, No. 37-02)

Sec. 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 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.

2. In reviewing an application for a 10/70 bonus permit, the Watershed Review Board, acting as a Board of Adjustment, shall make the general findings-of-fact as set forth in Section 9-3-236.2, hereinafter. In addition, the Board shall rate and prioritize the property and its proposed development according to any or all of the following pertinent factors:

a. Whether the proposal is in conformance with the city's current land use plans;

b. Whether the project is in close proximity to interstate, state primary, or other major thoroughfares;

c. Whether the project is in close proximity to necessary utilities, such as water, sewer and natural gas or has made provision to access the same, as well as whether the project has good access to the major highway arteries, listed above;

d. The likelihood of success of the proposed development based on site specific factors, such as, but not limited to, soil type, topography, distance to public utilities, and road access;

e. Whether or not the proposed development is located inside the city limits;

f. Projected increase in the city's assessed tax valuation;

g. The ratio of projected capital investment relative to burden on the city's water and sewer infrastructure; and

h. The extent to which the project minimizes built-upon surface area and directs storm water runoff away from surface waters. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-221 Cluster development.

Clustering of development is allowed under the following conditions:

1. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 9-3-219. Built-upon area for the project shall not exceed that allowed for the watershed.
2. All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
3. The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-222 Buffer areas required.

1. A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot vegetative buffer for development activities is required along the stream bank of all perennial waters indicated on the most recent versions of US GS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.
2. No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices.
(Ord. of 12-7-04, No. 37-02; Ord. of 1-5-15, No. 12-14)

Sec. 9-3-223 Rules governing the interpretation of watershed area boundaries.

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

1. Where area boundaries are indicated as approximately following either street, alley, railroad, or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
2. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the city as evidence that one or more properties along these boundaries do not lie within the watershed area.
3. Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
4. Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
5. Where other uncertainty exists, the Watershed Administrator shall interpret the watershed map as to location of such boundaries. This decision may be appealed to the Watershed Review Board. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-224 Application of regulations.

1. No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
2. No area required for the purpose of complying with the provisions of these rules shall be included in the area required for another building. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-225 Existing development.

Any existing development, as defined in these rules, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of these rules; however, the built-upon area of the existing development is not required to be included in the density calculations.

1. *Vacant lots.* This category consists of vacant lots for which plats or deeds have been recorded in the Office of the Register of Deeds of Catawba County. Lots may be used for any of the uses allowed in the watershed area in which it is located, even though the lot area is below the minimum specified in these rules.

2. *Uses of land.* This category consists of uses existing at the time of adoption of these rules where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

a. When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

b. Such use of land shall be changed only to an allowed use.

c. When such use ceases for a period of at least one (1) year, it shall not be reestablished.

3. *Reconstruction of buildings or built-upon areas.* Any existing building or built-upon area not in conformance with the restrictions of these rules that is damaged or removed may be repaired and/or reconstructed; however, repair or reconstruction must be initiated within twelve (12) months and completed within two (2) years of such damage. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-226 Watershed protection permit.

1. Except where a single family residence is constructed on a lot deeded prior to the effective date of these rules, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued, nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Watershed Administrator. No watershed protection permit shall be issued except in conformity with the provisions of these rules.

2. Watershed protection permit applications shall be filed with the Watershed Administrator. The application shall be part of the application for a zoning compliance permit.

3. Prior to issuance of a watershed protection permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of these rules.

4. A watershed protection permit, which shall be incorporated within the zoning compliance permit, shall expire if a building permit for such use is not obtained by the applicant within six (6) months from the date of issuance. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-227 Building permit required.

No permit required under the North Carolina State Building Code shall be issued for any activity for which a watershed protection permit is required until that permit has been issued. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-228 Public health, in general.

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-229 Abatement.

1. The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

2. The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.

3. Where the Watershed Review Board finds a threat to water quality and public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-230 Watershed Administrator; duties thereof.

The City of Claremont shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of these rules as follows:

1. The Watershed Administrator shall issue watershed protection permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours.

2. The Watershed Administrator shall serve as clerk to the Watershed Review Board.

3. The Watershed Administrator shall keep records of all amendments to the local water supply watershed protection rules and shall provide copies of all amendments upon adoption to the Division of Water Quality.

4. The Watershed Administrator is granted the authority to administer and enforce the provisions of these rules. The Watershed Administrator, or his or her duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him or her by these rules.

5. The Watershed Administrator shall keep a record of variances to the local water supply watershed protection rules. This record shall be submitted each calendar year to the Division of Water Quality on or before January 1 of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

6. The Watershed Administrator shall keep records of the city's utilization of the provision that a maximum of ten percent (10%) of the non-critical area of the WS-IV protected area watershed may be developed with non-residential development to a maximum of seventy percent (70%) built-upon surface area. Records for the watershed shall include the total acres of watershed area, total acres eligible to be developed under the option, total acres approved for the development option and the individual file records for each development that is approved in these areas. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-231 Appeals from Watershed Administrator.

1. Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

2. An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

3. An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him or her, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

4. The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-232 Changes and amendments to the watershed protection rules.

1. The City Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

2. No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the City Council may proceed as though a favorable report had been received.

3. Under no circumstances shall the City Council adopt such amendments, supplements or changes that would cause these rules to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. All amendments must be filed with the North Carolina Division of Environmental Health and the North Carolina Division of Community Assistance. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-233 Public notice and hearing required.

Before amending these rules, the City Council shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-234 Establishment of Watershed Review Board.

The Board of Adjustment of the City of Claremont, as the same shall be constituted from time to time, shall also serve as the city's Watershed Review Board. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-235 Powers and duties of the Watershed Review Board.

1. *Administrative review.* The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of these rules.

2. *Variances.* The Watershed Review Board shall have the power to authorize, in specific cases, a minor variance from the terms of these rules as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of these rules will result in practical difficulties or unnecessary hardship, so that the spirit of these rules shall be observed, public safety and welfare secured, and substantial justice

done. In addition, the city shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

3. In granting the variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of these rules. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

4. If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- a. The variance application;
- b. The hearing notices;
- c. The evidence presented;
- d. Motions, offers of proof, objections to evidence, and rulings on them;
- e. Proposed findings and exceptions;
- f. The proposed decision, including all conditions proposed to be added to the permit.

5. The preliminary record shall be sent to the Environmental Management Commission for its review. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-236 Special procedures regarding issuance of 10/70 bonus permit.

1. *Deliberations by Watershed Review Board.* In addition to consideration of the specific criteria set forth in Section 9-3-220.2, hereinabove, the Watershed Review Board, acting as a Board of Adjustment, shall use the general standards and follow the more specific requirements established in Section 9-3-236.2, hereinafter, to direct its deliberations upon applications for approval of 10/70 bonus permits.

2. General standards:

a. The following general standards shall be met by all applicants for approval of 10/70 bonus permits:

- (1) The development, as proposed, will promote the public health, safety, and general welfare if located where proposed and developed and operated according to the application; and
- (2) The proposed development is in compliance with the general plans for the physical development of the city and its environs;

b. The Watershed Review Board shall make these general findings based upon substantial evidence contained in its proceedings. It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans, and the like to support the application for approval of a 10/70 bonus permit.

3. Procedure for application:

a. Application submitted to Watershed Administrator.

(1) Applications for approval of 10/70 bonus permits shall be filed with the Watershed Administrator, who shall, before accepting any application insure that it contains all required information.

(2) Applications which are not complete, or otherwise do not comply with the provisions of this article, shall not be accepted by the Watershed Administrator but shall be returned forthwith to the applicant, with a notation by the Watershed Administrator of the deficiencies in the application.

b. Report on application for 10/70 bonus permit. In the case of an application for a 10/70 bonus permit, the Watershed Administrator shall submit a report and recommendation to the Watershed Review Board, acting as a Board of Adjustment, within thirty (30) days.

c. Public hearing required, notice specified:

(1) Prior to consideration of an application for approval of a 10/70 bonus permit, a public hearing thereon shall be held by the Watershed Review Board, acting as a Board of Adjustment.

(2) The Watershed Administrator shall cause public notice to be given of the date, time, and place of the public hearing to be held to receive comments, testimony, and exhibits pertaining to the application for approval of a 10/70 bonus permit.

(3) The notice shall be published in a newspaper of general circulation in the city once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

d. Action on application.

(1) After completion of the public hearing, the Watershed Review Board shall take action upon the application, which shall consist of one of the following:

- (a) Approval;
- (b) Approval with conditions attached; and
- (c) Denial.

(2) In every case, the action of the Watershed Review Board shall include a summary of the evidence supporting the action taken by it on the application.

e. Action subsequent to decision:

(1) The Watershed Administrator shall cause notice of the disposition of the application to be sent by certified mail, return receipt requested, to the applicant and a copy of the decision to be filed in the Office of the Watershed Administrator.

(2) The Watershed Administrator, in the case of approval or approval with conditions, shall issue the necessary permit in accordance with the action.

4. *Imposed conditions:*

a. The Watershed Review Board, acting as a Board of Adjustment, may impose such reasonable conditions upon approval of a 10/70 bonus permit as will afford protection of the public health, safety, and general welfare, insure that substantial justice is done, and equitable treatment provided.

b. Such conditions shall run with the land and shall be binding upon the original applicant(s) as well as all successors, heirs, and assigns.

5. *Contents of application.* The application for approval of a 10/70 bonus permit shall be submitted on forms provided by the Watershed Administrator. Such forms shall be prepared so that, when completed, a full and accurate description of the proposed use, including its location, appearance, and operational characteristics, shall be disclosed. Additionally, the forms shall, when completed by the applicant, disclose the name(s) and address(es) of the owner(s) of the property involved, the name(s) and address(es) of the applicant, if different from the owner(s), and all relevant information needed to show compliance with the general and specific standards governing the 10/70 bonus permit which is the subject of the application.

6. *Minor changes and modifications approval required:*

a. The Watershed Administrator is authorized to approve minor changes in the approved plan for a 10/70 bonus permit, as long as such minor changes are in harmony with the action of the Watershed Review Board, but he or she shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the Watershed Review Board, acting as a Board of Adjustment, and shall be handled as a new application.

b. The Watershed Administrator shall use the following criteria in determining whether a proposed revision is a minor change or a modification;

(1) Any change in intensity shall constitute a modification.

(2) Any increase in intensity of use shall constitute a modification. An increase in intensity of use shall be considered to be an increase in usable floor area, an increase in the number of units, or an increase in outside land area devoted to sales, displays, or demonstrations.

(3) Any change in parking areas resulting in an increase or reduction of five percent (5%) or more in the number of spaces approved by the Watershed Review Board shall constitute a modification.

(4) Structural alterations significantly affecting the basic size, form, style and the like of any buildings, as shown on the approved plan, shall be considered a modification.

(5) Substantial decrease in the amount or location of open space, recreation facilities, or landscape screens shall constitute a modification.

(6) A change in use shall constitute a modification.

(7) Substantial changes in pedestrian or vehicular access or circulation shall constitute a modification.

c. The Watershed Administrator shall, before making a determination as to whether a proposed action is a minor change or a modification, review the record of the proceedings on the original application for the approval of the 10/70 bonus permit.

d. The Watershed Administrator shall, if he or she determines that the proposed action is a modification, require the applicant to file a request for approval of the modification, which shall be submitted to the Watershed Review Board, acting as a Board of Adjustment. The Board may approve or disapprove the application for approval of a modification, and prior to its action, may hold a public hearing thereon. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-237 Appeals from Watershed Review Board.

Appeals from the Watershed Review Board must be filed with the Superior Court within thirty (30) days

from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-238 Illicit discharges and connections.

1. *Illicit discharges.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the state, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- a. Water line flushing;
- b. Landscape irrigation;
- c. Diverted stream flows;
- d. Rising ground waters;
- e. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- f. Uncontaminated pumped ground water;
- g. Discharges from potable water sources;
- h. Foundation drains;
- i. Air conditioning condensation;
- j. Irrigation water;
- k. Springs;
- l. Water from crawl space pumps;
- m. Footing drains;
- n. Lawn watering;
- o. Individual residential car washing;
- p. Flows from riparian habitats and wetlands;
- q. Dechlorinated swimming pool discharges;
- r. Street wash water; and
- s. Other non-stormwater discharges for which a valid NPDS discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the City of Claremont.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter

2. *Illicit connections.*

a. Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection 1. above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

b. Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one (1) year following the effective date of this section. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

c. Where it is determined that said connection:

(1) May result in the discharge of hazardous materials or may pose an immediate threat to health and safety or is likely to result in the immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or

(2) Was made in violation of any applicable regulation or ordinance, other than this section; the Watershed Administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Watershed Administrator shall take into consideration:

- A. The quantity and complexity of the work;
- B. The consequences of delay;

- C. The potential harm to the environment, to the public health, and to public and private property; and
- D. The cost of remedying the damage.

3. *Spills.* Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition. Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the city Fire Chief of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

4. *Nuisance.* Illicit discharges and illicit connections which exist within the city limits are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in section 9-3-245, Penalties for Violation.

(Ord. of 4/4/09, No. 20-09)

Secs. 9-3-239 and 9-3-240 reserved.

ARTICLE N

Administration, Enforcement and Penalties

Sec. 9-3-241 Zoning Enforcement Officer.

This chapter shall be administered and enforced by the Zoning Enforcement Officer who shall be appointed by the City Manager, and is hereby empowered:

1. To issue a zoning permit when these regulations have been followed or, to refuse to issue the same in the event of noncompliance. Written notice of such refusal and reason therefore shall be given to the applicant.
2. To collect the fees set forth herein for a zoning permit, variances, appeals, rezonings, conditional use permits and subdivisions.
3. To make and keep all records necessary and appropriate to the office, including record of the issuance and denial of all zoning permits and of receipt of complaints of violation of this chapter and action taken to the same.
4. To inspect any building and/or land to determine whether any violations of this chapter have been committed or exist.
5. To enforce this chapter and take all necessary steps to remedy any condition found in violation by ordering in writing the discontinuance of illegal uses or illegal work in progress and may institute injunction, mandamus, or other necessary action.
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 use approval. (Ord. of 12-7-04, No. 37-02)

Sec. 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. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-243 Application for zoning permit.

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. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-244 Certificate of occupancy required.

No land within the corporate limits or extraterritorial zoning jurisdiction of the City of Claremont shall be used or occupied and no building within the corporate limits or extraterritorial zoning jurisdiction of the City of Claremont shall hereafter be erected, structurally altered, converted or changed in use until a certificate of occupancy shall have been issued by the Zoning Enforcement Officer stating that the building or the proposed use thereof complies with the provisions of this chapter. A certificate of occupancy either for the whole or a part of a building shall be applied for coincident with the application for a zoning permit and shall be issued within ten (10) days after the erection or structural alteration of such building, or part, shall have been completed in conformity with the provisions of this chapter. A temporary certificate of occupancy may be issued by the Zoning Enforcement Officer for a period not exceeding six (6) months during alterations or construction for partial occupancy of a building pending its completion, or for bazaars, carnivals, and revivals, provided that such temporary permit shall require such conditions and safeguards as will protect the safety of the occupants and the public. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person requesting it. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-245 Penalties for violations.

1. Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding two hundred dollars (\$200.00) or by imprisonment not to exceed thirty (30) days.

2. In addition to the penalty in subsection 1. above, a violation of this chapter shall also be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day that the violation continues. Any person violating this chapter shall be issued a written citation. The penalty shall be paid to the City of Claremont within seventy-two (72) hours from the time of issuance of the written citation.

3. Each day's continuing violation shall be a separate and distinct offense.

4. In addition to the penalties imposed under 1. and 2. above, the provisions of this chapter may also be enforced through equitable remedies issued by a court of competent jurisdiction including injunction and order of abatement.

5. This chapter may be enforced by any one, all or a combination of the remedies authorized herein. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-246 Remedies.

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)

Secs. 9-3-247 through 9-3-250 reserved.

**ARTICLE O
Planning Board**

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

A Planning Board is hereby established as provided in Section 160A-361 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. 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)

Sec. 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 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)

Secs. 9-3-253 through 9-3-260 reserved.

ARTICLE P

Board of Adjustment

Sec. 9-3-261 Establishment of Board of Adjustment.

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)

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

The concurring vote of four-fifths of the members of the Board of Adjustment - 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 use permit. In accordance with N.C.G.S. 160A-388(e) no member of the Board of Adjustment shall participate or vote in any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. If an objection is raised

to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. Vacant positions and members who are disqualified from voting are not calculated for the concurring four-fifths vote or simple majority vote. Alternate members may serve temporarily (including voting) in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a regular member. Alternate members shall be eligible for appointment by the City Council as a regular member of the Board of Adjustment. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06; Ord. of 3/3/14, No. 09-13)

Sec. 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 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). 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)

Sec. 9-3-264 Hearing, appeals and notice.

All hearings under this article, whether an appeal or otherwise, shall be conducted as follows:

1. *Hearings.*

- a. All hearings of the Board shall be open to the public.
- b. No final action shall be taken on any matter unless a quorum is present. A quorum shall consist of a majority of the total members of the Board.
- c. A notice of the 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; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
- d. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact. All decisions shall be made within a reasonable time and shall be based upon competent, material, and substantial evidence in the record. Each decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The decision is effective upon filing the written decision with the City Clerk. The final disposition of appeals shall be made by recorded resolution indicating the reason of the Board therefore, all of which shall be a public record. The decision of the Board shall be delivered by personal delivery, electronic mail or by first class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Chairman of the Board of Adjustment shall certify that proper notice of the decision has been made at the time of filing of the written decision with the Clerk.

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 all of the following:

- a. Any person who has standing under N.C.G.S. 160A-393(d) 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.
- b. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written

notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

c. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

d. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

e. The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

f. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

g. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal the board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06; Ord. of 3/3/14, No. 09-13)

Sec. 9-3-265 Stay of proceedings.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Enforcement Officer and on due cause shown. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

Sec. 9-3-266 Fees for variances, conditional 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 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)

Sec. 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 uses.* To grant in particular cases and subject to the appropriate conditions and safeguards, permits for conditional uses as authorized by this chapter and set forth as conditional uses under the various use districts. A majority vote of the Board of Adjustment members is required to grant any conditional use.

The Board shall not grant a conditional use permit unless and until:

a. A written application for a conditional use permit is submitted to the Zoning Enforcement Officer indicating the section of this chapter under which the conditional 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 use permit is sought.

c. The Board of Adjustment finds that in the particular case in question the use for which the conditional use permit is sought will not adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this chapter.

d. Compliance with other codes. Granting a conditional 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 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 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.

3. *Variances.* To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the chapter will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done. To vary any provisions of this article, a concurring four-fifths (4/5) vote of the members of the Board is required. The existence of a non-conforming use of neighboring land, buildings, or structures in the same district or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment may vary any of the provisions of the ordinance upon a showing of the following:

a. Unnecessary hardship would result from the strict application of the ordinance. It shall not be 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 of the general public may not be the basis for granting a variance.

c. The hardship did not result from the actions taken by the applicant or the property owner. The act of purchasing the property with knowledge that the circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.

d. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety, is secured and substantial justice is achieved.

e. Appropriate conditions may be imposed on any variance provided that the conditions are reasonable and related to the variance.

f. The variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved.

g. Any other ordinance that regulates land use or development may provide for variances consistent with

the provisions of this division.

4. *Decision of the Board of Adjustment.* In exercising the above mentioned power, the Board of Adjustment may reverse or affirm, wholly or in part, or may modify any order, decision or determination and to that end shall have the power of the official from whom the appeal is taken. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06; Ord. of 3/3/14, No. 09-13)

Sec. 9-3-268 Appeals from Board of Adjustment.

Any person or persons, jointly or severally, aggrieved by a decision of the Board, may within thirty (30) days after the filing of the decision in the office of the City Clerk, but not thereafter, present 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. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

Secs. 9-3-269 and 9-3-270 reserved.

ARTICLE Q Amendments

Sec. 9-3-271 Procedure for amendments.

The City Council may amend, supplement or change the text regulations and zoning district lines according to the following procedures:

1. *Initiation of amendments.* Proposed changes or amendments may be initiated by the City Council, Planning Board, Board of Adjustment, or by one or more owners or lessees of property within the area proposed to be changed or affected.

2. *Petition.* A petition for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied and the names and addresses of the owner or owners of the property. Such petition shall be filed with the Zoning Enforcement Officer not later than three (3) weeks prior to the meeting at which the petition is to be considered.

3. *Fee.* A fee, set by the City Council, shall be paid to the City Clerk of the City of Claremont, North Carolina, for each petition for an amendment to cover the costs of advertising and other administrative expenses involved. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

Sec. 9-3-272 Action by Planning Board.

The Planning Board shall consider and make recommendations to the City Council concerning 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. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

Sec. 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. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

Sec. 9-3-274 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, 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, 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) individual mailed notices may be waived in lieu of a substitute notice if the amendment meets at least one of the following criteria:

(1) If the zoning reclassification directly involves more than fifty (50) properties, owned by a total of at least fifty (50) different owners;

(2) If the proposal involves an amendment to the text of this chapter such that it changes the permitted, conditional, or accessory uses of a zoning district;

(3) If the city is adopting a water supply watershed protection program as required by N.C.G.S. 143-214.5.

b. Notice requirements for amendments meeting any of the three criteria of subsection 3(a) above are as follows:

(1) Notice of the public hearing shall be published in a newspaper of general circulation in the City of Claremont at least once each week for four (4) consecutive weeks prior to the hearing. The notice must include a map no less than one-half (1/2) the size of the newspaper page. The map must show the boundaries of the area affected by the proposed amendment;

(2) The city must post at least one (1) or more prominent signs immediately adjacent to the subject area. The signs must be of a type and size that may be reasonably expected to provide adequate notice of the proposal to the public;

(3) The city must notify by first class mail any property owner who resides outside the city's zoning jurisdiction or outside the circulation area of the newspaper in which the notice is published. The notice must be mailed to the last address listed for such owners on the most recent county tax listing. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

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 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. (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

Sec. 9-3-276 Protest petitions.

1. *General.* A protest petition may be presented against any proposed amendment. The protest petition must be signed by at least twenty percent (20%) of the property owners of the area which would be affected by the amendment or those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred (100) feet there from, or of those directly opposite thereto extending one hundred (100) feet from the street frontage on the opposite lots. In this case the amendment shall not become effective except by favorable vote of three-fourths of all members of the Claremont City Council.

2. *Petition requirements.* No protest petition against any change in or amendment to this chapter or the zoning map shall be valid unless presented in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do indeed protest the proposed amendment or change. Furthermore, the protest petition must be received by the City Clerk in sufficient time to allow the city at least two (2) normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment in order to determine the sufficiency and accuracy of the petition (G.S. 160A-387). (Ord. of 12-7-04, No. 37-02; Ord. of 8-7-06, No. 18-06)

Secs. 9-3-277 through 9-3-280 reserved.

ARTICLE R **Legal Provisions**

Sec. 9-3-281 Conflict with other regulations.

Whenever the regulations of this chapter require a greater width or size of yards, or other open space, or require a lower height of buildings, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the regulations and

requirements of this chapter shall govern.

Whenever the provisions of any other statute require more restrictive standards than are required by this chapter, the provisions of such statute shall govern. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-282 Repeal of existing zoning ordinance.

All zoning ordinances or parts of same now in effect in the City of Claremont are hereby repealed, provided, however, that all suits at law or in equity and/or all prosecutions resulting from the violation of any zoning ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter but shall be prosecuted to their finality the same as if this chapter had not been adopted; any and all violations of existing zoning ordinances, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this chapter shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-283 Validity.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid. (Ord. of 12-7-04, No. 37-02)

Sec. 9-3-284 Enactment.

The Mayor and City Council of Claremont, North Carolina, do hereby ordain into law these articles and sections on this seventh day of December, 2004, to take effect on the fifth day of April, 2005. (Ord. of 12-7-04, No. 37-02)

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