



Town of Clayton
Regular Town Council Meeting Agenda
Tuesday, September 5, 2023 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

THE PUBLIC MAY VIEW THE LIVE COUNCIL MEETING ON THE TOWN'S YOUTUBE CHANNEL:
<https://www.youtube.com/TownofClaytonNC>

1. CALL TO ORDER

- a. Call to Order
- b. Pledge of Allegiance
- c. Invocation

2. ADJUSTMENT OF THE AGENDA

- a. **POTENTIAL ACTION:** Approve or Adjust the Agenda

3. CONSENT AGENDA

(Items on the consent agenda are considered routine in nature or have been thoroughly discussed at previous meetings. Any member of the Council may request to have an item removed from the consent agenda for further discussion.)

- a. Minutes
 - August 21, 2023 - Regular Session
 - August 21, 2023 - Closed Session

Presenter: Heidi Holland, Town Clerk
[August 21, 2023 - Regular Session](#)
- b. Water Shortage Response Plan
Presenter: Brandon Carroll, Utility Compliance Supervisor, Water Resources
[Water Shortage Response Plan](#)
- c. Resolution 2023-56: To Accept Streets into the Town Of Clayton Street System for Maintenance – Cameron Crossing, Phases 2 & 3
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director
[Resolution 2023-56: To Accept Streets into the Town Of Clayton Street System for Maintenance – Cameron Crossing, Phases 2 & 3](#)

POTENTIAL ACTION: Approve Consent Agenda as Presented

4. ADMINISTRATIVE ITEMS

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

6. PUBLIC HEARINGS

- a. 2023-116-OA Yard Encroachments and Screening UDC Text Amendment
Presenter: Bruce Venable, Planner I

[2023-116-OA Yard Encroachments and Screening UDC Text Amendment](#)

POTENTIAL ACTION: Adoption of Ordinance #2023-09-01 and
Consistency and Reasonableness Statement

7. OLD BUSINESS

8. NEW BUSINESS

9. STAFF REPORTS

- a. Town Manager
- b. Town Attorney
- c. Town Clerk
- d. Other Staff

10. OTHER BUSINESS

- a. Informal Discussion & Public Comment
 - Individuals have three (3) minutes to address the Town Council.
 - Groups will designate a spokesperson. Spokesperson will have five (5) minutes to address the Town Council.
- b. Council Comments

11. CLOSED SESSION

- a. To Discuss Legal Matter in Accordance with NC GS 143-318.11(a)(3) & To Discuss Economic Development in accordance with NC GS 143-318.11(a)(4)

POTENTIAL ACTION: Motion To Go Into Closed Session

POTENTIAL ACTION: Motion To Return To Open Session

12. ADJOURNMENT

- a. Adjourn
- POTENTIAL ACTION:** Motion To Adjourn



Town of Clayton
Regular Town Council Meeting Minutes
Monday, August 21, 2023 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

Council Present:

Mayor Jody McLeod
Mayor Pro Tem Jason Thompson
Council Member Porter Casey
Council Member Avery Everett
Council Member Andria Archer
Council Member Michael Sims

Council Absent:

None

Staff Present:

Rich Cappola, Town Manager
Jim Cauley, Town Attorney
Heidi Holland, Town Clerk
Dolores Gill, Deputy Town Manager
Lee Barbee, Deputy Town Manager
Robert McKie, Finance Director
Greg Tart, Police Chief
Jonathan Jacobs, Interim Planning Director
Joshua Baird, Engineering Director
Nathanael Shelton, Communications Officer
Ben Howell, Planning Director
Bruce Venable, Planner

1. CALL TO ORDER

- a. Call to Order

Mayor McLeod called the meeting to order at 6:00 p.m.

- b. Pledge of Allegiance

Presenter: Clayton Fire Department Honor Guard provided the Color Guard and led the Pledge of Allegiance.

- c. Invocation

Mayor McLeod provided the Invocation.

2. ADJUSTMENT OF THE AGENDA

- a. Rich Cappola provided adjustments to the agenda as follows:
3b. Building Code and Staff Appreciation to be moved to 5a.
Add 10d. Strategic Plan Process Update

Approve or Adjust the Agenda

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

3. CONSENT AGENDA

- a. Minutes
 - August 7, 2023 - Work Session
 - August 7, 2023 - Regular Session

Presenter: Heidi Holland, Town Clerk
- b. Building and Code Staff Appreciation Day Proclamation
(This was moved to 5a).
Presenter: Heidi Holland, Town Clerk
- c. Resolution 2023-47: To Accept Public Utilities into the Town of Clayton Public Utility System for Maintenance - Academy Point, Phase 5-7
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director
- d. Resolution 2023-48: To Accept Public Utilities into the Town of Clayton Public Utility System for Maintenance - Ashcroft, Phase 7
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director
- e. Resolution 2023-53: To Accept Public Utilities into The Town of Clayton Public Utility System for Maintenance – Spinning Mill Apartments.
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director
- f. Resolution 2023-54: To Amend Resolution 2023-38 to Accept Streets into The Town of Clayton Street System for Maintenance - Walk at East Village Phase 2
Presenter: Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

Approve Consent As Presented

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson
SECONDER:	Porter Casey
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

4. ADMINISTRATIVE ITEMS

5. INTRODUCTIONS AND SPECIAL PRESENTATIONS

- a. Building and Code Staff Appreciation Day Proclamation
Presenter: Mayor McLeod

Mayor McLeod read the proclamation into the record and presented this to Robert Yarbrough.

6. PUBLIC HEARINGS

- a. 2023-66-RZ Milam Equipment Rezoning
Presenter: Bruce Venable, Planner I

Mr. Venable stated this request is to rezone from B-3 to I-1. This property is approximately 9.80 acres located at 7581 and 7531 Hwy 70 Business and is currently vacant. He stated the future land use map has this property as Employment Center.

Staff and the planning board recommend approval. Mr. Venable stated the applicant is here tonight.

Mayor McLeod stated this has been noted as a public hearing and asked if anyone wished to speak.

Bobby HERNIC, Attorney for the applicant, was present. He stated this property is adjacent to Sun Belt Rentals. He stated they would be back in the future for an annexation and if approved, would begin the site plan process.

Mayor McLeod asked if anyone else wished to speak. With no one further wishing to speak the public hearing was closed and turned over to Council for deliberation.

Adoption of Ordinance # 2023-08-01 and Consistency and Reasonableness Statement

RESULT:	CARRIED 5-0
MOVER:	Andria Archer
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

b. 2023-64-ANX 8175 US 70 Bus Annexation

Mr. Venable stated this request is for a non-contiguous annexation, approximately 15.76 acres located off 8175 US Hwy 70 Business. He stated the future land use map has this property as Employment Center.

Mayor McLeod stated this has been noted as a public hearing and asked if anyone wished to speak.

Bernie Rice stated this is a request for a non-contiguous annexation and echoed Mr. Venable's information.

Mayor McLeod asked if anyone else wished to speak. With no one further wishing to speak the public hearing was closed and turned over to Council for deliberation.

Adoption of Ordinance #2023-08-03

RESULT:	CARRIED 5-0
MOVER:	Michael Sims
SECONDER:	Avery Everett
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

c. 2023-65-RZ 8175 US HWY 70 Rezoning

Presenter: Bruce Venable, Planner I

Mr. Venable stated this request is for a rezone from R-E and B-3 to I-2. The property size is 15.76 acres and currently the property is vacant. Shared was the zoning map. Staff and planning board recommend approval.

Mayor McLeod stated this has been noted as a public hearing and asked if anyone wished to speak.

Applicant Bernie Rice thanked Council for the consideration and stated he was here for any questions.

Mayor McLeod asked if anyone wished to speak. With no one wishing to speak the public hearing was closed and turned over to Council for deliberation.

Adoption of Ordinance #2023-08-02 and Consistency and Reasonableness Statement

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

7. QUASI-JUDICIAL HEARING

Quasi-Judicial Hearing

A quasi-judicial hearing resembles a court trial where testimony is presented. Citizens may give testimony in a quasi-judicial hearing after they have taken an oath. Town Council acts like a court of law and receives only sworn testimony and other credible evidence. In addition, the Town Council must make findings of fact based upon the evidence presented.

The Town Council refrains from "ex parte communication" about these cases, as the Town Council must make a decision based solely on the evidence presented at the hearing itself. Staff is available to assist with inquiries from citizens.

- a. 2022-186-SUP Ridgecrest Townes Special Use Permit
Presenter: Bruce Venable, Planner I

Attorney Cauley discussed the process of a quasi-judicial hearing. He recommended voting separately on all four findings of fact. The Town Clerk swore those in offering testimony.

Mr. Howell stated this request is for 128 townhomes units on approximately 30.34 acres located between City Road and N. O'Neil Street, with access on City Road and access on Ridgecrest through Starmont Drive.

The existing use is primarily vacant with a couple single family homes. An associated subdivision plan was shared as well as the proposed architecture elevations. He stated the proposed architectural elevations to be used would be luxury vinyl on all facades. The property is a mixture of downtown support as well as medium density residential

and high density residential in the future land use plan. The medium density allows for 3-5 units per acre, high density residential allows for less than 10 units per acre and downtown support allows for up to 25 units per acre. The proposed developed is asking for 9.33 units per acres. Shared was an adjacent zoning and land use map.

Stated were each of the findings of fact, these are located in the staff report. Staff has recommended a number of conditions. The first two are the standard conditions. Discussed were the rest of the conditions, all of which are located in the staff report.

Mr. Howell stated the applicant is here tonight. Attorney Cauley stated the applicant's attorney was running late. Mayor McLeod asked if there was anyone else that could speak. The applicant's consulting engineer, Javier Jaramillo with BGE, was present. Mayor McLeod asked Council if they had any questions for staff.

Council Member Casey stated in the staff report it mentioned a little under 10 units per acre, but the applicant's response was five units, he asked if this was a miscalculation. Mr. Howell stated the future land use plan allows for parts of the property to have up to 10 or even 25 units per acre and by our code, in R1- and R-8, SUP for townhomes can allow for up to 10 units per acre. The applicant is only proposing 4.22 dwelling units per acre.

Council Member Casey asked Mr. Howell to go to the current zoning designation slide. He asked Mr. Howell to explain the difference between R-10 and R-8. He stated the R-10 allows for single-family residential homes and on lots of the minimum lot size of 10,000 sq. ft. per lot. R-8 allows for single-family detached lots at a minimum lot size of 8,000 sq. ft. per lot. Both zoning districts permit townhomes as a special use when the application was submitted. The code has since been changed. Council Member Casey asked Mr. Howell to go to the future land use map slide. He asked about certain sections which include downtown neighborhood, high density residential and medium density residential. Council Member Casey if there was only a fraction designated as high density residential; Mr. Howell stated the majority of the property is designated to either downtown support or high density residential.

Council Member Sims asked Mr. Howell to verify Findings of Fact #1, he asked Mr. Howell to enlighten him on the "significant road improvements" statement. Mr. Howell stated the applicant is required to provide frontage improvements along City Road which would consist of widening curb, gutter and sidewalk. By DOT standards, they would be required to install turn lanes at their entrance. Council Member Sims asked if there was a length, Mr. Howell stated it would be along the entire frontage which is significant for this project and is one of the reasons the applicant has proposed a fee-in-lieu for those frontage improvements. Mr. Howell stated he does not have the length information but stated Jonathan Jacobs may have that. Mr. Jacobs stated the proposed section in the transportation document provided in the land use plan is a three-lane section so there is a center turn lane or a two-way turn lane in the center, they would be responsible for half of that so roughly about 12 feet.

Council Member Archer stated the proposed entrance off Ridgecrest appears to be in a steep slope area and possibly the entrance coming off City Road, do we know if any of those conflicts with the steep slope ordinance? Mr. Howell stated the way the resource conservation area ordinance is written is if the applicants can receive

approval from other agencies to impact the resource conservation areas, then they would be allowed to do that. While there are some steep slopes, they are related to those wetlands and streams. The way the ordinance has been interpreted is if the applicant can get proper permits to impact those wetlands and streams, then those steep slopes, which are directly related to those wetlands and streams, can be impacted as well.

Council Member Archer stated she noticed on the plans pertaining to steep slopes, there's a note that says, "steep slopes area shall be exempt for roadway crossing pending approval of NCDEQ permits". She asked if we knew if this would be approved at this point, Mr. Howell stated that is correct, they would have to receive the permits in order to construct those roads. Mr. Jacobs stated staff would not approve the construction drawings until that approval has been received.

Toby Coleman was present on behalf of the applicant. He said they were contacted by neighbors to the east who have concerns, those have tried to be addressed. Mr. Coleman distributed binders with documents containing evidence for this project to each Council Member. He asked this be made part of the record.

Mr. Coleman discussed Tri point Homes; they are a nationally publicly traded home developer. Alexis Karenbot from Tri point was present. He recapped what Mr. Howell stated about the project. He stated because of how the steep slopes and buffer interact, which makes the northern 11 acres practically infeasible, there is extensive open space, about 15 acres out of the 30. This means for 128-unit project, it equals about 4.2 units an acre. Shared was an overall site plan which shows this project would be built in phases. The main phase is north and west behind the Clayton Swim Club. He stated the pavement ends behind the swim club; this project would pave out the remainder of the existing right-of-way; that would be part of Phase 1. This would help improve the neighborhood in terms of providing an additional road.

Phase 2 is adjacent to Starmont 4 subdivision. This property is leftover of Starmont subdivision that was never built. Phase 3 would provide additional undeveloped road improvements. Shared was an example townhome elevations. In discussion with neighbors, they suggest providing masonry (70%) along the facades. Tri point took a look at this, this is not consistent with surrounding neighborhoods. Proposed is 30% masonry on the front façade.

Provided was history of the site. Gordon Real Estate attempted to develop this area in the late 1960/early 1970s. The Gordon family still owns a bulk of land that failed to be developed. The townhome proposal seeks to develop property in an environmentally sensitive manner consistent with development that has occurred over the last 50+ years. Because of topographical challenges, it creates an issue where you need some sort of clustering, the townhomes help with that.

Discussed was Findings of Fact #1. Mr. Coleman stated he wanted to highlight the staff report states there's adequate vehicular access and utilities for emergency and medical services and the proposed townhomes aren't expected to create a public health and safety danger. He stated Meadowbrook and Ridgecrest would be improved as part of this project. The Meadowbrook Drive is platted on paper but is not a road as of yet but is shown as a future road in the Town's Transportation Plan. There would be

a new connection that would run from Ridgecrest to City Road. It is not on the Town's Transportation Map, but it mirrors a planned road just south that would achieve the same connection. This would help grid out this area north of downtown and would provide a connection to N. O'Neil Street.

He stated they are sensitive to Council's concern about N. O'Neil Street, a traffic impact analysis has been done on this project. Traffic Engineer Lisa Lundeen with Exalt Engineering was present. She stated she has a bachelor's degree from NC State in Civil Engineering and has 12 years of experience. She stated based on an analysis for N. O'Neil Street is approximately 1250 vehicles per day, this project would only account for 1.5% of that total traffic. The roadway capacity for City Road is about 10,500 vehicles per day and this development is only expected to account for about 4% of the total capacity of the roadway.

Based on the total analysis, it was concluded the existing roadway network does provide the adequate capacity to accommodate the proposed site traffic that is expected of minimal impacts on the surrounding roadway network. Mr. Coleman stated the analysis is in the binder that was passed out to Council. He asked Ms. Lundeen if the technical memorandum, Ridgecrest Townes trip generation and distribution letter is a true and accurate copy, she stated yes.

Mayor McLeod asked Ms. Lundeen how many TIA she has completed in Clayton or Johnston County, she stated 5 or so.

Council Member Casey asked if the traffic would be a minimal impact; Ms. Lundeen stated that is correct. Council Member Sims asked how many units would be a significant impact? Ms. Lundeen stated typically the NCDOT threshold is 3,000 vehicles per day and the Town of Clayton threshold is about 1,000 vehicles per day for requiring a traffic impact analysis. Typically, if a development generates enough trips to trigger the need for a TIA, it could have impacts, therefore they would study more of the intersections. Council Members Sims asked if she had ever testified before a quasi-judicial hearing where there would be a significant impact? She stated there are certain subdivisions that would have a significant impact but generally with a TIA they would create a list of roadway improvements that would be needed with the development in order to mitigate the traffic.

Mr. Coleman asked Ms. Lundeen if she had ever performed a TIA of significant mitigation related to traffic generation, she stated yes. He asked if this is a project that she would foresee this type of mitigation? She stated no. Mr. Coleman stated a lot of traffic from this development would not go to N. O'Neil Street, it's estimated about 30% of the traffic would go to N. O'Neil Street and 70% would go to either City Road or down Ridgecrest Drive.

Mayor McLeod asked how this is calculated. Ms. Lundeen stated a proposed distribution is created on how they think traffic would go based on surrounding land uses and current traffic volumes in the area. Mayor McLeod asked if the peak hours are a part of the calculation, be it early morning or late afternoon, Ms. Lundeen stated yes, that would be the typical commuter peak hours. Council Member Casey asked if it was possible for the information to be slightly inaccurate. Ms. Lundeen stated it could slightly deviate, however, with the size of development she wouldn't expect that.

Mr. Coleman discussed Findings of Fact #2. He stated this did go through the TRC and as noted in staff report it complies with the UDC criteria for parking access, landscaping and open space and doesn't exceed the maximum density.

He stated one question neighbors asked if the lots in the project are between an interior of 20-22 feet exterior and side lots about 27 feet. Some neighbors stated they believe the UDC requires alley loaded townhomes because it is under 42 feet. There is a table in UDC 155.203e discussing R-10 and R-8. He stated there is a footnote next to a type of residential unit called alley loaded which states if your lot is under 42 feet, it must be alley loaded. The distinction is the alley loaded category is intended to describe detached homes. He understands this provision of the ordinance arose from a project that had smaller single family detached lots. He stated there are separate line items for townhomes. That footnote does not apply to those.

He stated he spoke with Mr. Howell and town staff agreed with this. He asked town staff to take a look to see if Council had previously approved SUP involving lots 20-22 feet wide with front loaded garages, shared were 10 developments in the last six years meeting that criteria.

Mr. Coleman discussed Findings of Fact #3. He stated a state certified appraiser was present. David Lewis, with Dickinson Lewis and Associates, was present and stated he has also been a broker since 1992 with a degree in political science from UNC. Shared were 4 projects that he found comparable subdivisions close in proximity. He stated the average and median sales price per sq. ft. for all residential transactions increased over the time frames of the studies. The surrounding properties have not been impacted at all. In conclusion, the data from the four comparable subdivisions show the proposed development is not going to substantially injure the value of adjoining or abutting properties.

Council Member Casey stated Council has not had a chance to look at the provided evidence in the binder. He asked about the commercial property, Scott Crawford property. Mr. Lewis stated this is another piece of evidence to show a high-density commercial redevelopment that required a SUP.

Council Member Casey asked if everyone's property has increased in value, Mr. Lewis stated yes in the last year. Council Member Casey asked if he had ever seen an adverse effect, Mr. Lewis stated not in this area.

Mayor Pro Tem Thompson asked if Mr. Lewis has ever testified that property value would have decreased, he stated he has not. Council Member Sims asked if most of the time when doing comparisons, he asked all if all four developments are alike to the proposed? Mr. Lewis stated that is correct.

Mr. Coleman asked Mr. Lewis if the property document is a true and accurate copy, Mr. Lewis stated this is.

Mr. Coleman discussed Findings of Fact #4. He stated the proposed density and unit type is consistent with the 2045 comprehensive growth plan. He went into further detail on this.

He stated in the comprehensive plan when looking at gross residential density, the Town has defined gross residential density as the number of dwelling units divided by the total project area without subtracting areas for open space. When you look at this you can't split it up. Although the medium density residential calls for 3-5 units per acre, that has not been put into effect in the zoning ordinance. In the UDC, it says an R-8 and R-10, 10 townhomes per acre is permitted. He stated the project was filed in November 2022 and the ordinance was changed in February 2023.

Mr. Coleman stated a couple weeks ago, he heard from the Attorney retained by the neighbors that passed along comments and concerns neighbors had. Some concerns were related to traffic safety. Staff have been provided a set of updated zoning conditions that if town engineering is ok with it, the developer would install a speed bump at the northern end of Ridgecrest. There's also a concern about the 90-degree angle turn, there might be a safety barrier issue so there is a request for a safety barrier. Also proposed is a zoning condition that says we will install that in the right-of-way if town engineering is ok with that.

Another concern heard in Starmont, was about setbacks. They are proposing a Class C buffer. Behind the townhomes there would be 15-30 feet of untouched vegetated area that would not be graded or touched. Another concern was about retaining walls, they did not want large retaining walls as part of this development. The only area a retaining wall would be installed would be in the area of a shared property line with single-family homes on Meadowbrook Drive.

Council Member Casey asked about Findings of Fact #2. He asked Mr. Coleman to read the response. Mr. Coleman stated when the application was submitted in November 2022, TRC review showed that they have complied with all applicable requirements.

Council Member Casey asked if all 15 acres is open space, what would net density be of development? Mr. Coleman stated roughly 8.2 acres. He stated one thing to keep in mind, while there is significant amount of open space, there is a stream that runs on City Road and takes a right at southeast adjoining townhome development toward Ridgecrest.

Council Member Casey asked is there a stormwater engineer that could speak regarding stormwater? Javier Jaramillo elaborated. He stated there is about 30 acres that is encumbered by jurisdictional streams and wetlands. There has been a study done by another consultant. What they have looked at early on is preliminary grading primarily drainage. They have done their best to maintain the drainage patterns and their direction. They have also made sure they have not increased runoff. They have accounted for stormwater control measures and that's to make sure there is not post developed runoff.

He stated they have three stormwater control measures that they would be fine tuning when it gets to the engineering design of this project. They would be working with engineering to make sure state requirements are met. There would be detailed calculations for hydraulic conditions that would help size pipe, structure and inlets that would help capture the water as well as a curb and gutter system that would be

implemented.

Council Member Casey stated when you take all the impervious, can you complete mitigate stormwater runoff, Mr. Jaramillo stated they try to do their best. He stated they don't want to make anything worse than it is. Council Member Casey asked if there would be impact? Mr. Jaramillo stated there is always impact with drainage but they try their best to minimize with storm drainage and try to implement stormwater control measures. He stated anytime you move a shovel there would be an impact.

Mayor Pro Tem Thompson stated looking at existing Starmont, that's all downhill, at the bottom there is already existing pond. He wants to make sure he can guarantee water won't run down. Mr. Jaramillo stated he doesn't think anyone can guarantee that but would do their best.

Mr. Coleman asked Mr. Jaramillo to talk about the measures being taken regarding stormwater drainage. He stated on the certain lots, they would be grading majority of the houses towards Ridgecrest to the west on the back side to control roof runoff. This could be done by downspout gutters that could help capture runoff. The runoff that runs off the rear would get into private ditches that run across from lot to lot, in this case it would be a v-ditch trapezoidal shaped ditch.

Council Member Archer stated looking at the proposed layout, it looks different than what Council typically sees. Typically, they see the buildings clustered together in a way that's smooth and connected, like proposed in Phase 1. Phases 2 and 3 look disjointed. Mr. Jaramillo stated because of tracks of land bought from the seller, it would have been nice to combine all the phases into the center pod. Unfortunately, there are existing streams that have buffers on each side for a total of 100 feet wide. Between Phases 1 and 2, there is a jurisdictional stream that impacts this. If those two items were not on this property, more townhomes could have been put into cluster them more together. The disjoining between Phases 2 and 3, is just the ability to utilize extra land and try to get more units.

Council Member Archer stated she understands the limitations, but she is concerned with how that feels to the surrounding neighborhood. Mr. Jaramillo stated when you look at it, it is denser. Council Member Archer asked if he would say the proposed plan which groups the townhomes together and the open space together is not similar to the character of the neighborhood on the existing Starmont and Edgewater Streets. Mr. Jaramillo stated looking at the graphic you can see more density. To the east of Edgewater, you would see similar density.

Council Member Archer asked Mr. Jaramillo if he would say there is any sort of transition between the existing streets and the townhomes, Mr. Jaramillo stated unfortunately not. He stated they did the best to utilize the land.

Mr. Coleman stated after speaking with the applicant, he wants to address Council Member Archer regarding transition. In recognition of that, he showed on the map the downtown neighborhood that it's supposed to be denser. The property to the south is a mixture of widths and sizes and was originally platted in 1923. You see a denser project as you go south. He stated regarding the clustering, the portion of Phase 2 on the west side of Ridgecrest is part of that cluster. They recognize the portion to the

east could use transition. They are proposing to reduce the amount of maximum number of townhomes on the east and propose those would be developed as detached single-family homes consistent with the applicable zoning.

Council Member Archer asked Mr. Coleman to identify that on the map. Mr. Coleman stated his client is trying to balance a project that meets the affordability threshold. A lot of open space would remain. A lot of this area was always intended to be developed.

Council Member Casey stated he is still looking at Phase 3 and this lacks transition. Mr. Coleman stated he would talk to his client. He stated from the Town's zone guidance comprehensive plan, the Town is calling for significantly denser products in Phase 3.

Council Member Sims asked for clarification on traffic and asked to speak to Ms. Lundeen. He stated he read the letter in the binder. He stated on O'Neil Street, in 2017, she used the data of 7,600 vehicles per day. In the letter it reads an increase applying the growth rate at 1% at 8,068 vehicles per day, Ms. Lundeen stated that is correct. He stated that is basically an increase of 468 vehicles. He stated the line below states based on the proposed site traffic distribution, 180 vehicles would be added to N. O'Neil Street. He asked if 468 is included the 180 vehicles; she stated it does not include the 188. She stated further in paragraph 11, 136 vehicles which includes the proposed development traffic in addition to two other approved developments are included in the area along with additional growth.

Council Member Casey stated the report says the annual growth is 1%, is that based on historical growth for the Town of Clayton since 2017? Ms. Lundeen stated that is based on between 2015-2023. They looked at N. O'Neil, City Road and Main Street. Mr. Coleman asked in addition to the 1% rate, does that account for all development or is that a background rate that does not include all other developments? Ms. Lundeen stated that is a background rate on top of that 1% growth rate, they also calculated trips from other approved developments in the area including Carolina Overlook and Ashcroft Phase 2.

Council Member Archer stated when talking about what the current growth plan and land use is calling for in that area, she sees where they are coming from. This process tonight is meant to help them assess whether this specific area is suitable for townhomes and if the plan is agreeable to that. Mr. Coleman stated because this is an SUP, their burden in presenting evidence is to present evidence and is to the criteria set out in the UDC. The UDC says we are consistent with policies. He stated he was underlining in terms of policies, that is consistent. He stated if there are continued concerns, they seek guidance from Council.

Mayor McLeod stated at this time he gives the floor to the opposition. He asked those that came out tonight in opposition to raise their hand. He asked all to keep their comments to two minutes.

Michael Carter, Attorney with Spence, Connor and Reed spoke. He stated he is representing about 14 homeowners (about 9 or 10 houses) in opposition of this development. He said he would like to object anything not included in the packet not

be entered into the record. He stated he would like to thank the developer for trying to work with them. He asked based off the conditions the applicant stated they are willing to listen, they ask that they do follow those recently stated proposed conditions.

He stated regarding the Findings of Fact, this does violate the existing character. This also does not meet the future land use map. Looking at the future land use map, this is considered one subdivision. Looking at Phase 2 along Ridgemont, that portion is medium density residential which is 3-5 homes. If the developer decides to develop single family detached homes, they would be fine with that. When looking at conventional subdivision regulations, and looking at R-8 single family, you have minimum lot area of 8,000 with a minimum lot width of 60 feet. That is important because considering what you have, the easiest place to look would be open space subdivision. The open space subdivision has the requirement for townhomes where it has to be minimum of 3,000 sq. ft. requirement and 21 feet across the front for the width. Right now we are looking at a width of 22 to 27 feet. When that is compared to the existing neighborhood, that is nowhere near. Even under open space subdivision standards, the neighbors said that would make sense regarding transition. He discussed the footnote regarding alley loaded which only applies to 42 feet or less.

Mr. Carter stated they are requesting Phase 3 be also single-family detached homes. There is also the issue that the neighbors do not believe these properties interact with each other. Findings of Fact #4 requires that the existing character is maintained, and they want to make sure that is met and right now that is not met. He stated he would like to point out that Council asked the appraiser that testified tonight about value. He stated the Findings of Fact must state that the value is not injured, not increased, not decreased, it says injured. He stated when asked about single family compared to single family, that wasn't addressed.

Mr. Carter called Marcus Stillellow, lives at 114 Edgewater Drive. Mr. Carter asked if he is behind the development on Phase 2. Mr. Stillellow stated he currently has 2 neighbors. It was stated with the new townhomes coming in, he would have approximately 40 neighbors. He stated he has lived in his house since 2019 and stated the character is what brought him here. He discussed traffic concerns. He stated he is not opposed to development; he would like to maintain the character.

Mr. Carter shared density comparison. He requested that a condition be added that Phase 3 be single-family homes and request that Council send the application back to TRC for additional considerations. If not, the request is to deny this development.

Mr. Coleman stated the initial burden is a burden of presentation under NC law and the only issues heard that the neighbors raise relate to compliance with the UDC and consistency.

Mr. Coleman stated in terms of Findings of Fact #4, he has not heard any evidence as to existing standards for development. There are representations that he doesn't know what they are based on related to density in the neighborhood, he represents there are far more than 10 lots in Starmont neighborhood, so he's not sure where that number is coming from. Beyond that, the only neighbor that testified said he would have no opposition to single-family homes. He stated he feels they have tried to listen and address concerns.

Mr. Coleman stated in terms of the UDC, the claim from the neighbors is that there needs to be rereview of compliance which is inconsistent with what Council has ever done. In terms of traffic and appraisal, while there was question about injury to valuation again, he thinks that's what was testified to. State law says in order to testify as to those issues you have to have an expert and the only expert that has been presented are the experts they have presented.

Council Member Everett stated this is short notice receiving the Ridgecrest binder, it will take time to get through this to make sure everything is consistent.

Mayor McLeod asked if anyone wished to speak in opposition.

Curt Peck, 101 Gordon Street, stated he lives at the bottom of Edgewater and has lived there for 12 years. His background is a former educator, and he is well versed. He gave Council aerial maps of the property. Shared were his concerns of density of the neighborhood. A couple of things related to traffic, he would like the Town to consider sidewalks and turn lanes on City Road. He discussed the buffer and drainage issues. The last issue has to do with an existing cemetery. He discussed a report received regarding the cemetery which is abandoned.

Mr. Coleman objected and stated this Mr. Peck is testifying on a report that he did not write and is not an expert on. Mr. Peck stated we need to investigate the cemetery area. Mr. Coleman stated the reason that the report did not go into evidence is that there is no evidence of a cemetery in that area or unmarked graves on the property.

Vic Win, 104 Gordon Street, and has been there for 30 years. He is a commercial real estate broker and has managed properties in North and South Carolina. Shared was an arial map. He stated he would like to see something different in Phases 2 & 3. Shared were covenants that were distributed to Council.

Kim Sullivan stated he can walk on his deck and see woods. If this goes through, he will have neighbors looking at him. He discussed his concern about the documents going to Council at the last minute.

Mayor McLeod stated with no one else wishing to speak, this would be turned over to Council for their deliberation.

Council Member Casey spoke about the covenants, and how we handle that. Attorney Cauley stated that is a private matter and not erring on Council decisions. The Town Clerk stated an email was received and would become part of tonight's minutes. Mr. Coleman stated he objects to the provided email becoming part of the record because it's not sworn testimony.

Council Member Archer stated to use the applicant's words, the townhomes proposed in Phases 2 and 3 feel squeezed into the design, the offer to convert Phase 2 into single-family homes doesn't resolve her concerns about Phase 3. She believes this creates a lack of transition between the character of the existing neighborhood and the proposed development that would adversely affect the existing neighborhood. In addition, the proposed overall density complies with the adopted plans and policies,

but the numbers don't capture how the density would look and feel due to the way the open space and townhomes are laid out. Based on this she finds the application is inconsistent with the character of the existing development and therefore Findings of Fact #4 has not been met.

Mayor Pro Tem Thompson stated he agrees with Council Member Archer. There is no transition between the higher density development and the existing neighborhood. He stated this would change the character of the existing neighborhood completely. He stated he agrees that the statement regarding Phases 2 and 3 was they squeezed in as much as they could and they're willing to make a concession on Phase 2 but there has been no willingness to make a concession on Phase 3. He stated he is ok with Phase 1.

Council Member Casey echoes the sentiments of Council Member Archer and Mayor Pro Tem Thompson. He stated he heard from traffic engineer there would be an impact. He also heard that trip generation could be deviated from and from the stormwater engineer he heard anytime you move a shovel there would be an impact.

Council Member Archer motioned that Findings of Fact #1 has been met. Council Member Sims seconded.

Council Member Archer motioned that Findings of Fact #2 has been met. Council Member Sims seconded. (Council Member Casey & Mayor Pro Tem Thompson opposed) Approved 3-2

Council Member Archer motioned that Findings of Fact #3 have been met. Council Member Sims seconded. (Mayor Pro Tem Thompson opposed) Approved 4-1

Council Member Archer motioned that Findings of Fact #4 has NOT been met. Mayor Pro Tem Thompson seconded. Denied 0-5

Motion to deny SUP Ridgecrest. Motion made by Council Member Casey, seconded by Council Member Archer.

Approval of 2022-186-SUP

RESULT:	FAILED 0-5
MOVER:	Porter Casey
SECONDER:	Andria Archer
YES:	None
NO:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims

**Adoption of Wastewater Resolution #2023-52
(DENIED DUE TO 2022-186-SUP BEING DENIED)**

8. OLD BUSINESS

- a. GO Bond Resolution

Presenter: Rich Cappola - Town Manager

Mr. Cappola filled in for Mr. McKie. He stated this is the last step needed in order to authorize the remaining \$4.5 million dollars of Parks and Rec. bonds that were authorized in 2019. Received was a bid on the community park project, however, only received one bid and exceeds budget funds. The engineering department is actively attempting to negotiate with the bidder. If we are able to get the price within a funding level, we will move forward. There is potential the bid will be rejected and would have to rebid. If that happens, the bond order does allow under Section 13 for the Mayor or Manager to adjust the dates of the sale and still would be valid. If we are not able to negotiate the bid and keep it valid, we will likely not be able to sell the bonds until January. It is recommended to approve this bond order and by the end of the week make the decision on the bid.

Adoption of Resolution #2023-51

RESULT:	CARRIED 5-0
MOVER:	Avery Everett
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

9. NEW BUSINESS

a. Budget Amendments

Presenter: Rich Cappola - Town Manager

Mr. Cappola filled in for Mr. McKie. He stated this item is for two needs, one is a request for a conversion of administrative support position as well as HR technician, both of which were permanent benefit enabled positions recently approved in FY24 budget. Needs have developed in the Town to have additional staff. The request is to convert those two positions to full-time. This would take our total FTE from 306 to 308 and reduce permanent part-time from 19 down to 17. The net increase is about \$65,000 but intend for LAP salary to cover the majority of this. The second part is, we have had several employees eligible for retirement. The is for the authorization to be able to utilize LAP salary to allow for the potential to fill these positions prior to staff's retirement. This would allow the position to be filled and receive training.

Adoption of Ordinances #2023-08-04 and #2023-08-05

RESULT:	CARRIED 5-0
MOVER:	Michael Sims
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

10. STAFF REPORTS

a. Town Manager

Mr. Cappola stated Mr. Howell's last day was last Friday but he was present tonight to present a large project he had been working on. Jonathan Jacobs has been asked to step in as Interim Planning director. He has been very involved in the UDO and the Clariti software. Mr. Jacobs will report directly to Deputy Town Manager Barbee. Mr. Howell will still be available as a Town consultant.

He stated the Town is actively recruiting for the planning director position, hope to have it filled in the next 60 days.

He reminded everyone the next council meeting will be on Tuesday.

b. Town Attorney

c. Town Clerk

d. Other Staff

Strategic Plan Process Update

Presenter: Dolores Gill, Deputy Town Manager

Ms. Gill stated the current town-wide strategic plan ends in 2025 and we need to begin to put out an RFP to seek proposals for consultants. She stated tomorrow Council would receive an email on a survey for Council's input.

Those results would be discussed at the September 5th work session. Input from department heads would also be discussed at this meeting. This information will be used to develop the scope for the RFP, she would like to have the RFP out by September 15th. This project will take approximately 12-15 months.

Mayor Pro Tem Thompson stated he has received a lot of questions about the scapling on the building and would like an update. Ms. Gill stated this project should last until October. She stated this is a process called tuck pointing and also membrane roof replacement on The Clayton Center side. Both engineering and property maintenance are collaborating on this project.

11. OTHER BUSINESS

a. Informal Discussion & Public Comment

- Individuals have three (3) minutes to address the Town Council.
- Groups will designate a spokesperson. Spokesperson will have five (5) minutes to address the Town Council.

b. Council Comments

Council Member Everett thanked Town staff and Council for all their hard work. He stated getting into the details of what is done daily. It's important for voters, developers and stakeholders to make sure when creating growth plans that they are a part of it.

12. CLOSED SESSION

- a. To Discuss Legal Matter in Accordance with NC GS 143-318.11(a)(3) & To Discuss Economic Development in accordance with NC GS 143-318.11(a)(4)

Motion To Go Into Closed Session

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson
SECONDER:	Michael Sims
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Motion To Return To Open Session

RESULT:	CARRIED 5-0
MOVER:	Jason Thompson
SECONDER:	Andria Archer
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

13. ADJOURNMENT

- a. Adjourn

With nothing further, there was a motion to adjourn at 10:18 p.m.

Motion To Adjourn

RESULT:	CARRIED 5-0
MOVER:	Andria Archer
SECONDER:	Jason Thompson
YES:	Jason Thompson, Porter Casey, Avery Everett, Andria Archer, and Michael Sims
NO:	None

Duly adopted by the Town Council this 5th day of September 2023 while in regular session.

Jody L. McLeod
Mayor

ATTEST:

Heidi L. Holland, CMC, NCCMC
Town Clerk

August 21, 2023
Minutes



Regular Town Council Meeting Agenda Cover Sheet

Meeting Date

September 5, 2023

Agenda Location

CONSENT AGENDA

Item Title

Water Shortage Response Plan

Presenter(s)

Brandon Carroll, Utility Compliance Supervisor, Water Resources

Suggested Action

Place on Consent Agenda

Strategic Priorities Alignment



☐
Think Clayton
(Administrative)



☐
Think Arts &
Culture



☐
Think
Downtown



☐
Think
Economic
Development



☐
Think Land
Use &
Housing



☐
Think
Mobility



☐
Think Parks,
Recreation
& Natural
Resources



☐
Think Public
Services &
Infrastructure

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

- ☐ Public Hearing (Required by GS)
- ☐ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media
- ☐ Special Mailing

- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey
- ☐ None Required

Summary

As directed by the North Carolina Department of Environmental Quality. All local government and community water systems subject to G.S. 143-355(I) are required to update their Water Shortage Response Plan (WSRP) based on their procedures for revisioning and updating their plan to improve plan effectiveness and adapt to new circumstances. An updated WSRP was due to the Division of Water Resources (DWR) no later than June 1, 2023. The updated WSRP was submitted to Louis Murry, review engineer, May the 11, 2023 for review. The Town was notified on July 6, 2023, that NC DEQ staff reviewed the information contained in the WSRP update submitted by the Town and all required information is complete and meets the minimum criteria established in North Carolina General Statute 143-355.2 (a) and 15A NCAC 02E. 0607. Now the WSRP must be adopted by our water system's governing board. The WSRP cannot be considered compliant with the requirements of NCGS 143-355(I) until an adopted resolution is received by the Division.

Funding Source

N/A

Corresponding Documentation

[WSRP Town of Clayton March 23](#)

[WSRP Resolution 2023](#)

Submitted By: Brandon Carroll, Public Works/Operations

Reviewed By:

Heidi Holland, Town Clerk

Approved - Aug 21 2023



Town of Clayton Water Conservation and Shortage Response Plan 2023

BACKGROUND & GENERAL INFORMATION

The Town of Clayton (hereinafter referred to as “Town”) is located in Western Johnston County and operates its own municipal “Community Water System.” It is currently a distribution system only and is supplied drinking water solely by purchase from Johnston County Utility’s water system. The Town has the operational and financial capability to manage its water system as documented in its Water System Management Plan (in accordance with 15A NCAC 18C .0307©) and on file with NC Division of Environmental Health, Public Water Supply Section. The Town regularly reports current and future needs of its water system as documented in its Local Water Supply Plan (In accordance with NCGS 143-355(l) and online with the NC Division of Water Resources. This Water Conservation and Shortage Response Plan is required as part of the Local Water Supply Plan (in accordance with 15A NCAC 02E .0607) and is now updated to meet the current requirements.

It is also important to state that because the Town operates a distribution system receiving its water supply solely by purchase from Johnston County Utilities, the Town is bound by purchase contract to enact water conservation, levels of response and triggers which are consistent with the County’s conservation measures, and that are at least as stringent as the County’s plans, policies, or ordinances. This document for the Town is written to reflect the equal or similar conservation measures as stated in the County’s Current Conservation Ordinance (note that the County’s current ordinance also serves as their Water Shortage Response Plan). Any change in the County’s conservation requirements may require appropriate changes in Town procedures, or the procedures in this document. The Town is like several other Towns within Johnson County that purchase water from the County and are linked to the County’s conservation measures. (See Appendix A for a copy of the County’s current conservation ordinance).

The procedures of this Water Conservation and Shortage Response Plan are written to reduce potable water demand and supplement existing drinking water supplies whenever they are in danger of being inadequate to meet their needs.

SECTION 1 – AUTHORITY

As stated throughout this document, because the Town is provided its water supply solely by purchase from the County, then the Town is bound by contract to adhere to the conservation measures currently in effect with the County, at a minimum. County officials have authority over the entire County Water System, and to a certain degree have authority to declare shortages and impose minimum restrictions on separate purchase systems, such as the Town. Therefore, authority to declare shortages and impose minimum restrictions is often initiated by the County according to their water shortage policies. However, authority for notification, requirements for water restriction, and enforcement of policies for Town customers rests with the Town itself. Additionally, the Town also has the authority to declare its own distribution system shortage, separate from the County (as described more fully in Section 3.C. below).

The Town Manager, in coordination with the Water Resources Director, is authorized to enact water shortage response provisions in Town whenever the trigger conditions outlined in Section 4 are met. In the absence of the Town Manager, The Water Resources Director or another designee will assume this role.

Town Manager

Currently: Rich Cappola, PE

P.O. Box 879 Clayton, NC 27528

111 E. Second Street Clayton, NC 27520

Phone: 919-553-5002

Water Resources Director

Currently: Byron W. Poelman

P.O. Box 879 Clayton, NC 27528

653 NC 42 Hwy. West Clayton, NC 27520

Phone: 919-553-1530

SECTION 2 – NOTIFICATION

As stated previously, the Town is bound by purchase contract with the County to adhere to the conservation measures currently in effect with the County, at a minimum. Consequently, Water Shortage Declarations are initiated by the County. Typically, managerial staff at the County Public Utilities Department notifies the Town Administrative offices, either by e-mail or phone call. From this point, the Town notifies its employees and customers as follows:

A. Notification of Enactment/Declaration of Water Shortage

The following notification methods will be used to inform the Town's customers and employees of a Water Shortage Declaration:

- Declaration Notice will be posted on Town Bulletin Board at Town Hall
- Declaration Label/Notice will be included on customer water bills.
- All Town managerial staff will be notified by email or staff meeting; to be passed down to employees.
- Declaration Notice will be posted on the Town website and social media.

B. Notification of Specific Response Measures for Water Shortage

Actual response measures vary depending on the severity of water shortage (see next section); however, the state of shortage and specific response measures shall be communicated as follows:

- Response measures will be included with the Declaration Notice posted on Town Bulletin Board at Town Hall.
- Short instructions with Declaration Notice/Label on customer water bills which informs customer where to look for additional information regarding response measures.
- Response measures will be conveyed to Town managerial staff; to be passed down to employees.
- Response measures will be included with Declaration Notice posted on the Town website and social media.

- If a stage of water shortage requires any restrictions other than voluntary conservation measures for any user or user class, then a notice will be posted in the local newspaper.

SECTION 3 – LEVELS OF RESPONSE

As stated previously, the Town is bound by purchase contract with the County to adhere to the conservation measures currently in effect with the County, at a minimum. Therefore, the County will declare a specific State of Water Shortage and the Town will implement the same response measures as the County, and as summarized below (see Appendix A for a copy of the County's current conservation ordinance).

A. Response Levels for Shortage in County Supply Source of Treatment Limitations

For water shortages due to reduction in the County's supply resources or treatment limitations, the County Public Utilities Director is empowered to declare a specific Stage of Water Shortage; and the County Manager will publish public statements and is empowered to impose/enforce water restrictions. The County required Level of Response for such shortages is currently based on a hierarchal matrix of User Classes (made up of 3 classes of Essential, Important, and Non-Essential users (and Severity Stages (made up of 3 stages of Advisory, Alert, and Emergency stages). The response matrix below illustrates the levels of response required for certain users if the County Public Utilities Director declares a specific stage of water shortage:

Level Of Response Matrix - Johnston County and Town For County Supply Source Shortage of Treatment Limitations			
	Essential Users (Class 1)	Socially or Economically Important Users (Class 2)	Non- Essential Users (Class 3)
Water Shortage Advisory (Stage 1)	Voluntary Conservation	Voluntary Conservation	Voluntary Conservation Strongly Encouraged
Water Shortage Alert (Stage 2)	Voluntary Conservation (Strongly Encouraged)	Voluntary Conservation (Strongly Encouraged)	Banned
Water Shortage Emergency (Stage 3)	Targeted for Voluntary Conservation	Banned	Banned

Stages declared by County Public Utilities Director. The Town will implement the same response level as the County. See Appendix A for copy of County's current Conservation Ordinance with detailed descriptions and definitions of User Classes.

B. Response Levels for Shortage in County Distribution System

For water shortages due to problems or limitations in the County Distribution System (as determined by the County Public Utilities Director), the County Manager is empowered to declare a “Water Distribution Crisis,” publish public statements, and impose/enforce water restrictions. The County-required Level of Response for this shortage gives authority to require Mandatory Restrictions and even ban/prohibit specific uses. These restricted uses are not categorized within a specific User Class but are typically considered as non-essential. The table below describes the specific uses that may be restricted if the County Manager declares a Water Distribution Crisis:

Level of Response - Johnston County & Town For Water Distribution Crisis			
The Following uses may be BANNED / PROHIBITED during a Water Distribution Crisis			
Watering: grass, lawn, shrubbery, flowers, or other vegetation (unless granted permission for plants grown for sale)	Swimming Pool: filling, refilling, or otherwise adding water	Washing: rinsing or cleaning of exterior walls, floors, or paved areas	Washing: rinsing or cleaning of vehicles, including automobile, truck, van, motorcycle, or other motor vehicles or trailers (unless granted permission for being in business of washing vehicles)

Declared by County Manager. Town will implement response level, same as County. See Appendix A for copy of County’s.

C. Response Levels for Water Conservation and Shortages in Town Distribution System

The Town also reserves the right to declare mandatory water conservation measures as well as a Water Shortage Emergency for its own distribution system (separate and independent from the County). For water shortages due to problems or limitations in the Town Distribution System, the Town Manager in coordination with the Water Resources Director, is empowered to declare the required Level of Response for this shortage also given the authority to issue Mandatory Restrictions and even ban/prohibit specific uses. These restricted uses are not categorized within a specific User Class but are typically considered as non-essential. The Town Manager can declare mandatory water conservation measures or a Water Shortage Emergency, as well as terminate said measures and emergencies. The County’s response measures as described in the table in the preceding section shall also be utilized, solely for the Town’s water system.

SECTION 4 – TRIGGERS

As stated previously, the Town is bound by purchase contract with the County to adhere to the conservation measures currently in effect with the County, at a minimum. Most of the Triggers for a specific stage of water shortage are set by the County. Once a trigger criterion is met, the County will notify the Town of any Declaration or Stage of Water Shortage, and the Town will respond as described in the previous sections. For reference, the County’s current Trigger criteria is summarized below (see Appendix A for a copy of the County’s current conservation ordinance and specific

Triggers). The Town may also be triggered into its own distribution shortage, separate from the County, as described by the last bullet below:

- County Water Shortage Advisory (Stage 1): Triggered when Johnston County Public Utilities Director determines a potential shortage of water supply is indicated, such that adequate potable water supplies cannot be maintained, whether the shortage is caused by drought, mechanical failure, or limitations of the water treatment facilities.
- County Water Shortage Alert (Stage 2): Triggered when Johnston County Public Utilities Director determines the raw water supply is below the level necessary to meet normal demands and if the supply continues to decline such that there may not be sufficient water supply to meet normal demands and/or there are treatment facility limitations which cannot provide adequate supplies of potable water.
- County Water Shortage Emergency (Stage 3): Triggered when Johnston County Public Utilities Director determines the raw water supply is below the level necessary to meet normal demands and serious shortages exist and/or there are treatment facility limitations which cannot provide adequate supplies of potable water.
- County Water Distribution System Crisis: Triggered when Johnston County Public Utilities Director, in conjunction with the County Manager, determined that there is a shortage of water supply due directly to problems with the County Distribution System. Such problems include consideration of the following factors: Water pressure within the County System at specific monitored locations; ability to fill elevated tanks within the County System; ability to maintain ground storage levels for water treatment purposes; ability to maintain water pressure standards within the entire County system.
- Town Water Shortage Emergency: Triggered when Town Manager, in coordination with the Water Resources Director, determines that there is a shortage of water supply due directly to problems with the Town Distribution System. Such problems include consideration of the following factors: Water pressure within the Town System at specific monitoring locations; ability to fill elevated tanks within the Town System; ability to maintain water pressure standards within the entire Town System.

SECTION 5 – ENFORCEMENT

The direct or indirect use of water from the Town distribution system in violation of this plan is prohibited. The Town shall enforce the provisions of this, separate from the County, for all customers on the Town's water system. To be consistent with other County policies as described in previous sections, the following actions and penalties are modeled after Johnston County but tailored for the Town.

A. Methods of Enforcement

Violations may be reported directly to the Town Department of Water Resources, the Town Police Department or by AMI water meter monitoring. This section applies to all people using Town water, inside and outside the Town limits, regardless of whether they have a contract for water service with the Town. A customer of the Town shall be responsible for all violations that occur in connection with water that passes through the meter for which the customer is billed by the Town. Any person who uses water in violation of a restriction or ban imposed on the use of water during a mandatory conservation period, a period of water shortage emergency or in violation of a water rationing policy, or who otherwise violates the provisions of this section, or who impedes or interferes with any action undertaken or ordered pursuant to this section and policies adopted hereunder, shall be subject to the penalties listed below. The typical progression of a reported violation, along with specific penalties is described below:

- Enforcement by police officers, code enforcement and AMI monitoring. Upon the declaration of mandatory conservation, water shortage emergency, or rationing, the Manager and every police officer or code enforcement official within the Town may enforce any restrictions or bans imposed on the use of water.
- Suspicion of violation. Whenever the Town has reasonable cause to believe that a person is violating any of the provisions of this section or any policy adopted hereunder, the Town shall immediately notify that person of the violation by affixing a written notice of the violation to the property where the violation occurred and personally delivering or mailing such notice to the customer of record and to any other person known to the Town who is responsible for the violation or its correction. Such notice shall describe the violation, order that it be corrected, cured, or abated immediately or within such specified times as the Manager determines is reasonable under the circumstances, and warn that more severe measures, such as civil penalties, criminal charges or termination of water service may be brought, assessed, or imposed. If the order is not complied with within the time allotted, the Manager may undertake enforcement action as follows.
- Enforcement action. Any person who, after being given notice of violation, does not comply with this section or policy adopted hereunder within the time specified shall, at the option of the Town, be subject to any of the following: Civil penalties, criminal penalties, termination of water service, injunctive relief, or any appropriate equitable remedy issuing from a court of competent jurisdiction.
 - Criminal penalties. Any person may be charged with violation of this section or policy adopted hereunder and prosecuted in district court. Any person so charged and found guilty of violating this section or policy shall be guilty of a misdemeanor. Each day's violation shall constitute a separate offense. The penalty for violation shall be a maximum fine of \$50 per occurrence or imprisonment for not more than 30 days. The imposition of one or more penalties for any violation shall not excuse any violation or permit it to continue.
 - Civil penalties. In addition to or in lieu of criminal prosecution, violation of this section or any policy adopted hereunder may subject the violator or customer to a civil penalty of up to \$1,000 per violation per day for so long as the violation exists. Each day on which a violation occurs or continues shall constitute a separate and distinct violation. In determining the amount of the civil penalty, the Manager shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, efforts to correct the violation, the compliance history of the person against whom the violation is assessed, the cost of enforcement to the Town, whether the violation was willful or intentional and any other factor as justice requires. The Town shall serve a written citation on the violator, and the customer, if different, by personal delivery or by certified or registered mail, return receipt requested. The citation shall describe the violation and shall specify the amount of the civil penalty levied. The civil penalty is collectible in a civil action in debt. The imposition of one or more penalties for a violation shall not excuse any violation or permit it to continue.
 - Termination of service. The Manager or his designee may make findings of fact and order whether service should continue, be flow restricted, or terminated. Termination of water service shall be performed in accordance with the Town's ordinances, policies, procedures, and practices. The standard reconnection charge shall be paid for the reconnection of any water service terminated pursuant to the current Town ordinances and procedures.

- Appeal. Any person against whom enforcement action has been taken, hereafter referred to as “aggrieved party,” is entitled to appeal to the Town Council upon serving written notice to the Town Manager and following administrative procedures for appeal to the Town Council.
- If, after the initial Warning Notice and allowable Correction Period, the customer is still in violation, then a daily penalty shall be added to the customer’s water bill for each day that the customer remains in violation. The penalty schedule shall be as follows, depending on the size of the water service connection for the customer:

<u>Size of Service</u>	Penalty
≤ ¾ inch	\$20.00
1 inch	\$40.00
1.5 inch	\$50.00
2 inch	\$60.00
4 inch	\$80.00
6 inch	\$100.00
8 inch	\$120.00

- If a Warning Notice or Penalties are not complied with, or ignored, the Revenue and Utility Customer Service Director may restrict or terminate water service without notice.

B. Authority for Enforcement

The provisions in the preceding section shall be enforced by the Town of Clayton Police Department and Town Code Enforcement Officer as deemed necessary.

SECTION 6 – PUBLIC COMMENT FOR THIS PLAN

This draft plan will be sent to NC Division of Water Resources for review and comment by state authorities. Prior to adoption of this Water Conservation and Shortage Response Plan, Town customers will have multiple opportunities to comment on the provisions herein. A draft plan will be made available and publicly noticed. A public hearing will be scheduled with appropriate public notice provided. All subsequent revisions to the draft plan will also be published and publicly noticed prior to an adoption vote by the Town Council.

SECTION 7 – VARIANCE PROCEDURES

A. Methods of Applying for Variance Request

Applications for Water Restriction Variance Requests are available at Town Hall. (See Appendix B for a copy of the Water Restriction Variance Application as developed for the Town). All applications must be submitted for review to the Water Resources Director, or his/her designee. In the sole opinion of the Water Resources Director, Water Restriction Variance Requests may also be forwarded to the Town Manager for consultation and input. A decision to approve or deny individual variance requests shall be rendered by the Water Resources Director or designee within 2 weeks and in consideration of the factors given in the following section.

B. Factors for Approval or Denial of Variance Request

Prior to rendering a decision for a Water Restriction Variance Request, the Water Resources Director or designee shall carefully consider the following factors:

- What is the purpose of the requested water usage?
- Is the requested water usage a necessary use for drinking water?
- What is the impact on water demand made to the requested water usage?
- What is the expected duration of requested water usage?
- Are there alternative sources for the requested water usage?
- Is the requested water usage socially or economically important?
- Will the requested water usage prevent fire or structural damage?
- Are there other relevant factors that the requested water usage may have on water demand or supply?

The weight of each factor in rendering a decision shall be determined by the Water Resources Director. The final decision for a variance must also consider how all the factors above relate to the effectiveness of the overall water shortage response effort (as described in the section on Plan Effectiveness below). If the overall effectiveness of the water shortage response effort would be compromised by granting a variance request, then the request should not be approved.

C. Further Variance Procedures

Upon denial of a Water Restriction Variance Request as described above, an applicant may pursue a Town Variance of the above procedures by requesting a quasi-judicial hearing through the Town Board of Adjustment

SECTION 8 – PLAN EFFECTIVENESS

A. Calculation to Measure Monthly Conservation Results During a Shortage

During a declared water shortage, the effectiveness of water conservation efforts or imposed restrictions shall be measured by comparing the current month's water usage PER metered connection against the same month's water usage in the previous year PER metered connection (or against the closest comparable year that was NOT in a stage of water shortage). In other words, during a water shortage, the Town's monthly meter readings (noting that meter-reading-periods do not match exactly with calendar month) shall be calculated on a PER METER basis by dividing the total recorded water usage for the meter-reading-period by the number of active meters. The monthly water usage PER METER calculated during the water shortage shall be compared with the same calculated value for the same usage period in the closest prior year in which there was NOT a water shortage.

FURTHERMORE, to break down usages, the calculated evaluation will be broken down for each of the following user types.

- Irrigation or Outdoor Use Meters
- Residential Meters
- Commercial Meters
- Industrial Meters
- Institutional Meters

This monthly usage PER METER within each type (as compared between the current water shortage period and a prior year without a shortage) should yield comparable values for assessing the extent to which water usage has been reduced due to conservation; and in assessing which meter types, the conservation measures are most effective. (See Appendix C for a copy of the Calculation Form as developed for the Town).

B. Other Measures of Effectiveness

During a declared water shortage, other factors may also be used in assessing the overall effectiveness of water conservation measures. This includes, but is not limited to, the following data:

- In recent months, how frequently have water shortage stages and responses been triggered or activated?
- Have there been recent or historic water shortages or problem periods worth mentioning that didn't quite trigger responses?
- How many Warnings and Violations have been assessed in the current water shortage period?

SECTION 9 – PLAN REVIEW & REVISIONS

The Water Conservation and Shortage Response Plan will be reviewed and revised as needed to adapt to new circumstances affecting water supply and demand; and as relevant changes in the County's system or response plans are made aware to the Town; and at a minimum every five years according to the provisions of G.S. 143-355(l). The Town Director of Water Resources is responsible for initiating all subsequent revision. +/-)

Appendix A:

ARTICLE II. - WATER SERVICE [27]

(27) Cross reference—Design standards for water and sewer, § 14-359.

DIVISION 1. - GENERALLY

Secs. 24-41—24-70. - Reserved.

Secs. 24-41—24-70. - Reserved.

DIVISION 2. - WATER CONSERVATION [28]

(28) Editor's note—Amend. of 3-3-2008(2) amended div. 2 in its entirety and enacted similar provisions as set out herein. The former div. 2 derived from Ord. of 8-4-1997, §§ I—VII.

Sec. 24-71. - Purpose.

Sec. 24-72. - Definitions.

Sec. 24-73. - Compliance and enforcement.

Sec. 24-74. - Declaration of a water shortage advisory.

Sec. 24-75. - Declaration of a water shortage alert.

Sec. 24-76. - Declaration of a water shortage emergency.

Sec. 24-77. - Declaration of a water distribution crisis.

Sec. 24-78. - Shortage water rates.

Sec. 24-79. - Substitute Officers.

Sec. 24-80. - Adoption and amendment of water conservation ordinance.

Secs. 24-81—24-100. - Reserved.

Sec. 24-71. - Purpose.

The purpose of this division is to declare the official phases of a water supply shortage and to provide for the implementation of voluntary and mandatory water conservation measures throughout the service areas of the County Department of Public Utilities in the event a shortage is declared. The service area includes all areas within and outside the county which are served or supplied in whole or in part by the County water supply system.

(Amend. of 3-3-2008(2))

Sec. 24-72. - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative variance means a written exemption prior to the commission of a violation granted by the County Manager to a customer when a water shortage declaration as defined by this division is issued by the Board of Commissioners.

Customer means any person, government, or entity using water directly or indirectly for any purpose from the County Department of Public Utilities water supply system, and for which a regular charge is made.

JCDPU means the Johnston County Department of Public Utilities acting through the Utilities Director or the County Manager.

Penalty(ies) means a monetary assessment charged to the customer's water bill after first receiving a written warning that a violation as defined in this division has been committed or the time-limited period of an acquired permit or administrative variance has expired.

Waste of water means, but is not limited to, the failure to repair a controllable leak of water due to defective plumbing or deliberate nonessential use of water.

Water means water available to JCDPU for treatment and supply or any source of purchased water introduced by JCDPU into its transmission facilities.

Water restriction(s) means a declared deviation from unlimited demand on the available water supply as established in this division and imposed from time to time by the Board of Commissioners through administrative policy adoption or public notice that is subject to enforcement and/or permitting by the Director of JCDPU.

Water shortage advisory means the conditions exist which indicate the potential for water supply shortages:

(1) The raw water supply (streamflow) is consistently below seasonal averages. If the raw water supply continues to decline, the supply may not be adequate to meet normal needs; or

(2) Due to mechanical failure or capacity limitations of water treatment and/or pumping facilities, adequate water supplies cannot be maintained, and the conditions may be sufficient to cause a water shortage; or

(3) Due to circumstances outside the control of the County, purchased bulk water supply(ies) are reduced for curtailed possibly resulting in a water shortage.

Water shortage alert means conditions exist which, if continued, will result in insufficient supply of water:

(1) The raw water supply is below the level necessary to meet normal needs; or

(2) Due to mechanical failure or capacity limitations of water treatment and/or pumping facilities, a water shortage is subject to occur; or

(3) Due to reduction or curtailment of purchased bulk supply(ies), a water shortage is subject to occur.

Water shortage emergency means available water supply is insufficient to meet normal water usage demand:

(1) The raw water supply is below the level necessary to meet normal needs and serious water shortages exist; or

(2) Due to mechanical failure or capacity limitations of water treatment and/or pumping facilities, a water shortage exists; or

(3) Due to reduction or curtailment of purchased supply(ies), a water shortage exists.

Water use class means and shall be established as follows:

(1) Class 1, essential water uses.

- Domestic use: Water necessary to sustain human life and animal life, and to maintain minimum standards of hygiene and sanitation.

- Health care use: Patient care and rehabilitation.

- Public use: Firefighting, health, safety, and public protection purposes; and water necessary to satisfy federal, state, and local health, safety, and environmental protection requirements.

(2) Class 2, socially or economically important uses of water.

- Domestic use: All uses other than those included in Class 1 and Class 3. Residential water use includes kitchen, bathroom, and laundry use.

- Outdoor noncommercial watering (public or private):

- Industrial water use including water for product manufacturing, environmental control, and domestic needs of employees and personnel.

- Agricultural irrigation for the production of food, fiber, and fuel or maintenance of livestock.

- Watering by commercial nurseries at a minimum level necessary to maintain stock, to the extent that sources other than JCDPU are not available or feasible to use.

- Watering of golf course greens and tees.

- Uses of water at a minimum rate necessary to implement revegetation following earthmoving, where such vegetation is required by an erosion and sedimentation control plan adopted pursuant to law or regulation to the extent that sources of water other than JCDPU are not available or feasible to use.

•Water use by public gardens of national, state, or regional significance where necessary to preserve specimens, to the extent sources other than JCDPU are not available or feasible to use.

- Operating and filling of swimming pools:

- Municipal pools and private pools.

- Health care facility pools used for patient care and rehabilitation.

- Washing of motor vehicles:

- Commercial impervious surface washing.

- Commercial car and truck washes, unrestricted hours of operation.

- Commercial Laundromats:

- Unrestricted hours of operation.

- Restaurants, clubs, and eating establishments:

- Unrestricted hours of operation.

- Common uses:

- Unrestricted hours of operation.

- Institutional uses:

- Unrestricted hours of operation.

(3) Class 3, nonessential uses of water.

- Ornamental purposes: Fountains, reflecting pools, and artificial waterfalls.

- Outdoor noncommercial watering, private impervious surface washing, watering, or irrigation: gardens, lawns, golf courses, parks, playing fields, and other recreational areas.

- EXCEPTIONS:

° Agricultural irrigation for the production of food, feed, fiber, or fuel and the maintenance of livestock.

° Water used by commercial nurseries at a minimum level necessary to maintain stock to the extent other sources of water (other than JCDPU) are not available or feasible to use.

° Water used by golf courses at a minimum level as necessary to maintain tees and greens to the extent other sources of water (other than JCDPU) are not available or feasible to use.

º Use of JCDPU water at a minimum rate necessary to implement revegetation following earthmoving, where such vegetation is required pursuant to an erosion and sedimentation control plan adopted pursuant to law or regulation (to the extent that sources of water other than JCDPU are not available or feasible to use).

º Water used by public gardens of national, state, or regional significance where necessary to preserve specimens, to the extent sources other than JCDPU are not available or feasible to use.

- Operating and filling of public swimming pools:
 - EXCEPTIONS: Health care facility pools used for patient care and rehabilitation and municipal pools.
- Washing of motor vehicles: Automobiles, trucks, boats, and trailers.
 - EXCEPTIONS: Commercial car and truck washes.
- Serving water in restaurants, clubs, or eating establishments:
 - EXCEPTIONS: Specific requests by customers.
- Fire hydrants: Any purpose including the use of sprinkler system tests, testing of fire equipment, and fire department drills.
 - EXCEPTIONS: Firefighting.
- Health protection purposes if specifically approved by the health officials of the county.
- Testing and drills by fire departments, if in the interest of imminent public safety and approved by JCDPU.
- Hydrant and sanitary sewer flushing:
 - EXCEPTIONS: As needed to ensure public safety and health with the approval of JCDPU.

(Amend. of 3-3-2008(2); Amend. of 4-5-2010)

Cross reference—Definitions, § 1-2.

Sec. 24-73. - Compliance and enforcement.

(a) The direct or indirect use of water from the JCDPU distribution system in violation of this division or any water restriction policy adopted from time to time by the Board of Commissioners is prohibited. Any customer that violates or permits the violation of these rules and regulations after first receiving a written warning shall be subject to the penalties established by the Board of Commissioners. Following are penalties effective as of April 1, 2008:

First Violation:

Meter Size

¾"—1"	\$100.00
1½"—2"	\$250.00
3"—4"	\$500.00
> 4"	\$750.00

Second Violation:

Meter Size

¾"—1"	\$250.00
1½"—2"	\$500.00
3"—4"	\$1,000.00
> 4"	\$1,500.00

(b) Assessed penalties shall be added to the customer's water bill and paid and collected in the same manner as usage payments to the JCDPU. Each day a violation occurs shall be considered a separate violation.

(c) The Director of JCDPU shall be responsible for the implementation of these rules and enforcing any restrictions imposed by this division or any water restriction policy adopted by the Board of Commissioners. If a violation is known to have occurred, a written violation shall be affixed to the property where the violation occurred and mailed to the customer of record and any other person known to the JCDPU who is responsible for the violation and its correction. The written notice shall describe the violation and order an immediate compliance with the restrictions within a specified time as determined reasonable by JCDPU under the circumstances.

(d) In event of a third violation or if penalties for previous violations are not paid, the JCDPU may restrict or terminate water service subject to the following procedures:

(1) The JCDPU shall give the customer notice by mail or by a county representative that due to reoccurring violations or failure to pay for previous violations, the water service will be restricted or terminated within a specific time. The customer will have an opportunity to appeal restriction or termination by requesting a hearing before an official designated as a hearing officer by the County Manager. The request for the hearing shall be made to the County Manager before the cutoff date.

(2) If a hearing is requested by the customer charged with the violation, he/she will be given the opportunity to be heard before service is restricted or terminated.

(3) The hearing officer, after hearing evidence presented, shall order the water service continued, restricted, or terminated.

(e) A fee, in an amount set from time to time by the Board of Commissioners and contained in the schedule of fees and charges on file in the County Clerk's office, shall be paid for the reconnection of any water service restricted or terminated pursuant to subsection (d). In the event of multiple violations, the reconnection fee shall be in an amount set from time to time by the Board of Commissioners and contained in the schedule of fees and charges on file in the County Clerk's office for the second violation and in an amount set from time to time by the Board of Commissioners and contained in the schedule of fees and charges on file in the County Clerk's office for each additional violation.

(f) Upon declaration of a water restriction by the Board of Commissioners, an administrative variance of the restriction may be issued by the County Manager to an individual, a business or an institution within the affected water use class(es) prior to the commission of a violation, provided that the general intent of the water shortage response measure is met, compliance is proven to cause practical difficulties and unnecessary hardship, and all reasonable options for abatement through modified water management have been exhausted. The criteria to determine hardship shall include but not be limited to the level of capital outlay and time required to achieve compliance.

(g) An administrative variance may be issued for a time-limited period and shall stipulate both short-term corrective measures and a schedule of completion of long-term corrective measures. An administrative variance may be renewed for good cause shown. A decision to approve or deny an administrative variance will be based up on consideration of criteria including but not limited to impact on water demand, expected duration of water shortage, alternative source options, social and economic importance, purpose of water use, and the prevention of structural damage.

(h) An administrative variance must be executed in writing and filed with the JCDPU's retail services office within 24 hours of issuance by the County Manager.

(Amend. of 3-3-2008(2); Amend. of 4-5-2010)

Sec. 24-74. - Declaration of a water shortage advisory.

If JCDPU determines a potential shortage of water supply is indicated, such that adequate potable water supplies cannot be maintained, whether the shortage is caused by drought, mechanical failure, limitations of the water treatment and/or pumping facilities or curtailment or interruption of purchased bulk supplies, the County Manager shall be empowered to declare a water shortage advisory. The director of JCDPU shall monitor the supply and demands on the system on a daily basis. The County Manager shall call upon all water customers of JCDPU to employ voluntary water conservation measures to limit water use (especially Class 3 uses) and to eliminate waste of water. The declaration of a water shortage advisory and statement by the County Manager shall be published in a newspaper of general circulation in the county or may be publicized by any other appropriate method including audio and visual broadcast media. The effectiveness of water demand reduction from voluntary water conservation measures

will be based on the analysis of daily demand during the advisory period compared to the most current normal period of daily demand as well as historical usage trends.

(Amend. of 3-3-2008(2); Amend. of 4-5-2010)

Sec. 24-75. - Declaration of a water shortage alert.

If JCDPU determines the raw water supply is below the level necessary to meet normal demands and if the supply continues to decline such that there may not be sufficient water supply to meet normal demands, there are water treatment and/or pumping facility limitations, or purchased bulk supply(ies) are curtailed or interrupted resulting in inadequate supplies of potable water, the County Manager shall advise the Board of Commissioners and the Board of Commissioners may declare a water shortage alert. JCDPU shall continue to encourage voluntary water conservation measures as defined in the advisory declaration. In the event of such declaration, the Board of Commissioners shall impose a ban on all Class 3 water uses for the duration of the shortage until the water shortage has ended as advised by the director. Further, the Board of Commissioners may direct the County Manager to expand the ban on water uses beyond Class 3 uses if deemed appropriate, or the Board of Commissioners may issue an administrative variance as defined in section 24-73 on selected uses, if deemed essential for economic welfare of the service area. JCDPU shall continue to encourage voluntary water conservation measures as defined in the advisory declaration. The effectiveness of water demand reduction from the imposed ban on all Class 3 water uses will be based on the analysis of daily demand during the alert period compared to the most recent normal period of daily demand as well as historical usage trends.

(Amend. of 3-3-2008(2); Amend. of 4-5-2010)

Sec. 24-76. - Declaration of a water shortage emergency.

If JCDPU determines the raw water supply is below the level necessary to meet normal demands and serious shortages exist and/or there are water treatment and/or pumping facility limitations or purchased bulk supplies are curtailed or interrupted resulting in inadequate supplies of potable water, the County Manager shall advise the Board of Commissioners and the Board of Commissioner may declare a water shortage emergency. In such event, Class I essential uses shall be targeted for voluntary conservation initiatives. Class 2 socially or economically important uses and Class 3 nonessential uses shall be banned. These restrictions shall be enforced until the emergency is declared ended by the director. However, the Board of Commissioners may issue an administrative variance according to section 24-73 on selected uses, if deemed essential, for economic welfare of the service area. The effectiveness of water demand reduction from the imposed ban on all Class 2 and Class 3 water uses will be based on the analysis of daily demand during the emergency period compared to the most recent normal period of daily demand as well as historical usage trends.

(Amend. of 3-3-2008(2); Amend. of 4-5-2010)

Sec. 24-77. - Declaration of a water distribution crisis.

(a) In event of mechanical, structural, or other type of failure or hydraulic limitation of any part of the county water transmission and distribution system, upon notification by the JCDPU, the County Manager may declare a water distribution crisis. These restrictions may be imposed by the County Manager after consideration of all the following factors:

- (1) Water pressure at monitoring locations of the JCDPU water distribution system.
- (2) Ability to fill elevated water tanks of the JCDPU water distribution system and/or bulk user tanks.
- (3) Ability to maintain minimum safe water pressure levels in any portion of the JCDPU water distribution system.

(b) A water distribution crisis for any part or the entire distribution system may be implemented by the County Manager by issuing a notice of declared water distribution crisis. The notice shall be in effect beginning with the date and time specified in the notice and the restrictions imposed shall apply during the times specified in the notice.

(c) During a declared water distribution crisis, the County Manager may impose the restrictions as for a water shortage alert (see section 24-74) or a water shortage emergency (see section 24-75) at all times or during such limited times as the County Manager upon advice of the Director of JCDPU, determines to be appropriate. The restrictions on water use may be limited to a portion(s) of the distribution system or the entire system as deemed appropriate by the JCDPU and County Manager.

(Amend. of 3-3-2008(2); Amend. of 4-5-2010)

Sec. 24-78. - Shortage water rates.

Upon the declaration of any level of water supply shortage, as provided in sections 24-74 through 24-77, the Board of Commissioners shall have the authority to adopt shortage water rates designed to conserve water supplies. Such rates may provide for:

- (1) Increasing commodity rates, that is, higher charges per unit for increasing usage.
- (2) Surcharges on the (minimum) monthly availability fee.
- (3) Excess demand surcharge, charges for use in excess of a specific level.
- (4) Good citizen rate, discounts for conserving water beyond specified levels.

The effectiveness of water demand reduction from the adoption of shortage water rates will be based on the analysis of daily demand during the declaration period compared to the most recent normal period of daily demand as well as historical usage trends.

(Amend. of 3-3-2008(2); Amend. of 4-5-2010)

Sec. 24-79. - Substitute Officers.

In event the County Manager or the Director of Public Utilities are absent during a water crisis, their designated surrogates shall be the Chairman of the Board of Commissioners and the Assistant Director of Public Utilities, respectively.

(Amend. of 3-3-2008(2))

Sec. 24-80. - Adoption and amendment of water conservation ordinance.

The water conservation ordinance is filed under the county's Code of Ordinances which requires the Board of Commissioners to give notice of and hold a public hearing for any adoption or amendment of ordinances. The water conservation ordinance is subject to review for amendment at least every five years, to adapt to new circumstances (e.g., new water sources, etc.), and after implementation of any declaration of water shortage requiring mandatory restrictions as defined in section 24-76 (Declaration of a water shortage emergency) and section 24-77 (Declaration of a water distribution crisis) of this division.

(Amend. of 4-5-2010)

Secs. 24-81—24-100. - Reserved.

Appendix B

WATER RESTRICTION VARIANCE APPLICATION

APPLICANT: _____

DATE: _____

Please answer the following questions completely and truthfully: (Use Page 2 if necessary for additional information)

The requested water usage is:

Household Residential ☐ Business/Commercial ☐ Business/Industrial ☐ Recreation ☐

Landscaping (Other than Professional Business) ☐ Other ☐ Describe: _____

Describe and state the purpose of the requested water usage; and why, in your opinion, the declared water conservation measures should be relaxed or waived for your particular use?

Is the requested water usage necessary for drinking water?

Yes ☐ No ☐

In your opinion, is the requested water usage socially or economically important?

Yes ☐ No ☐

If yes, why is it important? _____

Town Action:

Approved ☐ Denied ☐ Signed: _____ Date: _____

Special Terms/Period of Usage/Comments: _____

This image shows a full page of white paper with horizontal grey ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for writing or drawing. There are no margins, text, or other markings on the page.

To Evaluate Water Usage During Shortage and for Comparison with Regular Usage

STAGE OF CURRENT WATER SHORTAGE: _____

DATE THAT CURRENT STAGE WAS DECLARED: _____

CURRENT MONTHLY USAGE DATA (During current water Shortage)

Month: _____ Year: _____

Meter-Reading Period: From _____ To _____

TOTAL WATER USAGE:

Total Usage: _____ Gallons

Total No. of Meters: _____

Total Usage Per Meter: _____ Gal/Meter

WATER USAGE BY TYPE:

Irrigation/Outdoors:

Usage: _____ Gallons

No. of Meters: _____

Usage Per Meter: _____ Gal/Meter

Residential:

Usage: _____ Gallons

No. of Meters: _____

Usage Per Meter: _____ Gal/Meter

Commercial:

Usage: _____ Gallons

No. of Meters: _____

Usage Per Meter: _____ Gal/Meter

Industrial:

Usage: _____ Gallons

No. of Meters: _____

Usage Per Meter: _____ Gal/Meter

To Evaluate Water Usage During Shortage and for Comparison with Regular Usage

STAGE OF CURRENT WATER SHORTAGE: _____

DATE THAT CURRENT STAGE WAS DECLARED: _____

Previous Year, MONTHLY USAGE DATA (Comparable Month Not During Water Shortage)

Month: _____ Year: _____

Meter-Reading Period: From _____ To _____

TOTAL WATER USAGE:

Total Usage: _____ Gallons

Total No. of Meters: _____

Total Usage Per Meter: _____ Gal/Meter

WATER USAGE BY TYPE:

Irrigation/Outdoors:

Usage: _____ Gallons

No. of Meters: _____

Usage Per Meter: _____ Gal/Meter

Residential:

Usage: _____ Gallons

No. of Meters: _____

Usage Per Meter: _____ Gal/Meter

Commercial:

Usage: _____ Gallons

No. of Meters: _____

Usage Per Meter: _____ Gal/Meter

Industrial:

Usage: _____ Gallons

No. of Meters: _____

Usage Per Meter: _____ Gal/Meter

To Evaluate Water Usage During Shortage and for Comparison with Regular Usage

Summary Comparison

Current Month: _____ Year: _____

Previous Comparable Month: _____ Year: _____

Comparison of TOTAL WATER USAGE:

Current Total Usage: _____ Gallons/Meter

Previous Total Usage: _____ Gallons/Meter

Change (+/-) _____ Gallons/Meter

% Change (+/-) _____

WATER USAGE BY TYPE:

Irrigation/Outdoors:

Current Total Usage: _____ Gallons/Meter

Previous Total Usage: _____ Gallons/Meter

Change (+/-) _____ Gallons/Meter

% Change (+/-) _____

Residential:

Current Total Usage: _____ Gallons/Meter

Previous Total Usage: _____ Gallons/Meter

Change (+/-) _____ Gallons/Meter

% Change (+/-) _____

Commercial:

Current Total Usage: _____ Gallons/Meter

Previous Total Usage: _____ Gallons/Meter

Change (+/-) _____ Gallons/Meter

% Change (+/-) _____

Industrial:

Current Total Usage: _____ Gallons/Meter

Previous Total Usage: _____ Gallons/Meter

Change (+/-) _____ Gallons/Meter

% Change (+/-) _____ 3

RESOLUTION FOR APPROVING WATER SHORTAGE RESPONSE PLAN

WHEREAS, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water service and each large community water system shall develop and implement water conservation measures to respond to drought or other water shortage conditions as set out in a Water Shortage Response Plan and submitted to the Department for review and approval; and

WHEREAS, as required by the statute and in the interests of sound local planning, a Water Shortage Response Plan for The Town of Clayton PWSID's 03-51-020, Clayton, and 40-51-019, Clayton North, has been developed and submitted to the Town Council for approval; and

WHEREAS, the NCDEQ Division of Water Resources finds that the Water Shortage Response Plan is in accordance with the provisions of North Carolina General Statute 143-355 (l) and that it will provide appropriate guidance for the future management of water supplies for The Town of Clayton, as well as useful information to the Department of Environmental Quality, Division of Water Resources for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Town of Clayton that the Water Shortage Response Plan entitled, Town of Clayton Water Conservation and Shortage Response Plan 2023, dated _____, is hereby approved, and shall be submitted to the Department of Environmental Quality, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Town of Clayton intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

Duly adopted this the 5th day of September, 2023 while in regular session

Name: _____

Title: _____

Signature: _____

ATTEST:

Heidi L. Holland, CMC, NCCMC
Town Clerk



Regular Town Council Meeting Agenda Cover Sheet

Meeting Date

September 5, 2023

Agenda Location

CONSENT AGENDA

Item Title

Resolution 2023-56: To Accept Streets into the Town Of Clayton Street System for Maintenance – Cameron Crossing, Phases 2 & 3

Presenter(s)

Jonathan K. Jacobs, PE, CFM - Assistant Engineering Director

Suggested Action

Adoption of Resolution

Strategic Priorities Alignment



Think Clayton
(Administrative)



Think Arts &
Culture



Think
Downtown



Think
Economic
Development



Think Land
Use &
Housing



Think
Mobility



Think Parks,
Recreation
& Natural
Resources



Think Public
Services &
Infrastructure

Public Hearing: No

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

- ☐ Public Hearing (Required by GS)
- ☐ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media

- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey

☐ Special Mailing

☐ None Required

Summary

Streets and rights-of-way are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications, and Design. Engineering staff has verified through the inspection process that the subject street and right of sections have been installed to meet or exceed this standard and recommends final acceptance. Upon final acceptance, the subject streets are eligible for funding through NCDOT's Powell Bill Program.

Funding Source

N/A

Corresponding Documentation

[Resolution](#)

Submitted By: Chris Rowland, Engineering

Reviewed By:

Jonathan Jacobs, Assistant
Engineering Director

Approved - Aug 30 2023

Sam Johnson-Phillips, Deputy Town
Clerk

Approved - Aug 30 2023

Heidi Holland, Town Clerk

Approved - Aug 30 2023

**RESOLUTION TO ACCEPT STREETS INTO THE TOWN OF CLAYTON STREET SYSTEM FOR
MAINTENANCE – CAMERON CROSSING, PHASES 2 & 3**

WHEREAS, streets and right-of-way are required to be designed and built according to the Town of Clayton Manual of Standards, Specifications and Design; and

WHEREAS, approval by the Town of Clayton Town Council is necessary for eligibility for receiving funding from the NCDOT's Powell Bill Program.

WHEREAS, the street segments listed below were placed under a warranty period for one-year to monitor for construction deficiencies, which has subsequently expired; and

WHEREAS, Town of Clayton Engineering staff has inspected the street segments referenced below and recommends final acceptance by Town Council for maintenance by the Town; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Clayton, North Carolina accept this list of streets and right-of-way into the Town of Clayton Street System.

SUBDIVISION	STREET NAME	BEGINNING DESCRIPTION	END DESCRIPTION	LENGTH
Cameron Crossing, Phases 2 & 3	Enterprise Drive	Phase Line (Phase 1)	Phase Line (Phase 3)	500.00
Cameron Crossing, Phases 2 & 3	Liam Street	Enterprise Drive	Phase Line (Phase 1)	657.00
TOTAL				0.22MI

Duly adopted this the 5th day of September 2023.

Jody McLeod
Mayor

ATTEST:

Heidi L. Holland, CMC, NCCMC
Town Clerk



Regular Town Council Meeting Agenda Cover Sheet

Meeting Date

September 5, 2023

Agenda Location

PUBLIC HEARINGS

Item Title

2023-116-OA Yard Encroachments and Screening UDC Text Amendment

Presenter(s)

Bruce Venable, Planner I

Suggested Action

Adoption of Ordinance

Strategic Priorities Alignment



☐
Think Clayton
(Administrative)



☐
Think Arts &
Culture



☐
Think
Downtown



☐
Think
Economic
Development



☒
Think Land
Use &
Housing



☐
Think
Mobility



☐
Think Parks,
Recreation
& Natural
Resources



☐
Think Public
Services &
Infrastructure

Public Hearing: Yes - Legislative

If Approved, Will Document Require Recordation? No

Does This Item Require a Communication Plan?

- ☒ Public Hearing (Required by GS)
- ☒ Newspaper Notice (Required by GS)
- ☐ Public Forum/Input Session
- ☐ E-News Distribution
- ☐ Social Media
- ☐ Special Mailing

- ☐ Public Hearing (Not Required by GS)
- ☐ Newspaper Notice (Not Required by GS)
- ☐ Press Release
- ☐ Website
- ☐ Survey
- ☐ None Required

Summary

Proposed text amendments to Section 155.201(G)(4) and Section 155.402(G) of the Unified Development Code to address the encroachment of Fire Escapes into required yards (setbacks), to remove the separation requirement for screened dumpsters and loading areas from residentially-zoned properties, and add additional requirements for screening of dumpsters/service areas. The text amendments have been requested by the Economic Development Office and are consistent with proposed language in the Draft UDO being developed through the Codify Clayton process.

Recommendation

Staff recommends that the Town Council approve the proposed text amendments as written, and adopt the proposed Consistency Statement.

Funding Source

N/A

Cost

N/A

Corresponding Documentation

- [1 2023-116-OA Yard Encroachments and Screening Staff Report](#)
- [2 2023-116-OA Yard Encroachments and Screening 155.201\(G\)\(4\) Current Text](#)
- [3 2023-116-OA Yard Encroachments and Screening 155.201\(G\)\(4\) Redline Text](#)
- [4 2023-116-OA Yard Encroachments and Screening 155.201\(G\)\(4\) Revised Text](#)
- [5 2023-116-OA Yard Encroachments and Screening 155.402\(G\) Current Text](#)
- [6 2023-116-OA Yard Encroachments and Screening 155.402\(G\) Redline Text](#)
- [7 2023-116-OA Yard Encroachments and Screening 155.402\(G\) Revised Text](#)
- [2023-116-OA -Yard Encroachments and Screening Consistency Statement TC](#)
- [2023-116-OA Yard Encroachments and Screening Text Amendment Ordinance](#)

Meeting Timeline

Planning Board Public Comment Session - July 24, 2023
Town Council Public Hearing - September 5, 2023

Submitted By: Bruce Venable, Planning

Reviewed By:

Jonathan Jacobs, Assistant
Engineering Director
Heidi Holland, Town Clerk

Approved - Aug 29 2023
Approved - Aug 30 2023



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

*Planning Board
July 24, 2023
Town Council
September 5, 2023*

STAFF REPORT

Application Number: 2023-116-OA

Project Name: Yard Encroachments and Screening

Applicant: Town of Clayton

Public Noticing: Newspaper ad to be published August 9 and August 16, 2023 (pending Planning Board action)

REQUEST: Request to revise Sections 155.201(G)(4), to allow Fire Escapes to encroach in a required setback up to 8 feet regardless of Zoning District, and Section 155.402(G), to remove the separation requirements for dumpsters and loading zones from residentially zoned properties. These proposed amendments are in line with the proposed Unified Development Ordinance that is being created through the Codify Clayton project.

SECTIONS PROPOSED FOR AMENDMENT:

The following sections of Title XV, Chapter 155 and the general description are proposed for amendment:

§155.201(G)(4) – Yard Encroachments

§155.402(G) – Screening

STAFF ANALYSIS AND COMMENTARY:

Overview

These amendments will align certain provisions of the Unified Development Code (UDC) with the Draft Unified Development Ordinance (UDO) being developed through the Codify Clayton project. The revision to Section 155.201(G)(4) removes the prohibition on Fire Escapes encroaching in required yards (setbacks) in the B-1 District; the proposed amendment would treat all zoning districts the same for Fire Escape encroachments, allowing Fire Escapes to encroach up to eight feet into a required Yard, and requiring Fire Escapes to provide at least 7.5 feet of clearance above any public sidewalk, greenway, or right-of-way. The revision to Section 155.402(G) removes the requirement that dumpster enclosures must be at least 50 feet from residentially zoned properties, as well as the requirement that loading areas must be at least 50 feet from residentially zoned properties. The text amendment also includes some additional standards for screening of dumpsters that are proposed in the new UDO. These amendments were initiated at the request of the Economic Development Office.

Page 1 of 3

Approval Criteria:

1. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements, and must adopt a statement describing whether the action is consistent or inconsistent with approved plans;

Response: The proposed text amendments are consistent with the remainder of the applicable chapters in the UDC. The amendments meet the intent of the code and are consistent with all approved plans. The primary purpose of the text amendments is to clarify allowable yard encroachments for Fire Escapes and remove some separation requirements for certain site features that make certain areas of Town difficult to develop or redevelop.

2. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;

Response: The proposed text amendments will clarify the allowed yard encroachments for Fire Escapes and remove what can be onerous separation requirements for certain site features that can make development or redevelopment of certain areas difficult. These amendments are in line with proposed changes in the new UDO that is being drafted through the Codify Clayton project.

3. Whether or not the proposed text amendment corrects an error in the chapters;

Response: The proposed text amendments do not correct any errors in Sections 155.201 or 155.402.

4. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law;

Response: The purpose of the proposed text amendments is not to comply with state or federal statutes or case law.

CONSIDERATIONS

- The Council shall consider the recommendations of the Planning Board and Planning Director.
- The Council may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

STAFF RECOMMENDATION:

Staff is recommending approval of the proposed changes to the UDC.

PLANNING BOARD RECOMMENDATION:

At their July 24, 2023, meeting, the Planning Board unanimously voted to recommend approval of the proposed Ordinance Amendment to the Town Council.

ATTACHMENTS:

- 1) §155.201(G)(4) Current Text
- 2) §155.201(G)(4) Redline Text
- 3) §155.201(G)(4) Revised Text
- 4) §155.402(G) Current Text
- 5) §155.402(G) Redline Text
- 6) §155.402(G) Revised Text

7) Proposed Consistency Statement

ARTICLE 2: ZONING DISTRICTS

CONTENTS:

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§ 155.200 DISTRICTS ESTABLISHED

To carry out the provisions of this Chapter, within the jurisdiction of the Town, the following zoning districts are established.

(A) INTERPRETATION OF ZONING DISTRICT BOUNDARIES

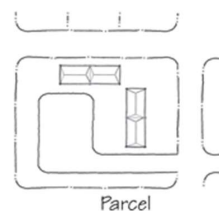
(1) **Defined**

District boundaries are as shown upon the Official Zoning Map and Future Land Use Map as set forth in § 155.104, and as adopted by Town Council. The provisions of this chapter are hereby established and declared to be in effect upon all land included within the boundaries as shown on the maps.

(2) **Rules for Interpretation**

- (a) The Planning Director shall be responsible for interpretations of the Official Zoning Map and Future Land Use Map in accordance with the standards set forth in this Section. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:
 - 1. Boundaries indicated as approximately following the centerlines of streets, alleys, highways, streams or railroads shall be construed to follow such centerlines.
 - 2. Boundaries indicated as approximately following lot lines, Town limits or extraterritorial jurisdiction boundary lines, shall be construed as following such lines, limits or boundaries; and
 - 3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.

- (a) A parcel may contain multiple buildings or uses.
- (b) Parcel area shall be that area required for each individual building in a multi-building project. A parcel may include multiple lots.



(E) **WIDTH**

(1) **Building Width**

Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting on a street).

(2) **Parcel or Lot Width**

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the front setback (also commonly known as the street yard) along a straight line parallel to the front of the property line or if the front property line is not straight, parallel to the chord of the front property line.



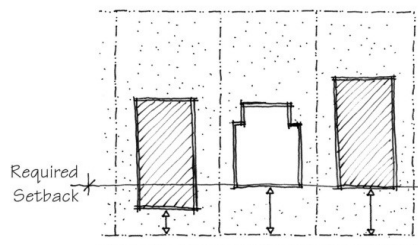
(F) **DENSITY**

- (1) The maximum possible density on any parcel of land shall be as follows:
 - (a) One hundred percent of the district density for the area outside of resource conservation areas; and
 - (b) Fifty percent of the district density for any resource conservation areas (see Article 5).
- (2) Maximum allowable density for residential development shall be calculated by dividing the acreage of land (in square feet) by the minimum lot area (in square feet) for the district, and then rounding down to the nearest whole number.

(G) **YARDS AND SETBACKS**

(1) **General**

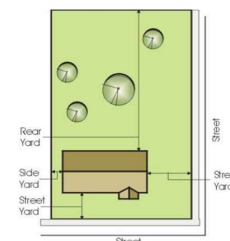
- (a) All front yard and side street yard setbacks shall be measured from the edge of the right-of-way.
- (b) The minimum front yard requirements of this article for residential dwellings shall not apply on any lot where the average front yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street is less than the minimum required front yard. In such cases, the front yard on such lots may be less than the required front yard, but not less than the adjacent dwelling with the greatest front yard depth.



- (c) Every part of every required yard shall be open and unobstructed above the general ground level of the graded lot upward to the sky except as provided or as otherwise permitted in this section.
- (d) No part of a yard or other open space required about any structure or use 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 structure or use.

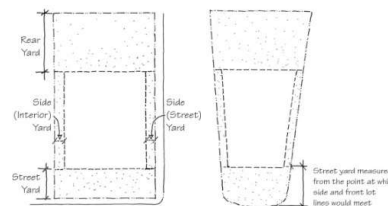
(2) **Types of Yards**

- (a) There are four types of yards – front, side street (also commonly known as street side), side interior, and rear.



(3) **Measurement of Yards**

- (a) Depth of a required front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.
- (b) Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.
- (c) Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.



(4) **Yard Encroachments**

The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

- (a) Parking structures may extend into the rear yard of a dwelling unit.
- (b) Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.
- (c) Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and one-half feet above the ground elevation, and it is located at least five feet from any other building or eave.
- (d) Sills and ornamental features may project up to 24 inches into any required yard.
- (e) Except in the B-1 District, fire escapes may project up to eight feet into any required yard.

- (f) Signs may extend into required yards in conformance with standards found in § 155.403.
- (g) Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.
- (h) Security gates and guard stations may be located within any required yard.
- (i) Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.
- (j) Covered porches may encroach a maximum of 20% of the required front yard setback depth.
- (k) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.
- (l) Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.
- (m) Structures below and covered by the ground may extend into any required yard.
- (n) Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two feet from the property line.
- (o) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard subject to visibility restrictions.
- (p) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-03-01, passed 3-17-14; Am. Ord 2016-04-04, passed 04-04-2016)

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§ 155.204	OVERLAY DISTRICT STANDARDS.....	3334

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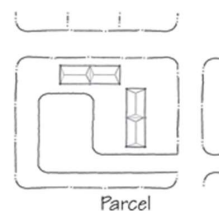
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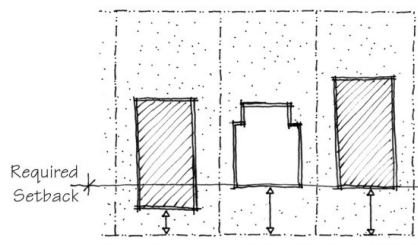
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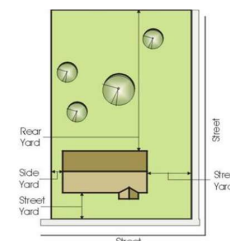
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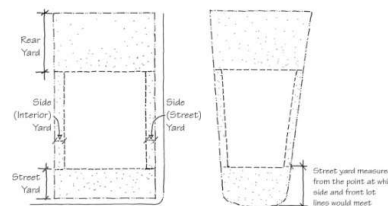
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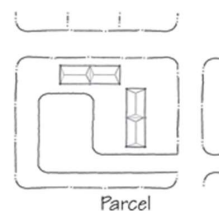
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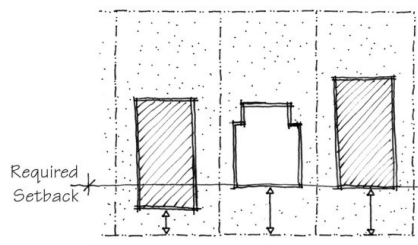
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(1) **General**

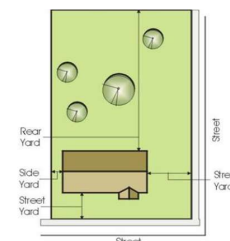
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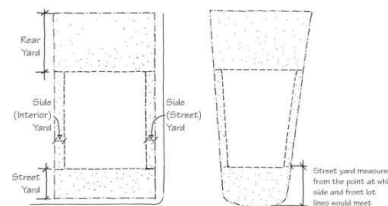
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- (b) Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.
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(4) **Yard Encroachments**

The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

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- (c) Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and one-half feet above the ground elevation, and it is located at least five feet from any other building or eave.
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- (g) Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.
- (h) Security gates and guard stations may be located within any required yard.
- (i) Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.
- (j) Covered porches may encroach a maximum of 20% of the required front yard setback depth.
- (k) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.
- (l) Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.
- (m) Structures below and covered by the ground may extend into any required yard.
- (n) Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two feet from the property line.
- (o) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard subject to visibility restrictions.
- (p) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-03-01, passed 3-17-14; Am. Ord 2016-04-04, passed 04-04-2016)

ARTICLE 4: GENERAL DEVELOPMENT STANDARDS

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§ 155.400 ACCESS

(A) PURPOSE AND INTENT

It is the intent of this Section to establish procedures and design standards for driveways and access points to promote efficiency and safety of the connecting street system, support operations of the surrounding pedestrian and bicycle network, ensure safe roadway access to all parcels and lots, and promote a vibrant and attractive streetscape character. These procedures and standards are intended to preserve and enhance the character of the community, and protect the health, safety and general welfare of Clayton's residents.

(B) ACCESS

For the purposes of this Section, access means the point or points of ingress and egress from a development or parcel to the existing right-of-way network.

PART 4. SCREENING

(G) SCREENING

(1) Drive-thru Facilities

Drive-thru windows and lanes shall be designed to adhere to the following standards:

- (a) Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.
- (b) Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and be maintained at a minimum height of 48 inches within two years of planting.
- (c) Drive-thru windows are not permitted on the side of a building adjacent to any residential district.

(2) Service Areas

- (a) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from adjacent properties or public rights-of-way.
- (b) Service areas shall be fully enclosed by opaque walls, gates, and/or fences at least eight feet high and shall be constructed of the same materials as the primary building.
- (c) All service areas are limited to the area shown on an approved site plan.
- (d) All service areas shall be located a minimum of 50 feet away from any residentially-zoned property line.

(3) Loading Areas

Loading areas shall be subject to the following screening requirements:

- (a) A 100% year-round screen of all loading areas visible from residential properties or public rights-of-way is required.
- (b) Screening shall consist of berms, walls, fences, plant material or combination thereof totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.

- (c) Loading docks not in an I-1 or I-2 District shall be located at the side or rear of buildings a minimum of 50 feet away from any residentially-zoned property, unless the loading area is wholly within a closed building.

(4) **Mechanical Equipment**

- (a) All roof, ground and wall mounted mechanical equipment including, but not limited to air handling equipment, vents, compressors, duct work, transformers and elevator equipment) shall be screened from view.
- (b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.
- (c) Wall or ground-mounted equipment screening shall be constructed of:
 - 1. Planting screens;
 - 2. Brick, stone, reinforced concrete, or other similar masonry materials; or
 - 3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

(5) **Utilities**

Above-ground utilities and appurtenances to underground utilities which require above-ground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required access to these utilities is exempt from the screening provisions.

(6) **Fencing and Walls**

- (a) A fence or wall not more than six feet in height may be installed along any side and rear lot line. A fence or wall in any required front yard shall not exceed four feet in height.
- (b) Fences and walls shall be constructed of high quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron and black vinyl coated chain link fence . Black vinyl coated chain link fence is permitted subject to the following additional requirements:

1. Residential Uses

Black vinyl coated chain link fencing is permitted for individual lots from the front façade of the house in the side and/or rear. It may not be used forward of the front façade. It may be used along a side street or between the house and the side property line if screened from view by landscape materials maintained at the same height as the fence or higher. Shrubs shall be at least 30

inches in height at planting. Chain link fencing is not permitted for use by a developer for buffering and screening. Black vinyl coated fencing may be used for recreational uses including, but not limited to parks, playgrounds, swimming pools, tennis courts and basketball courts.

2. Non-Residential Uses

Black vinyl coated chain link fencing is permitted for the accessory enclosures of day care facilities, kennels or veterinary clinics. Black vinyl coated chain link fencing is permitted for industrial uses. Vinyl coating is not required for fences when not visible from adjacent property or right-of-way.

3. Public Utilities

Black vinyl coated chain link fencing is permitted for public utility purposes. Vinyl coating is not required for industrial fences when it is not visible from adjacent property or right-of-way.

4. The use of black coated vinyl chain link fencing for uses not listed above is permitted if the use of such material is consistent with, and will not impact the aesthetic appearance of the surrounding area.

- (c) Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use.
- (d) Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.
- (e) The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

PART 5. GENERAL LANDSCAPING, SCREENING AND BUFFERING PROVISIONS

(H) **GENERAL PROVISIONS**

(1) **Design, Installation and Establishment**

(a) ***Plant Material***

- 1. Except as otherwise specified in this article, landscaping materials shall conform to the following minimum specifications:
 - A. Canopy trees shall have a 2.5 inch caliper and be 8 feet tall following installation.

ARTICLE 4: GENERAL DEVELOPMENT STANDARDS

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§ 155.400 ACCESS

(A) PURPOSE AND INTENT

It is the intent of this Section to establish procedures and design standards for driveways and access points to promote efficiency and safety of the connecting street system, support operations of the surrounding pedestrian and bicycle network, ensure safe roadway access to all parcels and lots, and promote a vibrant and attractive streetscape character. These procedures and standards are intended to preserve and enhance the character of the community, and protect the health, safety and general welfare of Clayton's residents.

(B) ACCESS

For the purposes of this Section, access means the point or points of ingress and egress from a development or parcel to the existing right-of-way network.

PART 4. SCREENING

(G) SCREENING

(1) Drive-thru Facilities

Drive-thru windows and lanes shall be designed to adhere to the following standards:

- (a) Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.
- (b) Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and be maintained at a minimum height of 48 inches within two years of planting.
- (c) Drive-thru windows are not permitted on the side of a building adjacent to any residential district.

(2) Service Areas

- (a) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from adjacent properties or public rights-of-way.

~~(a)(b)~~ Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.

- (c) Service areas shall be fully enclosed by opaque walls, gates, and/or fences at least eight feet high but no taller than ten feet high, and shall be constructed of ~~the same materials~~ consistent materials and colors to those used on ~~as~~ the primary building.

- (d) Masonry walls may incorporate louvers or similar features, provided the screening function is maintained.

- (e) All gates shall be comprised of a complimentary material and be opaque, excluding gaps for mounting hardware, latches, and hinges.

- ~~(b)(f)~~ Support columns may exceed the maximum height as necessary for wall construction.

- ~~(c)(g)~~ All service areas are limited to the area shown on an approved site plan.

- ~~(d)~~ All service areas shall be located a minimum of 50 feet away from any residentially-zoned property line.

(3) Loading Areas

Loading areas shall be subject to the following screening requirements:

- (a) A 100% year-round screen of all loading areas visible from residential properties or public rights-of-way is required.
- (b) Screening shall consist of berms, walls, fences, plant material or combination thereof totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.
- (c) Loading docks not in an I-1 or I-2 District shall be located at the side or rear of buildings, ~~and may not encroach into the building setback, a minimum of 50 feet away from any residentially-zoned property, unless the loading area is wholly within a closed building.~~

(4) **Mechanical Equipment**

- (a) All roof, ground and wall mounted mechanical equipment including, but not limited to air handling equipment, vents, compressors, duct work, transformers and elevator equipment) shall be screened from view.
- (b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.
- (c) Wall or ground-mounted equipment screening shall be constructed of:
 - 1. Planting screens;
 - 2. Brick, stone, reinforced concrete, or other similar masonry materials; or
 - 3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

(5) **Utilities**

Above-ground utilities and appurtenances to underground utilities which require above-ground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required access to these utilities is exempt from the screening provisions.

(6) **Fencing and Walls**

- (a) A fence or wall not more than six feet in height may be installed along any side and rear lot line. A fence or wall in any required front yard shall not exceed four feet in height.
- (b) Fences and walls shall be constructed of high quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron and black vinyl coated chain link fence

. Black vinyl coated chain link fence is permitted subject to the following additional requirements:

1. Residential Uses

Black vinyl coated chain link fencing is permitted for individual lots from the front façade of the house in the side and/or rear. It may not be used forward of the front façade. It may be used along a side street or between the house and the side property line if screened from view by landscape materials maintained at the same height as the fence or higher. Shrubs shall be at least 30 inches in height at planting. Chain link fencing is not permitted for use by a developer for buffering and screening. Black vinyl coated fencing may be used for recreational uses including, but not limited to parks, playgrounds, swimming pools, tennis courts and basketball courts.

2. Non-Residential Uses

Black vinyl coated chain link fencing is permitted for the accessory enclosures of day care facilities, kennels or veterinary clinics. Black vinyl coated chain link fencing is permitted for industrial uses. Vinyl coating is not required for fences when not visible from adjacent property or right-of-way.

3. Public Utilities

Black vinyl coated chain link fencing is permitted for public utility purposes. Vinyl coating is not required for industrial fences when it is not visible from adjacent property or right-of-way.

4. The use of black coated vinyl chain link fencing for uses not listed above is permitted if the use of such material is consistent with, and will not impact the aesthetic appearance of the surrounding area.

- (c) Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use.
- (d) Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.
- (e) The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

PART 5. GENERAL LANDSCAPING, SCREENING AND BUFFERING PROVISIONS

ARTICLE 4: GENERAL DEVELOPMENT STANDARDS

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§ 155.400 ACCESS

(A) PURPOSE AND INTENT

It is the intent of this Section to establish procedures and design standards for driveways and access points to promote efficiency and safety of the connecting street system, support operations of the surrounding pedestrian and bicycle network, ensure safe roadway access to all parcels and lots, and promote a vibrant and attractive streetscape character. These procedures and standards are intended to preserve and enhance the character of the community, and protect the health, safety and general welfare of Clayton's residents.

(B) ACCESS

For the purposes of this Section, access means the point or points of ingress and egress from a development or parcel to the existing right-of-way network.

PART 4. SCREENING

(G) SCREENING

(1) Drive-thru Facilities

Drive-thru windows and lanes shall be designed to adhere to the following standards:

- (a) Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.
- (b) Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and be maintained at a minimum height of 48 inches within two years of planting.
- (c) Drive-thru windows are not permitted on the side of a building adjacent to any residential district.

(2) Service Areas

- (a) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from adjacent properties or public rights-of-way.
- (b) Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.
- (c) Service areas shall be fully enclosed by opaque walls, gates, and/or fences at least eight feet high but no taller than ten feet high, and shall be constructed of consistent materials and colors to those used on the primary building.
- (d) Masonry walls may incorporate louvers or similar features, provided the screening function is maintained.
- (e) All gates shall be comprised of a complimentary material and be opaque, excluding gaps for mounting hardware, latches, and hinges.
- (f) Support columns may exceed the maximum height as necessary for wall construction.
- (g) All service areas are limited to the area shown on an approved site plan.

(3) Loading Areas

Loading areas shall be subject to the following screening requirements:

- (a) A 100% year-round screen of all loading areas visible from residential properties or public rights-of-way is required.
- (b) Screening shall consist of berms, walls, fences, plant material or combination thereof totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.
- (c) Loading docks not in an I-1 or I-2 District shall be located at the side or rear of buildings, and may not encroach into the building setback.

(4) Mechanical Equipment

- (a) All roof, ground and wall mounted mechanical equipment including, but not limited to air handling equipment, vents, compressors, duct work, transformers and elevator equipment) shall be screened from view.
- (b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.
- (c) Wall or ground-mounted equipment screening shall be constructed of:
 - 1. Planting screens;
 - 2. Brick, stone, reinforced concrete, or other similar masonry materials; or
 - 3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

(5) Utilities

Above-ground utilities and appurtenances to underground utilities which require above-ground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required access to these utilities is exempt from the screening provisions.

(6) Fencing and Walls

- (a) A fence or wall not more than six feet in height may be installed along any side and rear lot line. A fence or wall in any required front yard shall not exceed four feet in height.
- (b) Fences and walls shall be constructed of high quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron and black vinyl coated chain link fence . Black vinyl coated chain link fence is permitted subject to the following additional requirements:
 - 1. Residential Uses

Black vinyl coated chain link fencing is permitted for individual lots from the front façade of the house in the side and/or rear. It may not be used forward of the front façade. It may be used along a side street or between the house and the side property line if screened from view by landscape materials maintained at the same height as the fence or higher. Shrubs shall be at least 30 inches in height at planting. Chain link fencing is not permitted for use by a developer for buffering and screening. Black vinyl coated fencing may be used for recreational uses including, but not limited to parks, playgrounds, swimming pools, tennis courts and basketball courts.

2. Non-Residential Uses

Black vinyl coated chain link fencing is permitted for the accessory enclosures of day care facilities, kennels or veterinary clinics. Black vinyl coated chain link fencing is permitted for industrial uses. Vinyl coating is not required for fences when not visible from adjacent property or right-of-way.

3. Public Utilities

Black vinyl coated chain link fencing is permitted for public utility purposes. Vinyl coating is not required for industrial fences when it is not visible from adjacent property or right-of-way.

4. The use of black coated vinyl chain link fencing for uses not listed above is permitted if the use of such material is consistent with, and will not impact the aesthetic appearance of the surrounding area.

- (c) Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use.
- (d) Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.
- (e) The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

PART 5. GENERAL LANDSCAPING, SCREENING AND BUFFERING PROVISIONS

(H) GENERAL PROVISIONS

(1) Design, Installation and Establishment

(a) *Plant Material*

TOWN OF CLAYTON
ORDINANCE AMENDMENT
CONSISTENCY STATEMENT

[2023-116-OA Yard Encroachments and Screening Text Amendment]

The Town Council of the Town of Clayton hereby states:

Section 1: The above referenced ordinance amendment IS APPROVED.

Section 2: The above referenced ordinance amendment IS CONSISTENT with:

The Comprehensive Growth Plan 2045, specifically:

- Goal LU 1: Preserve Clayton's character while allowing for growth and development in appropriate areas; and
- Strategy LU 1.1.3: Review and update the Unified Development Code within 1-2 years to ensure consistency with the Goals, Policies and Strategies of the Comprehensive Growth Plan; and
- Policy LU 1.2: Encourage developments which incorporate high-quality design and enhance the quality of life for existing and future residents of the Town.

The requested ordinance amendment is consistent with the above referenced goal, strategy and policy from the Comprehensive Growth Plan 2045. The proposed amendment seeks to modify the UDC Section 155.201 – Measurements and Exceptions, subsection (G)(4) and Section 155.402 – Landscaping, Screening and Buffering, subsection (G). The proposed amendments seek to clarify how Fire Escapes can encroach into required yards, remove separation requirements for dumpster screening and loading areas from residentially zoned property, and add additional requirements for dumpster screening.

Section 3: Based upon information presented at the public hearings and by the applicant, and based upon the recommendations and detailed information developed by staff and the Planning Board contained in the staff report, and considering the criteria applicable sections of the Unified Development Code of the Town of Clayton, specifically

that the ordinance amendments are consistent with Chapter 155 of the Town of Clayton's Code of Ordinances and the Comprehensive Growth Plan 2045.

**TOWN OF CLAYTON
AMENDMENT TO THE CODE OF ORDINANCES
AMENDING CHAPTER 155: UNIFIED DEVELOPMENT CODE**

BE IT HEREBY ADOPTED THAT THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA, amends the Clayton Code of Ordinances Chapters 155.201(G)(4) and Section 155.402(G), to read as follows:

155.201(G)(4) YARD ENCROACHMENTS

(4) Yard Encroachments

The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

- (a) Parking structures may extend into the rear yard of a dwelling unit.
- (b) Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.
- (c) Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and one-half feet above the ground elevation, and it is located at least five feet from any other building or eave.
- (d) Sills and ornamental features may project up to 24 inches into any required yard.
- (e) Fire escapes may project up to eight feet into any required yard, but must maintain at least seven-and-one-half feet above a sidewalk, greenway, or street.
- (f) Signs may extend into required yards in conformance with standards found in §155.403.
- (g) Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.
- (h) Security gates and guard stations may be located within any required yard
- (i) Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.
- (j) Covered porches may encroach a maximum of 20% of the required front yard setback depth
- (k) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.
- (l) Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.
- (m) Structures below and covered by the ground may extend into any required yard.
- (n) Driveways may extend into any required yard, provided that, to the extent practicable, they extend

across rather than along the setback area and may be no closer than two feet from the property line.

- (o) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard subject to visibility restrictions.
- (p) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

155.402(G) PART 4. SCREENING

1. Drive-thru Facilities

Drive-thru windows and lanes shall be designed to adhere to the following standards:

- (a) Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.
- (b) Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and be maintained at a minimum height of 48 inches within two years of planting.
- (c) Drive-thru windows are not permitted on the side of a building adjacent to any residential district.

2. Service Areas

- (a) Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from adjacent properties or public rights-of-way.
- (b) Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.
- (c) Service areas shall be fully enclosed by opaque walls, gates, and/or fences at least eight feet high but no taller than ten feet high, and shall be constructed of consistent materials and colors to those used on the primary building.
- (d) Masonry walls may incorporate louvers or similar features, provided the screening function is maintained.
- (e) All gates shall be comprised of a complimentary material and be opaque, excluding gaps for mounting hardware, latches, and hinges.
- (f) Support columns may exceed the maximum height as necessary for wall construction.
- (g) All service areas are limited to the area shown on an approved site plan.

(3) Loading Areas

Loading areas shall be subject to the following screening requirements:

- (a) A 100% year-round screen of all loading areas visible from residential properties or public rights-of-way is required.
- (b) Screening shall consist of berms, walls, fences, plant material or combination thereof totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.
- (c) Loading docks not in an I-1 or I-2 District shall be located at the side or rear of buildings, and may not encroach into the building setback.

(4) Mechanical Equipment

- (a) All roof, ground and wall mounted mechanical equipment including, but not limited to air handling equipment, vents, compressors, duct work, transformers and elevator equipment) shall be screened from view.
- (b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.
- (c) Wall or ground-mounted equipment screening shall be constructed of:
 - 1. Planting screens;
 - 2. Brick, stone, reinforced concrete, or other similar masonry materials; or
 - 3. Redwood, cedar, preservative pressure treated wood, or other similar materials.

(5) Utilities

Above-ground utilities and appurtenances to underground utilities which require aboveground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required access to these utilities is exempt from the screening provisions.

(6) Fencing and Walls

- (a) A fence or wall not more than six feet in height may be installed along any side and rear lot line.
- (b) A fence or wall in any required front yard shall not exceed four feet in height. Fences and walls shall be constructed of high-quality materials, such as decorative blocks, brick, stone, treated wood, wrought iron and black vinyl coated chain link fence. Black vinyl coated chain link fence is permitted subject to the following additional requirements:
 - 1. Residential Uses
Black vinyl coated chain link fencing is permitted for individual lots from the front façade of the house in the side and/or rear. It may not be used forward of the front façade. It may be used be used along a side street or between the house and the side property line if screened from view by landscape materials maintained at the same height as the fence or higher. Shrubs shall be at least 30 inches in height at planting. Chain link fencing is not permitted for use by a developer for buffering and screening. Black vinyl coated fencing may be used for recreational uses including, but not limited to parks, playgrounds, swimming pools, tennis courts and basketball courts.
 - 2. Non-Residential Uses
Black vinyl coated chain link fencing is permitted for the accessory enclosures of day care facilities, kennels or veterinary clinics. Black vinyl coated chain link fencing is permitted for industrial uses. Vinyl coating is not required for fences when not visible from adjacent property or right-of-way.
 - 3. Public Utilities
Black vinyl coated chain link fencing is permitted for public utility purposes. Vinyl coating is not required for industrial fences when it is not visible from adjacent property or right-of-way. The use of black coated vinyl chain link fencing for uses not listed above is permitted if the use of such material is consistent with, and will not impact the aesthetic appearance of the surrounding area.
- (c) Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use.
- (d) Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.
- (e) The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

Duly adopted this 5th day of September 2023, while in regular session.

Jody L. McLeod
Mayor

ATTEST:

APPROVED AS TO FORM:

Heidi Holland, CMC, NCCMC
Town Clerk

Jim Cauley
Town Attorney