

# TOWN OF CLAYTON

## Amendment to the Code of Ordinances: Chapter 155

### Unified Development Code

**BEING HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON,  
NORTH CAROLINA to amend 155.204 with the following:**

#### **§ 155.204 OVERLAY DISTRICT STANDARDS.**

(A) *Thoroughfare Overlay Districts.*

(1) *Established.* The Thoroughfare Overlay Districts (TOD) are established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in this section shall be applied, at the discretion of the Town Council, to nonresidential properties which adjoin major thoroughfares, as designated on the town's Transportation Plan. The Thoroughfare Overlay District II (TOD-II) is established for the same purpose, and shall be applied to properties strategically situated at the primary entryways into the Clayton area.

(2) *Designation.*

(a) *Thoroughfare Overlay District.* Properties subject to these regulations shall be adjacent to, or have immediate access to a major thoroughfare. The boundaries should follow corporate limits where possible, but in no case should the district boundary be more than 150 feet from the outer edge of the right-of-way of the thoroughfare.

(b) *Thoroughfare Overlay District II.* Properties subject to these regulations shall be adjacent to a major thoroughfare. The boundaries shall begin at the corporate limit line and shall end at the extraterritorial jurisdiction line where possible, but in no case should the district boundary be more than 150 feet from the outer edge of the right-of-way of the thoroughfare.

(3) *Permitted uses.* All permitted, special, and conditional uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification.

(4) *Dimensional requirements.* The dimensional requirements of this overlay district shall be the same as the underlying zoning district.

(5) *Street yard requirements.*

(a) Effective November 17, 1997 for the TOD and October 22, 1998 for the TOD II, all new developments or major expansions of existing development (25% increase in building area, lot area, or parking requirement) shall provide a landscaped street yard as follows.

	Street Yard Width (feet)		
	Average	Minimum	Maximum
TOD Commercial	20	10	40
TOD Industrial	40	20	80
TOD II Commercial and Industrial	40	30	50
-	<b>TOD Commercial</b>	<b>TOD Industrial</b>	<b>TOD-II Commercial or Industrial</b>
<del>Street Yard (min. ft.)</del>	<del>20</del>	<del>40</del>	<del>40</del>
<del>Average width</del>	<del>10</del>	<del>20</del>	<del>30</del>
<del>Minimum width</del>	<del>40</del>	<del>80</del>	<del>50</del>
<del>Maximum width</del>			

(b) For purposes of this section, the street yard area is determined by multiplying the lot frontage, less driveways, times the average required width to determine required street yard area. There shall be no structures allowed in this street yard, except as follows:

- (1) Landscaping;
- (2) Drainage features designed to mimic the natural environment;
- (3) Public utilities and facilities;
- (4) Driveways and streets;
- (5) Sidewalks, pedestrian ways, or bikeways;
- (6) In the TOD, one on-premises sign not exceeding four feet in height and 24 square feet if the lot has a minimum frontage of 100 feet on the thoroughfare.

(7) In the TOD II, one on-premises sign not exceeding six feet in height and 24 square feet, if the lot has a minimum frontage of 100 feet on the thoroughfare.

(6) *Landscape requirements.*

(a) All required street yard areas shall be covered by lawn, ground cover, trees, shrubs, or mulch, except as noted above. Maintenance shall be the responsibility of the property owner. Landscaping shall be required according to the following table.

	<u>Min. Landscape Requirements</u>	
	<u>Trees (per 1,000 sq. ft. of street yard)</u>	<u>Shrubs (per 1,000 sq. ft. of street yard)</u>
<u>TOD Commercial</u>	<u>1</u>	<u>5</u>
<u>TOD Industrial</u>	<u>2</u>	<u>10</u>
<u>TOD II Commercial and Industrial</u>	<u>2</u>	<u>10</u>

	<b>TOD Commercial</b>	<b>TOD Industrial</b>	<b>TOD Commercial or Industrial</b>
<del>Required Landscaping (min.)</del>	<del>1</del>	<del>2</del>	<del>2</del>
<del>Trees (per 1,000 sq. ft. of street yard)</del>	<del>5</del>	<del>10</del>	<del>10</del>
<del>Shrubs (per 1,000 sq. ft. of street yard)</del>			

(b) The preservation of existing trees shall be required when practical, utilizing recognized professional standards. The species and size of all plant material shall be specified on the site plan, and at least 50% of the total shall be evergreen. Trees shall have a minimum height of six feet and shrubs must have a minimum height of 18 inches at planting and reach 30 inches within two years. Additional trees may substitute for shrubs on a one-for-one basis. The requirements set forth in this section may be used to fulfill up to 67% (two-thirds) of the landscaping required under § 155.402(D), except that landscaping within all parking areas for vehicles, as set forth in § 155.401(C)(3)(d)2., and buffers, as set forth in § 155.402(E)(2)(c) shall be provided completely, as required, in addition to these requirements.

(7) *Access regulations.* All driveways and public street intersections in the Thoroughfare Overlay Districts shall be subject to NCDOT and the town standards and permitting processes, whichever is applicable. Any parcel of land with less than 400 feet of

frontage on a thoroughfare may have no more than one point of access to the thoroughfare. One additional driveway for each additional 400 feet of thoroughfare frontage shall be allowed, and one per 400 feet of additional frontage. Where medians are provided which prohibit turns into oncoming traffic, access points may be provided every 200 linear feet. No driveway shall be allowed within 300 feet of the intersection of two thoroughfares or within 200 feet of an intersection of any other public street on the thoroughfare. Driveways shall be a minimum of 200 feet apart (measured from center line to center line) on thoroughfares, and shall align with opposing drives, where possible. Shared driveways or parallel access roads shall be used when deemed necessary, and the appropriate legal documents may be required by the town prior to driveway permit issuance. If access to a lot or legally created parcel of land is physically unobtainable under these provisions, an access point may be approved which is located the greatest distance possible from an existing access point and in the safest possible location to be approved by NCDOT and/or the town. For the purpose of this section, adjacent lots in common ownership fronting on a thoroughfare in the Thoroughfare Overlay Districts shall be considered as one lot when determining permitted driveways.

(8) *Alternative means of compliance.* It is recognized that strict interpretation and application of these standards may create particular hardships in areas of unusual topographic condition, or in retrofitting existing developed properties which are expanded. The Planning Board, by majority vote, may approve a site plan for any proposed development which does not meet any specific standard of this section as an alternate means of compliance, subject to making the following findings:

(a) The proposed development attempts to meet the intent of the Thoroughfare Overlay District.

(b) There are physical conditions, not only economic considerations, which prevent the proposed development from meeting the specific standards of this chapter.

(c) The proposed development will be designed to meet the standards of this section to the fullest extent possible.

(d) In determining alternative means of compliance, the Planning Board may consider various features such as width in relation to opacity of landscaping in street yard, number of required parking spaces, and driveway locations and/or distances from nearby intersections.

(B) *Watershed Protection Overlay (-WP).* Use and development standards. The use and development standards for the Watershed Protection Overlay (-WP) are found in [§ 155.501](#).

(C) [Scenic Highway Overlay \(SHO\).](#)

[\(1\) Established. The Scenic Highway Overlay \(SHO\) is established for the purpose of protecting the visual qualities of the scenic US Highway 70 West corridor by maintaining the corridor in as natural a state as is feasible and retaining its historic rural character while](#)

providing opportunities for growth and development, and encouraging urban development at highway interchanges. The property within the SHO offers a desirable, predominantly low density, rural lifestyle. A primary goal is to promote and enhance the quality of life experience by protecting the unique rural character and social fabric while enhancing appeal for new residential and business investment.

(2) *Designation.* Properties subject to these regulations shall be within the SHO boundaries for scenic US Highway 70 West. The boundaries follow the thoroughfare within Town limits and extra territorial jurisdiction (ETJ) for ½ mile, centered on highway interchanges and extends 2,000 feet from the centerline of the right-of-way for the remainder of the thoroughfare.

(3) *Exemptions.*

(a) Existing single family lots of record and residential subdivisions which have a valid subdivision/plat approval.

(b) “Bona fide” farms as defined in North Carolina General Statutes (NCGS) Section 153A-340.

(4) *Permitted uses.* All permitted, special, and conditional uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification unless otherwise stated herein.

(5) *Development requirements.* The development requirements of this overlay district shall prevail over any conflicting regulation established within the underlying zoning district. All driveways and public street intersections shall be subject to applicable NCDOT requirements, town standards and permitting processes.

(6) *Nonconformities.* This section shall not be construed or held to affect the rights of (1) any existing established business, its successors, or assigns, to continue in a use or structure that may otherwise become a legal nonconformity as a result of the establishment of this section or (2) any use specifically approved by a development plan approval granted by the Town prior to the effective date of this section.

(7) *Waivers.* A waiver of one or more requirements of the SHO may be granted by the Town Council if the waiver criteria set forth below have been met.

(a) The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located;

(b) The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not generally applicable to other property;

(c) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this chapter are enforced; and

(d) The purpose of the wavier is not based primarily upon financial consideration.

(8) SHO interchange development. The Town seeks to encourage the development of specific uses at SHO interchanges, evoking a sense of arrival at a significant urban destination. SHO interchanges shall include all properties within ½ mile radius of the intersection point of the following highway interchanges:

- Scenic US Highway 70 West and business US Highway 70 West
- Scenic US Highway 70 West and NC HWY 42 West

To create the unique character and aesthetics for these interchanges, development standards are provided which:

- Create an urban identity for interchanges through the use of planning and design standards.
- Ensure high quality, architecturally compatible, consistently landscaped development at interchanges.
- Regulate uses at interchanges to create a specific character and aesthetic quality.
- Ensure that new development or redevelopment projects at the interchanges preserve and enhance the existing visual character of the scenic corridor.
- Promote and protect the health, safety and general welfare of the Town.

(9) Interchange site development guidelines.

(a) Application. To promote and enhance the character of the SHO, certain uses shall be prohibited within the overlay which might otherwise be permitted within the underlying zoning districts.

(b) Uses. Those uses permitted, allowed subject to a conditional use or subject to a special use at SHO interchanges are listed below. A use not listed, but possessing similar characteristics to those identified may be established upon approval by the Planning Director. Appeals to such determinations shall be made to the Board of Adjustment.

	<u>Approval Type</u>	<u>Specific Use Standard</u>
<u>P = Permitted   C = Conditional Use ( § 155.710)   S = Special Use ( § 155.711)   * = Group of Uses ( § 155.300)</u>		
<u>Residential Uses</u>		

	<u>Approval Type</u>	<u>Specific Use Standard</u>
<u>Apartment</u>	<u>S</u>	<u>§ 155.302(D)</u>
<u>Multi-family</u>	<u>S</u>	
<u>Single-family</u>	<u>S</u>	
<u>Upper Story Residential</u>	<u>P</u>	<u>§ 155.302(E)</u>
<b><u>Civic Uses</u></b>		
<u>Child care center (9+)</u>	<u>S<sup>(1)</sup></u>	
<u>College</u>	<u>S</u>	
<u>Hospital</u>	<u>S</u>	
<u>Nursing home</u>	<u>S</u>	
<u>School (public or private)</u>	<u>S<sup>(1)</sup></u>	
<b><u>Commercial Uses</u></b>		
<u>Gas station w/convenience retail</u>	<u>S</u>	<u>§ 155.304(E)</u>
<u>Hotel, motel</u>	<u>S</u>	<u>§ 155.304(D)</u>
<u>Indoor recreation*</u>	<u>S<sup>(1)</sup></u>	
<u>Office, General*</u>	<u>P</u>	
<u>Office, Medical*</u>	<u>P</u>	
<u>Outdoor seating and sidewalk cafes</u>	<u>S</u>	<u>§ 155.304(O)</u>
<u>Restaurant</u>	<u>P</u>	
<u>Retail, General*</u>	<u>P</u>	<u>§ 155.304(H)</u>
<u>Service, General*</u>	<u>P</u>	<u>§ 155.304(J)</u>
<u>Veterinarian, animal Hospital</u>	<u>S</u>	<u>§ 155.304(N)</u>
<b><u>Industrial Uses</u></b>		
<u>Research &amp; Development</u>	<u>P</u>	

<sup>(1)</sup> Use is classified as a Special Use (S) unless it is located within an "in-line" space in a shopping center. If the use is in-line, it is reclassified as a Conditional Use (C).

(c) Site development. Development shall incorporate the design criteria established in the Town's General Design Guidelines to enhance and protect the health, safety and general welfare of the Town.

(d) Pedestrian amenities. Uses shall contribute to pedestrian-friendly focal spaces through the provision of well-designed walking paths, pedestrian spaces with furnishings, public art, generous plantings, marked crosswalks, and vehicular parking and circulation areas clearly separated from such pedestrian amenities.

(e) Landscaping. To supplement landscape requirements, existing vegetation shall be incorporated into the design of the development to the greatest extent possible.

(f) Setback requirements.

1. Setbacks for properties not having direct frontage along a thoroughfare within the SHO shall be as defined by the underlying zoning district.

2. Thoroughfare right-of-way setbacks shall be a minimum of 50 feet. The entire area within the right-of-way setback shall be fully grassed and landscaped. Structures and paved areas for motor vehicles, other than for ingress and egress, shall not be installed or constructed within 50 feet of a road right-of-way. Buildings shall be directly adjacent to the right-of-way setback with parking and circulation occurring interior to the development. Encroachment into the setback may be varied by Town Council to allow for art in public places, transit stops, pedestrian amenities such as meandering sidewalks, and outdoor seating with or without service for restaurants.

(g) Access management.

1. NCDOT policies and access management practices shall be followed to limit traffic conflicts through the design and placement of driveways and medians within the SHO.

2. To improve safety and site circulation, cross access agreements shall be provided by proposed development to adjacent properties.

(h) Building height requirements. To promote a sense of arrival, structures located on intersection properties having frontage on Scenic US Highway 70 West shall be a minimum of two stories in height.

(i) Prohibited elements. The following elements are prohibited at SHO interchanges:

1. Unfinished concrete or concrete masonry walls.

2. Unscreened dumpsters or trash receptacles.

3. Visible neon and other elements with highly reflective or bright colored surfaces.
4. Distracting or frivolous objects which are not in harmony with the SHO.

(10) SHO Interchange building design guidelines.

- (a) General design. Buildings shall be designed to be compatible with the surrounding environment, both manmade and natural. A building shall provide a positive impact on the surrounding environment.
- (b) Building elevations. All building elevations shall be treated equally as if all sides were the front of the building. This requirement includes but is not limited to architectural elements, facade treatment, and landscaping.
- (c) Building materials and color. Building materials and color selection shall achieve visual order through the consistent use of compatible color palettes.
- (d) Trademark forms and colors. Buildings and structures which use trademark or symbolic forms and colors and which have a negative impact on the visual environment of the area, shall not be permitted.
- (e) Architectural detail. Architectural design shall prohibit large expanses of blank walls with limited or no windows or architectural embellishments.
- (f) Roof overhangs. Unless specifically designed otherwise, roof overhangs including mansard roof overhangs shall wrap around the building so that there is visual continuity around the entire building.
- (g) Mechanical equipment screening. The highest portion of mechanical equipment, such as backflow preventers, meters and valves for public utilities operations, satellite antennas, heating and ventilating, air-conditioning, or other utility hardware on roofs, ground, or buildings shall be installed at or below the lowest elevation or below the level of screening materials. Materials used for screening purposes shall be compatible with the architectural style, color, and materials of the principal building. This equipment shall be located so as not to be visible from any street or adjoining property.
- (h) Gutters and down spouts. Gutters and down spouts shall be painted to match the surface to which they are attached. Gutters and down spouts may, however, be painted in such a way so as to become a design element if the color is consistent with the color scheme of the building.
- (i) Service yards, storage yards, and loading docks. All refuse and waste containers, recycling or compacting containers, dumpsters, oil tanks, bottled gas tanks, service yards, storage yards, and loading docks shall be located in the rear or

side yard. All such service equipment and service areas shall be screened from view from any street or adjoining property by means of a wall, landscaping, or other methods approved by the Town Council.

(11) SHO corridor development.

(a) General design. New development along the SHO corridor shall be sited and designed to minimize adverse impacts on scenic areas visible from the scenic highway to the maximum extent feasible. As a general design principle, the density of vegetation should increase with the density or intensity of development. Priority shall be given to retaining existing natural resources and mature trees.

(b) Special setback requirement. No structures shall be allowed within 100 feet of the edge of the ultimate right-of-way for Scenic US Highway 70 West, except as follows:

1. Landscaping;
2. Drainage features designed to mimic the natural environment;
3. Public utilities and facilities;
4. Driveways and streets; and
5. Sidewalks, pedestrian ways, or bikeways.

(c) Development location. Development shall be designed so that it is located on the least visible portion of the site from the corridor. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas from the highway.

(d) Landscape elements. Existing vegetation and proposed landscaping shall be blended to produce the feeling of masses of trees forming green arbors. These masses shall be interrupted by occasional views to open spaces and environmentally sensitive lands.

(e) Clustering development. In an effort to preserve expansive open spaces and native vegetative communities within the corridor, development shall be clustered to preserve large areas of open space and the existing natural vegetation shall be preserved whenever possible, with the exception of invasive plant species.

(f) Building design. Buildings and structures shall be designed to blend into the existing natural setting to the greatest extent possible. This shall be accomplished through the use of natural earth toned colors, architectural treatments on all sides of a structure and landscaping. Facilities such as loading zones, mechanical equipment,

and trash and garbage containers shall be completely screened and buffered so that they cannot be viewed from the highway.

(g) Site grading. Site grading shall be minimized to incorporate the existing topography to the greatest extent feasible.

(h) Massing. The massing of buildings, including height, bulk and scale, is important to maintaining the character of the SHO corridor. To ensure the impact of development is minimized, the height buildings shall be limited based on the topography and the shape of the site in relation to the highway.

1. In order to better determine the impact of development on the corridor, the Planning Director may require the applicant to hold a “balloon test” prior to the initial public hearing on the application. The applicant shall arrange to fly, or raise on a temporary mast, a large and brightly colored balloon in the approximate location and at the maximum height of the proposed structure(s).

(i) Prohibited elements. The following elements are prohibited along the SHO corridor:

1. Unfinished concrete or concrete masonry walls.

2. Unscreened dumpsters or trash receptacles.

3. Visible neon and other lighting elements with highly reflective or bright colored surfaces.

4. Unshielded lighting and backlit signage.

5. Distracting or frivolous objects which are not in harmony with the SHO.

(Ord. 2005-11-02, passed 11-21-05)

**Duly adopted this \_\_\_\_ day of 2011, while in regular session.**

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**Jody L. McLeod**

**Mayor**

**ATTEST:**

**APPROVED AS TO FORM:**

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**Sherry L. Scoggins, MMC**

**Town Clerk**

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**Brenton W. McConkey**

**Town Attorney**