

AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Apex as follows:

Section 1. Sections 2.2.7 and 2.2.11 of the Unified Development Ordinance are amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

2.2.7 Neighborhood Meeting

Neighborhood meetings are required for all applications for Rezoning, Major Site Plans, residential subdivisions, excluding exempt subdivisions, and Special Use Permits. Upon submittal of an application for a Rezoning, residential Master Subdivision Plan, Major Site Plan, or Special Use Permit, the petitioner must file in the office of the Planning Director a written report of at least one (1) neighborhood meeting held by the petitioner. The neighborhood meeting shall comply with the following procedures.

...

B) Time and Place

The neighborhood meeting shall be held **either:**

1) ~~At a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application;~~ **or**

2) **Virtually with both internet and dial-in options per the guidelines in the Neighborhood Meeting Packet.**

C) Notification

The applicant shall provide notification of the neighborhood meeting a minimum of ~~10~~**14** calendar days in advance of the meeting by mail, to all **property** ~~land~~ owners **and tenants abutting and located** within 300 feet of the land subject to the application, to any neighborhood association that represents citizens within ~~that~~ **notification** area, and to the Town of Apex Planning Department. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 300-foot notification area shall be measured from the property line of that entire parcel. **The applicant shall request this notification list from Town GIS staff per the guidelines in the Neighborhood Meeting Packet.**

...

2.2.11 Public Notification

...

B) Written (Mailed) Notice

When the provisions of this Ordinance require that written or mailed notice be provided, the Planning Director shall be responsible for preparing the written notice and mailing the written notice. Notice shall be mailed to all **property** owners ~~of the land~~ subject to the application, and all **property** owners ~~of land~~ **and tenants abutting and** located within 300 feet of the land subject to application, **and any neighborhood association that represents citizens within the notification area** unless otherwise specified in this Ordinance.

However, as an alternate form of notification, NCGS ~~160A-384(b)~~ **160D-602(b)** may be used when a zoning map amendment ~~directly affects~~ **proposes to change the zoning designation of** more than 50 properties, owned by a ~~total of~~ at least 50 different property owners, **and the Town elects to use the expanded published notice provided for in that subsection.**

Written notice shall be provided at the last addresses listed for such **property** owners on the county tax abstracts **and all tenant and neighborhood association addresses on record with the Planning Department. Town GIS staff shall provide the applicant with a list of all property owners of land subject to the application, all property owners and tenants located within 300 feet of the land subject to application, and any neighborhood association that represents citizens within the notification area.** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The applicant shall be responsible for providing the Planning Director with first class stamped envelopes (postage metering is not acceptable) addressed to all **property** owners of the land subject to the application, all **property** owners of land **and tenants abutting and** located within 300 feet of the land subject to application, and to any neighborhood association that represents citizens within the **notification** area. ~~The applicant shall also sign and provide to the Planning Director an affidavit with a certified list of all owners of the land subject to the application and all owners of land located within 300 feet of the land subject to application.~~

The Planning Director shall be responsible for preparing an affidavit affirming that the mailed notice met the requirements of Sec. 2.2.11.A *Content*. The affidavit shall be conclusive that notice has been given pursuant to the terms of the subsection. When less than an entire parcel of land is subject to the proposed zoning map amendment, the ~~300-foot notification area shall be measured from the property line of that entire parcel~~ **shall be used to determine abutting property owners and tenants and the 300-foot notification area. Properties are “abutting” even if separated by a street, railroad, or other transportation corridor.**

...

- E) Timing of Notice
Unless otherwise expressly provided in the North Carolina General Statutes or this Ordinance, notice shall be provided as follows:

Application for Development Permit or Other Action	Notice Required (days before hearing/action)			
	Neighborhood Meeting (Sec. 2.2.7)	Written (Sec. 2.2.11.B)	Published (Sec. 2.2.11.C)	Posted (Sec. 2.2.11.D)
Rezoning, Conditional Rezoning, PUD-CZ, SD-CZ, TND-CZ, MEC-CZ, Major Site Plan, Special Use	Written notice no less than 10 14 days prior to meeting date	Not more than 25 days nor less than 10 days prior to public hearing	Once a week for two successive weeks prior to public hearing; first publication not less than 10 days nor more than 25 days before hearing	Not less than 10 days prior to public hearing
Residential Master Subdivision Plans	Written notice no less than 10 14 days prior to meeting	N/A	N/A	N/A
Unified Development Ordinance (limited instances require Published Notice)	N/A	N/A	Once a week for two successive weeks prior to public hearing; first publication not less than 10 days nor more than 25 days before hearing for 1) Changes that affect the permitted uses of land; or 2) Changes relating to telecommunications towers or windmills.	N/A

Variance permit	N/A	Not more than 25 days nor less than 10 days prior to public hearing	N/A	Not more than 25 days nor less than 10 days prior to public hearing
Appeals to Board of Adjustment (interpretations and decisions of Planning Director)	<u>N/A</u>	Not more than 25 days nor less than 10 days prior to public hearing	N/A	Not more than 25 days nor less than 10 days prior to public hearing

Section 2. Sections 8.6.2 and 8.6.3 of the Unified Development Ordinance are amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

8.6.2 Lighting Plan

Any development that proposes exterior lighting shall include a detailed exterior lighting plan as part of the plan submission. This plan shall include:

- A) Specifications for the lighting fixtures such as: type of unit (cutoff, non-cutoff, glare shields, etc.), lamps (wattage, etc.), **correlated color temperature of lamps (Kelvin)**, electrical load requirements, utility company involved, method of wiring, routing/location of lines, location of lights, and mounting heights.

8.6.3 Illumination Standards

- A)** The tables below set forth standards for lighting intensity...

- B)** **Color Temperature**

The correlated color temperature (CCT) of lamps in exterior lighting shall not exceed 3,500 Kelvins. Athletic field lighting shall be exempt from this requirement.

Section 3. Section 2.2.18.E of the Unified Development Ordinance is deleted with and is shown as struck-through text:

2.2.18 Public Hearing Procedures

...

~~E) *Successive Applications*~~

~~Whenever any application is disapproved, an application for all or a part of the same land shall not be considered for a period of one (1) year after the date of disapproval unless either the subsequent application involves an application that is materially different from the prior application or a simple majority of the membership of the decision-making body that made the final decision on the application determines that the prior disapproval was based on a material mistake of fact. The decision-making body charged with conducting the public hearing under such successive application shall resolve any issue concerning the similarity of a successive application or other issues that may develop under this Section.~~

Section 4. Amendments in Sections 1 and 2 shall not apply to projects for which an application for development approval has been submitted before the effective date of this ordinance.

Section 5. The Director of Planning and Community Development and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the terms of this ordinance.

Section 6. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

Section 7. Section 1 of this ordinance is effective July 1, 2021. Any neighborhood meetings conducted in accordance with the Unified Development Ordinance before July 1, 2021 shall be valid and remain in effect after Section 1 becomes effective.

Section 8. Except as provided in Section 7, the ordinance is effective upon enactment on the _____ day of _____ 2021.

Introduced by Council Member _____

Seconded by Council Member _____

Attest:

TOWN OF APEX

Donna Hosch, MMC, NCCMC
Town Clerk

Jacques K. Gilbert
Mayor

Approved As To Form:

Laurie L. Hohe
Town Attorney