



Requested by Town Council and Planning Staff:

- 1. **Amendments to Sec. 2.2.7 *Neighborhood Meeting* and 2.2.11.E *Public Notification* in order to allow virtual neighborhood meetings as an option whether or not limitations on gathering are in place, to increase the minimum number of days for written notice of a neighborhood meeting from 10 days to 14 days, and to require that all required written notices be provided to tenants in accordance with the same standards applicable to property owners. The proposed effective date for these amendments is July 1, 2021.**

Purpose of the amendments:

The Town Council has requested that written notice of neighborhood meetings and public hearings be provided to tenants as is required for property owners since property owners do not always pass along this information to tenants.

Planning staff is proposing that virtual neighborhood meetings be allowed as an option even when limitations on gatherings are no longer in place. A virtual meeting reduces equity and accessibility concerns such as transportation, child care, and drive time to the meeting (for those who work out of town) by allowing participation by internet or phone. All handouts provided at an in-person meeting are required to be mailed for virtual meetings. Planning staff is also proposing to increase the notice period for neighborhood meetings from 10 days to 14 days to provide more time for interested parties to make arrangements to participate.

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 **1014** calendar days in advance of the meeting by mail, to all **property landowners 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.**

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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

Requested by the Planning Committee of Town Council:

2. **Amendment to Sec. 8.6.2 Lighting Plan and Sec. 8.6.3 Illumination Standards in order to specify the maximum color temperature of exterior lights.**

Purpose of the amendments:

A lower color temperature lamp, measured in Kelvin, results in a warmer color of light and is often described as more yellow than white and typically perceived as less harsh than higher temperature lamps.

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.

Requested by the Planning Committee of Town Council and Planning Staff:

3. Amendment to Sec. 2.2.18 *Public Hearing Procedures* in order to remove subsection 2.2.18.E *Successive Applications*. This subsection currently requires a one year waiting period to resubmit an application that is denied unless the new application is materially different or the decision-making body determines that the prior disapproval was based on a material mistake of fact.

Purpose of the amendment:

State law does not require a waiting period for any application denied in a public hearing. Removing this requirement allows applicants to resubmit a new application when they are ready.

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.~~

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed UDO amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard this amendment at their May 10, 2021 meeting and unanimously recommended approval.

PLANNING BOARD REPORT TO TOWN COUNCIL
Unified Development Ordinance Amendments

Planning Board Meeting Date: May 10, 2021



Report Requirements:

Per NCGS §160D-604, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Planning Board Recommendation:

Motion: Recommend approval as presented.

Introduced by Planning Board member: Tim Royal

Seconded by Planning Board member: Tommy Pate

- Approval of the proposed UDO amendment(s)
- Approval of the proposed UDO amendment(s) with the following conditions:

- Denial of the proposed UDO amendment(s)

With 8 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 10th day of May 2021.

Attest:

Michael Marks Digitally signed by Michael Marks
Date: 2021.05.10 20:32:49 -04'00'

Michael Marks, Planning Board Chair

Dianne Khin Digitally signed by Dianne Khin
Date: 2021.05.10 18:53:56 -04'00'

Dianne Khin, Director of Planning and
Community Development



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

PUBLIC NOTIFICATION OF PUBLIC HEARING

AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

Requested by Town Council and Planning Staff:

1. Amendments to Sec. 2.2.7 *Neighborhood Meeting* and 2.2.11 *Public Notification* in order to allow virtual neighborhood meetings as an option whether or not limitations on gathering are in place, to increase the minimum number of days for written notice of a neighborhood meeting from 10 days to 14 days, and to require that all required written notices be provided to tenants in accordance with the same standards applicable to property owners. The proposed effective date for these amendments is July 1, 2021.

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Requested by Planning Staff:

3. Amendment to Sec. 2.2.18 *Public Hearing Procedures* in order to remove subsection 2.2.18.E *Successive Applications*. This subsection currently requires a one year waiting period to resubmit an application that is denied unless the new application is materially different or the decision-making body determines that the prior disapproval was based on a material mistake of fact.

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: May 25, 2021 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may share comments by noon on Monday, May 24, 2021 by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit) according to the Remote Participation Policy at: <http://www.apexnc.org/DocumentCenter/View/31397/>. You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, the vote on the subject of this public hearing will be delayed per State law to allow for comments to be submitted between publication of any required notice and 24 hours after the public hearing. Comments must be provided according to the means specified above. This item will then be scheduled for the next Town Council meeting. Please note that at this subsequent meeting, Town Council may choose to vote on the item, table the discussion to a later date, or take other action which would delay Council action to another time.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Director of Planning and Community Development



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 919-249-3426

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Dianne F. Khin, AICP
Director of Planning and Community Development

Published Dates: April 30-May 25, 2021