

**ORDINANCE NO. 2020-1006-31**

**AN ORDINANCE TO AMEND VARIOUS SECTIONS OF APEX TOWN CODE**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX AS FOLLOWS:

**Section 1. Subsection (b) of Section 4-1 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 4-1. - Animal sanitation.**

(b) Any person, while harboring, walking, in possession of or in charge of a dog on public property, public park property, public right-of-way or any private property without the permission of the private property owner, shall have ~~in his or her~~ possession **of** a bag or other container that closes, which is suitable for removing feces deposited by the dog.

**Section 2. Section 5-143 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 5-143. - Definitions.**

...

*Person responsible for the violation* as used in this article, and G.S. 113A-64, means:

- (1) The developer or other person who has or holds **one** ~~himself~~ out as having financial or operational control over the land-disturbing activity; or
- (2) The landowner or person in possession or control of the land when ~~he~~ **said person** has directly or indirectly allowed the land-disturbing activity or has benefited from it or ~~he~~ **said person** has failed to comply with any provision of this article, the Act, or any order adopted pursuant to this article or the Act as imposes a duty upon ~~him~~ **said person**.

...

**Section 3. Subsection (f) of Section 5-156 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 5-156. - Procedures related to soil erosion and sedimentation control plans.**

(f) Soil erosion and sedimentation control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or ~~his~~ **said person's** attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of: (1) the person financially responsible; (2) the owner of the land; and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or noncompliance with the plan, the Act, this article, or rules or orders adopted or issued pursuant to this article as well as for service of civil summonses and complaints. If the applicant is not the owner of the land to be disturbed, the draft soil erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft soil erosion and sedimentation control plan and to conduct the land-disturbing activity.

**Section 4. Subsection (c) of Section 5-158 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 5-158. - Inspections and investigations.**

(c) If, it is determined that a person engaged in land-disturbing activity has failed to comply with the Act, this article, or rules, or orders adopted or issued pursuant to this article, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4 or in the case of violations on single-family residential lots, be served by personnel service with a return of service form.

The notice shall specify a date by which the person must comply with the Act, or this article, or rules, or orders adopted pursuant to this article, and inform the person of the actions that need to be taken to comply with the Act, this article, or rules or orders adopted pursuant to this article. However, no time period for compliance need be given for failure to submit a soil erosion and sedimentation control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out ~~his~~ **the authorized representative's** official duties. Any person who fails to comply within the time specified is subject to the civil and criminal penalties provided in this article.

**Section 5. Subsection (a) of Section 5-159 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 5-159. - Penalties.**

(a) *Civil penalties.*

(1) Any person who violates any of the provisions of this article, or rules or orders adopted or issued pursuant to this article, or who initiates or continues a land-disturbing activity for which an soil erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is \$5,000.00. Civil penalties may be assessed from the date of the violation. However, no penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in subsection 5-158(c) of this article. If, after the allotted time period has expired, the violator has not completed corrective action a civil penalty may be assessed. Nevertheless, no time period for compliance need be given for failure to submit a soil erosion and sedimentation control plan for approval, proceeding with the work before the letter of plan approval is signed by the town, or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out ~~his~~ **the authorized representative's** official duties. Proceeding with work before the letter of soil erosion and sedimentation control plan approval is signed shall constitute grading without a permit. Each day of continuing violation shall constitute a separate violation.

...

**Section 6. Section 6-63 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 6-63. - Defaulting purchasers.**

...

Failure to make a payment when due shall subject the purchaser to a penalty of ten percent of the overdue amount; and if payment of all sums due including the penalty is not received within six months after the date the overdue payment first became due then the town council may declare the contract of purchase to be in default and purchaser shall have no further rights in and to the burial plots identified in the contract of purchase except those for which the full payment of the purchase price has been made. In the event the purchaser has not designated the plots for which ~~he~~ **purchaser** has paid the full purchase price, the town council may do so at the time it takes action declaring the contract to be in default. Any remaining sums paid on the contract and not applied to the purchase of a designated plot shall be paid into the town treasury as liquidated damages and the town shall have no further obligations under the contract.

...

**Section 7. Section 9-32 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 9-32. - Definitions.**

...

*False alarm* means a signal generated by an alarm system which results in the dispatching of the fire department (apparatus and/or personnel) to the premises when the system is improperly set off due to faulty smoke detectors, heat detectors, flow detectors, negligence in cooking practices, installation or repair, or for any reason other than a fire protection purpose for which it was designed. A false alarm does not include an alarm signal generated by severe weather conditions, utility service interruption beyond the control of the owner or ~~his~~ **owner's** representative or an act of nature.

**Section 8. Subsection (d) of Section 9-33 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 9-33. - False alarms, penalties.**

(d) If the alarm system user can demonstrate to the satisfaction of the fire chief or ~~his~~ **the chief's** designee that the alarm was a legitimate activation of the system's equipment, the fire chief or ~~his~~ **the chief's** designee may waive the provisions of this article.

**Section 9. Section 12-92.1 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-92.1. - Definitions and abbreviations.**

...

*Approval authority.* The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or ~~his~~ designee **of same**.

...

*POTW director.* The chief administrative officer of the control authority or ~~his/her~~ delegate **of same**.

...

*Superintendent.* The person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this division, or ~~his~~ the duly authorized representative **of same**.

...

**Section 10. Section 12-94.2 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-94.2. - Surcharges.**

The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

- (1) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
  - a. Metered water consumption as shown in the records of meter readings maintained by the town; or
  - b. If required by the town or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the town. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the town.
  - c. Where any user procures all or part of ~~his~~ **the user's** water supply from sources other than the town, the user shall install and maintain at ~~his~~ **the user's** own expense a flow measuring device of a type approved by the town.
- (2) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the town or by state-certified laboratory personnel performing permitted self-monitoring activities. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
- (3) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW director or ~~his~~ **the POTW director's** duly appointed representatives shall be binding as a basis for charges.

**Section 11. Section 12-95.1 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-95.1. - Wastewater discharge permits.**

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW director be required to obtain a wastewater discharge permit for non-significant industrial users.

(1) Significant industrial user determination. All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW director a significant industrial user determination. If the POTW director determines or suspects that the proposed discharge fits the significant industrial user criteria ~~he~~ **the POTW director** will require that a significant industrial user permit application be filed.

...

(9) Permit conditions.

a. The POTW director shall have the authority to grant a permit with such conditions attached as ~~he~~ **the POTW director** believes necessary to achieve the purpose of this division and G.S. 143-215.1. Wastewater discharge permits shall contain, but are not limited to, the following:

...

b. In addition, permits may contain, but are not limited to, the following:

...

11. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 12-96.12 and affording the POTW director, or ~~his~~ **the director's** representatives, access thereto.

...

**Section 12. Subsection (f) of Section 12-99 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-99. - Administrative remedies.**

(f) Termination of permit or permission to discharge. The POTW director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

(1) Failure to accurately report the wastewater constituents and characteristics of ~~his~~ **the user's** discharge;

...

**Section 13. Section 12-99.5 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-99.5. - Hearings.**

The local government may conduct hearings in accordance with its regular hearing procedure.

(1) Adjudicatory hearing. An applicant whose permit is denied, or is granted subject to conditions ~~he~~ **the applicant** deems unacceptable, a permittee/user assessed a civil penalty under section 12-99.1, or one issued an administrative order under section 12-99 shall have the right to an adjudicatory hearing before the POTW director or other hearing officer appointed by the POTW director ("hearing officer") upon making written demand, identifying the specific issues to be contested, to the POTW director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The hearing officer shall make a final decision on contested penalties within 90 or less days of the receipt of the written demand for a hearing. The hearing officer shall make a final decision on contested permits or orders within 90 days of the receipt of the written demand for a hearing. The POTW director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in subsection (2), below. The decision is a final decision for the purposes of seeking judicial review. The terms and conditions of a permit under appeal shall be as follows:

...

**Section 14. Section 12-100 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-100. - Definitions.**

...

*Town manager* means, for the purposes of this division, the town manager or ~~his~~ **the town manager's** designee.

...

**Section 15. Subsection (b) of Section 12-102 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-102. - Stages of conservation measures in response to water shortage.**

(b) The town manager shall base ~~his~~ **directed** action upon a review of all factors that affect the town's water supply including, but not limited to, current water supply, stream flow, lake level, seasonal effect on water supply, and current consumption rates. The water shortage response triggers for declining days of supply as well as increasing days of supply will be followed as outlined in the town's water shortage response plan (WSRP). The following table illustrates the irrigation restrictions associated with each stage of mandatory water conservation:

**Section 16. Section 12-112 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-112. - Garbage container specifications.**

The occupant of every building, premises or place where garbage does or may exist shall be provided with a properly sized waste container in which ~~he~~ **the occupant** shall deposit all garbage existing at the place occupied by ~~him~~ **the occupant**. All garbage containers shall be kept reasonably clean. No wooden boxes, wooden or cardboard containers or 55-gallon drums shall be used for garbage and refuse containers and, if used, shall be confiscated.

**Section 17. Section 12-126 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**



**Sec. 12-126. - Definitions.**

...

*Director of public works and utilities* means the director of public works and utilities of the town or ~~his~~-designee **of same**.

*Environmental programs manager* means the town employee who manages the environmental programs division or ~~his~~-designee **of same**.

...

**Section 18. Section 12-131 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-131. - Right of entry.**

The environmental programs manager, director of public works and utilities, chief of police, the county health officer or any ~~of his~~ assistants **of same**, shall have the right to enter at any reasonable time any premises for the purposes of making any inspections or investigations to insure the health, welfare and safety of the public.

**Section 19. Section 12-157 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-157. - Designation of responsibility.**

...

(d) *Consumer responsibility.* The consumer has the primary responsibility of preventing pollutants and contaminants from entering ~~his/her~~ **the consumer's** potable water system or the public potable water system. The consumer's responsibility starts at the point of delivery from the public potable water system and includes all of ~~his/her~~ **the consumer's** water system. The consumer, at his/her consumer's expense, shall install, operate, test, and maintain approved backflow prevention assemblies as directed by the town. The consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum period of three years. The consumer shall complete the town backflow prevention assembly survey with every request for a change of business name or occupancy, or when altering any space or system receiving town water. The consumer shall have the certified backflow tester submit the report(s) to the online cross connection control assembly tracking system (online system). Following any repair, overhaul, re-piping, or relocation of an assembly, the consumer shall have that backflow prevention assembly tested to ensure

that it is in good operating condition and will prevent backflow. A certified backflow prevention assembly tester shall make tests, maintenance and repairs of backflow prevention assemblies. Failure to submit the test report(s) representing the site to the online system will subject the consumer to the enforcement actions and remedies provided in section 12-166 of this chapter.

(e) *Certified backflow prevention assembly tester responsibility.* When employed by the consumer to test, repair, overhaul, or maintain backflow prevention assemblies, a certified backflow prevention assembly tester (tester) will have the following responsibilities:

(1) Each person wishing to test, repair, overhaul, or maintain backflow prevention assemblies shall provide a certificate(s) to the town and the online system which sets forth that ~~he/she~~ **such person** has met the minimum qualification standards established by the town for certification as a backflow prevention assembly tester, as outlined in the definition of backflow prevention assembly tester in section 12-158. If at any time the tester(s) certification is revoked, suspended, or flagged as inactive, the tester(s) shall not submit any test report(s) to the town or the online system for approval. The tester(s) shall be considered inactive and subject to enforcement as outlined in section 12-166.

...

(3) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment that has been evaluated and/or approved by the town before registering ~~his or her~~ **the tester's** equipment on the online system. All test equipment shall be registered with the town through the online system. All test equipment shall be checked for accuracy annually (at a minimum), calibrated, if necessary, and certified to the town through the online system as to such calibration, employing an accuracy/calibration method acceptable to the town.

...

**Section 20. Subsection (a) of Section 12-160 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-160. - Elimination of cross connections; degree of hazard.**

(a) When cross connections are found to exist, the owner, ~~his/her~~ **owner's** agent, occupant, or tenant will be notified in writing to disconnect the same within the time limit established by the town. The degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. If, in the judgment of the town, a health hazard exists water service to the

building or premises where a cross connection exists may be terminated unless an air gap is immediately provided, or the cross connection is immediately eliminated. The maximum time limits are as follows:

...

**Section 21. Subsection (d) of Section 12-166 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-166. - Enforcement.**

...

(d) The violation of any section of this article may be punished by a civil penalty listed as follows, to be recovered by the town in a civil action in the nature of a debt if the offender does not pay the penalty within the prescribed period of time after ~~he/she/it~~ **the offender** has been cited for violation. The director of public works and utilities may assess a civil penalty in accordance with subsections 12-166(d)(1)—(6), inclusive. The civil penalty must be paid within 30 days of receipt of written citation by the consumer or person in charge. Each individual violation shall be a separate and distinct offense. Notwithstanding anything to the contrary in this article the provisions of this section may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(1) Unprotected cross connection involving a private water system, which creates a health hazard—up to \$1,000.00 per day, not to exceed \$10,000.00.

(2) Unprotected cross connection involving a private water system, which is of a non-health hazard—up to \$500.00 per day, not to exceed \$5,000.00.

(3) The town may immediately discontinue water service to any consumer if, in the judgment of the town, any consumer or person in charge of any installation

a. Is found to be in noncompliance with the provisions of this article and neglects ~~his/her/its~~ **the consumer's** responsibility to correct a violation after having been given notice thereof, and such violation constitutes or presents an imminent hazard to the public health, safety and welfare, and/or

...

(4) Failure of a consumer or certified tester to submit any record required by this article, or the submission of falsified reports/records may result in a civil penalty of up to \$500.00 per violation. If a certified backflow prevention assembly tester submits falsified records to the town or the online system, the town shall permanently revoke that tester's privilege to test cross connection

devices/assemblies. In the event a certified backflow prevention assembly tester fails to submit any record within the timeframe required by this article or fails to exercise the same degree of care, skill and judgment in the performance of services to the citizens of the town as is ordinarily provided by a similar professional under the same or similar circumstances, then the director of public works and utilities or cross connection control coordinator or ~~his/her~~ designee **of same** has the discretion to remove the tester from the list of available certified testers

...

(6) Requests for extension of time shall be made in writing to the director of public works and utilities. All other appeals shall be made in accordance with the following procedures:

...

e. The director of public works and utilities, cross connection control coordinator, or his/her **director's** authorized representative, shall administer enforcement of this program.

**Section 22. Subsection (a) of Section 12-195 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-195. - Grease interceptor inspections.**

(a) Users shall maintain a written record of all grease interceptor maintenance activities for three years after completion of the maintenance activities. These records shall contain clean-out dates, the name of the owner or manager of the facility, and the name of the firm that performed the clean-out. These records must be located on the premises and available for inspection during all business hours by the director of public works and utilities or ~~his~~ **director's** designee.

**Section 23. Section 12-198 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-198. - Definitions.**

...

*Town manager* means the town manager as appointed by the Town Council of the Town of Apex, or ~~his~~ **the town manager's** designee.

...

**Section 24. Subsection (b) of Section 12-207 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 12-207. - Enforcement.**

(b) Civil penalties.

...

(6) Schedule of civil penalties. The following civil penalties shall be imposed, up to the amount shown for each category, upon the user or person found to have violated this article. In determining the amount of the penalty, the director of public works or ~~his~~ **the director's** designee shall consider:

- a. The degree and extent of harm to the environment, public health and public and private property.
- b. The cost of remedying the damage.
- c. The duration of the violation.
- d. Whether the violation was willful.
- e. The prior record of the person responsible for the violation in complying with this article.
- f. The town's enforcement costs and the amount of money saved by the violator through ~~his, her or its~~ **the violator's** noncompliance.

Category I: Civil penalty to not exceed \$100.00 per day per violation.

Note: In lieu of a civil penalty for first time offenders, the town manager or ~~his~~ the **town manager's** designee may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, creek cleanup, etc.

...

**Section 25. Subsection (b) of Section 13-52.2 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 13-52.2. - Application review and permit issuance.**

(b) If the chief of police finds the application meets the standards of section 13-52.3, the chief of police shall ~~endorse his approval on~~ **approve** the application and shall, upon payment of the prescribed fee, issue the permit and make it available for the applicant to pick up.

The chief of police shall make this determination within five business days of submission of the application.

**Section 26. Subsection (c) of Section 13-52.3 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 13-52.3. - Standards for issuance or denial of permit**

(c) In the case of denial, the chief of police's denial and the reasons for denial shall be noted on the application, and the applicant shall be notified that ~~his~~ **the** application is denied and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

**Section 27. Section 13-52.5 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 13-52.5. - Badge and permit exhibition.**

A badge shall be issued to every person authorized by a permit to engage in peddling, soliciting or park concessions. All persons engaging in peddling, soliciting or park concessions shall display the badge on the front of ~~his or her~~ **their** person in a manner that is easily observable. Additionally, every person engaging in peddling, soliciting or park concessions shall keep on their person the permit obtained under the provisions of this article and shall exhibit the permit when requested to do so by any prospective customer or town employee. The badge will be a design approved by the chief of police and shall contain the permit holder's name, name of business for which the permit holder is representing, date issued, expiration date, and photograph of permit holder.

**Section 28. Subsection (b) of Section 13-66 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 13-66. - Application review and permit issuance.**

(b) If the chief of police finds the application meets the standards of sections 13-64 and 13-67, the chief of police shall ~~endorse his approval on~~ **approve** the application and shall, upon payment of the prescribed fee, issue the permit and make it available for the applicant to pick up. The chief of police shall make ~~this~~ determination within five business days of submission of the application.

**Section 29. Section 13-121 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 13-121. - Delay of passengers.**

When one or more persons shall employ a taxicab and occupy it as a passenger or passengers, the driver shall not cause ~~his~~ **driver's** vehicle to remain parked and delay the transporting of the passenger or passengers to the requested destination for a period in excess of two minutes after the passenger or passengers have entered the taxicab.

**Section 30. Section 13-141 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 13-141. - Required.**

No person shall drive any taxicab or limousine carrying passengers for hire from place to place within the corporate limits of the town, unless ~~he~~ **such person** shall have first applied to and secured from the town a permit to operate a taxicab or limousine.

**Section 31. Section 13-142 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 13-142. - Application.**

An application for a permit under this division shall be made upon blanks furnished by the town for such purposes and shall, among other things, state the name, address, physical condition, physical description, former employers, court record and state chauffeur's license number. Such application shall be signed and sworn to by the applicant. The applicant shall provide the town two photographs of ~~himself~~ **the applicant**, taken within the last six months, one for the application and one to be attached to the permit. Also, the applicant shall furnish fingerprinting or agree to submit to fingerprinting when requested to do so by the town.

**Section 32. Subsection (b) of Section 13-148 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 13-148. - Contents.**

(b) The permit shall be signed by the town manager or ~~his~~ **the town manager's** assistant or designee.

**Section 33. Section 14-5 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 14-5. - Impersonation of town officers and employees.**

No person shall falsely represent ~~him or herself~~ oneself to be an officer or employee of the town or, without proper authority, wear or display any uniform, insignia or credential which identifies any town officer or employee; nor shall any person, without proper authority, assume to act as an officer or employee of the town, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose; provided, that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for felony or breach of the peace committed in such person's presence.

**Section 34. Subsection (b) of Section 14-28 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 14-28. - Playing upon streets, sidewalks and public places.**

(b)

...

The exception for "limited cul-de-sac or dead-end street areas" stated in this subsection 14-28(b) does not apply to a child, 15 years old or younger, unless ~~he~~ the child is being directly supervised by ~~his~~ the child's parent, legal guardian or another adult who has been directly and specifically authorized to supervise ~~him~~ the child by ~~his~~ the child's parent or legal guardian.

**Section 35. Section 14-33 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 14-33. - Other prohibited noises.**

...

(7) The erection (including excavating), demolition, alteration or repair of any building or other structure in a residential or business district between the hours of 8:30 p.m. and 7:00 a.m., or at any time on the following holidays: New Year's Day, Thanksgiving, or Christmas, except by permit from the building inspector when, in ~~his~~ the building inspector's opinion, such work will not create objectionable noise. The building



inspector may permit emergency work in the preservation of public health or safety at any time.

...

**Section 36. Subsection (d) of Section 15-6 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 15-6. - Opening and closing town parks; remaining in parks after closing; forfeiture of right to use park.**

(d) Any person who is drunk or disorderly or is or becomes disruptive to other persons using public parks, public greenways, or other public recreational areas shall have no right to the use of the park. Failure to leave when instructed to do so by the director of parks, recreation, and cultural resources, ~~his~~ **the director's** designee, or a law enforcement officer shall be a misdemeanor.

**Section 37. Subsection (q) of Section 15-7 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 15-7. - Rules and regulations; illegal acts.**

(q) Fishing at the town pond which is within Apex Community Park is only allowed under the following conditions:

...

(3) In addition to permits required by the North Carolina Wildlife Commission, any person fishing must have ~~in his or her~~ possession **of** a valid fishing permit issued by the town's parks, recreation and cultural resources department; and

...

**Section 38. Subsection (b) of Section 15-8 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 15-8. - Criminal history records checks.**

(b) Each applicant for a volunteer position with the PR&CR shall provide it with ~~his or her~~ **applicant's** full legal name, address, and telephone number. Each applicant shall display to the PR&CR a valid North Carolina driver's license (or some other form of

equally reliable picture identification) as a means of identification. Each applicant shall sign a written consent for the PR&CR to obtain a State of North Carolina criminal history check through DCI/SBI or through a private contractor.

**Section 39. Subsection (a) of Section 20-3 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-3. - Protective helmets required.**

(a) Every person less than 16 years of age operating or riding a bicycle, moped, inline skates, roller skates, skate board, scooter, or other similar vehicle or device on a public street, sidewalk, greenway, or other right-of-way or on any property owned or controlled by the town shall wear a protective helmet on ~~his~~ **one's** head, with the chin strap securely fastened under the chin. Such helmet shall be fitted to the size of the wearer and shall meet or exceed the standards for bicycle helmet use and wear asset by ANSI (American National Standards Institute) or the Snell Memorial Foundation.

**Section 40. Section 20-32 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-32. - Administration.**

The chief of police or ~~his~~ **the chief's** designee shall be responsible for the administration and enforcement of this article.

**Section 41. Section 20-34.2 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-34.2. - Aesthetic nuisance vehicles.**

(a) Definitions.

...

(2) *Aesthetic nuisance vehicle* means a junked motor vehicle on public or private property that upon investigation by the chief of police or ~~his~~ **the chief's** designee, it has been determined that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be in writing and shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting

or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:

...

(f) *Permitted concealment or enclosures.*

(1) One junked motor vehicle. One junked motor vehicle in its entirety can be located in the rear yard, as defined by the town's zoning ordinance, if the junked motor vehicle is entirely concealed by an acceptable canvas covering. The chief of police or ~~his~~ **the chief's** designee has the authority to determine whether any junked motor vehicle is adequately concealed as required by this subsection. A canvas covering must remain in good repair and must not be allowed to deteriorate. The canvas covering or enclosure must be compatible with the objectives stated in the definition of aesthetic nuisance vehicle.

...

**Section 42. Subsection (a) of Section 20-38 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-38. - Towing and storage—Designation of eligible person.**

(a) The chief of police or ~~his~~ **the chief's** designee shall prepare and maintain an eligible list of those persons (hereinafter called towing services) who apply and qualify to tow and store automobiles and trucks from the streets and other public places in the town at the request of the police department.

**Section 43. Section 20-39 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-39. - Notice to vehicle owner of removal; post towing notice requirements.**

(a) Whenever a motor vehicle with a valid registration plate or registration is towed as provided herein, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:

- (1) A description of the vehicle;
- (2) The place where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;

(4) The procedure the owner must follow to have the vehicle returned to ~~him~~ **said owner**; and

(5) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to ~~his~~ **the owner's** last known address unless ~~he or his~~ **the owner or the owner's** agent waives this notice in writing.

(b) Whenever a vehicle with neither a valid registration plate, nor registration is towed as provided herein, the authorizing person shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify ~~him~~ **the owner** of the information listed in subsection (a). Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

**Section 44. Section 20-41 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-41. - Redemption of vehicle.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of ~~his~~ **the owner's** vehicle by either paying the towing fee or posting a bond for double the amount of the towing fee.

**Section 45. Section 20-64 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-64. - Traffic signals generally.**

...

(4) Green arrow signal light.

...

b. No pedestrians in conflict with such signal light, whether facing such signal light or otherwise, shall enter the roadway unless ~~he~~ **the pedestrian** can do so without interfering with any vehicular traffic.

...

**Section 46. Section 20-162 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-162. - Parking within lines of designated parking spaces; duration.**

...

(b) Where parking spaces are marked with lines indicating parking spaces in a parking lot owned or leased by the town, vehicles shall be stopped or parked only within the lines of a single marked parking space. No person shall park a vehicle on or along the entranceway, driveway, or access route to a town owned or leased parking lot at any time except in a designated parking space. Except for town owned vehicles, no person shall park a vehicle in any spot designated for town vehicles or personnel. Except for town owned vehicles and equipment or by direction of the police chief or ~~his~~ **the chief's** designee, no vehicle, trailer, boat, or device by which any person or property may be transported shall be stopped or parked overnight in any parking lot owned or leased by the town, whether parking spaces are marked with lines or not. For the purposes of this subsection, overnight is defined as the hours between 11:00 p.m. and 6:00 a.m. This subsection shall not apply to vehicles and trailers owned by vendors participating in town council approved special events in which the parking lot is closed to general parking or to vehicles used by town employees and officials in the prosecution of town business or in the course of their employment.

(c) In a town owned or leased parking lot, when necessary to maintain safe access, movement, ingress or egress for emergency vehicles, the chief of police, or ~~his~~ **the chief's** designee, is authorized to prohibit on a temporary basis the parking of any vehicle, trailer, boat, or device by which any person or property may be transported.

**Section 47. Subsection (d) of Section 20-165 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

**Sec. 20-165. - No parking in school zones and time designated zones.**

(d) The chief of police or designee may in ~~his~~ **the chief's** discretion, temporarily suspend the "no parking" requirement on any of the above-named streets, or on any combination of the same, if ~~he~~ **the chief of police** finds that a need exists for parking on

same on account of an emergency involving fire or other hazard, illness or death of a resident of the area affected by this section.

**Section 48. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances and the sections of this ordinance may be renumbered to accomplish such intention.**

**Section 49. Severability, Conflict of Laws. If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.**

**Section 50. Effective Date. This ordinance shall be effective upon adoption.**

Introduced by Council Member: \_\_\_\_\_

Seconded by Council Member: \_\_\_\_\_

This the 6th day of October 2020.

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

ATTEST:

\_\_\_\_\_  
Donna B. Hosch, MMC, NCCMC  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Laurie L. Hohe  
Town Attorney