

**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. Section 2.1.3 of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

2.1.3 Board of Adjustment

...

B) *Membership*

...

- 8) *Alternate members.* The alternate members shall consist of a first alternate member, a second alternate member, and a third alternate member. **Alternate members shall be encouraged to attend all meetings of the Board of Adjustment, but shall participate in hearing, deliberating, and deciding a case only when acting in the place of a regular member.** The alternate members shall vote in the event any member is temporarily unable to vote due to absence or conflict of interest in a case, or for any other cause. The first alternate member shall have priority to replace the first regular member that is absent or unable to vote. The second alternate member shall have priority to replace the second regular member that is absent or unable to vote. The third alternate member shall have priority to replace the third regular member that is absent or unable to vote. At any meeting which they are called upon to attend, alternate members shall have and may exercise the same powers and duties as regular members.

**Section 2. Sections 2.1.2, 2.1.3, 2.1.4, and 2.1.10 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:**

2.1.2 Planning Board

...

B) *Membership*

...

- 8) *Voting.* All regular members shall vote on any issue unless they have been disqualified pursuant to Sec. 2.1.2.E *Conflict of Interest.***

2.1.3 Board of Adjustment

...

B) *Membership*

...

- 9) *Voting.* All regular members shall vote on any issue unless they have been disqualified pursuant to Sec. 2.1.3.F *Conflict of Interest.* Alternate members shall vote on any issue for which they are seated in place of regular members unless they have been disqualified pursuant to Sec. 2.1.3.F *Conflict of Interest.***

2.1.4 Transit Advisory Committee

...

B) *Membership*

...

- 6) *Voting. All regular members shall vote on any issue unless they have been disqualified pursuant to Sec. 2.1.4.E Conflict of Interest.***

2.1.10 Housing Advisory Board

...

B) *Membership*

...

- 6) *Voting. All regular members shall vote on any issue unless they have been disqualified pursuant to Sec. 2.1.10.E Conflict of Interest.***

**Section 3. Section 2.3.12.C of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

2.3.12 *Appeals*

...

C) *Procedures*

...

- 5) *Action by the Board of Adjustment.* At the hearing on the appeal, the Appellant or the Appellant's agent shall state the grounds for the appeal and include any materials or evidence to support the appeal. The Planning Director, or a designated representative, shall be provided the opportunity to respond, as well as any other persons the Board of Adjustment deems necessary. After the conclusion of the hearing, the Board of Adjustment shall either affirm, affirm with modifications, or reverse the contested decision or interpretation, based on the standards in Sec. 2.3.12.E *Standards*. ~~The concurring vote of four-fifths~~ **A majority vote** of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination on appeal.

**Section 4. Section 5.2.5 of the Unified Development Ordinance is amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

5.2.5 Bulk Measurement and Requirements

A) *Built-upon Area*

~~Calculation of the b~~**Built-upon area within the proposed development shall is defined in Sec. 12.2 Terms Defined** include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. ~~The calculation of built-upon area is expressed as a percentage of total site area. Swimming pools and wooden decks shall not be included in the calculation of the built-upon area.~~

**Section 5.** These amendments shall not apply to projects for which an application for development approval has been submitted before the effective date of this ordinance.

**Section 6.** The Planning Director 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 7.** 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 8.** The ordinance shall be effective upon enactment on the \_\_\_\_ day of \_\_\_\_\_ 2024.

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

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

Attest:

TOWN OF APEX

\_\_\_\_\_  
Allen Coleman, CMC, NCCCC  
Town Clerk

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

Approved as to Form:

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