

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 8.1.6 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:**

**8.1.6 Retaining Structures**

Retaining structures are permitted as elements of site design and shall meet the following requirements:

- A) Retaining structures providing a cumulative vertical relief greater than five (5) feet in height within a horizontal distance of 50 feet or less must be designed, inspected, and certified by a licensed professional engineer. Additionally, retaining structures meeting this provision must be constructed under a building permit from the Building Inspections and Permitting Department.
- B) All grading and support structures associated with the retaining structure shall not encroach into any required buffer or protected area (such as, but not limited to, RCA and critical root zones of buffer trees), and shall be contained entirely on site.
- C) Retaining structures **that are not associated with walkout basements** on land developed for single-family and duplex residences shall not exceed six (6) feet in height and shall not exceed two (2), six (6) feet tall terraced sections.
- D) **Retaining structures associated with walkout basements on land developed for single-family and duplex residences shall not exceed the first floor finished floor elevation and shall not encroach into any required setback.**
- ~~D) E)~~ Terraced sections must be spaced a minimum of three (3) feet horizontally to allow for planting of small shrubs and groundcovers between the terraces.
- ~~E) F)~~ Wood lag retaining structures shall be prohibited for all uses.
- ~~F) G)~~ Retaining structure materials must meet one of the following standards:
  - 1) *Permitted Materials*
    - i) Single-family residential lots shall use either wood or masonry materials.
    - ii) For all locations other than single-family lots, masonry materials shall be used.
  - 2) *Permitted Colors*
    - i) Segmental masonry retaining structure materials must be an integrally tinted medium or dark brown or rust color.
    - ii) Gravity and cast in place structures must be integrally tinted or stained a medium or dark brown or rust color or be covered with a masonry veneer that is a medium or dark brown or rust color.

**Section 2. Table 5.2.2.B.4 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:**

Table 5.2.2.B.4 Permitted Encroachments into Required Setbacks

Feature	Similar or Example Feature	Encroachments into Front Building Setbacks	Encroachments into Side Building Setbacks	Encroachments into Rear Building Setbacks
Attached decks	-	-	-	50% into rear building setback.
Patios	Terrace	-	Up to 5' from the side property line.	Up to 5' from the rear property line.
Unenclosed porches	-	50% into front building setback.	-	50% into rear building setback.
Enclosed porches	Sunrooms, screened or glassed-in rooms	-	-	50% into rear building setback.
Cantilevers	-	6' into required front or rear yard setback but no closer than 3' from any property line.	Cantilevers shall not encroach into the side yard setbacks.	6' into required front or rear yard setback but no closer than 3' from any property line.
<b><u>HVAC and mechanical units</u></b>	-	-	<b><u>Anywhere in the side yard as long as all applicable building codes are met.</u></b>	<b><u>Anywhere in the rear yard as long as all applicable building codes are met.</u></b>
Appurtenances	Including, but not limited to: <ul style="list-style-type: none"> <li>Balconies</li> <li>Bay windows</li> <li>Chimneys (including cantilevered)</li> <li>Cornices</li> <li>Eaves</li> <li>Fire escapes</li> <li><del>HVAC, mechanical units, &amp; solar energy</del> systems</li> <li>Ornamental features</li> <li>Sills</li> <li>Steps</li> </ul>	3' into any required setback, provided that they are no closer than 3' to any property line, meet all applicable fire and building codes, and do not encroach into any required buffer.	3' into any required setback, provided that they are no closer than 3' to any property line, meet all applicable fire and building codes, and do not encroach into any required buffer.	3' into any required setback, provided that they are no closer than 3' to any property line, meet all applicable fire and building codes, and do not encroach into any required buffer.

**Section 3. Sections 4.3.2.N, 4.3.5.G, and 4.4.5.G 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:**

**4.3.2 Public and Civic Uses**

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**N) *Veterinary Clinic or Hospital***

An establishment primarily engaged in providing medical care and treatment for animals, provided that such hospital or clinic and any treatment rooms, cages, pens or kennels are maintained in a completely enclosed soundproof building and that the veterinary clinic or

hospital is operated in such a way as to produce no objectionable odors outside its walls.  
**Such use may also include a pet crematory.**

#### 4.3.5 Commercial Uses

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##### G) Retail Sales and Service

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- 18) *Kennel.* Any enclosed building used, designed, or arranged to facilitate the breeding, raising, boarding, or care of such domesticated animals as dogs and cats, not necessarily owned by the occupants of the premises. Such use may also include outdoor exercise and bathroom areas **and/or a pet crematory.**

...

- 36) *Pet services.* An indoor establishment primarily engaged in services provided to ~~live~~ companion pets which include but are not limited to: pet day spa, pet grooming, pet daycare with no outdoor play area, pet training, pet photography, leg banding, microchip services, **pet crematory,** and other **pet**-related uses.

#### 4.4.5 Supplemental Standards, Commercial Uses

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##### G) Retail Sales and Service

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- 17) *Pet services.* Pet services shall comply with the following:

- a) Services shall be limited to ~~live~~ companion animals, including but not limited to dogs, cats, birds, small reptiles, small rodents, and fish;

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#### **Section 4. Section 4.5.6.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:**

#### 4.5.6 Accessory Apartment

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##### C) Detached – Accessory to Single-Family

- 1) ~~Outside of the Small Town Character Overlay District where the parcel is less than 10 acres accessory apartments shall be no larger than 1,000 heated square feet in size.~~
- 2) **1)** Outside of the Small Town Character Overlay District ~~where the parcel is 10 or more acres,~~ accessory apartments shall be no larger than 40% of the heated square footage of the principal single-family dwelling.
- 3) **2)** Inside the Small Town Character Overlay District accessory apartments shall be no larger than 50% of the heated square footage of the principal single-family dwelling or be larger than 1,000 heated square feet in size, whichever is smaller.

**Section 5. Table 8.3-1 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:**

Table 8.3-1: Off-Street Parking Schedule "A"

Use	Minimum Number of Motor Vehicle Spaces Required	Minimum Number of Bicycle Spaces Required
Kennel, <del>outdoor</del>	Schedule B	2 spaces

**Section 6. Section 8.3.6 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:**

8.3.6 Parking Lot Design Standards

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C) **Markings and Wheel Stops**

- 1) Each required off-street parking space and off-street parking facility shall be identified by surface markings and shall be maintained in a manner so as to be readily visible and accessible at all times, except during periods of snow. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Markings required to be maintained in a highly visible condition include striping, directional arrows, lettering on signs, and handicapped-area designations. All paved parking spaces shall be striped white. Such striping shall be a minimum of four (4) inches wide.
- 2) One-way and two-way accesses into required parking facilities shall be identified by directional arrows. Any two-way access located at any angle other than 90 degrees to a street shall be marked with a traffic separation stripe the length of the access. This requirement does not apply to aisles.
- 3) **Wheel stops are required in parking lots where necessary to provide delineation between parking spaces and walkways and to protect landscaping, EV parking structures, and buildings. Wheel stops shall comply with the Town of Apex Standard Specifications and Standard Details for "Curb Stops", except where exempted in Sec. 8.3.6.D.1.c Surfacing and Maintenance, Uses associated with Landmark and other historic structures.**

D) *Surfacing and Maintenance*

All off-street parking areas shall be paved and kept in a dust-free condition at all times. Permeable pavement, if used, shall comply with the North Carolina Department of Environmental Quality's Minimum Design Criteria in the NCDEQ Stormwater Design Manual.

- 1) *Exceptions*  
Parking for the following shall be gravel or paved and kept in a dust-free condition at all times:
  - a) All uses in the CB Conservation Buffer zoning district;
  - b) Athletic Fields only under the category of Entertainment, Outdoor where allowed;

- c) Uses associated with Landmark and other historic structures. Exposed aggregate concrete, or similar, may be used for paving and railroad ties or landscape timbers may be used in lieu of concrete wheel stops; and
  - d) Land clearing and inert debris landfills.
- 4) Gravel parking shall at a minimum meet the following specifications:
- a) Compacted Subgrade;
  - b) 6 Inches Aggregate Base Course;
  - c) 1.5 Inches #78M Stone; and
  - d) Drive aisles must be repaired or replaced with #78M Stone every six (6) months.

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**Section 7.** 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 8.** 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 9.** The ordinance shall be effective upon enactment on the \_\_\_\_ day of \_\_\_\_\_ 2022.

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

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

Attest: TOWN OF APEX

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

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Jacques K. Gilbert  
Mayor

Approved As To Form:

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Laurie L. Hohe  
Town Attorney