

STAFF REPORT

Amendments to the Unified Development Ordinance

June 28, 2022 Town Council Meeting



Requested by Planning Committee:

1. Amendments to Sec. 8.1.6 *Retaining Structures* in order to provide standards for retaining structures associated with walk-out basements.

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.

Requested by Planning Staff and Inspections Staff:

2. Amendment to Table 5.2.2.B.4 *Permitted Encroachments into Required Setbacks* in order to remove HVAC and mechanical units from the appurtenances section and to allow them to be placed anywhere in the side yard or rear yard to be consistent with state building code provisions.

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.
<u>HVAC and mechanical units</u>	-	-	<u>Anywhere in the side yard as long as all applicable building codes are met.</u>	<u>Anywhere in the rear yard as long as all applicable building codes are met.</u>
Appurtenances	Including, but not limited to: <ul style="list-style-type: none"> Balconies Bay windows Chimneys (including cantilevered) Cornices Eaves Fire escapes HVAC, mechanical units, & solar energy systems Ornamental features Sills Steps 	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.

Requested by Planning Staff:

3. **Amendments to Secs. 4.3.2.N *Use Classifications, Public and Civic Uses*; 4.3.5.G *Use Classifications, Retail Sales and Service*; and 4.4.5.G *Supplemental Standards, Commercial Uses, Retail Sales and Service* in order to allow “pet crematory” as an accessory use in “Kennel”, “Pet services”, and “Veterinary Clinic or Hospital”.**

4.3.2 *Public and Civic Uses*

...

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*

...

G) *Retail Sales and Service*

...

- 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*

...

G) *Retail Sales and Service*

...

- 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;

...

4. **Amendments to Sec. 4.5.6.C *Accessory Apartment* in order to allow accessory apartments outside of the Small Town Character Overlay District to be up to 40% of the heated square footage of the principal single-family dwelling.**

4.5.6 *Accessory Apartment*

...

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.

5. **Amendment to Table 8.3-1: *Off-Street Parking Schedule "A"* in order to remove "outdoor" from the use "Kennel, outdoor" in order to be consistent with the "Kennel" use listed in Article 4: *Use Regulations*.**

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

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

6. **Amendment to Sec. 8.3.6 *Parking Lot Design Standards* in order to specify when wheel stops are required in parking lots and to provide an exception to the standard concrete wheel stop on historic properties with gravel parking.**

8.3.6 Parking Lot Design Standards

...

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.

4) *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.

5) 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.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed UDO amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their June 13, 2022 meeting and unanimously recommended approval.

PLANNING BOARD REPORT TO TOWN COUNCIL

Unified Development Ordinance Amendments

Planning Board Meeting Date: June 13, 2022



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: To approve UDO amendments as presented.

Introduced by Planning Board member: Tina Sherman

Seconded by Planning Board member: Tim Royal

- ☒ 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 6 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 13th day of June 2022.

Attest:

Reginald Skinner, Planning Board Chair

Dianne Khin

Digitally signed by Dianne Khin
Date: 2022.06.13 17:09:36
-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)

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, 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 Planning Committee of Town Council:

1. Amendments to Sec. 8.1.6 *Retaining Structures* in order to provide standards for retaining structures associated with walk-out basements.

Requested by Planning Staff and Inspections Staff:

2. Amendment to Table 5.2.2.B.4 *Permitted Encroachments into Required Setbacks* in order to remove HVAC and mechanical units from the appurtenances section and to allow them to be placed anywhere in the side yard or rear yard to be consistent with state building code provisions.

Requested by Planning Staff:

3. Amendments to Secs. 4.3.2.N *Use Classifications, Public and Civic Uses*; 4.3.5.G *Use Classifications, Retail Sales and Service*; and 4.4.5.G *Supplemental Standards, Commercial Uses, Retail Sales and Service* in order to allow "pet crematory" as an accessory use in "Kennel", "Pet services", and "Veterinary Clinic or Hospital".
4. Amendments to Sec. 4.5.6.C *Accessory Apartment* in order to allow accessory apartments outside of the Small Town Character Overlay District to be up to 40% of the heated square footage of the principal single-family dwelling.
5. Amendment to Table 8.3-1: *Off-Street Parking Schedule "A"* in order to remove "outdoor" from the use "Kennel, outdoor" in order to be consistent with the "Kennel" use listed in Article 4: *Use Regulations*.
6. Amendment to Sec. 8.3.6 *Parking Lot Design Standards* in order to specify when wheel stops are required in parking lots and to provide an exception to the standard concrete wheel stop on historic properties with gravel parking.

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

Town Council Public Hearing Date and Time: June 28, 2022 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>. Please visit www.apexnc.org on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

If you are unable to attend, you may provide a written statement by email to public.hearing@apexnc.org, or submit it to the Office of the Town Clerk (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

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



TOWN OF APEX

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NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

modificación de la Ordenanza de Desarrollo Unificado (UDO)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del ayuntamiento de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado:

Solicitado por el Consejo de Planificación del Ayuntamiento:

1. Enmiendas a la Sección 8.1.6 *Estructuras de contención* a fin de proporcionar estándares para estructuras de contención asociadas con sótanos de salida.

A solicitud del personal de planificación y el personal de inspecciones:

2. Modificación a la tabla 5.2.2.B.4 *Invasiones permitidas en distancias requeridas* para eliminar las unidades mecánicas y de calefacción y aire acondicionado de la sección de anexidades y permitir que se coloquen en cualquier lugar en el patio lateral o el patio trasero para que sean consistentes con las disposiciones del código de construcción estatal.

Solicitado por el personal de planificación:

3. Enmiendas a las secciones 4.3.2.N *Clasificaciones de Uso, Usos Públicos y Cívicos*; 4.3.5.G *Clasificaciones de Uso, Ventas Minoristas y Servicio*; y 4.4.5.G *Normas Complementarias, Usos Comerciales, Ventas Minoristas y Servicio para permitir el "crematorio de mascotas" como un uso adicional en "Guardería de animales", "Servicios para mascotas" y "Clínica u Hospital Veterinario"*.
4. Enmiendas a las Secciones 4.5.6.C *Apartamento Secundario* a fin de permitir que los apartamentos secundarios fuera del Distrito de Superposición de Carácter de Pueblo puedan tener hasta un 40% de espacio en pies cuadrados con calefacción en relación con la vivienda unifamiliar principal.
5. Modificación a la Tabla 8.3-1: *Esquema de estacionamiento fuera de la calle "A"* a fin de eliminar "al aire libre" del uso de "Guardería de animales, al aire libre" para ser consistente con el uso de "Guardería de animales" que figura en el artículo 4: *Regulaciones de uso*.
6. Enmiendas a la Sección 8.3.6 *Estándares en el diseño de estacionamientos* a fin de especificar cuándo se obliga el uso de bases para detener las llantas en estacionamientos y ofrecer una excepción en el uso de bases estándares de concreto para detener llantas en propiedades consideradas históricas con estacionamiento de terreno con grava.

Lugar de la audiencia pública: Ayuntamiento de Apex

Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 28 de junio de 2022 6:00 PM

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>. Por favor visite www.apexnc.org el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la oficina del Secretario Municipal (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Se puede acceder a la UDO en línea en: <http://www.apexnc.org/233>.





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Published Dates: June 3-28, 2022

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