

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 4.4.5.G.13 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:**

4.4.5.G Supplemental Standards, Commercial Uses, Retail Sales and Service

...

13) Retail sales, general.

**a) Vape and tobacco stores shall be located at least 1,000 feet from any public or private school.**

**b)** Retail sales, general in the TF Tech/Flex District and LI Light Industrial District are permitted as follows:

~~a)~~**(i)** Within the TF District, the floor area of the Retail sales, general use(s) shall not occupy more than 30% of the gross floor area of a development.

~~b)~~**(ii)** Within the LI District, the floor area of the Retail sales, general use(s) shall not occupy more than 30% of the gross floor area of the building and shall be associated with the principal industrial use on the site.

**Section 2. Sections 6.1.12.B and 8.2.7 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:**

6.1.12.B *Stormwater Control Measures (SCMs), Design, Location, and Landscaping of SCMs*

...

10) ~~In lieu of peripheral fencing, d~~Detention and retention basin edges shall be contoured and shaped to form low angles at primary water line thereby ensuring greater pedestrian safety. **A peripheral fence may be installed in accordance with Sec. 8.2.7 Fences, Walls, and Berms.**

...

8.2.7 Fences, Walls, and Berms

Fences, walls, and berms are permitted as elements of site design and in some locations, may be used to conceal storage or other unsightly or conflicting land uses. ~~Fences are not allowed around detention and retention basins per Sec. 6.1.12.B.10.~~ All fences, walls, and berms shall meet the following requirements:

A) *Materials*

1) **Unless specified elsewhere, f**Fences or walls shall be constructed of wood, stone, brick, decorative concrete block, wrought iron, (or products created to resemble these materials), or a combination of any of these materials. Chain link fencing is allowed provided it meets the standards in Sec. 8.2.7.A.4.

...

**6) Fences along or around a stormwater control measure shall only be constructed of wrought iron or black aluminum pickets (or products created to resemble these materials).**

...

**Section 3. Section 7.5.14 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:**

7.5.14 Defects Guarantee

- A) The Town shall require a guarantee (enforceable at the sole discretion of the Town) for utility taps, curbs, gutters, street pavement, sidewalks, greenways, drainage facilities, water and sewer lines, and other improvements against defects for one (1) year. **For residential subdivisions, All** a guarantees must remain in force in the Town's favor for a period of no less than the longer of 1) one year from the satisfactory completion of the performance inspection, or 2) until ~~60~~**75%** of the **residential** lots in the bonded phase have been issued a Certificate of Occupancy. **For non-residential subdivisions, the guarantees must remain in force in the Town's favor for a period of no less than the longer of 1) one year from the satisfactory completion of the performance inspection, or 2) until 50% of the lots in the bonded phase have been issued a Certificate of Occupancy.** If during the ~~one-year~~ defects period substantial corrections to the required improvements are made, then such corrections must be guaranteed for an additional one (1) year after acceptance by the Town. Substantial corrections are defined as follows:
- 1) *Roadway.* Total repair area exceeds 15% of the original construction.
  - 2) *Curb and gutter.* Total linear feet of repairs exceeds 15% of the original construction.
  - 3) *Water system.* The system experiences two (2) or more failures with the piping or any associated components.
  - 4) *Sewer system.* The system experiences two (2) or more failures with the piping or any associated components.
  - 5) *Storm water collection system.* The system experiences two (2) or more failures with the piping or any associated components.
- B) This guarantee shall be in the amount determined by the Water Resources Director or Public Works and Transportation Director, as appropriate.

**Section 4. Section 5.1.5 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:**

**5.1.5 Small Town Character Overlay District**

Use	Average Lot Size	Minimum Lot Width (Feet)	Minimum Setbacks (Feet)				Max. Height (Feet)	Max. Built-Upon Area (%) <sup>*</sup>	Max. Density (Gross Units per Acre)	Additional Regulations
			Front	Side	Rear	Corner Side				
Central Business District	—	—	10 max.	0	10	10 max.	<u>2 stories and 36 or 3 stories and 50<sup>+</sup>per footnote 1</u>	100	—	—
Non-Residential	—	—	25 max.	8	10	25 max.	36	70	—	—
Single-family	—	60	20	8, 10 on side with driveway in front yard	15	10	36	50	6	—
Multi-family / Condominium	—	60	20 <sup>2</sup>	10 <sup>2</sup>	15 <sup>2</sup>	10 <sup>2</sup>	36	60	14	—
Townhouse	—	20	20 <sup>2</sup>	0	15 <sup>2</sup>	15	36	50	12	10' aggregate setback between buildings; Sec. 2.3.4
Townhouse, detached	—	26	10 min./ 15 max.	3	5	15	36	70	7	Sec. 2.3.4; Sec. 4.4.1.J
Government services	—	—	25 max.	8	10	10	70	70	—	—

<sup>\*</sup> See Sec 6.1 *Watershed Protection Overlay Districts*.

<sup>1</sup> Building height may be increased to 3 stories and 50 feet if the following conditions are met:

- a. The existing structure is not contributing to the historic district.
- b. The existing or proposed building shall be located on Salem Street.
- c. The existing or proposed building is located on the corner of 2 public streets or a public street and a public alley.
- d. The 3rd story shall be set back at least 18 feet from the property line along the front façade.
- e. Open air rooftop dining shall be exempt from the height calculation.

<sup>2</sup> These setbacks are for the perimeter of the entire project only, not setbacks between units or buildings.

**Section 5.** 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 6.** 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 7.** The ordinance shall be effective upon enactment on the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

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

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

Attest:

TOWN OF APEX

\_\_\_\_\_

Interim Town Clerk

\_\_\_\_\_

Jacques K. Gilbert

Mayor

Approved As To Form:

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Laurie L. Hohe

Town Attorney