

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. Sections 7.4, 7.4.2, 7.5.1, 7.5.4, and 13.6 of the Unified Development Ordinance are now amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

7.4 Dedication of ROW

When a street or highway corridor identified in *Advance Apex: The 2045 Transportation Plan* established and adopted pursuant to NCGS 136-66.2, is located on or immediately adjacent to land subject to subdivision, site plan, or other development plan, the landowner shall dedicate the right-of-way for the street or highway to the Town if:

...

7.4.2 No Deprivation of Land

The dedication of right-of-way ~~does not result in the denial of a reasonable use~~ **is not greater than 35%** of the original tract of land.

7.5 Required Improvements

7.5.1 *Required Improvements, Generally and Exemptions*

A) *Generally*

The developer of any **site or** subdivision within the Town or the Town's extraterritorial jurisdiction shall be responsible for the proper installation of improvements as set forth in the following sections and as set forth in the Town of Apex Standard Specifications and Standard Details. No final plat for subdivision shall be approved until required improvements have been installed or their installation guaranteed as provided herein in those areas shown on the plat.

B) *Exemptions*

~~A site plan or subdivision plan that does not propose a subdivision of an existing parcel into more than four (4) lots, has an anticipated number of vehicular trips less than 150 per day, and a total of less than 10,000 square feet of proposed non-residential buildings is exempt from public road frontage improvements and new location public road construction that would otherwise be required based on the Advance Apex: The 2045 Transportation Plan and typical road sections specified in the Town of Apex Standard Specifications and Construction Details. This exemption does not exempt the installation of improvements required for the safe ingress and egress of vehicles and emergency services accessing the site, including, but not limited to, installation of a paved driveway apron, necessary driveway relocation, and other roadway markings and signage associated with the driveway location. Buildings shall not be permitted in areas that are planned for future roadway construction and expansion. Right-of-way dedication is recommended for planned public roadways where practical to~~

~~promote future connectivity to adjacent properties and future improvement projects.~~

The following exemptions apply to construction of public road frontage improvements and new location public road construction that would otherwise be required based on *Advance Apex: The 2045 Transportation Plan* and typical road sections specified in the *Town of Apex Standard Specifications and Standard Details*.

- 1) Single-family or duplex construction on an existing parcel (no subdivision).**
- 2) A site plan or subdivision plan that does not propose a subdivision of an existing parcel into more than four (4) lots.**
- 3) A site plan or subdivision plan that has an anticipated number of vehicular trips less than 150 per day.**
- 4) A site plan with a total of less than 10,000 square feet of proposed non-residential buildings.**
- 5) A site plan or subdivision plan abuts a street with controlled access and cannot obtain a driveway access to the street.**
- 6) A project submitted for site plan or subdivision plan approval is subject to street frontage improvements in accordance with the *Advance Apex: The 2045 Transportation Plan* in which the total cost of the street improvements will exceed 35% of the site work costs and the proposed use or expansion does not trigger a Traffic Impact Analysis. Cost estimates shall be provided by the property owner/developer, adhering to the *NCDOT Standard Specifications for Roads and Structures*, for both the required street improvements and proposed site work costs. Cost estimates are required to be submitted to the Transportation & Infrastructure Development Director who will approve or deny the values presented to justify the exemption.**

These exemptions do not exempt the installation of improvements required for the safe ingress and egress of vehicles and emergency services accessing the site, including, but not limited to, installation of a paved driveway apron, necessary driveway relocation, and other roadway markings and signage associated with the driveway location. Buildings shall not be permitted in areas that are planned for future roadway construction and expansion. Right-of-way dedication **and permanent slope easements are still required** for planned public roadways **and widenings** where practical to promote future connectivity to adjacent properties and future improvement projects.

- C) Fee-In-Lieu Due to State and Local Improvement Plans**
Where a project is adjacent to a street identified on the North Carolina Department of Transportation State Transportation Improvement Program or the Town's Capital Improvement Program and is scheduled to be under

construction within three (3) years from the date of first site plan or first subdivision plan submittal, and remains scheduled within three years of construction plan approval, street improvements may not be required, based on approval of the Transportation & Infrastructure Development Director, provided that right-of-way and permanent slope easements are dedicated to accommodate the future project and a fee-in-lieu payment for the street improvements is made for the street improvements.

...

7.5.4 Streets

...

D) *Apex Peakway Construction Requirements*

...

4) *Order of Construction*

New construction or frontage widening along the Apex Peakway corridor in conjunction with development is required in the same manner as all other road improvements described in Secs. 7.5.9.C.1 and 7.5.9.C.2.

~~Because of expected low traffic counts early in the life of the facility, two travel lanes with curb and gutter and sidewalk are to be constructed initially with grading for the remaining roadway width when adequate public right-of-way is available. First priority of construction shall be the outer two travel lanes. In constructing only the outer two lanes, the inside curb shall be constructed as median curb.~~

~~a) Development on Outside of Road Corridor~~

~~One half of the right-of-way shall be dedicated and the outside two lanes and sidewalk shall be built as specified above.~~

~~b) Development on Inside of Road Corridor~~

~~When property develops on the inside of the corridor and the outer lanes have already been constructed, the remaining one half (½) right-of-way shall be dedicated and an approved connection shall be made to the outer lanes. A fee in lieu shall be paid for construction of the inside lanes and multi-use path.~~

~~If the outer lanes have not been constructed and the developer has access to the property through an existing road, then the Town may consider accepting the dedication of one half (½) of the right-of-way and a fee in lieu of construction. If the outer lanes have not been constructed but the only access to the property being developed is the Peakway, then the developer shall make the necessary arrangements to have the right-of-way dedicated and the outside lanes constructed and may be required to dedicate the right-of-way and pay a fee in lieu of construction of the inside lanes. In a situation where it may be possible to build the inside lanes and transition from the outside lanes to the inside lanes meeting 40 mph roadway design guidelines, then the Town may consider allowing the developer to dedicate the right-of-way and build the inside lanes instead of the outside lanes.~~

c) ~~Development of Both Sides of the Road Corridor~~

~~If the owner develops property on both sides of the corridor, the full right-of-way shall be dedicated with construction of the outer two lanes, curb and gutter and sidewalk as specified above. The property owner shall also provide grading for the remaining half of the roadway.~~

...

13.16 Developer Agreements

Where a development includes **off-site improvements to** a thoroughfare shown on the approved Thoroughfare and Collector Street Plan map, by mutual consent, the Town and the Developer may enter into an agreement regarding the terms of the participation of the developer in the construction and/or financing of such road. **Frontage opposite the development may be considered an off-site improvement.** Such agreement may provide for appropriate compensation to the developer for the developer's participation in the financing and/or construction of the road. The agreement shall be in accordance with NCGS 160D Article 10 and in a form approved by the Town and shall identify:

...

Section 2. Section 6.1.7 of the Unified Development Ordinance is now amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

6.1.7 High-Density Development Option

...

C) Within the Jordan Lake Critical Area (defined by NCDEQ as any land within a half-mile radius of the normal pool elevation of the lake).

1) Built-Upon Area

Per NCDEQ water supply watershed rules, within the Jordan Lake Critical Area, high density development is limited to 50% built-upon area.

Section 3. Section 6.1.11 of the Unified Development Ordinance is now amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

6.1.11 Riparian Buffers

No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this section. **No residential lots shall be located within any riparian buffer zone.** No exemptions shall be permitted from this section except for any use, development, or activity that has been specifically exempted by any applicable state law from local regulations of the type established by this Ordinance, or as provided in Sec. 6.1.11.J *Exemption When Existing Uses are Present and Ongoing*. The following activities impacting Zone 1 and/or 2 of a riparian buffer in the Jordan Lake Watershed or in the Neuse River Basin shall be administered by the NC Department of Environmental Quality (NC DEQ): (i) activities conducted under the authority of

the State, the United States, multiple jurisdictions, or local units of government, (ii) forest harvesting or (iii) agricultural activities.

...

G) *Uses Permitted Within the Riparian Buffer*

...

2) *Within Zone 3 of a Riparian Buffer in the Neuse River Basin and All Other Remaining Areas of Both the Primary Watershed Protection District and the Secondary Watershed Protection District*

Within all areas, other than Zones 1 and 2—~~or~~ **of** the Neuse River Basin, the following land disturbing activities and uses shall be permitted within any required riparian buffer:

...

...

Section 4. Section 8.3.11 of the Unified Development Ordinance is now amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

8.3.11 Electric Vehicle Charging Spaces

Within multi-family or apartment projects, any dwelling unit restricted to households with an annual income that is not greater than 80% of the Area Median Income for the respectively-sized household in the Raleigh, NC MSA, as determined by the United States Department of Housing and Urban Development, are exempt from all electric vehicle charging space requirements. Such restrictions shall be demonstrated through a recorded covenant, deed restriction, or other binding affordability agreement approved by the Town. The required number of EV charging spaces for the project shall be reduced in proportion to the number of exempt units.

...

...

Section 5. Sections 4.3.5.G.3 of the Unified Development Ordinance is now amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

4.3.5 Commercial Uses

...

G) *Retail Sales and Service*

...

3) *Building supplies, retail.* An establishment primarily engaged in the retail sale of building supplies and home improvement products including, but not limited to, ~~swimming pools~~ **above ground pools, pool forms**, spas, greenhouses, and outdoor play sets. In the B2 District, this includes traditional hardware stores not exceeding 7,000 square feet in area, but not building supplies or hardware stores in excess of 7,000 square feet.

Section 6. Sections 4.3.3, 4.3.5, 4.3.6, 6.1.7, 6.1.11, 7.4, 7.4.2, 7.5.1, 7.5.4, 8.3.11, 13.6 of the Unified Development Ordinance is now amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

4.3.6 Industrial Uses

Industrial Uses shall be allowed to have a showroom as an accessory use provided the goods and services offered are directly related to the primary use and the showroom meets the requirements in Sec. 4.5.2 Accessory Uses and Structures, Generally.

...

Section 7. Sections 4.3.3, 4.3.5, 4.3.6, 6.1.7, 6.1.11, 7.4, 7.4.2, 7.5.1, 7.5.4, 8.3.11, 13.6 of the Unified Development Ordinance is now amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

4.3.3 Utilities

...

D) *Electrical Power Facility*

The principal use of land for an electrical generation ~~facility, distribution, or switching station.~~ **See Sec. 4.3.3.J Utility, minor for electrical substation and other elements of an electrical transmission network.**

...

Section 8. 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 9. 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 10. The ordinances shall be effective upon enactment on the ____ day of _____ 2025.

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