

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 2.1.2.B and 2.1.2.D 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

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B) *Membership*

- 1) *Number.* The Planning Board shall consist of ~~eight~~ **nine (9) voting members and one (1) non-voting member.**
- 2) *Composition* **of the Members** ~~between Town and ETJ.~~
  - a) **Composition between Town and ETJ.** The composition of membership between the Town and ETJ shall be as follows:
    - ~~a)~~**(i)** The composition of the members shall reflect proportional representation between the Town's corporate limits and the ETJ.
    - ~~b)~~**(ii)** ETJ membership shall be based on the proportionality of population between the Town and the ETJ. This shall be determined by estimating the total population in the ETJ as a percentage of the population in the Town's corporate limits and the ETJ and multiplying this percentage by ~~eight~~ **nine (9)** (the total required **voting** membership), rounding up to the next whole number. Members appointed from the ETJ shall be residents of the ETJ and citizens of Wake County.
    - ~~c)~~**(iii)** The balance of the Planning Board's membership shall reside within the Town's corporate limits, **with the exception of the members referenced in Secs. 2.1.2.B.2.b and 2.1.2.B.2.c, whose residency requirements shall be determined by those Sections.**
    - ~~d)~~**(iv)** Membership composition shall be adjusted to reflect changes in the population between the Town and the ETJ every ~~three~~ **two (2)** years.
    - ~~e)~~ ~~————~~ All members of the Planning Board shall have voting power on all matters of business.

- b) One (1) member of the Planning Board shall reside outside the corporate limits and ETJ, but within the area covered by the Town's 2045 Land Use Map.
  - c) One (1) non-voting member of the Planning Board shall be a member of the Apex Historical Society and may reside either within or outside the Town's corporate limits. However, the Town Council is not authorizing the Planning Board to operate as a historic preservation commission pursuant to NCGS 160A-400.7.
  - d) All members of the Planning Board, except the non-voting member from the Apex Historical Society, shall have voting power on all matters of business.
- 3) *No elected official or Town employees.* No member of the Town Council or a Town employee shall serve on the Planning Board. To the greatest extent possible, a majority **half** of **the** membership on the Planning Board should consist of persons with special training or experience in planning, real estate and development, architecture, landscape architecture, and the law.
- 4) *Appointment.* Members shall be appointed as follows:
- a) Regular members of the Planning Board from the ETJ shall be appointed by the ~~Board of County Commissioners of Wake County~~ **Board of Commissioners.**
  - b) Regular members of the Planning Board from the Town shall be recommended by the ~~m~~**Mayor** and appointed by the Town Council.
  - c) The regular member of the Planning Board who resides outside the corporate limits and ETJ, but within the area covered by the Town's 2045 Land Use Map shall be recommended by the Mayor and appointed by the Town Council.
  - d) The non-voting member of the Planning Board shall be recommended by the Mayor and appointed by the Town Council.
- 5) *Initial establishment Terms.* At the initial establishment of the Planning Board, ~~three members shall be appointed for a term of three years, three members shall be appointed for a term of two years, and two members shall be appointed for a term of one year. Thereafter, new appointments~~ **Members shall be appointed** for terms of ~~three~~ **two (2)** years shall be made. No member of the Planning Board may serve more than ~~three~~ **four (4)** consecutive ~~three~~ **two (2)** year terms.
- 6) *Removal.* Any member of the Planning Board shall be removed for cause (neglect of duty, malfeasance, misconduct, or failure to faithfully attend meetings) by the Town Council upon written charge ~~and after a public hearing.~~

7) *Filling of vacancy.* Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term by the same method as the original appointment.

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D) Quorum  
No meeting of the Planning Board shall be called to order, nor may any business be transacted by the Planning Board, without a quorum consisting of the majority of the Planning Board's membership excluding vacant seats **and the non-voting member** being present.

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**Section 2. Sections 2.1.2.I, 2.1.3.H, and 2.1.4.I of the Unified Development Ordinance are amended and Sections 2.1.5.C and 2.1.9.C are created to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:**

2.1.2.I Planning Board, Compensation

The members of the Planning Board shall serve without compensation **as authorized by Town Council in the annual budget.**

2.1.3.H Board of Adjustment, Compensation

The members of the Board of Adjustment shall serve without compensation **as authorized by Town Council in the annual budget.**

2.1.4.I Transit Advisory Committee, Compensation

The members of the Transit Advisory Committee shall serve without compensation **as authorized by Town Council in the annual budget.**

2.1.5 Parks, Recreation, and Cultural Resources Advisory Commission

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**C) Compensation**  
**The members of the Parks, Recreation, and Cultural Resources Advisory Commission shall serve with compensation as authorized by Town Council in the annual budget.**

2.1.9.C Apex Environmental Advisory Board

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**C) Compensation**  
**The members of the Apex Environmental Advisory Board shall serve with compensation as authorized by Town Council in the annual budget.**

**Section 3. Sections 4.2.2 and 4.4.5.F 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:**

4.2.2 Use Table

| Use Type             | Definition Section | Zoning Districts |        |        |        |                  |                  |        |             |                  |             |                     |        |        |        |        | Standards |            |             |             |             |                   |        |
|----------------------|--------------------|------------------|--------|--------|--------|------------------|------------------|--------|-------------|------------------|-------------|---------------------|--------|--------|--------|--------|-----------|------------|-------------|-------------|-------------|-------------------|--------|
|                      |                    | Residential      |        |        |        |                  | Business         |        |             |                  |             | Planned Development |        |        | Other  |        |           | Section(s) |             |             |             |                   |        |
|                      |                    | R<br>A           | R<br>R | L<br>D | M<br>D | H<br>D<br>S<br>F | H<br>D<br>M<br>F | M<br>H | M<br>H<br>P | M<br>O<br>R<br>R | O<br>&<br>I | B<br>1              | B<br>2 | P<br>C | L<br>I | T<br>F |           |            | M<br>E<br>C | T<br>N<br>D | P<br>U<br>D | C<br>B            | S<br>D |
| Public Accommodation |                    |                  |        |        |        |                  |                  |        |             |                  |             |                     |        |        |        |        |           |            |             |             |             |                   |        |
| Bed and breakfast    | 4.3.5.F.1          | S                | S      |        |        |                  |                  |        | S           | P                |             | P                   | P      |        |        |        | P         | P          |             | **          | P*          | 4.4.5.F.1;<br>6.3 |        |
| Hotel or motel       | 4.3.5.F.2          |                  |        |        |        |                  |                  |        |             |                  | <u>P</u>    | P                   | P      |        |        | P      | P         | P          |             | **          | P*          | 4.4.5.F.2;<br>6.3 |        |

4.4.5 Supplemental Standards, Commercial Uses

- ...  
 F) Public Accommodation  
 ...  
 2) Hotel or motel. A hotel or motel shall comply with the following standards:
- a) ~~The minimum lot area shall be one acre or the minimum required by the district, whichever is greater;~~
  - b) ~~The minimum lot width shall be at least 100 feet or the minimum required by the district, whichever is greater; and~~
  - c) ~~The number of sleeping units shall not exceed one per 1,000 square feet of lot area.~~
- a) In the B1 and B2 districts the following standards shall apply:**
- i. **No more than 75 guest rooms for lodging shall be provided.**
  - ii. **Guest units shall be reached from an interior corridor.**

**Section 4. Section 7.1.7 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:**

7.1.7 Substitution of Fees in Lieu of Public Improvements

- A) Where, because of topographical features or other conditions peculiar to the site, strict adherence to the provisions of this ~~a~~Article requiring public improvements would cause an unnecessary hardship or provide an unwarranted or unrealistic result, the ~~Planning Board may recommend and the Town Council~~ **may** authorize that the reasonable cost of such improvement if made be paid into the Town treasury in lieu of the improvement so long

as same can be done without materially altering the intent of this ~~a~~Article; provided, however, the amount of such fee paid in substitution of the public improvement shall reasonably relate to the applicant's fair share of the cost of such public improvements as determined by the Public Works and Transportation Director and the Water Resources Director or some other professional engineer approved by the Town; and provided, further, that the Town Council may in its discretion, use said fee to construct some other public improvement calculated to be of significant benefit to the said property of the applicant either directly or indirectly. Any such ~~recommendation for substitution or~~ substitution authorized as aforesaid shall be recorded in the minutes of ~~both the Planning Board and~~ both the Planning Board and the Town Council with a statement of the reasoning justifying the substitution.

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**Section 5.** 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 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 May 2020.

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

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

Attest:

TOWN OF APEX

\_\_\_\_\_  
Donna Hosch, MMC, NCCMC  
Town Clerk

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Jacques K. Gilbert  
Mayor

Approved As To Form:

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Laurie L. Hohe  
Town Attorney