

STAFF REPORT

Amendments to the Unified Development Ordinance

January 14, 2025 Town Council Meeting



Requested by Planning Staff:

- 1. Amendments to Sec. 8.6 Exterior Lighting to allow the Planning Director the ability to approve an alternative form of compliance when necessary to ensure the functionality and safety of the site. Amendments also include a provision that Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial zoning districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.**

Background: Since the adoption of the Unified Development Ordinance's (UDO) new exterior lighting standards in January 2024, applicants and design professionals have expressed concerns about their ability to comply with the standards in Sec. 8.6 *Exterior Lighting*, while maintaining a safe and adequate level of lighting on their industrially zoned sites. This issue particularly applies to areas such as loading docks and outdoor storage, where the amount of space required for the safe and orderly movement of large vehicles prevents installation of light poles thereby creating dark zones that reduce the overall safety and functionality of the site.

Planning staff is proposing amendments to the UDO in order to address how the current lighting standards unintentionally pose challenges for loading docks and outdoor storage areas by granting the Planning Director the authority to approve deviations from Secs. 8.6.3, *Illumination Standards* and 8.6.4 *Design Requirements* when a lighting plan demonstrates that the deviations are necessary to ensure site functionality and safety while maintaining the intent of the Ordinance. In addition, staff is also proposing changes to the lighting standards in Secs. 8.6.4.E *Design Requirements, Lumens* and 8.6.4.F *Design Requirements, Building, Ground Mounted Fixtures and Accent Lighting*, to include a provision that building mounted light fixtures with lamps up to 15,500 lumens within a designated loading dock area are allowed only when associated with Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial Districts. These amendments will provide property owners sufficient flexibility to address unique site challenges that currently hinder compliance with the UDO, while supporting the Town's goals to reduce light pollution.

On November 14, 2024, Planning staff presented the proposed amendments to the Town of Apex Environmental Advisory Board (EAB). The EAB recommended approval of the amendments with the addition of the following language to the proposed Sec. 8.6.3.C, *Alternative Compliance, Planning Director Considerations*: "10. Proximity to Resource Conservation Areas and all state and/or federal designated environmentally sensitive areas." This addition directs the Planning Director to consider the potential environmental impacts of alternative compliance on sensitive areas located on or adjacent to the site when making decisions.

8.6.3 Illumination Standards

...

- C) Alternative Compliance
The Planning Director may approve an alternative form of compliance to Secs. 8.6.3 Illumination Standards and 8.6.4 Design Requirements when it has been**

clearly demonstrated on a lighting plan submitted by a licensed lighting professional holding the PE, LC, CLEP, or similar certification that the proposed deviations are necessary in order to improve the safety and/or functionality of the site. The lighting plan shall show compliance with all other sections of this Ordinance, including Sec. 8.5.5 Operational/Physical Compatibility, which may be invoked in the event the alternative form of compliance garners zoning complaints once installed.

The Planning Director shall consider the following factors in determining whether any such proposed alternative is acceptable:

- 1) **Existing and proposed uses on-site;**
- 2) **Adjacent uses;**
- 3) **Existing and proposed topography;**
- 4) **Location and configuration of buildings on-site and on adjoining properties;**
- 5) **Existing and proposed evergreen screening;**
- 6) **Proposed house-side shields;**
- 7) **Size and configuration of the parcel;**
- 8) **Proximity to public rights-of-way;**
- 9) **Proximity to residentially-zoned properties;**
- 10) **Proximity to Resource Conservation Areas and all state and/or federal designated environmentally sensitive areas;**
- 11) **Consistency with the intent of this Ordinance.**

8.6.4 Exterior Lighting, Design Requirements

Exterior lighting, such as that used in and around buildings, recreation areas, parking lots, and signs, shall be designed to prevent the excessive spillover of light onto adjacent properties. It shall also be designed to protect against glare onto public rights-of-way thereby impairing the vision of motorists and adversely impacting adjoining properties. All exterior lighting shall be shielded from adjacent properties by existing vegetation, thick evergreen vegetated buffers, berms, walls, or fences, and/or the use of directional lighting, lighting shields, special fixtures, timing devices, appropriate light intensities, luminaries, and mountings at appropriate heights. External and/or internal shields are required on all lights in vehicular use areas and lights mounted to buildings where they are immediately adjacent to residential uses (such as along the edges of parking lots or mounted to the rear of buildings close to residential uses). All outdoor lighting shall conform to the following design standards **of this Section. When the standards of this Section cannot be reasonably met, the applicant may submit an alternative form of compliance per Sec. 8.6.3.C Alternative Compliance.**

...

- E) *Lumens*
Lamps for full cut-off **pole mounted** fixtures shall not exceed 15,500 lumens.
- F) *Building, Ground Mounted Fixtures and Accent Lighting*
Lighting shall not be mounted to buildings or used to illuminate buildings or other site features unless approved as integral elements on the development

plan. Lighting will not be approved unless the light fixtures are carefully selected, located, aimed, and shielded so that light is directed only onto limited parts of the building façade, specimen landscape, and site features, and spillover light is minimized (see also Secs. 8.6.4.C *Architectural/Site Compatibility*, 8.6.4.D *Spillover Light and Glare Control*, and 8.6.4.E *Lumens*. Building, ground mounted fixtures and accent lighting must meet the following criteria:

- 1) Lights ~~must~~ **shall** not be used to illuminate entire portions of building(s), landscape, or site features.
- 2) Building mounted lights such as wall-pack and goose-neck type fixtures shall be fully shielded, full cut-off type fixtures (concealed lamp/light source). The lighting ~~must~~ **shall** be directed downward, and the **lamps shall not exceed 2,500 lumens; provided, however, that Industrial Service or Production uses within the TF Tech/Flex, or LI Light Industrial Districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.**
- 3) Accent lights ~~must~~ **shall** be low-lumen or low-voltage and the maximum illumination on any surface shall not exceed 5.0 average initial foot-candles.

...

2. Amendments to 12.2 Terms Defined in order to update the definition of “Built-Upon Area” to be consistent with that required by NC General Statute 143-214.7 and NC Session Law 2024-49.

12.2 TERMS DEFINED

...

Built-Upon Area

For the purposes of complying with the standards and requirements of the Watershed Protection Overlay Districts, calculation of the built-upon area within the proposed development shall include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. In accordance with NCGS 143-214.7D, built upon area does not include the water area of swimming pools; slatted decks; and a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); ~~or~~ landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle; **or artificial turf, manufactured to allow water to drain through the backing of the turf, and installed according to the manufacturer’s specifications over a pervious surface.** The owner or developer of a property may opt out of any of the exemptions from built-upon area set out in this section.

...

3. **Amendments to Sec. 8.7.1 Permitted Signs: Location, Size, and Number; Table 8.7.1 in order to make corrections to the symbols for “allowed with permit”, “not allowed”, and “allowed without permit” shown for the On-premise, Non-commercial Temporary Sign type so that it is consistent with the standards for that sign type approved earlier this year.**

8.7.1 Permitted Signs: Location, Size, and Number

All signs are subject to Sec. 8.7.9 *Definitions*, Article 12: *Definitions*, and Sec. 8.7.2 through 8.7.6. The sections listed specifically in Sec. 8.7.1 have been included for emphasis and user convenience and shall not be construed to exclude other sections of the Ordinance. Any sign permitted by these regulations may display or publish a non-commercial message. This includes both signs that require and do not require a permit. Exemptions from Sec. 8.7.1 are found in subsection 8.7.1.C.

Table 8.7.1

P = allowed with permit X = not allowed √ = allowed without permit

Sign Type	Conditions	Residential Uses	Commercial Uses	Industrial Uses	Office & Institutional Uses	Illumination ¹
Permanent Sign Types						
...						
Temporary Sign Types						
1	On-premise, Non-commercial Temporary Signs	8.7.1.B.1	X-√	√-P	√ P	No
...						

PLANNING STAFF RECOMMENDATION:

Planning staff recommend approval of the proposed amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board reviewed these amendments at their December 09, 2024, meeting and unanimously recommended approval.



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TEL. 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 that are applicable Town-wide:

Requested by Planning Staff:

1. Amendments to Sec. 8.6 *Exterior Lighting* to allow the Planning Director the ability to approve an alternative form of compliance when necessary to ensure the functionality and safety of the site. Amendments also include a provision that Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial zoning districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.
2. Amendment to Sec. 12.2 *Terms Defined* in order to update the definition of "Built-Up Area" to be consistent with that required by NC General Statute 143-214.7 and NC Session Law 2024-49.
3. Amendments to Sec. 8.7.1 *Permitted Signs: Location, Size, and Number*; Table 8.7.1 in order to make corrections to the symbols for "allowed with permit", "not allowed", and "allowed without permit" shown for the On-premise, Non-commercial Temporary Sign type so that it is consistent with the standards for that sign type approved earlier this year.

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

Town Council Public Hearing Date and Time: January 14, 2025 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>.

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.

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

Dianne F. Khin, AICP
Planning Director

Published Dates: December 20, 2024 – January 14, 2025



TOWN OF APEX
POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TEL. 919-249-3426

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-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

A solicitud del personal de Planificación:

1. Las enmiendas a la Sección 8.6 Iluminación exterior permiten al director de Planificación aprobar una forma alternativa de cumplimiento cuando sea necesario para garantizar la funcionalidad y la seguridad del lugar. Las enmiendas también incluyen una disposición que establece que los usos de servicios o producción industrial dentro de los distritos de zonificación TF Tech/Flex o industrial ligera (LI, en inglés) tengan iluminación montada en edificios con lámparas de hasta 15,500 lúmenes, pero solo dentro de un área designada para muelle de carga.
2. Enmienda a la Sección 12.2 Términos definidos para actualizar la definición de "Área urbana" para que sea coherente con la exigida por los Estatutos Generales de Carolina del Norte, Sección 143-214.7, y con la Ley de Sesiones de Carolina del Norte, Sección 2024-49.
3. Enmiendas a la Sección 8.7.1 Letreros permitidos: ubicación, tamaño y cantidad; Tabla 8.7.1, para hacer correcciones en los símbolos de "permitido con autorización", "no permitido" y "permitido sin autorización" que se muestran para el tipo de letrero temporal no comercial, en el local, para que sea coherente con las normas aprobadas a principios de este año para ese tipo de letrero.

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: 14 de enero de 2025 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>.

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.

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

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 20 de diciembre de 2024 – 14 de enero de 2025



TOWN OF APEX
POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TEL. 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 that are applicable Town-wide:

Requested by Planning Staff:

1. Amendments to Sec. 8.6 *Exterior Lighting* to allow the Planning Director the ability to approve an alternative form of compliance when necessary to ensure the functionality and safety of the site. Amendments also include a provision that Industrial Service or Production uses within the TF Tech/Flex or LI Light Industrial zoning districts may have building mounted light fixtures with lamps up to 15,500 lumens only within a designated loading dock area.
2. Amendment to Sec. 12.2 *Terms Defined* in order to update the definition of "Built-Up Area" to be consistent with that required by NC General Statute 143-214.7 and NC Session Law 2024-49.
3. Amendments to Sec. 8.7.1 *Permitted Signs: Location, Size, and Number*; Table 8.7.1 in order to make corrections to the symbols for "allowed with permit", "not allowed", and "allowed without permit" shown for the On-premise, Non-commercial Temporary Sign type so that it is consistent with the standards for that sign type approved earlier this year.

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

Town Council Public Hearing Date and Time: January 14, 2025 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>.

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.

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

Dianne F. Khin, AICP
Planning Director



TOWN OF APEX
POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
TEL. 919-249-3426

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-601 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del pueblo de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del pueblo de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado que se aplican a toda la ciudad:

A solicitud del personal de Planificación:

1. Las enmiendas a la Sección 8.6 Iluminación exterior permiten al director de Planificación aprobar una forma alternativa de cumplimiento cuando sea necesario para garantizar la funcionalidad y la seguridad del lugar. Las enmiendas también incluyen una disposición que establece que los usos de servicios o producción industrial dentro de los distritos de zonificación TF Tech/Flex o industrial ligera (LI, en inglés) tengan iluminación montada en edificios con lámparas de hasta 15,500 lúmenes, pero solo dentro de un área designada para muelle de carga.
2. Enmienda a la Sección 12.2 Términos definidos para actualizar la definición de "Área urbana" para que sea coherente con la exigida por los Estatutos Generales de Carolina del Norte, Sección 143-214.7, y con la Ley de Sesiones de Carolina del Norte, Sección 2024-49.
3. Enmiendas a la Sección 8.7.1 Letreros permitidos: ubicación, tamaño y cantidad; Tabla 8.7.1, para hacer correcciones en los símbolos de "permitido con autorización", "no permitido" y "permitido sin autorización" que se muestran para el tipo de letrero temporal no comercial, en el local, para que sea coherente con las normas aprobadas a principios de este año para ese tipo de letrero.

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: 14 de enero de 2025 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>.

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.

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

Dianne F. Khin, AICP
Directora de Planificación

Fechas de publicación: 20 de diciembre de 2024 – 14 de enero de 2025