

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 4.2.2 and 4.4.5 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 A	R R	L D	M D	H D S F	H D M F	M H	M H P	M O R R	O & I	B 1	B 2	P C	L I	T F	M E C		T N D	P U D		C B	S D	S T C
Adult Use																								
Tattoo parlor and body piercing	4.3.5.A.4																				*	*	S*	4.4.5.A.4; 6.3

4.4.5.A Supplemental Standards, Commercial Uses, Adult Use

- ...
- 4) ~~Tattoo parlor and body piercing. Tattoo parlors shall comply with the following standard:
Except for freestanding and façade-mounted signs permitted pursuant to Sec. 8.7 Signs, no other advertisements, displays, or other signs or other promotional materials shall be visible to the public from sidewalks, walkways, or vehicular use areas.~~

Section 2. Section 8.2.6.B 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:

8.2.6.B Landscape Buffers Between Uses

- ...
- 4) Land Use Classes
- ...
- a) Class 1:
- ...
- Greenways**
- ...

Section 3. Sections 4.4.1, 6.1.11.I, and 8.2.8.B 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:

4.4.1 Supplemental Use Standards, Residential Uses

- A) **Condominium**
- ...

- 2) The overall enclosure design must comply with the standards found in the ~~Town's Design and Development Manual~~ **Town of Apex Standard Specifications and Standard Details.**

...

G) *Multi-Family or Apartment*

...

- 2) The overall enclosure design must comply with the standards found in the ~~Town's Design and Development Manual~~ **Town of Apex Standard Specifications and Standard Details.**

8.2.8.B *Screening, Screening Methods*

1) *Dumpsters*

...

- d) The overall enclosure design must comply with the standards found in the ~~Town's Design and Development Manual~~ **Town of Apex Standard Specifications and Standard Details.**

6.1.11 Riparian Buffers

...

l) *Notification on Site Plan and Subdivision Plan and Recording of Information*

Where required, riparian buffers shall be shown on all site plans and subdivision plans approved pursuant to Sec. 6.1.4 of this Ordinance. A certificate in the form established in the ~~Town of Apex Design and Development Manual~~ **Site Plan Final Plat or Master Subdivision Final Plat application** shall be ~~lettered~~ **placed** on the face of the ~~sSite pPlan Final Plat~~ or the recorded subdivision map **Master Subdivision Final Plat**. ~~Pp~~rior to approval of a **the** Final Plat (with respect to a subdivision), issuance of a certificate of occupancy (with respect to a site plan), or commencement of a use, a developer shall first cause all information pertaining to required riparian buffers to be shown on the Final Plat for the property.

...

Section 4. Section 2.3.8.D 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:

2.3.8 Variance Permit

...

D) Standards

In order to approve an application for a variance permit, the Board of Adjustment shall find the following:

- 1) *Unnecessary Hardship.* Unnecessary hardship would result from the strict application of the ~~ordinanceregulation~~ **regulation**. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

...

- 4) *Consistency with the UDORegulation.* The requested variance is consistent with the spirit, purpose, and intent of the ~~ordinanceregulation~~ **regulation**, such that public safety is secured, and substantial justice is achieved.

Section 5. Section 4.4.2 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:

4.4.2 Supplemental Standards, Public and Civic Uses

...

C) Day Care Facility

1) Day care facilities in the LI District shall comply with the following standards:

a1) The day care facility shall not exceed 20% of the gross square footage of the building in which it is located; and

b2) The day care facility shall be located at least 1,320 feet from any Gas and fuel, wholesale use.

~~2) Day care facilities in the B2 Downtown Business District shall not be located on North Salem Street between Center Street and West Chatham Street, and shall not be located on Commerce Street.~~

...

F) Drop-In or Short-Term Child Care

1) Drop-in/short-term child care that also provides Youth or Day Camps shall also meet the requirements of Sec. 4.4.4.E *Youth or Day Camps*.

~~2) Drop-in or short-term child care located in the B2 Downtown Business District shall have no outdoor play areas and shall have hours of operation typical to other adjacent downtown businesses.~~

Section 6. Sections 2.1.7.B, 2.3.7, 6.2.13.A, 7.1.7, 7.2.1, 7.5.13, 7.5.14, 7.5.16, 8.3.6.G, and 13.16.1 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:

2.1.7 Technical Review Committee

...

B) Membership

The TRC shall consist of a staff member, designated by the department head, from each of the following departments: Planning, Public Works, ~~and Transportation,~~ **Transportation & Infrastructure Development, Water Resources,** Building Inspections ~~and~~ **Permitting,** Parks, Recreation & Cultural Resources, Police, and Fire.

2.3.7 Subdivision

...

D) Master Subdivision Plan

...

4) Minor Deviations

The Planning Director, with the consent of the ~~Public Works and Transportation~~ **& Infrastructure Development** Director, ~~and~~ Water Resources Director, may approve a minor deviation to a Master Subdivision Plan. A minor deviation shall be limited to technical or engineering considerations first discovered after Master Subdivision Plan approval which have no material effect on the

character of the approved Master Subdivision Plan. Minor deviations shall be limited to slight relocation of lot lines, greenways, streets and utilities, and minor changes to grading and stormwater infrastructure.

...

- F) Master Subdivision Final Plat
 - 1) General

...

- b) The Master Subdivision Final Plat shall constitute only that portion of the Master Subdivision Plan that the subdivider proposes to record and develop at the time. The Master Subdivision Final Plat shall contain no fewer than 15 lots except in the case of one of the following:

- (i) Where there is a phase to be completed with fewer than 15 lots remaining or where the development contains fewer than 15 lots, in which case the application for Final Plat must contain all remaining lots;
 - (ii) When the lots are located in a nonresidential subdivision; or
 - (iii) When approved by the Planning Director, with the consent of the ~~Public Works and Transportation~~ **& Infrastructure Development** Director and Water Resources Director.

6.2.13 Flood Damage Prevention Overlay District

- A) *Designation of Local Administrator*

The Town's ~~Public Works and Transportation~~ **Water Resources** Director or a designee is appointed to administer and implement the provisions of this Flood Damage Prevention Overlay District.

7.1.7 Substitution of Fees in Lieu of Public Improvements

Where, because of topographical features or other conditions peculiar to the site, strict adherence to the provisions of this Article requiring public improvements would cause an unnecessary hardship or provide an unwarranted or unrealistic result, 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 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~~ **& Infrastructure Development** 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 substitution authorized as aforesaid shall be recorded in the minutes of the Town Council with a statement of the reasoning justifying the substitution.

7.2.1 Streets

...

- F) Intersections

...

- 4) Street jogs with centerline offsets of less than 100 feet shall be prohibited when the jog lies wholly within the subdivision, except when approved by the ~~Public Works and Transportation~~ **& Infrastructure Development** Director, and shall be avoided on the exterior boundary of the subdivision, except where external access would otherwise be denied.

...

L) Traffic Calming

- 2) All new residential developments shall provide for the installation for traffic calming measure(s) on each residential street within the development where the length of the public street exceeds 1,000 feet. The location and type of traffic calming measure(s) shall be determined by the Planning Department and ~~Public Works and Transportation~~ **& Infrastructure Development Department**. Traffic calming measure(s) include but are not limited to traffic circles, roundabouts, curb extensions, chicanes, splitter islands, and designated on-street parking. Speed humps are only allowed as traffic calming measures in existing neighborhoods that meet the criteria in Sec. 7.2.1.L.3 of this Ordinance.

...

- 3)

...

After all of the criteria have been satisfied, the Town Council will make the final decision whether to approve the proposed installation/removal project. The Town Council reserves the right to deny any request for installation/removal of traffic calming devices on Town-maintained streets, in its sole discretion. After the project has been approved by the Town Council and submitted to the Town's ~~Public Works and Transportation~~ **& Infrastructure Development** Director, the street will be rated for priority, and then scheduled for installation/removal of the traffic calming devices in accordance with the approved sketch plan.

7.5.13 Performance Guarantee in Lieu of Construction Prior to Acceptance of Final Plat

...

- C) Such guarantee shall be in an amount of not less than 125% of the estimated cost of the construction of the required improvements. The developer shall submit an estimate of this amount subject to review, modification, and approval, which shall be by the Water Resources Director or ~~Public Works and Transportation~~ **& Infrastructure Development** Director, as appropriate.
- D) Performance guarantees shall run for a period of one (1) year unless otherwise determined by the Water Resources Director or ~~Public Works and Transportation~~ **& Infrastructure Development** Director, as appropriate.
- E) All required construction of improvements, less the final lift of asphalts and adjustments, shall be completed within one (1) year from approval of the Final Plat unless otherwise determined by the Water Resources Director or ~~Public Works and Transportation~~ **& Infrastructure Development** Director, as appropriate.

...

7.5.14 Defects Guarantee

...

- B) This guarantee shall be in the amount determined by the Water Resources Director or ~~Public Works and Transportation~~ **& Infrastructure Development** Director, as appropriate.

7.5.16 Final Plat Approval Contingent on Execution of Guarantees

No Final Plat will be approved by the Planning Director, Water Resources Director, or ~~Public Works and Transportation~~ **& Infrastructure Development** Director unless such plat is in compliance with Sec. 14.1.5.C and Secs. 7.5.12 through 7.5.15.

8.3.6.G Cross-Access and Driveway Construction Easement

- 1) ...
...
 - d) The location of the cross-access and driveway construction easement and connection shall be reviewed and approved by the ~~Public Works and Transportation~~ **& Infrastructure Development** Director based on the following factors which include but are not limited to:
...
...
 - f) Additional driveway access to the thoroughfare shall be avoided, except in cases where additional access is reviewed and approved by the ~~Public Works and Transportation~~ **& Infrastructure Development** Director upon finding that such access meets the following minimum distancing requirements between driveways along the thoroughfare:
 - (i) 250 feet may be allowed for right-in/right-out direct access in addition to cross-access;
 - (ii) 500 feet may be allowed for full movement to a minor thoroughfare for direct access in addition to cross-access; and/or
 - (iii) 1,000 feet may be allowed for full movement to a major thoroughfare for direct access in addition to cross-access.

The ~~Public Works and Transportation~~ **& Infrastructure Development** Director may reduce the minimum spacing separation above by no more than 10% upon review of site constraints and a traffic impact analysis, when required.

- 2) Exceptions to the cross-access requirements may be granted by the ~~Public Works and Transportation~~ **& Infrastructure Development** Director based on site-specific constraints that make it impractical to dedicate such cross-access and driveway construction easements and connections, including but not limited to:

13.16 Developer Agreements

- ...
 - 13.16.1 the estimated cost of the road improvement, based on the approved bidding process and using the lowest bid approved by the ~~Public Works and Transportation~~ **& Infrastructure Development** Director;

Section 7. These amendments shall not apply to projects for which an application for development approval has been submitted before the effective date of this ordinance.

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 ordinance shall be effective upon enactment on the ____ day of _____ 2023.

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