

ORDINANCE NO. 2025-__

AN ORDINANCE AMENDING SECTION 14-14 OF THE
CODE OF ORDINANCES OF THE TOWN OF APEX

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Apex as follows:

Section 1. Section 14-14 of the Code of Ordinances of the Town of Apex is hereby amended to read as follows, with additions shown as bold, underlined text, and deletions shown as struck-through text:

Sec. 14-14. - Consumption and possession of open containers of malt beverages and unfortified wine prohibited on public streets and municipal property.

(a) Definitions. In addition to the common meanings of words, the following definitions shall be applicable herein:

ABC permit means any permit required by the North Carolina Alcoholic Beverage Control Commission or any successor agency.

Alcoholic beverage(s) has the same meaning as the term “Alcoholic beverage” defined in G.S. 18B-101.

~~Malt beverage means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage except unfortified or fortified wine as defined by this chapter, containing at least one half percent (0.5%), and not more than 15 percent (15%), alcohol by volume. Any malt beverage containing more than six percent (6%) alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage (G.S. 18B-101(9))~~ **has the same meaning as the term “Malt beverage” defined in G.S. 18B-101.**

~~Open container means a container whose seal has been broken or a container other than the manufacturer's unopened original container (G.S. 18B-300(e))~~ **has the same meaning as the term “open container” in G.S. 18B-300.**

Public street means any highway, road, street, avenue, boulevard, alley, bridge, or other way within and/or under the control of the town and open to public use, including the sidewalks of any such street.

Social District has the same meaning as the term “social district” defined in G.S. 18B-300.1.

~~Unfortified wine means any wine of 16 percent (16%) or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar, or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in~~

accordance with the regulation of the United States (G.S. 18B-101(15)) **has the same meaning as the term "Unfortified wine" defined in G.S. 18B-101.**

- (b) *Consumption on the public streets and municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the town including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, public greenways, playgrounds, recreational areas, tennis courts, and other athletic fields; provided that this sentence shall not apply to property owned or leased by the town which is leased or subleased to another party under terms that transfer the day-to-day control and operation of the property to the other party or to the Halle Cultural Arts Center of Apex when leased to another party under the terms and conditions of the cultural arts center rental agreement. **Notwithstanding the above, the provisions of this section shall not be applicable to any public streets or municipal property located within a social district during its hours of operation provided that all rules, regulations, and laws governing the consumption of alcoholic beverages within the social district are adhered to, including but not limited to those set forth in G.S. 18B-300.1.**
- (c) *Possession of open containers on the public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the town including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, public greenways, playgrounds, recreational areas, tennis courts, and other athletic fields; provided that this sentence shall not apply to property owned or leased by the town which is leased or subleased to another party under terms that transfer the day-to-day control and operation of the property to the other party or to the Halle Cultural Arts Center of Apex when leased to another party under the terms and conditions of the cultural arts center rental agreement. **Notwithstanding the above, the provisions of this section shall not be applicable to any public streets or municipal property located within a social district during its hours of operation provided that all rules, regulations, and laws governing the consumption of alcohol within the social district are adhered to, including but not limited to those set forth in G.S. 18B-300.1.**
- (d) ~~*Exemption for downtown sidewalk food service tables.*~~ The consumption of malt beverage and unfortified wine and the possession of an open container of the same, at a "downtown sidewalk food service table," as defined in Town Code section 18-11, shall be exempt from subsections 14-14(b) and (c) if the service of such malt beverage or unfortified wine is pursuant to a valid ABC permit and in conformity with the ABC laws. The Town of Apex grants control over the area of public

~~sidewalk upon which a downtown sidewalk food service table is located to the adjacent food service provider to the least extent necessary for the area to qualify as part of the premises of the adjacent food service provider for the purposes of the applicable ABC permit.~~

- (d) Exemption for special events.** The consumption of ~~malt beverage and unfortified wine~~ **alcoholic beverages** and the possession of an open container of the same, during a special event for which alcohol service has been approved by the town and within such area(s) designated for alcohol possession and consumption, shall be exempt from subsections 14-14(b) and (c) if the service of such ~~malt beverage or unfortified wine~~ **alcoholic beverages** is pursuant to a valid ABC permit and in conformity with the ABC laws.
- (e) Social districts.** Pursuant to North Carolina General Statute 160A-205.4 a city may adopt an ordinance designating a social district for use in accordance with G.S. 18B-300.1.

- (1) Management.** The Town shall approve a management and maintenance plan for the social district in accordance with the requirements contained in G.S. 160A-205.4 and 18B-300.1. Changes and modifications to the management and maintenance plan may be approved by the Town Manager or their designee.
- (2) The Town hereby creates and designates the following Social District:**

- a. **Downtown Apex Social District designated as the following area within the Town:**

1. **Downtown Apex Social District. An official exhibit designating the Downtown Apex Social District is hereby incorporated by reference and shall be effective as if fully set forth herein. The official copy of the Downtown Apex Social District exhibit, and any amendments thereto, shall be kept on file in the office of the town clerk.**
2. **The days and hours of operation for the Downtown Apex Social District shall be seven days a week from 11 a.m. to 10 p.m., unless modified by resolution of the Town Council, or, if required for public safety purposes, by the Town Manager or Apex Chief of Police or their respective designees.**

3. Consumption within the Downtown Apex Social District shall be in accordance with G.S. 18B-300.1 at all times in which the Downtown Apex Social District is active.

(3) Licenses. Any business establishment with the Downtown Apex Social District which holds a valid ABC permit and desires to engage as a Social District participant must complete an online form with the town indicating they are opting-in to the Social District. The establishment shall be responsible to operate its business in accordance with all town and State ordinances, laws, rules, regulations and operations plans governing Social District activities.

(f) *Penalty.* Violation of this section shall constitute a misdemeanor punishable in accordance with G.S. 14-4 and is subject to a fine not to exceed \$100.00. The remedy provided in this Section is not exclusive to any other remedies available under any applicable federal, state or local law and it is within the discretion of the town to seek cumulative remedies.

Section 2. The Town Clerk 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 3. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances and the sections of this ordinance may be renumbered to accomplish such intention.

Section 4. Severability, Conflict of Laws. If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall be effective June 7, 2025.

Introduced by Council Member: _____

Seconded by Council Member: _____

This the ____ day of _____, 2025.

Attest:

TOWN OF APEX, NORTH CAROLINA

Allen Coleman, CMC, NCCCC
Town Clerk

Jacques K. Gilbert
Mayor

Approved As To Form:

Laurie L. Hohe,
Town Attorney