

STAFF REPORT

Amendments to the Unified Development Ordinance

May 10, 2022 Town Council Meeting



Requested by Planning Staff:

Amendments to various sections of the Unified Development Ordinance in order to:

1. Create the Downtown Festival District;
2. Clarify standards for outside storage and sales within the Central Business District;
3. Amend standards for Promotional Events;
4. Revise how uses that serve alcohol are permitted;
5. Provide a definition for "outdoor operations" and create standards for the outdoor operations aspect of certain uses.
6. Create the uses "Parking garage, public" and "Parking lot, public"; and
7. Prohibit "Parking lot, commercial" as a permitted use in the Downtown Festival District;

Sections affected are 4.1.2 *Outside Storage and Sales*; 4.2.2 *Use Table*; 4.3.5 *Use Classifications, Commercial Uses*; 4.3.6 *Use Classifications, Industrial Uses*; 4.4.4 *Supplemental Standards, Recreational Uses*; 4.4.5 *Supplemental Standards, Commercial Uses*; 4.4.6 *Supplemental Standards, Industrial Uses*; 4.6 *Temporary Uses and Structures*; and 12.2 *Terms Defined*.

12.2 Defined Terms

...

Downtown Festival District

The purpose and intent of the Downtown Festival District is to celebrate the Salem Street corridor and vicinity and encourage a diversity of activities and programming by allowing more outdoor entertainment options on public and private properties than in other areas of Town while being cognizant of the surrounding residential neighborhoods. Legal description of boundaries: Beginning at an iron pipe being the southwest property corner of the Town of Apex Police Department and being the northwest corner of the Kenneth E. and Cheryl H. Koch, Jr. property; thence along the western property line of the Town of Apex Police Department N 29°37'50" E 91.05' to a point; thence continuing along said property line N 30°23'22" E 13.01' to a point; thence along the same property line N 40°38'29" E 142.69' to a point on the northern right-of-way of Saunders Street; thence along the Saunders Street northern right-of-way S 64°28'48" E 19.44' to a point; thence S 64°15'35" E 89.31' to a point on the aforementioned right-of-way; thence leaving the northern right-of-way of Saunders Street the following three (3) calls: N 18°01'23" E 184.23', N 65°08'53" W 31.82', and N 02°37'34" W 87.12' to a point on the southern boundary of the Brittany Trace neighborhood; then along the southern boundary of Brittany Trace, also being the rear property line for Lots 38 through 47, the following three (3) calls: S 89°48'07" E 14.82', N 89°06'04" E 194.87', and S 88°48'57" E 398.32' to a point; thence N 89°04'55" E 16.80' to a point; thence S 88°02'04" E 272.91' to a point on the western right-of-way of North Salem Street; thence along the North Salem Street western right-of-way the following six (6) calls: N 14°58'41" E 62.09', N 18°22'46" E 40.83', N 18°51'26" E 493.54', N 17°19'26" E 95.95', N 12°19'09" E 53.97', and N 14°51'47" E 151.61' to a point in the centerline of Hunter Street; thence with the Hunter Street centerline S 75°57'32" E 104.78' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline N 02°16'41" E 1282.52' to a point; thence leaving the centerline of the mainline track for CSX Transportation and following the northern property line of the Town of Apex Hunter Street Park property S 87°43'03" E 580.19' to a point in the centerline of Ambergate Station; thence with the Ambergate Station

centerline the following five (5) calls: S 02°43'42" W 159.30', S 02°06'51" W 103.90', S 03°09'44" W 15.57', S 05°10'12" W 20.26', and S 07°23'46" W 1.63' to a point; thence leaving the centerline of Ambergate Station S 87°56'20" E 157.12' to a point on the western right-of-way of CSX Transportation; thence along the CSX Transportation western right-of-way S 26°14'00" W 1091.25' to a point on the northern right-of-way of Hunter Street; thence along the Hunter Street northern right-of-way S 76°01'18" E 103.87' and S 75°58'18" E 78.32' to a point also being the western right-of-way of Metro Station; thence leaving the northern right-of-way of Hunter Street and following the Metro Station western right-of-way the next three (3) calls: N 26°17'55" E 139.57', N 29°35'10" E 20.07', and N 36°09'34" E 20.07' to a point; thence leaving the western right-of-way of Metro Station and following the centerline of Massapequa Station S 63°41'13" E 394.10' to a point; thence leaving the Massapequa Station centerline S 26°15'45" W 14.12' to a point on the eastern right-of-way of Grand Central Station; thence leaving the Grand Central Station eastern right-of-way and following the northern property line of Lot 105 (56 Hunter Street) Villages of Apex South Village – Phase 1A S 63°44'15" E 97.58' to a corner; thence crossing the Villages of Apex South Common Area and following a property line of Lot 1 Villages of Apex South N 75°06'49" E 272.40' to a point; thence continuing with the edge of said property S 79°37'44" E 169.41' to a corner; thence crossing Lot 1 S 57°13'29" E 172.79' to a point in the centerline of Laura Duncan Road; thence along the Laura Duncan Road centerline the following seven (7) calls: S 30°28'38" W 15.53', S 36°13'57" W 28.13', S 36°18'01" W 50.25', S 38°00'41" W 69.01', S 40°05'16" W 110.45', S 39°37'43" W 106.22', and S 42°26'17" W 78.36' to the intersection of Laura Duncan Road and Hunter Street; thence leaving the intersection and continuing along the North Mason Street centerline the following twelve (12) calls: S 41°38'01" W 54.75', S 40°12'33" W 85.20', S 41°26'40" W 75.54', S 39°39'03" W 66.30', S 39°31'22" W 29.69', S 35°22'20" W 29.09', S 33°41'24" W 20.46', S 31°48'32" W 25.12', S 27°58'46" W 17.85', S 28°10'00" W 27.49', S 25°34'30" W 29.63', and S 25°01'01" W 26.26' to a point; thence leaving the centerline of North Mason Street and continuing along the northern property line of Town of Apex, also being the southern limit of an abandoned railroad easement, the following three (3) calls: S 57°30'04" E 71.43', S 51°04'36" E 36.87', and S 45°31'56" E 40.38' to a point; thence crossing the aforementioned Town of Apex property S 20°27'19" W 222.17' to its southern property line; thence along the southern property line of Town of Apex N 69°32'41" W 120.00' to a point on the eastern right-of-way of North Mason Street; thence N 22°06'06" E 34.22' to a point on the North Mason Street eastern right-of-way; thence crossing the right-of-way of North Mason Street and continuing along the southern property line of Town of Apex Town Campus N 66°08'18" W 199.31' to a corner; thence along a common line between Town of Apex and Larry Mack Jordan N 22°28'32" E 162.69' and N 77°35'02" W 96.38' to a corner; thence crossing a portion of Larry Mack Jordan, Town of Apex Town Campus, and North Hughes Street, also being collinear with the southern property line of the former Tunstall Life Estate, N 64°48'43" W 716.19' to a point in the centerline of the mainline track for CSX Transportation; thence along the CSX Transportation mainline track centerline S 26°12'58" W 2880.48' to a point on the eastern right-of-way of East Williams Street (NC Highway 55); thence with the NC Highway 55 eastern right-of-way N 66°53'40" W 628.99' to a point on the eastern right-of-way of West Williams Street, also being the southeast corner of A.T. Seymour Heirs; thence along the eastern property line of A.T. Seymour Heirs the following three (3) calls: N 26°16'51" E 166.66', S 64°40'27" E 3.99', and N 27°36'14" E 109.53' to a point on the southern property line of Thomas E. Seymour; thence along the property lines of Thomas E. Seymour the following three (3) calls: N 64°44'27" W 209.92', N 29°11'13" E 116.32', and S 63°52'04" E 170.02' to the southeast corner of Eric D. and Patricia Pollock Creta; thence along the eastern property line of Eric D. and Patricia Pollock Creta N 26°07'32" E 184.96' to a point on the southern right-of-way of West Moore Street; thence along the West Moore Street southern right-of-way S 63°57'53" E 10.10' to a point; thence leaving the southern right-of-way of West Moore Street and following the eastern right-of-way of Hudson Avenue N

28°53'12" E 130.24' to a point; thence leaving the Hudson Avenue eastern right-of-way S 61°06'48" E 109.23' to a point; thence N 28°09'08" E 80.92' to a point; thence N 60°52'34" W 33.18' to a point; thence N 30°30'46" E 85.93' to a point; thence N 62°41'01" W 76.03' to a point; thence N 28°25'56" E 128.57' to a point being on the eastern right-of-way of Hudson Avenue and the southern right-of-way of Holleman Street; thence crossing Hudson Avenue N 56°56'16" W 20.07' to the northeast corner of William J. Evans, Jr.; thence along the Holleman Street southern right-of-way, also being the northern property line of William J. Evans, Jr., N 60°00'00" W 192.72' to the northeast corner of Carey C. Jones Memorial Park; thence leaving the southern right-of-way of Holleman Road and following the eastern edge of Carey C. Jones Memorial Park the following six (6) calls: S 29°51'00" W 150.00', N 60°03'08" W 5.20', S 26°14'24" W 99.23', N 63°24'21" W 11.54', N 65°03'26" W 89.86', and S 29°57'39" W 162.25' to a point on the northern right-of-way of West Moore Street; thence with the West Moore Street northern right-of-way N 71°38'54" W 546.63' to a point on the eastern right-of-way of Upchurch Street; thence along the Upchurch Street eastern right-of-way N 30°10'39" E 558.38' to a point on the northern right-of-way of Holleman Street; thence along the Holleman Street northern right-of-way S 61°48'47" E 284.70' and S 59°01'13" E 289.14' to a corner of Apex Baptist Church; thence leaving the northern right-of-way of Holleman Street and following along the western edge of Apex Baptist Church the next four (4) calls: N 28°31'39" E 174.53', S 65°08'57" E 67.87', S 65°34'53" E 64.94', and N 29°20'38" E 256.34' to a point on the northern right-of-way of West Chatham Street; thence along the West Chatham Street northern right-of-way S 64°49'33" E 156.08' to a point; thence leaving the northern right-of-way of West Chatham Street N 27°15'51" E 159.33' to a point on the southern property line of the Town of Apex Police Department; thence along the southern property line of the Town of Apex Police Department the following four (4) calls: N 64°05'39" W 289.37', N 64°18'46" W 80.73', N 64°41'58" W 94.64', and N 64°14'26" W 103.74' to the point and place of beginning.

4.1.2 Outside Storage and Sales

...

- C) In the Central Business District, outdoor storage, display, and sales/rentals located on public sidewalks must comply with the following requirements:
- 1) ——— Outdoor storage, display, and sales/rentals may be located only in those areas designated as "Outdoor Storage, Display, and Sales/Rentals" on an approved site-specific development plan in a form approved by the Director of Planning and Community Development;
 - 21) Outdoor storage, display, and sales/rentals ~~must~~shall be located, situated, and conducted in a manner that maintains, and does not encroach into, a 36-inch" clear accessible pedestrian travel path between the brick utility strip adjacent to the sidewalk and the area designated for outdoor storage, display, and sales/rentals; and
 - 32) Outdoor seating and items used in connection with sidewalk cafés, including but not limited to chairs and tables, ~~may~~shall not encroach into the 36-inch" clear accessible pedestrian travel path.

Promotional Event Changes

4.6.1 Temporary Uses and Structures, Permit Required

A) *General*

A temporary use or structure for one or more of the following described uses shall be permitted in any zoning district. All temporary uses and structures shall obtain a ~~Temporary Use Permit~~ **Temporary Use Permit** pursuant to the procedures set forth in Sec. 2.3.11 *Temporary Use*.

B) *General Regulations*

...

5) Temporary uses and activities ~~or special events~~ shall not jeopardize the public health or safety, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

C) *Uses Allowed*

...

5) *Promotional event.* For-profit promotional events are **those events that occur outside of a building, not including outdoor service areas used on a regular basis for such business. Such events are** allowed provided that:

a) The size and location of the promotional event shall be reasonably related to the existing business and in no case shall interfere with the day-to-day business operations of on-site or adjacent businesses. A plan showing the layout of the promotional event is required.

b) **Outside the Downtown Festival District, the frequency and duration of the for-profit promotional event shall be permitted only under subsection (i) or (ii) as determined by the business at the time of first application in each calendar year as follows:**

(i) No more than three (3) promotional events shall occur at any one development business per calendar year; the promotional event shall be limited to no more than 14 days in length; or

~~ε~~**(ii) No more than six (6) promotional events shall occur at any one business per calendar year; the promotional event shall be limited to no more than 14 one (1) days in length.**

c) **Within the Downtown Festival District, the following standards shall apply:**

(i) No more than one (1) promotional event shall occur at any one business per calendar month.

(ii) The promotional event shall be limited to one (1) day in length.

(iii) All outdoor areas associated with a promotional event shall be located at least 45 feet from a residential zoning district or a conforming detached single-family dwelling, not to include the HDMF or MORR districts.

...

Alcohol Related Changes and Outdoor Service Area Standards

Staff Note: Changes to the Use Table below are only proposed for the use “Bar, nightclub, wine bar, or taproom” and “Restaurant, general”. The other uses are shown for reference purposes only.

4.2.2 Use Table

Use Type	Definition Section	Zoning Districts																				Standards	
		Residential										Business					Planned Development			Other			
		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																							
Bar, nightclub, wine bar, or taproom	4.3.5.A.2																						
Food and Beverage Service																							
Restaurant, general	4.3.5.C.2																						
Retail sales and service																							
Retail sales, general	4.3.5.G.30																						
Production																							
Brewery	4.3.6.B.7																						
Distillery	4.3.6.B.9																						
Microbrewery	4.3.6.B.8																						
Microdistillery	4.3.6.B.10																						

A “%” indicates that a use category or specific use type is allowed in the corresponding zoning district only as a percentage of the total gross square footage of a permitted use (“P” or “S”). Refer to Sec. 4.4 *Supplemental Standards* for specific standards.

*Uses in the Small Town Character Overlay District (STC) designated as Permitted (P) are only allowed when also designated as Permitted (P) in the underlying zoning district. Uses requiring Special Use Permits (S) in the underlying zoning district are still required to get a Special Use Permit in the STC Overlay District.

**Uses allowed as a matter-of-right in a Sustainable Development Conditional Zoning District shall be those uses authorized in the Sustainable Development Plan approved for such district. Standards applicable to each such use shall be as provided in this Use Table unless modified by the respective Sustainable Development Plan.

***Uses in the Central Business District designated as Permitted (P) with three asterisks are not allowed in storefront locations. Storefront locations shall mean the first floor of all spaces abutting North Salem Street, East Chatham Street, West Chatham Street, Saunders Street, and Templeton Street, as well as along all **principal use** public **and commercial** parking lots and garages.

4.3.5 Use Classifications, Commercial Uses

A) Adult Use

...

- 2) *Bar, nightclub, wine bar, or taproom.* An establishment **primarily dispensing alcoholic beverages for consumption on premises** that generates more than 49% of its quarterly gross receipts from the sale of alcoholic beverages from on-premise consumption. This use **may typically** includes live bands, other music, and dancing as well as games of skill, such as, but not limited to, pool or darts

for use by the patrons of the establishment. **This use may include the on-premise sale, service, and consumption of food.**

...
C)

Food and Beverage Service

...
2)

~~Restaurant, general. "Restaurant, general" means a~~An establishment where the principal business is the sale of food and ~~non-alcoholic beverages in a ready-to-consume state, the receipts from alcohol sales do not exceed the limit stated in UDO Subsection 4.3.5.C.2.e,~~ and the design or principal method of operation consists of one or more of the following:

- a) A sit-down restaurant or café where customers normally sit at a table, are provided with an individual menu, and are generally served food and beverages in non-disposable containers by a restaurant employee. Customers may also be served food and beverages by a restaurant employee at a counter; or
- b) A cafeteria or cafeteria-type operation where foods and beverages generally are served in non-disposable containers and consumed within the restaurant; or
- c) A restaurant, which may have characteristics of a fast food restaurant, having floor area exclusively within a shopping or office center, sharing common parking facilities with other businesses within the center, and having access to a common interior pedestrian accessway.
- d) An establishment primarily engaged in the retail sale of a limited variety of baked goods, candy, coffee, ice cream or other specialty food items, which may be prepared for on-premises sale and which may be consumed on the site, but excluding any service to a customer in an automobile. Typical uses include delicatessens, retail bakeries, coffee shops, donut shops, and ice cream parlors.
- e) This use may include the on-premise sale, service and consumption of alcoholic beverages as an accessory and secondary use, ~~provided that an establishment's quarterly gross receipts from the sale of alcoholic beverages for on-premise consumption shall not exceed 49% of the establishment's quarterly total gross receipts from the sale of food, non-alcoholic beverages, and alcoholic beverages.~~

4.3.6 Use Classifications, Industrial Uses

...
B)

Production

...
7)

Brewery. A facility for the brewing of beer that produces greater than 15,000 barrels per year. **This use may include a tasting room and retail space to sell the beer to patrons on the site.** This use may include the on-premise sale, service, and consumption of alcoholic beverages **and food.** ~~as an accessory and secondary use, provided that an establishment's quarterly gross receipts from the sale of alcoholic beverages for on-premise consumption shall not exceed 49% of the establishment's quarterly total gross receipts.~~

- 8) *Microbrewery*. A small facility for the brewing of beer that produces more than 300 and less than 15,000 barrels per year. It may include a tasting room and retail space to sell the beer to patrons on the site. This use may include the on-premise sale, service, and consumption of alcoholic beverages and food.
- 9) *Distillery*. A facility for the distillation of spirituous liquor that produces greater than 15,000 barrels per year. This use may include the on-premise sale, service, and consumption of alcoholic beverages **and food** as an accessory and secondary use, ~~provided that an establishment's quarterly gross receipts from the sale of alcoholic beverages for on-premise consumption shall not exceed 49% of the establishment's quarterly total gross receipts.~~
- 10) *Microdistillery*. A small facility for the distillation of spirituous liquor that produces less than 15,000 barrels per year. It may include a tasting room on the site. This use may include the on-premise sale, service, and consumption of alcoholic beverages **and food** as an accessory and secondary use, ~~provided that an establishment's quarterly gross receipts from the sale of alcoholic beverages for on-premise consumption shall not exceed 49% of the establishment's quarterly total gross receipts.~~

4.4.4 Supplemental Standards, Recreational Uses

An establishment in the recreational uses category may sell unfortified wine and malt beverages provided that the establishment meets all the requirements of an Alcoholic Beverage Control Commission permit ~~and the establishment's on-premise alcohol sales do not exceed 49% of the establishment's quarterly gross receipts.~~

12.2 Defined Terms

...

Outdoor Operations

Area designated for seating, food or beverage service, entertainment, or other similar activities located outside the primary business.

...

NOTE: For all Supplemental Standards sections below, red text has been added to reflect the intent of the proposed definition for the Downtown Festival District. This additional text is noted in red because it was not initially included in drafts reviewed by the Planning Committee of Town Council or the public in the virtual Q&A session held on March 22, 2022.

4.4.5 Supplemental Standards, Commercial Uses

A) *Adult Use*

...

- 2) ~~*Bar, nightclub, wine bar, or taproom*. A Special Use Permit (Sec. 2.3.5) shall be required for all bars, nightclubs, wine bars, and taprooms. Outside serving areas and outside amplified sound shall be prohibited in bars and nightclubs located adjacent to any residential district except when approved according to the standards found in Sec. 4.6 Temporary Uses and Structures.~~

- a) **Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:**

- i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
- ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 Temporary Uses and Structures.

b) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:

- i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
- ii) Outdoor live or recorded acoustic or amplified entertainment shall **not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in** ~~require approval of a Temporary Use Permit for a Promotional Event in accordance with~~ Sec. 4.6 Temporary Uses and Structures.

...

C) *Food and Beverage Service*

...

2) *Restaurant, general.* ~~Limits on sales of alcoholic beverages are found in UDO Sec. 4.3.5.C.2.e.~~

- a) Restaurants in the O&I Office and Institutional District are permitted only when the total floor area of all barber and beauty shops, gift shops, newsstands, pharmacies, and restaurants does not occupy more than 30% of the gross floor area of the building.
- b) Cafeterias are allowed within a permitted use in the LI Light Industrial District if the cafeteria is provided solely for employee use, it does not provide any outside signage or advertising, and it consists of less than 20% of the gross floor area of the building.

c) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:

- i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
- ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any

conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 Temporary Uses and Structures.

d) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:

i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and

ii) Outdoor live or recorded acoustic or amplified entertainment shall **not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in** ~~require approval of a Temporary Use Permit for a Promotional Event in accordance with~~ Sec. 4.6 Temporary Uses and Structures.

...

G) *Retail Sales and Service*

An establishment in the retail sales and service category may sell unfortified wine and malt beverages provided that the establishment meets all the requirements of an Alcoholic Beverage Control Commission permit and the establishment's on-premise alcohol sales do not exceed 49% of the establishment's quarterly gross receipts.

Outside of the Downtown Festival District, outdoor operations of such uses shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not to include HDMF or MORR. Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 Temporary Uses and Structures.

Within the Downtown Festival District, outdoor operations of such use shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts. Outdoor live or recorded acoustic or amplified entertainment shall **not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in** ~~require approval of a Temporary Use Permit for a Promotional Event in accordance with~~ Sec. 4.6 Temporary Uses and Structures.

4.4.6 Supplemental Standards, Industrial Uses

...

B) Production

...

2) *Brewery.* A brewery producing more than 15,000 barrels per year must be located in a stand-alone building.

- a) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:
 - i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
 - ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.

- b) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:
 - i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
 - ii) Outdoor live or recorded acoustic or amplified entertainment shall **not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in** ~~require approval of a Temporary Use Permit for a Promotional Event in accordance with~~ Sec. 4.6 *Temporary Uses and Structures*.

- 3) *Microbrewery.*
 - a) A microbrewery located in B1 or PC is permitted as an accessory use to a Restaurant, general.
 - b) A microbrewery located in B2 shall include a tasting room or retail space.
 - c) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:
 - i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
 - ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.

d) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:

i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and

ii) Outdoor live or recorded acoustic or amplified entertainment shall ~~not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in~~ require approval of a Temporary Use Permit for a Promotional Event in accordance with Sec. 4.6 Temporary Uses and Structures.

4) *Distillery.* A distillery producing more than 15,000 barrels per year must be located in a stand-alone building.

a) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:

i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and

ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 Temporary Uses and Structures.

b) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:

i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and

ii) Outdoor live or recorded acoustic or amplified entertainment shall ~~not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in~~ require approval of a Temporary Use Permit for a Promotional Event in accordance with Sec. 4.6 Temporary Uses and Structures.

5) *Microdistillery*. A microdistillery in the TF district must be located in a stand-alone building.

a) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:

- i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
- ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.

b) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:

- i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
- ii) Outdoor live or recorded acoustic or amplified entertainment shall **not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in** ~~require approval of a Temporary Use Permit for a Promotional Event in accordance with~~ Sec. 4.6 *Temporary Uses and Structures*.

Parking Related Changes

4.2.2 Use Table

Use Type	Definition Section	Zoning Districts																				Standards		
		Residential										Business					Planned Development			Other				
		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	
<u>Parking, commercial-principal use</u>																								
Parking garage, commercial	4.3.5.E.1											P	P	P		P		P	P		*	*	P*	4.4.5.E.1; 6.3
Parking lot, commercial	4.3.5.E.2											P	P	P		P					*	*	P*	4.4.5.E.2; 6.3
<u>Parking garage, public</u>	<u>4.3.5.E.3</u>											<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>		<u>P</u>	<u>P</u>		<u>*</u>	<u>*</u>	<u>P*</u>	<u>4.4.5.E.2; 6.3</u>
<u>Parking lot, public</u>	<u>4.3.5.E.4</u>											<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>					<u>*</u>	<u>*</u>	<u>P*</u>	<u>4.4.5.E.2; 6.3</u>

A “%” indicates that a use category or specific use type is allowed in the corresponding zoning district only as a percentage of the total gross square footage of a permitted use (“P” or “S”). Refer to Sec. 4.4 *Supplemental Standards*, for specific standards.

*Uses in the Small Town Character Overlay District (STC) designated as Permitted (P) are only allowed when also designated as Permitted (P) in the underlying zoning district. Uses requiring Special Use Permits (S) in the underlying zoning district are still required to get a Special Use Permit in the STC Overlay District.

**Uses allowed as a matter-of-right in a Sustainable Development Conditional Zoning District shall be those uses authorized in the Sustainable Development Plan approved for such district. Standards applicable to each such use shall be as provided in this Use Table unless modified by the respective Sustainable Development Plan.

***Uses in the Central Business District designated as Permitted (P) with three asterisks are not allowed in storefront locations. Storefront locations shall mean the first floor of all spaces abutting North Salem Street, East Chatham Street, West Chatham Street, Saunders Street, and Templeton Street, as well as along all principal use public and commercial parking lots and garages.

4.3.5 Use Classifications, Commercial Uses

...

E) Parking, ~~Commercial~~ Principal Use

- 1) *Parking garage, commercial.* A building or other structure that provides temporary parking for motor vehicles, for profit, where some or all of the parking spaces are not accessory to another principal use.
- 2) *Parking lot, commercial.* A paved area intended or used for the off-street parking of motor vehicles on a temporary basis, other than accessory to a principal use, for profit.
- 3) **Parking garage, public. A building or other structure owned and maintained by the Town that provides temporary parking for motor vehicles, where some or all of the parking spaces are not accessory to another principal use. This use shall include public-private partnerships.**
- 4) **Parking lot, public. A paved area owned and maintained by the Town intended or used for the off-street parking of motor vehicles on a temporary basis, other than accessory to a principal use. This use shall include public-private partnerships.**

4.4.5 Supplemental Standards, Commercial Uses

E) Parking, ~~Commercial~~ Principal Use

- 1) *Parking garage or lot, commercial.* A commercial parking garage or lot use shall comply with the following standards:
 - a) A commercial parking garage or lot use shall be the principal use. Parking spaces may be rented for parking. No other business of any kind shall be conducted on the lot, including repair, service, washing, display or storage of vehicles or other goods; and
 - b) A commercial parking garage or lot shall not be contiguous to lands in the residential zoning districts.

- c) **A commercial parking lot shall not be allowed within the Downtown Festival District.**
 - d) ~~Street frontage of a commercial parking lot in the B2 Downtown Business Districts shall be limited to 100 feet.~~
 - d) **Commercial** parking garages in the B2 Downtown Business and TND-CZ Traditional Neighborhood Districts shall have retail, office, or residential uses on the bottom floor across the entire width of street frontage except for required entrances and the attendant station.
- 2) **Parking garage or lot, public. A public parking garage or lot use shall comply with the following standards:**
- a) **Within the Downtown Festival District, new public parking garages or lots shall not be located immediately adjacent to Salem Street.**
 - b) **Within the Downtown Festival District, a public parking garage shall meet the following design standards in addition to those found in Sec. 6.3 Small Town Character Overlay District and Article 9: Design Standards:**
 - (i) **The first floor of facades along rights-of-way shall be wrapped with a non-residential use; and**
 - (ii) **At least 75% of the exterior shall be brick.**

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed UDO amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their April 11, 2022 meeting and unanimously recommended approval.

PLANNING BOARD REPORT TO TOWN COUNCIL

Unified Development Ordinance Amendments: Downtown Festival District-related

Planning Board Meeting Date: April 11, 2022



Report Requirements:

Per NCGS §160D-604, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

Planning Board Recommendation:

Motion: To recommend approval as presented.

Introduced by Planning Board member: Elaine Boyle

Seconded by Planning Board member: Mark Steele

- Approval of the proposed UDO amendment(s)
- Approval of the proposed UDO amendment(s) with the following conditions:

Denial of the proposed UDO amendment(s)

With 7 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 11th day of April 2022.

Attest:

A handwritten signature in black ink, appearing to read "Reginald Skinner".

Reginald Skinner, Planning Board Chair

Dianne Khin

Digitally signed by Dianne Khin
Date: 2022.04.11 20:25:42
-04'00'

Dianne Khin, Director of Planning and
Community Development



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 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:

Requested by Planning Staff:

1. Amendments to various sections of the UDO in order to create the Downtown Festival District, clarify standards for outside storage and sales within the Central Business District; amend standards for Promotional Events, revise how uses that serve alcohol are permitted, provide a definition for "outdoor operations", create standards for the outdoor operations aspect of certain uses, create the uses "Parking garage, public" and "Parking lot, public", and prohibit "Parking lot, commercial" as a permitted use in the Downtown Festival District.

Sections affected are 4.1.2 *Outside Storage and Sales*; 4.2.2 *Use Table*; 4.3.5 *Use Classifications, Commercial Uses*; 4.3.6 *Use Classifications, Industrial Uses*; 4.4.4 *Supplemental Standards, Recreational Uses*; 4.4.5 *Supplemental Standards, Commercial Uses*; 4.4.6 *Supplemental Standards, Industrial Uses*; 4.6 *Temporary Uses and Structures*; and 12.2 *Terms Defined*.

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

Town Council Public Hearing Date and Time: May 10, 2022 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>. Please visit www.apexnc.org on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

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.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

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

Dianne F. Khin, AICP
Director of Planning and Community Development

Published Dates: April 19-May 10, 2022



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 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-602 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del ayuntamiento de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado:

A solicitud del personal de planificación:

1. Enmiendas a varias secciones de la UDO con el fin de crear el Distrito de Festivales del Centro, aclarar los estándares para el almacenamiento exterior y las ventas dentro del Distrito Comercial Central; enmendar los estándares para Eventos Promocionales, revisar los usos para permisos de servir alcohol, proporcionar una definición para “operaciones al aire libre” crear estándares para el aspecto de operaciones al aire libre de ciertos usos, crear los usos “Edificio de estacionamiento Público” y “Estacionamiento Público al aire libre”, y prohibir “Estacionamiento Comercial” como uso permitido en el Distrito de Festivales del Centro.

Las Secciones afectadas son 4.1.2 *Almacenamiento exterior y ventas*; 4.2.2 *Tabla de Uso*; 4.3.5 *Clasificaciones de Uso, Usos Comerciales*; 4.3.6 *Clasificaciones de Uso, Usos Industriales*; 4.4.4 *Estándares Suplementarios, Usos Recreativos*; 4.4.5 *Normas Suplementarias, Usos Comerciales*; 4.4.6 *S Normas Suplementarias, Usos Industriales*; 4.6 *Usos Temporales y Estructuras*; y 12.2 *Definición de Términos*.

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: 10 de mayo de 2022 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>. Por favor visite www.apexnc.org el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

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

Dianne F. Khin, AICP
Directora de Planificación y Desarrollo Comunitario

Fechas de publicación: 19 de abril – 10 de mayo de 2022



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 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:

Requested by Planning Staff:

1. Amendments to various sections of the UDO in order to create the Downtown Festival District, clarify standards for outside storage and sales within the Central Business District; amend standards for Promotional Events, revise how uses that serve alcohol are permitted, provide a definition for "outdoor operations", create standards for the outdoor operations aspect of certain uses, create the uses "Parking garage, public" and "Parking lot, public", and prohibit "Parking lot, commercial" as a permitted use in the Downtown Festival District.

Sections affected are 4.1.2 *Outside Storage and Sales*; 4.2.2 *Use Table*; 4.3.5 *Use Classifications, Commercial Uses*; 4.3.6 *Use Classifications, Industrial Uses*; 4.4.4 *Supplemental Standards, Recreational Uses*; 4.4.5 *Supplemental Standards, Commercial Uses*; 4.4.6 *Supplemental Standards, Industrial Uses*; 4.6 *Temporary Uses and Structures*; and 12.2 *Terms Defined*.

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

Town Council Public Hearing Date and Time: May 10, 2022 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>. Please visit www.apexnc.org on the day of the meeting to confirm whether the meeting will be held in-person or remotely.

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.

In the event that the Town Council meeting is held remotely or with at least one member attending virtually, written comments may be submitted up to 24 hours prior to the scheduled time of the meeting per NCGS §166A-19.24 according to the methods specified above. Virtual meetings may be viewed via the Town's YouTube livestream at <https://www.youtube.com/c/townofapexgov>.

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

Dianne F. Khin, AICP
Director of Planning and Community Development

Published Dates: April 19-May 10, 2022



TOWN OF APEX

POST OFFICE BOX 250
APEX, NORTH CAROLINA 27502
PHONE 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-602 y con la sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del ayuntamiento de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado:

A solicitud del personal de planificación:

1. Enmiendas a varias secciones de la UDO con el fin de crear el Distrito de Festivales del Centro, aclarar los estándares para el almacenamiento exterior y las ventas dentro del Distrito Comercial Central; enmendar los estándares para Eventos Promocionales, revisar los usos para permisos de servir alcohol, proporcionar una definición para "operaciones al aire libre" crear estándares para el aspecto de operaciones al aire libre de ciertos usos, crear los usos "Edificio de estacionamiento Público" y "Estacionamiento Público al aire libre", y prohibir "Estacionamiento Comercial" como uso permitido en el Distrito de Festivales del Centro.

Las Secciones afectadas son 4.1.2 *Almacenamiento exterior y ventas*; 4.2.2 *Tabla de Uso*; 4.3.5 *Clasificaciones de Uso, Usos Comerciales*; 4.3.6 *Clasificaciones de Uso, Usos Industriales*; 4.4.4 *Estándares Suplementarios, Usos Recreativos*; 4.4.5 *Normas Suplementarias, Usos Comerciales*; 4.4.6 *5 Normas Suplementarias, Usos Industriales*; 4.6 *Usos Temporales y Estructuras*; y 12.2 *Definición de Términos*.

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: 10 de mayo de 2022 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>. Por favor visite www.apexnc.org el día de la reunión para confirmar si la reunión se llevará a cabo de manera presencial o remotamente.

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.

En caso de que la reunión del Consejo Municipal se lleve a cabo remotamente o que por lo menos uno de los miembros asista virtualmente, se permite presentar comentarios por escrito hasta 24 horas antes de la hora programada de la reunión según los estatutos de Carolina del Norte NCGS §166A-19.24 siguiendo los métodos especificados anteriormente. Las reuniones virtuales se pueden seguir en la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

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

Dianne F. Khin, AICP
Directora de Planificación y Desarrollo Comunitario

Fechas de publicación: 19 de abril – 10 de mayo de 2022