

STAFF REPORT

Amendments to the Unified Development Ordinance

January 26, 2021 Town Council Meeting



Requested by Planning Staff:

1. **Amendment to Secs. 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, Retail Sales and Service* in order to require a business with alcohol sales for on-premise consumption to submit quarterly gross receipts within 10 days upon request of a Zoning Compliance Officer.**

4.3.5 Use Classifications, Commercial Uses

A) *Adult Use*

...

- 2) *Bar, nightclub, wine bar, or taproom.* An establishment that generates more than 49% of its quarterly gross receipts from the sale of alcoholic beverages from on-premise consumption. **Such receipts shall be provided within 10 days upon request of a Zoning Compliance Officer; failure to provide the receipts in the specified time frame is a violation of this Ordinance.** This use may include 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.

...

...

C) *Food and Beverage Service*

...

- 2) *Restaurant, general.* "Restaurant, general" means 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. **Such receipts shall be provided within 10 days upon request of a Zoning Compliance Officer; failure to provide the receipts in the specified time frame is a violation of this Ordinance.**

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 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. **Such receipts shall be provided within 10 days upon request of a Zoning Compliance Officer; failure to provide the receipts in the specified time frame is a violation of this Ordinance.**

...

- 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 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. **Such receipts shall be provided within 10 days upon request of a Zoning Compliance Officer; failure to provide the receipts in the specified time frame is a violation of this Ordinance.**

- 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 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. **Such receipts shall be provided within 10 days upon request of a Zoning Compliance Officer; failure to provide the receipts in the specified time frame is a violation of this Ordinance.**

...

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. **Such receipts shall be provided within 10 days upon request of a Zoning Compliance Officer; failure to provide the receipts in the specified time frame is a violation of this Ordinance.**

4.4.5 Supplemental Standards, Commercial Uses

...

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. **Such receipts shall be provided within 10 days upon request of a Zoning Compliance Officer; failure to provide the receipts in the specified time frame is a violation of this Ordinance.**

...

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed UDO amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their January 11, 2021 meeting and unanimously recommended approval.

PLANNING BOARD REPORT TO TOWN COUNCIL
Unified Development Ordinance Amendments

Planning Board Meeting Date: January 11, 2021



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 written.

Introduced by Planning Board member: Reginald Skinner

Seconded by Planning Board member: Tina Sherman

- 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 8 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 January 2021.

Attest:

Michael Marks Digitally signed by Michael Marks
Date: 2021.01.13 19:04:20 -05'00'

Michael Marks, Planning Board Chair

Dianne Khin Digitally signed by Dianne Khin
Date: 2021.01.13 10:21:24 -05'00'

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)

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. Amendment to Secs. 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, Retail Sales and Service* in order to require a business with alcohol sales for on-premise consumption to submit quarterly gross receipts within 10 days upon request of a Zoning Compliance Officer. Failure to provide the receipts within the specified time frame would be a violation of the Unified Development Ordinance.

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

Town Council Public Hearing Date and Time: January 26, 2021 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 share comments by noon on Monday, January 25, 2021, following instructions in the <http://www.apexnc.org/DocumentCenter/View/31397/>. The policy includes options to provide comments by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit). You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, written comments on the subject of the public hearing may be submitted between publication of any required notice and 24 hours after the public hearing and the Council's vote will occur at the Council's next regularly scheduled meeting.

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

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

Published Dates: January 4-26, 2021



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)

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. Amendment to Secs. 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, Retail Sales and Service* in order to require a business with alcohol sales for on-premise consumption to submit quarterly gross receipts within 10 days upon request of a Zoning Compliance Officer. Failure to provide the receipts within the specified time frame would be a violation of the Unified Development Ordinance.

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

Town Council Public Hearing Date and Time: January 26, 2021 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 share comments by noon on Monday, January 25, 2021, following instructions in the <http://www.apexnc.org/DocumentCenter/View/31397>. The policy includes options to provide comments by email (public.hearing@apexnc.org, 350-word limit) or voicemail (919-362-7300, 3-minute limit). You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, written comments on the subject of the public hearing may be submitted between publication of any required notice and 24 hours after the public hearing and the Council's vote will occur at the Council's next regularly scheduled meeting.

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

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

Published Dates: January 4-26, 2021