

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 4.3.5.A.2, 4.3.5.C.2, 4.3.6.B, 4.4.4, and 4.4.5.G 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:

4.3.5 Use Classifications, Commercial Uses

A) *Adult Use*

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- 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.

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C) *Food and Beverage Service*

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- 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

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B) *Production*

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- 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.**

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- 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.**

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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

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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.**

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Section 2. 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 3. 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 4. The ordinance shall be effective upon enactment on the _____ day of _____ 2021.

Introduced by Council Member _____

Seconded by Council Member _____

Attest: TOWN OF APEX

Donna Hosch, MMC, NCCMC
Town Clerk

Jacques K. Gilbert
Mayor

Approved As To Form:

Laurie L. Hohe
Town Attorney