

ORDINANCE NO. 07-20

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ORANGE AMENDING TITLE 17 OF THE
ORANGE MUNICIPAL CODE ESTABLISHING
ALCOHOL PRODUCTION LAND USE STANDARDS IN
INDUSTRIAL ZONING DISTRICTS AND AMENDING
MISCELLANEOUS ALCOHOL-RELATED SPECIAL
USE AND CONDITIONAL USE REGULATIONS.**

APPLICANT: CITY OF ORANGE

WHEREAS, Title 17 of the Orange Municipal Code (OMC) contains the City's Zoning Code and land use regulations, including regulations regarding uses involving alcohol; and

WHEREAS, the production of alcohol in the City's Light Industrial (M-1) and Manufacturing (M-2) zones occurs in a manner consistent with typical industrial uses in Orange, with substantial building floor area dedicated to large equipment and warehousing of supplies and products; and

WHEREAS, the consumption of alcohol at alcohol production facilities is an incidental business activity involving only the tasting of alcohol produced by the business, and is subject to the strict requirements of the California Department of Alcoholic Beverage Control (ABC); and

WHEREAS, the requirements of the ABC can be supplemented by clear standards set forth by the City enabling specified incidental alcohol tasting in the M-1 and M-2 zones to be reviewed and approved by the Zoning Administrator without the need for a public hearing before the Planning Commission, thus streamlining the process for businesses; and

WHEREAS, modifications to the OMC will establish operating criteria, procedural requirements, and clarify definitions to allow the responsible sale, production, and management of alcohol in specified zones as set forth in the Ordinance provided herein; and

WHEREAS, the subject Ordinance revising provisions of the Code related to alcohol production within industrial uses is consistent with the goals and policies of the General Plan Land Use and Economic Development Elements; and

WHEREAS, the Planning Commission conducted duly advertised public hearings held on November 18, 2019, and January 20, 2020, at which time interested persons had an opportunity to testify either in support of or opposition to the subject Ordinance, and recommended the City Council approve the Ordinance; and

WHEREAS, the City Council conducted one duly advertised public hearing on February 11, 2020, at which time interested persons had an opportunity to testify either in support of or in opposition to the subject Ordinance; and

WHEREAS, the City Council believes the proposed Ordinance will serve the public health, safety and welfare of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES ORDAIN AS FOLLOWS:

SECTION I:

The subject Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15305 (Class 5-Minor Alterations in Land Use Limitations) because the activity undertaken is establishing standards for processing applications relating to alcohol production in industrial zoning districts and amends sections of the special use and conditional use regulations for the production and retail sales of alcoholic beverages. It does not involve a specific site, development project, or focused geographic area, does not change permitted land use or density and does not otherwise result in a physical change that could cause an impact to the environment.

SECTION II:

Section 17.04.020, "A" Definitions, of the Orange Municipal Code is hereby amended to add the following definition:

ALCOHOL PRODUCTION—alcoholic beverages created by means of distillation, brewing or fermentation from agricultural products within a facility engaging in the production, manufacture, bottling and distribution of such alcoholic beverage product.

SECTION III:

Section 17.08.020, Table 17.08.020, Reviewing Bodies, of the Orange Municipal Code is hereby amended to add the following:

Table 17.08.020

Type of Procedure, Permit or Hearing	CDD	DRC	ZA	PC	CC
Alcohol Production Permit	A		X		

Key:

A = Advisory

X = Final project determination

SECTION IV:

Section 17.08.020.C.2, Reviewing Bodies, of the Orange Municipal Code is hereby amended to add subsection d to read as follows:

2. Powers and Duties. The Zoning Administrator shall have authority to grant administrative adjustment permits as provided for herein and to hear and grant applications for certain variances, conditional use permits and other matters more particularly specified in Chapter 17.10. The Zoning Administrator shall have the following additional duties and authority:
- a. Authority to make a declaration as to what constitutes the front of a lot;
 - b. Authority to permit the use of a mobile home for temporary office and/or storage use in commercial and industrial zones in accordance with policy set forth in City Council Resolution No. 3252. This authority does not extend to temporary construction trailers;
 - c. Authority to approve nonrecurring temporary uses subject to the provisions of Section 17.10.035.
 - d. Authority to permit the production of alcohol as set forth in Section 17.30.070.

SECTION V:

Section 17.13.030, Table 17.13.030, Permitted Uses, of the Orange Municipal Code is hereby amended to revise the following under "Food and/or alcohol use":

Table 17.13.030

ZONING	INDUSTRIAL	
LAND USE	M1	M2
Alcohol distillation, brewery or winery	P*/C	P*/C

KEY:

P = Permitted use

* = Use subject to special provisions contained in Section 17.13.040.

SECTION VI:

Section 17.13.040.JJ, Special Use Regulations – Home Occupations, of the Orange Municipal Code is hereby amended to add subsection 10 as follows:

JJ. Home Occupations. A home occupation is one carried on in a dwelling as a secondary use, where there are no displays or signs at or upon the premises, no other commodity or services are sold upon the premises and no storage of materials and/or supplies upon those premises except within the dwelling or an enclosed garage. Where storage will take place within an enclosed garage, such storage shall be conducted in such a manner so as not to interfere with the parking of vehicles therein. Any materials and/or supplies which are stored upon the premises shall not occupy a space in excess of five hundred (500) cubic feet. Such an occupation shall not:

1. Create light, noise, odor, dust, vibration, fumes or smoke readily discernible at the exterior boundaries of the parcel.
2. Involve the use of mechanical equipment or storage of material and/or supplies on trucks in amounts not recognized as part of reasonable household use.
3. Involve the use of services at the premises of no more than one client of the dwelling at any given time. Home occupation clients and deliveries made by bona fide delivery firms shall be permitted, as long as such visitors and deliveries are in amounts or performed in a manner recognized as part of a reasonable household use.
4. Have the premises or adjacent public right-of-way serve as an assembly point for non-occupants, including serving as a location from which such non-occupants are dispatched to off-site locations.
5. Significantly increase the off-street parking load.
6. Involve the storage or use of flammable substances as defined by the Uniform Fire Code, Section 15.101 et seq., or hazardous chemicals as defined by the Uniform Fire Code, Section 19.101 et seq.
7. Involve the sale of firearms or ammunition except to those set forth in California Penal Code Section 12078. Records shall be kept for a minimum of one year on the sales of firearms. Information on these records shall include:
 - a. Date of purchase;
 - b. Name, address, phone number, driver's license number and date of birth of the person buying any firearms;
 - c. Brand name, model number and serial number of firearm purchased.
8. Involve the sale, preparation, or storage of food or food products except as a cottage food operation per Section 17.13.040AA.
9. Involve the display of vehicles that are for sale.
10. Involve the sale of alcoholic beverages except as permitted by the California Department of Alcoholic Beverage Control related to a Limited Off-Sale Retail Wine Type 85 license, as provided in Section 17.30.080.

SECTION VII:

Section 17.13.040, Special Use Regulations, of the Orange Municipal Code is hereby amended to add a new subsection C, as follows, and relabel existing subsections C through DDD as D through EEE accordingly:

- C. Alcohol Distillation, Brewery or Winery. All on-site production and sales of alcoholic beverages shall comply with the Alcoholic Beverage Control Provisions contained in Section 17.030.070 of this title.

SECTION VIII:

Section 17.13.050.H.1.c, Conditional Use Regulations – Automobile Service Stations, of the Orange Municipal Code is hereby amended to read as follows:

H. Automobile Service Stations. Service stations shall comply with automobile service stations special use regulations numbers 3 through 8 as contained in Section 17.13.040. In commercial zones where automobile service stations are conditionally permitted, the following is also required:

1. A CUP shall be required, subject to approval of the Planning Commission unless otherwise provided, when any of the following apply:
 - a. Site is located at the intersection of an arterial and local street.
 - b. Any portion of the site is located less than two hundred (200) feet, as measured horizontally in a straight line in any direction, from any property located in any "R" residential district.
 - c. An application is made for any original off-sale beer or beer and wine license in conjunction with the sale of motor fuel, subject to final determination by the Planning Commission.

SECTION IX:

Section 17.30.030 - Conditional Use Permit Required, of the Orange Municipal Code is hereby amended to revise subsections 2, 6 and 7 to read as follows:

17.30.030 - Conditional Use Permit Required. In order to fulfill the purposes of this chapter, the retail sale of alcoholic beverages is subject to approval of a conditional use permit. The Planning Commission has the authority to issue conditional use permits for the following, except when the application is combined with other submittals that require City Council review, the decision of the Planning Commission is appealed, or as otherwise noted below:

1. Any original off-sale alcoholic beverage license when not in conjunction with the sale of motor fuel in the CP (Commercial Professional), C1 (Limited Commercial), C-TR (Limited Business, Tustin Redevelopment), C2 (General Business), C3 (Commercial), and CR (Commercial Recreation) zones.
2. Any original off-sale beer, or beer and wine license, in conjunction with the sale of motor fuel in the CP, C1, C-TR, C2, C3, CR and UMU zones, subject to the conditions specified in Section 17.30.060.
3. Any original on-sale restaurant license in the CP, C1, C-TR, C2, C3, CR, M1 and M2 zones.
4. Any original license for the on-site brewing and sale of beer within a restaurant in the CP, C1, C-TR, C2, C3, CR, M1 and M2 zones.
5. Any original on-sale license not associated with a restaurant in the C-TR, C2, C3, and CR zones.

6. Any original off-sale alcoholic beverage license in the M1 and M2 zones shall be subject to the following conditions and limitations. When in conjunction with the sale of motor fuels, the conditions specified in Section 17.30.060 shall also apply:
 - a. The sale of alcoholic beverages shall not be promoted by means of exterior display of signs, posters, pictures, or product, or by visibility from outside the building of any such display.
 - b. The City shall review an approved conditional use permit after six months of operation to determine if the retail sales of alcoholic beverages at, or on, the premises are, and continue to be, an insignificant portion of total retail sales, and to determine if such use should continue.
 - c. At any time the license is sold or possession is transferred to a person, firm, or entity other than the applicant to which the conditional use permit was issued, the City shall review the operations of the new owner or operator to insure the original conditions of approval are complied with.
 - d. The applicant shall execute an agreement with the City to give written notice to the City at any time the license is sold or otherwise transferred to another person, firm, or entity other than the applicant. Moreover, the applicant shall further agree that the City may record such agreement with the Orange County Recorder.
 - e. Final review and determination by the Planning Commission.
7. The Alcohol Management Plan (AMP) is a requirement. The AMP will be managed by the owner/management of each establishment and current annual certification will be furnished upon demand of any law enforcement officer or his/her designee. This training will meet the requirements established by Alcohol Beverage Control as defined in Orange Municipal Code 5.49.010.e.

SECTION X:

Chapter 17.30, Alcoholic Beverage Controls, of the Orange Municipal Code is hereby amended to add new sections 17.30.070 and 17.30.080 as follows and re-number existing section 17.030.070 as 17.030.090 accordingly:

17.30.070 – Alcohol Distillation, Brewery or Winery.

Any original on-sale or off-sale alcohol license in conjunction with the on-site production in the Industrial Zone shall be approved by the Zoning Administrator subject to the following development standards:

1. The Operational Standards as outlined in the Alcohol Production Facility Application.
2. Building tenant space not larger than 10,000 gross square feet.
3. A tasting room shall not exceed 25% of the total gross floor area, the area permitted for a tasting room may include an outdoor patio area.
4. Additional standard conditions as approved by the Zoning Administrator in consultation with the Orange Police Department.

5. On-site production facilities wishing to operate in a different manner as conditioned above shall be subject to a Conditional Use Permit before the Planning Commission as specified in Section 17.10.030.

17.30.080 - Limited Off-Sale Retail Wine License.

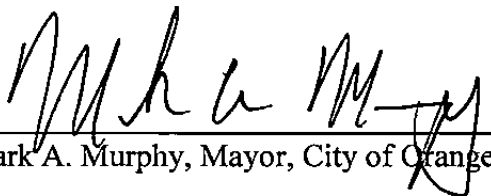
Limited Off-Sale Retail Wine Type 85 license holders are subject to approval by the Community Development Director or designee subject to the following development standards:

1. In the Residential Districts, the permitted use shall comply with Section 17.13.040.JJ Home Occupations.
2. Type 85 licensees may not maintain a brick and mortar store that is open to the public.
3. All sales of wine must be conducted via direct mail, telephone or the internet.
4. Type 85 licensees may not conduct sales directly to the consumer from a premises open to the public.
5. Type 85 licensees may assist a non-profit organization holding a temporary wine license in conducting a winetasting, but this privilege shall only apply to wine produced for the licensee under a brand it owns exclusively and has donated or sold to the organization for the event.
6. Type 85 licensees may give or sell wine to a non-profit organization.
7. Type 85 licensees may not conduct an instructional tasting event for consumers pursuant to a Type 86 license.

SECTION XI:

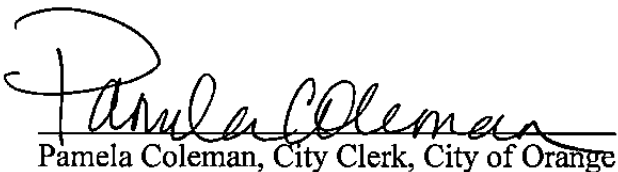
The City Clerk is hereby directed to certify the adoption of this Ordinance and cause a summary of the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this 14th day of April 2020.



Mark A. Murphy, Mayor, City of Orange

ATTEST:



Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 10th day of March 2020, and thereafter at the regular meeting of said City Council duly held on the 14th day of April 2020, was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS: Alvarez, Murphy, Nichols, Monaco
NOES:	COUNCILMEMBERS: None
ABSENT:	COUNCILMEMBERS: None
: ABSTAIN:	COUNCILMEMBERS: None


Pamela Coleman, City Clerk, City of Orange