

SUGGESTED CHANGES TO THE EATING, DRINKING AND ENTERTAINMENT ESTABLISHMENT (EDEE) TEXT AMENDMENT – 9-23-13

New text is shown with underlining. Deleted text is shown with ~~strikethrough~~.

Page Number	Topic	Issues	Current Text							Proposed Modification							Rationale		
4	Eating, Drinking and Entertainment Establishments - Type 2 with drive-in service as a principal use in B-2.	Unlikely that Eating, Drinking and Entertainment Establishments – Type 2 would have drive-in service as a principal use in the B-2 zoning district. However, if they did, this use should not be permitted in B-2.	Office/Business Table shows:							Remove “and Type 2” and “PC (Type2)” from the B-2 category in the table, and from associated row:							Removes drive-in service for Eating, Drinking and Entertainment Establishments - Type 2 as a principal use in B-2.		
			Office and Business		B-2 Zoning District					Office and Business		B-2 Zoning District							
			Eating, Drinking and Entertainment Establishments (Type 1 and Type 2) with drive-in service as a principal use.		X (Type 1) / PC (Type 2)					Eating, Drinking and Entertainment Establishments (Type 1 and Type 2) with drive-in service as a principal use.		X (Type 1) / PC (Type 2)							
28	Buffer Table	The buffer table includes two rows for Eating, Drinking and Entertainment Establishments – Type 2 that show identical buffer requirements. Combine to simplify regulations and reduce redundancy	Table 12.302(a) has two rows for Eating, Drinking and Entertainment Establishments - Type 2, that differentiate sizes of establishments		Combine rows into one, eliminating redundancy of regulations and removing size requirements, since size doesn't matter for the buffers.														Simplifies the buffer table by combining two rows that show identical buffer requirements for Eating, Drinking and Entertainment Establishments – Type 2.
			SF	MF	Inst. Low	Inst. Med	Inst. Hi	Park & Rec	SF	MF	Inst. Low	Inst. Med	Inst. Hi	Park & Rec					
			Eating, Drinking and Entertainment Establishments - Type 2 Under 50,000 sq. ft.	<u>B</u>	<u>B</u>	<u>B</u>	<u>C</u>	<u>C</u>	<u>C</u>	Eating, Drinking and Entertainment Establishments (Type 2) Under 50,000 sq. ft.	<u>B</u>	<u>B</u>	<u>B</u>	<u>C</u>	<u>C</u>	<u>C</u>			
Eating, Drinking and Entertainment Establishments – Type 2 Over 50,000 sq. ft.	<u>B</u>	<u>B</u>	<u>B</u>	<u>C</u>	<u>C</u>	<u>C</u>	Eating, Drinking and Entertainment Establishments – Type 2 Over 50,000 sq. ft.	<u>B</u>	<u>B</u>	<u>B</u>	<u>C</u>	<u>C</u>	<u>C</u>						

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33	<p>Eating, Drinking and Entertainment Establishments Type 2 – Separation Distances when Food/Beverages are Consumed Outdoors between the hours of 11 pm to 6 am OR when there is Outdoor Entertainment between the hours of 11 pm to 6 am.</p>	<p>Protect additional residential uses (duplex, triplex, and quadraplex only) in single family zoning districts.</p>	<p>(1) If food and beverages are consumed in an outdoor seating/activity area at any time between the hours of 11:00 p.m. and 6:00 a.m., the use is subject to one of the following prescribed conditions:</p> <p>(a) The outdoor seating/activity area shall be separated by a distance of at least 100’ from the nearest property line of a vacant lot or a single family dwelling use when either is located in a single family zoning district; or</p> <p>(b) If the outdoor seating/activity area is less than 100’ from the nearest property line of a vacant lot or a single family dwelling use when either is located in a single family zoning district, then the outdoor seating/activity area shall be separated by a Class A buffer along all corresponding side and rear property line(s).</p> <p>Distances shall be measured from the closest edge of any outdoor seating/activity area to the nearest property line of a vacant lot or a single family dwelling use when either is located in a single family zoning district.</p> <p>(2) If outdoor entertainment occurs at any time between the hours of 11:00 p.m. and 6:00 a.m., then the following minimum separation distances shall be met, based on the zoning district in which the use is located:</p> <p>(a) Minimum 100’ separation distance in the MUDD, UMUD, TOD and PED zoning districts, unless a Pedestrian Overlay District (PED) streetscape plan approved by City Council establishes a different separation distance requirement</p> <p>(b) Minimum 400’ separation distance in the UR-2, UR-3, UR-C, RE-3, O-1, O-2, O-3, B-1, B-2, BD, BP, CC, NS, MX-2, MX-3, I-1 and I-2 zoning districts.</p> <p>Distances shall be measured from the closest edge of any outdoor seating/activity area to the nearest property line of a vacant lot or a single family dwelling use when either is located in a single family zoning district.</p>	<p>Modify regulations to protect duplex, triplex, and quadraplex units in addition to single family dwellings.</p> <p>(1) If food and beverages are consumed in an outdoor seating/activity area at any time between the hours of 11:00 p.m. and 6:00 a.m., the use is subject to one of the following prescribed conditions:</p> <p>(a) The outdoor seating/activity area shall be separated by a distance of at least 100’ from the nearest property line of a vacant lot or a single family dwelling a residential use (single family, duplex, triplex and quadraplex only) when either is located in a single family zoning district; or</p> <p>(b) If the outdoor seating/activity area is less than 100’ from the nearest property line of a vacant lot or a single family dwelling residential use (single family, duplex, triplex and quadraplex only) when either is located in a single family zoning district, then the outdoor seating/activity area shall be separated by a Class A buffer along all corresponding side and rear property line(s).</p> <p>Distances shall be measured from the closest edge of any outdoor seating/activity area to the nearest property line of a vacant lot or a single family dwelling residential use (single family, duplex, triplex and quadraplex only) when either is located in a single family zoning district.</p> <p>(2) If outdoor entertainment occurs at any time between the hours of 11:00 p.m. and 6:00 a.m., then the following minimum separation distances shall be met, based on the zoning district in which the use is located:</p> <p>(a) Minimum 100’ separation distance in the MUDD, UMUD, TOD and PED zoning districts, unless a Pedestrian Overlay District (PED) streetscape plan approved by City Council establishes a different separation distance requirement</p> <p>(b) Minimum 400’ separation distance in the UR-2, UR-3, UR-C, RE-3, O-1, O-2, O-3, B-1, B-2, BD, BP, CC, NS, MX-2, MX-3, I-1 and I-2 zoning districts.</p> <p>Distances shall be measured from the closest edge of any outdoor seating/activity area to the nearest property line of a vacant lot or a single family dwelling residential use (single family, duplex, triplex and quadraplex only) when either is located in a single family zoning district.</p>	<p>Protects duplex, triplex and quadraplex units that are permitted in the single family districts.</p>

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33	Eating, Drinking and Entertainment Establishments Type 2 – Separation Distances for Outdoor Entertainment after 11 pm.	<p>1. Separation Distance requirements for nightclubs, bars and lounges in the approved PED Streetscape Plans for Plaza Midwood and West Morehead establishes different separation distance for Eating, Drinking and Entertainment Establishments in the PED zoning district.</p> <p>2. Add the Transit Supportive (TS) zoning district to the list of urban districts that require a 100’ minimum separation distance.</p>	<p>PEDscape Plan Requirements for Nightclubs, Bars & Lounges:</p> <ul style="list-style-type: none"> - Plaza Midwood: 225’ from a residential district - W. Morehead: 100’ from any residential structure in a residential district <p>(2) If outdoor entertainment occurs at any time between the hours of 11:00 p.m. and 6:00 a.m., then the following minimum separation distances shall be met, based on the zoning district in which the use is located:</p> <p>(a) Minimum 100’ separation distance in the MUDD, UMUD, TOD and PED zoning districts, unless a Pedestrian Overlay District (PED) streetscape plan approved by City Council establishes a different separation distance requirement.</p>	<p>Remove language that refers to an approved PED streetscape plan.</p> <p>(2) If outdoor entertainment occurs at any time between the hours of 11:00 p.m. and 6:00 a.m., then the following minimum separation distances shall be met, based on the zoning district in which the use is located:</p> <p>(a) Minimum 100’ separation distance in the MUDD, UMUD, TOD, TS and PED zoning districts, unless a Pedestrian Overlay District (PED) streetscape plan approved by City Council establishes a different separation distance requirement.</p>	<p>Create regulations that are uniform in the urban zoning districts for Eating, Drinking and Entertainment Establishments.</p> <p>Add the TS overlay district to the list of uses.</p>
34	Eating, Drinking and Entertainment Establishments Type 2 - Exemptions	<p>Clarify and refine the exemption requirements to address CAG comments and Outreach Presentation Group comments.</p>	<p>(3) Business establishments that would have met the definition of a Type 2 Eating, Drinking and Entertainment Establishment as of 1-1-13, and that have an outdoor seating/activity area located within the required separation distances required by this section, and that provide entertainment between the hours of 11 p.m. and 6:00 a.m., are exempt from meeting the separation distance requirement if either of the following apply to that business:</p> <p>(a) An Eating, Drinking, and Entertainment Establishment abuts a public right-of-way that is 60’ or greater in width.</p>	<ul style="list-style-type: none"> • Clarify text by spelling the date and the Section number. • Clarify how large a building qualifies for the exemption. • Modify the exemption requirements regarding moving, expansions, changes, routine repair, maintenance, damage by fire, flood, wind, or other acts of God, and discontinuance of the use. <p>(3) Business establishments that would have met the definition of a Type 2 Eating, Drinking and Entertainment Establishment - Type 2 as of 1-1-13 January 1, 2013, and that have an outdoor seating/activity area located within the required separation distances required by this section in Section 12.546, and that provide entertainment between the hours of 11 p.m. and 6:00 a.m., are exempt from meeting the separation distance requirement if either of the following apply to that business:</p> <p>(a) An Eating, Drinking, and Entertainment Establishment abuts a public right-of-way that is 60’ or greater in width.</p>	<p>Clarify and refine the exemption requirements to address CAG comments and Outreach Presentation Group comments.</p>

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			<p>(b) An existing commercial building (either on- or off-premise) is located between the outdoor seating/activity area, and a vacant lot or a single family dwelling use when either is located in a single family zoning district.</p> <p>The Planning Director, or her or his designee, is authorized to certify if a business is in compliance with Section 12.546(3) as of the applicable date and to establish the process and requirements of such certification. Businesses eligible for the exemption provided in Section 12.546(3) shall not expand the scope or location of outdoor entertainment provided on January 1, 2013 without prior authorization of the Planning Director or her or his designee.</p> <p>All other federal, state, and local regulations shall be met, including the development and urban design standards of the zoning district in which the use is located.</p> <p>Any use exempt under Section 12.546(3)(a) or (b) that is visibly discontinued for 12 consecutive months shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of these regulations.</p>	<p>(b) <u>An existing commercial building (either on- or off premise) A building of at least 1,900 square feet, occupied by a commercial use, is located between the outdoor seating/activity area, and a vacant lot or a single family dwelling residential use (single family, duplex, triplex or quadraplex only) when</u> located in a single family zoning district.</p> <p>The Planning Director, or her or his designee, is authorized to certify <u>if whether</u> a business is in compliance with Section 12.546(3) as of <u>the applicable date January 1, 2013,</u> and to establish the process and requirements of such certification. <u>Businesses eligible for the exemption provided in Section 12.546(3) shall not expand the scope or location of outdoor entertainment provided on January 1, 2013 without prior authorization of the Planning Director or her or his designee.</u></p> <p><u>For an Eating, Drinking and Entertainment Establishment that qualifies for the exemption provided by Section 12.546(3), the outdoor seating/activity area or Eating, Drinking and Entertainment Establishment building, as either existed as of January 1, 2013, may not be moved, expanded, enlarged, or changed. Routine repair and maintenance is permitted.</u></p> <p><u>Any outdoor seating/activity area or Eating, Drinking and Entertainment Establishment building exempted under Section 12.546(3) that is destroyed or damaged by fire, flood, wind, other acts of God, may be repaired or restored to its original dimensions and conditions, as they existed on January 1, 2013, as long as a building permit for the repair or restoration is issued within 12 months of the date of damage.</u></p> <p><u>The exemption provided under Section 12.546(3) shall not apply to any Eating, Drinking and Entertainment Establishment - Type 2 that has visibly discontinued use as an Eating, Drinking and Entertainment Establishment - Type 2 for 12 consecutive months beginning on or after January 1, 2013.</u></p> <p>All other federal, state, and local regulations shall be met, including the development and urban design standards of the zoning district in which the use is located.</p> <p><u>Any use exempt under Section 12.546(3)(a) or (b) that is visibly discontinued for 12 consecutive months shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of these regulations.</u></p>	

