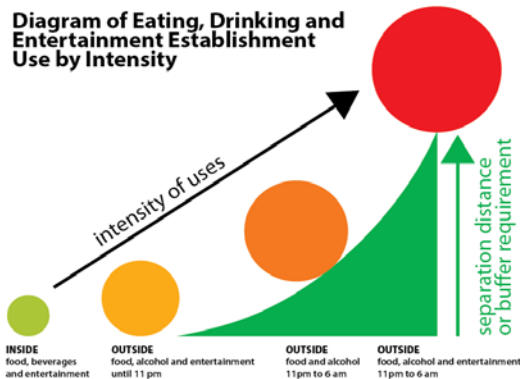


REQUEST

Text amendment to Tables 9.101, 12.202, 12.302(a) and 12.413 and Sections 2.201, 9.303, 9.503, 9.603, 9.703, 9.802, 9.803, 9.8502, 9.8503, 9.902, 9.903, 9.906, 9.1002, 9.1102, 9.1103, 9.1202, 9.1205, 9.1206, 9.1208, 10.502, 10.602, 10.702, 10.811, 10.812, 10.907, 10.909, 11.203, 11.402, 11.403, 11.702, 11.703, 11.705, 12.206, 12.214, 12.544, 12.546, 13.102, and 13.106 of the Zoning Ordinance

SUMMARY OF PETITION

1. The petition updates current definitions and regulations for nightclubs, bars, restaurants, and lounges which were established in 1981.
2. Recommends consolidating the names of nightclubs, bars, restaurants, and lounges into one name "Eating, Drinking and Entertainment Establishments."
3. Creates new definitions of eating, drinking, and entertainment establishments:
 - a. Type I-establishment where food and beverages (excluding alcohol) are served and indoor or outdoor entertainment are allowed.
 - b. Type II-establishment where food and beverages are served (including alcohol) and indoor or outdoor entertainment are allowed.
4. Eliminates separation requirements when all activities of the eating, drinking and entertainment establishment are totally enclosed within the building.
5. Establishes separation requirements from a single family use (single family, duplex, triplex or quadraplex) or vacant lot when the use has an outdoor eating/activity area, where food and alcoholic beverages are consumed between the hours of 11:00 p.m. and 6:00 a.m., and there is no outdoor entertainment.
6. Creates additional separation requirements based on zoning when the use has outdoor entertainment that occurs between the hours of 11:00 p.m. and 6:00 a.m.
7. Creates a Certificate of Exemption process to minimize impacts on existing nightclubs, bars, restaurants, and lounges that cannot meet the proposed separation standards from a single family use or a vacant lot zoned single family.



STAFF RECOMMENDATION

Staff recommends approval of this petition. This petition is:

- Consistent with the *Centers, Corridors and Wedges Growth Framework* goal of providing a range of choices for entertainment
- Consistent with guiding principles of
 - 1) protection of established neighborhoods and
 - 2) revitalization of economically challenged business and residential areas

PETITIONER
AGENT/REPRESENTATIVE
COMMUNITY MEETING

Charlotte-Mecklenburg Planning Department
Charlotte-Mecklenburg Planning Department
Meeting is not required.

PLANNING STAFF REVIEW

• **Background**

- It has become increasingly difficult to determine differences between nightclubs, bars, restaurants, and lounges. Uses that once primarily served food i.e. restaurants now offer in addition to food, alcoholic beverages and provide forms of entertainment both inside and outside of the establishment. In contrast, uses that once provided mostly entertainment now serve food.
- For example, the current definition in the Zoning Ordinance of a “restaurant” does not include the word “entertainment” nor does the ordinance include a definition of the word “entertainment.”
- The lack of clarity as to whether a restaurant can have any amount of entertainment could make restaurants in Charlotte that provide entertainment indoors or outside illegal.
- To address the ambiguity in the definitions, in 2011, a Citizen’s Advisory Group (CAG) was charged with reviewing the issues associated with nightclubs, bars, restaurants, and lounges in terms of the definitions of these uses, and associated prescribed conditions. The group met four times then stopped due to revisions being made to the Noise Ordinance and confusion caused by the two efforts being undertaken simultaneously.
- In 2013, the Citizen’s Advisory Group was reconvened and six meetings were held beginning in January. Participants consisted of restaurant, bar and nightclub operators and owners, entertainment group representatives, residents, neighborhood and business association members, attorneys, musicians, and other interested parties.
- Staff also held 11 additional public outreach meetings specifically directed at neighborhood associations to present the text amendment and receive feedback on the proposed changes.
- This text amendment proposes to:
 - 1) adequately define the uses;
 - 2) develop standards to allow these uses to exist near residential areas in a way that minimizes adverse impacts and
 - 3) provide flexibility to business establishments

• **Proposed Request Details**

The text amendment contains the following provisions:

- Replaces references to “restaurants”, “cafés”, “outdoor cafés”, “nightclubs”, and “bars and lounges”, with “Eating, Drinking and Entertainment Establishments.”
- Adds new definitions for two types of Eating, Drinking and Entertainment Establishments:
 - Type 1 Eating, Drinking and Entertainment Establishment: An establishment where food is prepared and beverages may be provided, excluding alcohol. Indoor and outdoor entertainment may be provided.
 - Type 2 Eating, Drinking and Entertainment Establishment: An establishment where any alcohol is consumed, food and other beverages are optional, and entertainment may be provided, including outdoor entertainment. [Excluded are adult establishments, athletic and sports facilities, conference centers, cultural facilities, hotels and motels, and recreational facilities approved as part of a residential development plan, and similar uses, and uses exempt in accordance with the Alcohol Beverage Commission standards.]
- Adds definitions for Entertainment, Outdoor Entertainment and Outdoor Seating/Activity areas.
- Allows Eating, Drinking and Entertainment Establishments in most zoning districts by-right or under prescribed conditions.
- Adds new prescribed conditions for Type 2 Eating, Drinking and Entertainment Establishments:
 - If food and beverages are consumed in an outdoor seating/activity area at any time between the hours of 11 p.m. and 6 a.m.:
 - Minimum 100-foot separation distance is required between the outdoor seating/activity area and the nearest property line of a vacant lot or a residential use (single family, duplex, triplex and quadraplex only) when located in a single family zoning district.
 - If the separation distance cannot be met, a Class A buffer shall be provided along all corresponding property line(s).
 - If outdoor entertainment occurs at any time between the hours of 11 p.m. and 6 a.m.:
 - Minimum 100-foot separation distance in the mixed use development (MUDD); uptown mixed use (UMUD); transit oriented development - residential (TOD-R); transit oriented development - employment (TOD-E); transit oriented development – mixed-use (TOD-M); pedestrian overlay district (PED); and transit supportive overlay (TS) districts.

- Minimum 400-foot separation distance in the urban residential (UR-2, and UR-3); urban residential - commercial (UR-C); research (RE-3); office (O-1, O-2, and O-3); neighborhood business (B-1); general business (B-2); distributive business (B-D); business park (BP); commercial center (CC); neighborhood services (NS); mixed use (MX-2 and MX-3); light industrial (I-1); and general industrial (I-2) districts.
 - Adds a Certificate of Exemption process for eligible establishments that cannot meet the separation distance requirements.
 - **Public Plans and Policies**
 - This petition is consistent with both the *Centers, Corridors and Wedges Growth Framework* goal to provide a range of entertainment choices and the guiding principles to protect established neighborhoods and revitalize economically challenged business areas.
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DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No comments received.
 - **Charlotte Department of Neighborhood & Business Services:** No issues.
 - **Charlotte Department of Solid Waste Services:** No issues.
 - **Transportation:** No comments received.
 - **Vehicle Trip Generation:** Not applicable.
 - **Connectivity:** Not applicable.
 - **Charlotte Fire Department:** No issues.
 - **Charlotte-Mecklenburg Schools:** Not applicable.
 - **Charlotte-Mecklenburg Storm Water Services:** No comments received.
 - **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
 - **Mecklenburg County Parks and Recreation Department:** No issues.
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ENVIRONMENTALLY SENSITIVE SITE DESIGN (see full department reports online)

- **Site Design:**
 - There is no site plan associated with this text amendment.

OUTSTANDING ISSUES

- No issues.
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Attachments Online at www.rezoning.org

- Application
- Charlotte Department of Neighborhood & Business Services Review
- Charlotte Department of Solid Waste Services Review
- Charlotte Fire Department Review
- Mecklenburg County Land Use and Environmental Services Agency Review
- Mecklenburg County Parks and Recreation Review

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