

Petition No. 2014-73
 Petitioner: Brazwells Premium Pub, Britton McCorkle

NOV 17 2014

**AN ORDINANCE AMENDING APPENDIX A
 OF THE CITY CODE ZONING ORDINANCE**

ORDINANCE NO. 5522

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Appendix A, "Zoning" of the Code of the City of Charlotte is hereby amended as follows:

A. CHAPTER 9: GENERAL DISTRICTS

1. PART 1: TABLE OF USES AND HIERARCHY OF DISTRICTS

- a. Amend Section 9.101, "Table of Uses", by adding a new row titled "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment", either Type 1 and/or Type 2, under the "Accessory Uses & Structures headers of the multi-family, urban residential, institutional, research office, business, mixed use, MUDD, UMUD, TOD, urban industrial and industrial zoning districts with a "PC" under the designated districts. The revised table entries shall read as follows:

MULTI-FAMILY					
	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF
ACCESSORY USES & STRUCTURES					
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1)</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>

URBAN RESIDENTIAL				
	UR-1	UR-2	UR-3	UR-C
ACCESSORY USES & STRUCTURES				
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 and Type 2)</u>		<u>PC</u>	<u>PC</u>	<u>PC</u>

INSTITUTIONAL	
	INST
ACCESSORY USES & STRUCTURES	
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 only)</u>	<u>PC</u>

RESEARCH			
	RE-1	RE-2	RE-3
ACCESSORY USES & STRUCTURES			
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishments (Type 1 and Type 2)</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>

OFFICE BUSINESS							
	O-1	O-2	O-3	B-1	B-2	B-D	BP
ACCESSORY USES & STRUCTURES							
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 and Type 2)</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>

MIXED USE			
	MX-1	MX-2	MX-3
ACCESSORY USES & STRUCTURES			
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 and Type 2)</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>

MUDD & UMUD COMMERCIAL CENTER TRANSIT-ORIENTED DEVELOPMENT						
	MUDD	UMUD	CC	TOD-R	TOD-E	TOD-M
ACCESSORY USES & STRUCTURES						
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 and Type 2)</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>

URBAN INDUSTRIAL INDUSTRIAL			
	U-I	I-1	I-2
ACCESSORY USES & STRUCTURES			
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 only) operated by an employer on the site for the convenience of his employees only</u>	<u>PC</u>		
<u>Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 and Type 2)</u>		<u>PC</u>	<u>PC</u>

2. PART 3: MULTI-FAMILY DISTRICTS

- a. Amend Section 9.304, "Permitted accessory uses and structures", by adding a new item (9.5), "Outdoor dining associated with an Eating, Drinking and Entertainment Establishments (Type 1 only)". All other entries remain unchanged. The new entry shall read as follows:

(25) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 only).

3. PART 4: URBAN RESIDENTIAL DISTRICTS

- a. Amend Section 9.405, "Urban Residential Districts; accessory structures" by modifying the title to read "Urban Residential Districts; accessory uses and structures", and adding a new paragraph allowing outdoor dining associated with an Eating, Drinking and Entertainment Establishment, as an accessory use. The

revised section shall read as follows:

Section 9.405. Urban Residential Districts; accessory uses and structures.

Accessory structures are allowed in all urban residential districts in accordance with Section 12.106. However, accessory structures are exempted from Section 12.106 with respect to shared property lines when a joint application is made by adjoining property owners.

Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2). Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

Land clearing and inert landfills (LCID): on-site, are permitted subject to the regulations of Section 12.405.

4. PART 5: INSTITUTIONAL DISTRICT

- a. Amend Section 9.504, "Permitted accessory uses and structures", by adding a new item (6.5), titled "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 only)". The new entry shall read as follows:

(6.5) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 only).

5. PART 6: RESEARCH DISTRICTS

- a. Amend Section 9.604, "Permitted accessory uses and structures" by adding a new item (9.5) titled, "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 only)". The new entry shall read as follows:

(9.5) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 only).

6. PART 7: OFFICE DISTRICTS

- a. Amend Section 9.704, "Permitted accessory uses and structures", by amending item (10) by replacing "RESERVED" with "outdoor dining associated with an Eating, Drinking and Entertainment Establishment" and a reference to Section 12.546. The revised entry shall read as follows:

- (10) ~~(RESERVED)~~ Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2). Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

7. PART 8: BUSINESS DISTRICTS

- a. Amend Section 9.804, "Permitted accessory uses and structures", by adding a new item (10.5) titled, "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2)", and a reference to Section 12.546. Other items remain unchanged. The new entry shall read as follows:

(10.5) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2). Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

8. PART 8.5: MIXED USE DEVELOPMENT DISTRICT

- a. Amend Section 9.8504, "Mixed Use Development District; accessory uses" by adding a new entry, in alphabetical order, titled, "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2))", and a reference to Section 12.546. The new entry shall read as follows:

Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2). Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

9. PART 9: UPTOWN MIXED USE DISTRICT

- a. Amend Section 9.904, "Uptown Mixed Use District; accessory uses" by adding a new entry (1.8) titled, "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2))", and a reference to Section 12.546. The new entry shall read as follows:

(1.8) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2). Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

10. PART 10: URBAN INDUSTRIAL DISTRICT

- a. Amend Section 9.1004, "Urban Industrial District; permitted accessory uses", by adding a new item (2.5) titled, "Outdoor dining associated with an Eating, Drinking and Entertainment Establishments (Type 1 only)" operated by an employer on the site for the convenience and use of employees only. The new entry shall read as follows:

(2.5) Outdoor dining associated with an Eating, Drinking and Entertainment Establishments (Type 1 only) operated by an employer on the site for the convenience and use of employees only.

11. PART 11: INDUSTRIAL DISTRICTS

- a. Amend Section 9.1104, "Permitted accessory uses and structures", by adding a new item (2.5) titled, "Outdoor dining associated with an Eating, Drinking and Entertainment Establishments (Type 1 or Type 2)"", and a reference to Section 12.546. All other entries remain unchanged. The new entry shall read as follows

(2.5) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2). Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

12. PART 12: TRANSIT ORIENTED DEVELOPMENT DISTRICTS

- a. Amend Section 9.1207, "Accessory Uses" by adding a new item (4.5), titled, "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2)"", and a reference to Section 12.546. The new entry shall read as follows:

(4.5) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2). Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

B. CHAPTER 10: OVERLAY DISTRICTS

1. PART 8: PEDESTRIAN OVERLAY DISTRICT

- a. Amend Section 10.811, "Uses" by modifying item (3), "Eating, Drinking and Entertainment Establishments (Type 2)" by adding "and outdoor dining

associated with an Eating, Drinking and Entertainment Establishment (Type 2) are..." to the sentence. The revised item (3) shall read as follows:

- (3) Eating, Drinking and Entertainment Establishments (Type 2), and outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 2), are subject to the regulations of Section 12.546.

2. PART 9: TRANSIT SUPPORTIVE OVERLAY DISTRICT

- a. Amend Section 10.906, "Accessory Uses", by adding an introductory sentence and numbering the items. Add a new item (2) that allows "outdoor dining associated with an Eating, Drinking and Entertainment Establishment" to the list of permitted accessory uses", and adds a reference to Section 12.546. The revised section shall read as follows:

Section 10.906. Accessory Uses.

The following accessory uses are permitted:

- (1) Accessory uses and structures clearly incidental and related to the principal use or structure on the lot are allowed, with the following exception:

Drive-through service lanes are only permitted if allowed in the underlying zoning district. Drive-through windows shall only be located on the same site as the principal use, and shall be located to the rear of the principal use, to minimize visibility along public rights-of-way. Freestanding drive-through lanes are prohibited. Principal uses with drive-through service windows shall meet the following requirements:

- (a) For professional business and general office uses, no more than four (4) drive-through service lanes shall be permitted per individual use.
- (b) For retail uses, no more than one (1) drive-through service window with no more than two (2) service lanes shall be permitted per individual use.

- (2) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2) is only

permitted if allowed in the underlying zoning district. Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

C. CHAPTER 11: CONDITIONAL ZONING DISTRICTS

1. PART 2: MIXED USE DISTRICTS (MX-1, MX-2, and MX-3)

- a. Amend Section 11.204, "Permitted accessory uses and structures", by adding a new item (10.5), "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment. The new entry shall read as follows:

(10.5) Outdoor dining associated an Eating, Drinking and Entertainment Establishments:

a. Type 1 only in multi-family and attached buildings.

b. Type 2 allowed in MX-2 and MX-3 only, subject to the regulations of Section 12.546.

2. PART 4: COMMERCIAL CENTER DISTRICT

- a. Amend Section 11.404, "Permitted accessory uses and structures", by adding a new item (5.3), titled, "Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2)"), and a reference to Section 12.546. All other entries remain unchanged. The revised entry shall read as follows:

(5.3) Outdoor dining associated with an Eating, Drinking and Entertainment Establishment (Type 1 or Type 2). Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment is subject to the regulations of Section 12.546.

D. CHAPTER 12: DEVELOPMENT REGULATIONS OF GENERAL APPLICABILITY

1. PART 4: ACCESSORY USES AND STRUCTURES

- a. Add a new Section 12.419, titled, "Outdoor dining". The new section shall read as follows:

Section 12.419 Outdoor dining

Outdoor dining associated with an Eating, Drinking and Entertainment

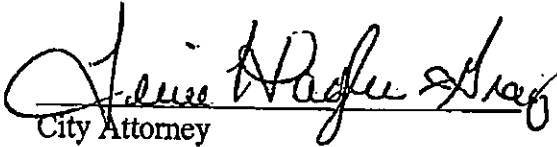
Establishment shall meet the following prescribed conditions:

- (1) Outdoor dining associated with a Type 2 Eating, Drinking and Entertainment Establishment that is allowed in the zoning district shall meet the prescribed conditions of Section 12.546;
- (2) All outdoor dining areas shall be located on private property, behind the public sidewalk and out of the public right-of-way, unless a public right-of-way encroachment agreement is approved by the Charlotte Department of Transportation, in accordance with Chapter 19, Article IX of the City code, allowing outdoor dining in the public right-of-way. If no public sidewalk exists, then the outdoor dining area shall be located a minimum of 10' from the existing or proposed back of curb;
- (3) Outdoor dining areas located in the required setback shall be located on a patio, at grade, and contain no temporary or permanent roof with roof supporting structures;
- (4) Outdoor dining areas shall be located outside of all sight-distance triangles, and shall not block fire hydrants, driveway access, doors, or utilities;
- (5) Awnings that are supported only by a building wall and umbrellas are permitted, but shall not interfere or conflict with Tree Ordinance required plantings;
- (6) The square footage area of outdoor dining areas shall be calculated in the square footage of the establishment, for parking requirements;
- (7) Outdoor dining shall be permitted to encroach into the setback or yards, according to the public street type abutting the property according to the following table:

<u>Thoroughfare Classification</u>	<u>Maximum Encroachment Percentage</u>
<u>Freeway or Expressway (Class I)</u>	<u>0</u>
<u>Limited Access Arterial (Class II)</u>	<u>0</u>
<u>Commercial Arterial (Class III-C)</u>	<u>0</u>
<u>Major Arterial (Class III)</u>	<u>50</u>
<u>Minor Arterial (Class IV)</u>	<u>75</u>
<u>Collector (Class V)</u>	<u>100</u>
<u>Local (Class VI)</u>	<u>100</u>

Section 2. That this ordinance shall become effective upon its adoption.

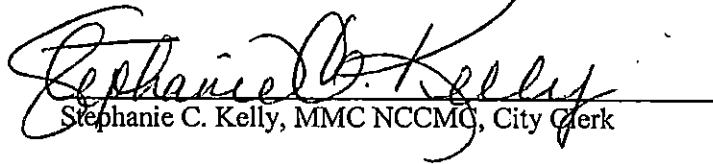
Approved as to form:


City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 17th day of November, 2014, the reference having been made in Minute Book 137, and recorded in full in Ordinance Book 59, Page(s) 116-125.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 17th day of November, 2014.


Stephanie C. Kelly, MMC NCCMC, City Clerk

