



CHARLOTTE

# Nightclubs, Bars and Restaurants

**CITIZENS ADVISORY GROUP MEETING**

February 19, 2013

- **Welcome and Introductions**
- **Recap from Last Meeting**
  - **Project Purpose and Goals**
  - **Issues and Concerns**
  - **Information Requests and Follow-Up**
    - **Invitation and Recruitment of Neighborhood Reps**
    - **Enforcement History and Action**
    - **Research on Other Jurisdictions**
- **Group Discussion**
- **Wrap-up/Next Steps**



# Nightclubs, Bars and Restaurants Text Amendment Purpose & Goals

**It has become increasingly difficult to determine differences between restaurants, nightclubs and bars.**

**Purpose and goals of this effort are to:**

- **Adequately define/describe the uses,**
- **Develop standards to minimize adverse impacts to nearby residential areas and**
- **Provide more flexibility to businesses**

## **Nightclub is defined as:**

Any commercial establishment serving alcoholic beverages and providing entertainment for patrons including bars, lounges and cabarets.



## **Restaurant is defined as:**

An establishment designed, in whole or in part, to accommodate the consumption of food and/or beverages.



# Summary of Issues and Concerns 1/24 CAG Meeting

- City trying to restrict business opportunities and don't understand economic impact of these uses
- Enforcement is major issue
- Definition of entertainment needed
- Separation requirement is major issue
- Uses that come after existing businesses create issues
- Noise ordinance should have addressed most issues
- Define the problem
- The term nightclub is antiquated
- Need way to expand operating hours
- Trying to find "one size" fits all solution may not be possible
- Some uses are not good neighbors to adjacent homes create noise and disturb neighbors
- Definitions are bad shouldn't be used to start the process
- Relocate residents or soundproof homes

# Summary of Issues and Concerns

## 1/24 CAG Meeting

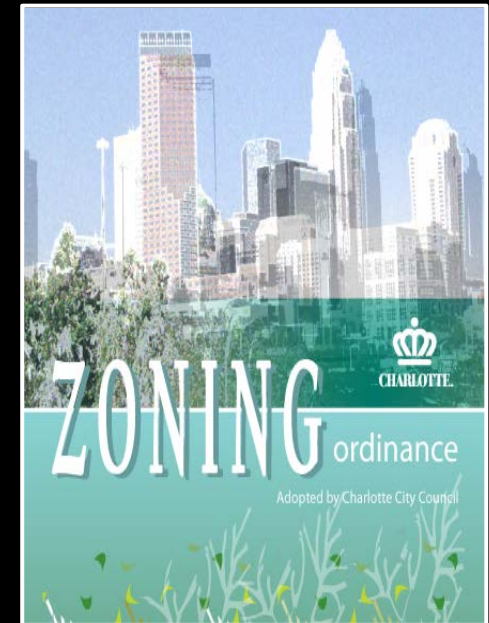
- Meeting notices weren't sent out in a timely manner
- Meeting notices were sent out at different times to some groups
- Didn't get agenda for meeting in a timely manner
- Need to listen to CAG and reflect issues and recommendations that are identified through this process
- No more introductions at meetings it takes too long with large group
- Need detailed history of current definitions in the ordinance
- Bar owners were told their opinions and recommendations didn't matter because they were biased
- Send out minutes ahead of time to give members time to review
- Need to research enforcement and ZBA cases
- Reach out to neighborhood reps to try to get more participation
- Need to share research that has been done by staff to see other community regulations
- Consider overlay district or different zoning such as entertainment districts
- Develop web site to share information before meetings and for those that don't attend meetings to have input

## ✓ Invitation and Recruitment of Neighborhood Reps

- Re-sent to over 1,000 neighborhood contacts requesting their participation in the process

## ✓ Enforcement History and Action

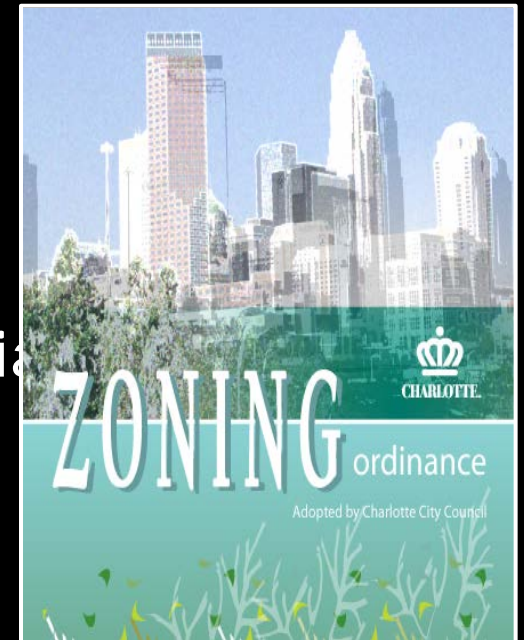
## ✓ Research on Other Jurisdictions



The current standard requiring a 400 foot separation for a nightclub from a residential use or district has been in place since at least 1980.

Prior to the adoption of this standard, nightclubs, bars and lounges had no separation requirements from residential districts or uses.

[1974 Ordinance](#) [1980 Ordinance](#)





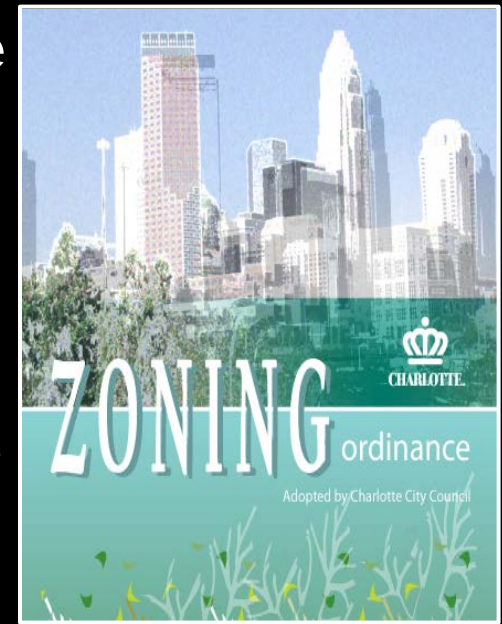
The definitions of restaurant with drive thru was first introduced in the 1973 Zoning Ordinance.

The current definitions of nightclubs and restaurants were included in the rewrite 1992 Zoning Ordinance.

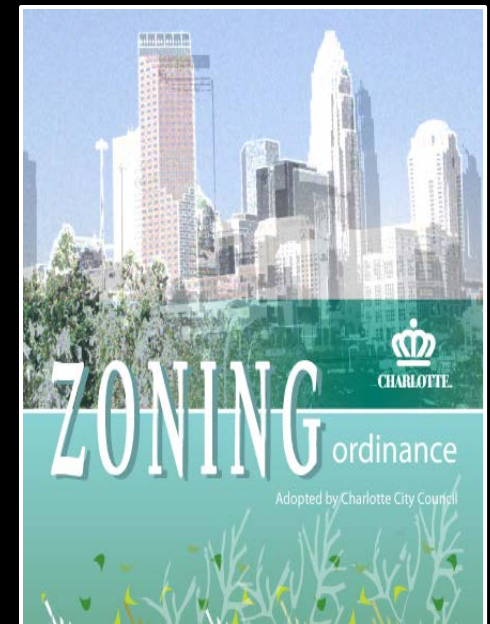
An interpretation of an establishment with entertainment was appealed to the Zoning Board of Adjustment in 1992.

[ZBA Case 1992](#)

[ZBA Case 2005](#)



- Notices of Violations reviewed were issued between 2010 and 2011
- 29 Notices of Violation were issued
- Some of the establishments had repeat violations
- The majority of the citations were for nightclub use separation requirement
- Enforcement was stopped during 2012 as a result of the CAG process



## Appeals

- Between 2003 and 2012 there have been 10 appeals from business owners that the use was not a nightclub but a restaurant.
- While a use may sometime be a restaurant it could also be a bar or nightclub at other times.

## Variations

- Between 2002 and 2012 there have been 27 variance cases to allow a nightclub use closer than required to a residential use or district. The requests ranged from 350 feet to 55 feet.
- While land hardship is considered in most variances granted, the Board also considered if there was a natural barriers or an adjacent nonconforming residential use.

## In Zoning Board of Adjustment Appeal Cases Denied Use As Restaurant - Findings of Facts:

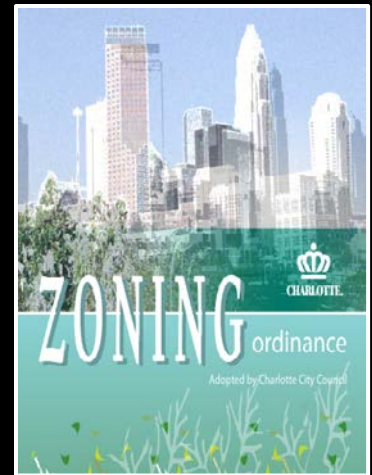
- Serves Alcohol
- Provides Entertainment
  - Billiards
  - Dancing
- Hours of Operation (Late Night Hours)
- DJ Booth
- Bar Area



## Current Regulations:

Nightclub is defined as:

- Any commercial establishment serving alcoholic beverages and providing entertainment for patrons including bars, lounges, and cabarets.





# Research on other Jurisdictions

## Nightclubs, Bars and Lounges

### Summary of Findings :

- 22 communities surveyed: Atlanta, Austin, Baltimore, Boston, Chicago, Cincinnati, Columbia, Davidson, Ft. Worth, Greenville, Huntersville, Indianapolis, Memphis/Shelby Co., Miami/Dade Co., Nashville/Davidson Co., New York, Philadelphia, Phoenix, Raleigh, San Francisco, Seattle, Washington DC
- Most have one definition for nightclubs, bars and lounges. Some cities have multiple definitions for uses such as cocktail lounges, taverns, cabaret, saloon, drinking establishment, brew pub. [One Definition](#) [Two Definitions](#) [Three Definitions](#)
- Four communities have no definitions-Davidson, Ft. Worth, Raleigh, and New York



# Research on other Jurisdictions

## Nightclubs, Bars and Lounges

### Summary of Findings:

- Most include the term entertainment in the definition of a nightclub, bar or lounge but only five define the term entertainment [Definition INCLUDES Entertainment](#) [Defines Entertainment](#)
- Most include the sale of alcohol in the definition of nightclubs bars or lounges [Definition INCLUDES Alcohol](#)
- Most have separation requirements that range from 100' to 2500' [Separation Distance](#)
- A few regulate by limiting the size of the establishment or by people [Limit Size/People](#)



# Research on other Jurisdictions

## Nightclubs, Bars and Lounges

### Summary of Findings:

- A few limit hours of operation [Nightclub hours regulated](#)
- Very few restrict outdoor entertainment by distance to residential area or number or seating area [Nightclub outdoor regulations](#)
- A few restrict entertainment by requiring special use permits, decibel levels or by zoning districts
- Some include regulations on % of alcohol sold such as 50+% daily receipts, must sell food [Nightclub with alcohol or percentage referenced](#)
- A few communities define entertainment to include such things as live music, dance performance, DJ [Nightclub with entertainment definition](#)





# Research on other Jurisdictions

## Nightclubs, Bars and Lounges

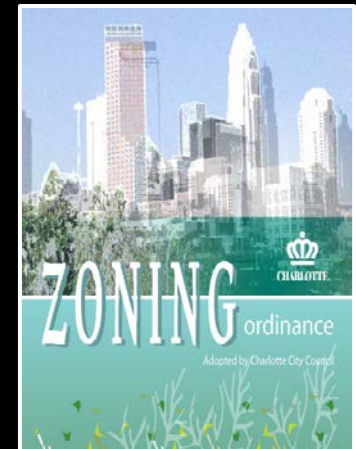
### Summary of Findings:

- Most include other permits or licenses beyond alcohol permits: late hours permit, music permit, conditional use permit for live entertainment or dancing, special use permit for outdoor patio, special exception permit for hours past midnight, public hearings, patron dancing permit, outdoor dining permit, use permit, amplified music permit, outdoor music permit, good neighbor policy conditions. [Nightclub use requires additional permit](#)
- Most allow bars, nightclubs, and lounges in commercial, neighborhood commercial mixed use and industrial zoning districts [Nightclub zoning districts](#)

### Current Regulations:

Restaurant is defined as:

- An establishment designed, in whole or in part, to accommodate the consumption of food and/or beverages.



### Summary of Findings :

- 22 communities surveyed: Atlanta, Austin, Baltimore, Boston, Chicago, Cincinnati, Columbia, Davidson, Ft. Worth, Greenville, Huntersville, Indianapolis, Memphis/Shelby Co., Miami/Dade Co., Nashville/Davidson Co., New York, Philadelphia, Phoenix, Raleigh, San Francisco, Seattle, Washington DC
- Most have one definition and 1 community has up to 6 types of eating and drinking establishments but no definition-New York  
[One definition for restaurant](#)
- Most include food or beverage in the definition [Restaurant food & beverage reference](#)

### Summary of Findings :

- Most communities don't include entertainment in the definition  
Only five communities include in the definition-Boston, Chicago, Ft. Worth, New York and Philadelphia [Restaurant has no reference to entertainment](#) [Restaurant has reference to entertainment](#)
- Some communities reference alcohol in their definition [Restaurant use has reference to alcohol](#)
- Some communities have separation distances that range from 25' to 1500'. Reasons for separation - outdoor areas, serving alcohol, neighborhood compatibility, protecting residential, separation of parking and limit noise decibels [Restaurant separation](#)
- Most communities limit size of establishments and only a few limit by number of people [Limit size/people for restaurant](#)

### Summary of Findings :

- Few regulate hours of operation in certain zoning districts  
[Restaurant hours](#)
- Some have outdoor dining regulations usually by requiring special permits [Outdoor dining restaurants](#)
- Most have entertainment regulations by either decibel noise levels or special permits [Regulate entertainment](#)
- Most allow in nonresidential districts [Restaurant zoning districts](#)
- Some include other permits beyond alcohol such as late hours permit, music, outdoor dining areas, live entertainment, etc.  
[Link T](#)



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# GROUP DISCUSSION

- 1. What do you think are the major issues or concerns that need to be addressed in this process?**
- 2. What should be done to address these issues and concerns?**

## Discussion Guidelines

- Please select a facilitator, scribe, timekeeper and spokesperson
- Please allow everyone the opportunity to have input
- Be respectful of each other and others opinion(s)
- You must reach consensus on both questions to report out
- Summarize your response(s) for the report out



# Next Steps

- Next Meeting is March 5, at 6:00 pm
- If you have questions, please contact Sonda Kennedy at 704 336-3818
- Follow the process on our web site at:  
**[www.charlotteplanning.org](http://www.charlotteplanning.org)**



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# Nightclub Variance

