

# **Eating Drinking and Entertainment Establishment Exemption Application**

## **Instructions and Checklist**

The Planning Director, or her or his designee, is authorized to issue an establishment a Certificate of Exemption pursuant to Section 12.546(3). In order to receive certification, the attached application must be completed and submitted to the Planning Director no later than one year from the date the ordinance providing the opportunity for an exemption certificate becomes law, or ninety (90) days from the date a notification letter from the Planning Department indicating that the business establishment may be affected by separation distance requirements has been received.

### **Application Instructions**

- I. **Fill out the form completely.** The Planning Director must receive evidence to support the requested exemption. Therefore, incomplete applications will not be accepted and the time you are eligible to apply for an exemption may lapse.
- II. In order for the Planning Director to grant an Exemption, the use of an establishment must have been established prior to January 1, 2013. Pursuant to Section 12.546(3) of the zoning ordinance, business establishments that would have met the definition of a Type 2 Eating, Drinking and Entertainment Establishment as of January 1, 2013, and that have an outdoor seating/activity area located within the separation distances required in Section 12.546, and that provide outdoor entertainment between the hours of 11 p.m. and 6:00 a.m., are eligible to apply for an exemption from meeting the separation distance requirement if the following apply to that business:
  - a. Type 2 Eating, Drinking and Entertainment Establishment is, as of the date of application, in compliance with all applicable land use and development laws, including without limitation, zoning laws and urban design standards for the district in which the use is located; and
  - b. One of the following two conditions apply to the establishment:
    - i. An Eating, Drinking, and Entertainment Establishment abuts a public right-of-way that is 60' or greater in width or;
    - ii. A commercial building of at least 1,900 square feet is located between the outdoor seating/activity area, and a vacant lot or a residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district.

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**CHECKLIST**

**2 copies** of application and all required materials (per the applicable checklist) must be submitted for the application to be considered complete. Larger maps and other materials shall be folded to 8 ½ x 14 inch size.

- A.** Include a copy of current business license.
- B.** Include a copy of the 2012-2013 Alcohol Beverage Control (ABC) Commission approved permit for the establishment.
- C.** Include a description of ALL outdoor entertainment provided as of January 1, 2013.
- D.** Include a survey or to scaled site plan. The survey or site plan should include:
  - 1) All existing buildings and structures on the property.
  - 2) All outdoor seating or activity areas. Highlight the portion of the improvements that otherwise fall within the separation distance requirements and would be subject to the requested Certificate of Exemption. Include documentation of the outdoor seating/activity area as of January 1, 2013. (for example approved floor plan, dated photos, building permits, paid advertisements for entertainment, news articles, entertainment contracts, etc.)
  - 3) Applicant must indicate on the drawings that all other applicable development standards are met including parking, property lines and measurements, right of way locations, zoning district classification, solid waste containers, applicable square footage, the location of the nearest residential use located in a single family district from the residential use property line, location of setback and buffer requirements for the current zoning classification.

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Planning Department  
City of Charlotte

Date Filed: \_\_\_\_\_

Application Number: \_\_\_\_\_

**I. APPLICANT IDENTITY**

Legal Name of Applicant \_\_\_\_\_

Legal Name of Owner of Property \_\_\_\_\_

Address of establishment \_\_\_\_\_

Mecklenburg County Parcel Identification Number \_\_\_\_\_ Zoning \_\_\_\_\_

Has this property been rezoned since January 1, 2013? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, Petition Number: \_\_\_\_\_

Type of use as of January 1, 2013: Bar \_\_\_\_\_ Lounge \_\_\_\_\_ Nightclub \_\_\_\_\_ Restaurant \_\_\_\_\_

Date use established \_\_\_\_\_

Describe whether the use will be a Type 1 or Type 2 establishment after March 17, 2014.  
(place an X beside the applicable categories):

<b>Type 1 Eating, Drinking and Entertainment Establishment</b> An establishment where food is prepared and beverages may be provided, excluding alcohol. Indoor and outdoor entertainment may be provided.	<b>Type 2 Eating, Drinking and Entertainment Establishment</b> An establishment where any alcohol is consumed, food and other beverages are optional, and entertainment may be provided, including outdoor entertainment. Excluded from the Type 2 Eating, Drinking and Entertainment Establishment 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.
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### II. ELGIBILITY

		Yes	No
A.	Was the business a Type 2 Eating, Drinking, and Entertainment Establishment use as of January 1, 2013?		
B.	Is alcohol served at the establishment?		
C.	Did you receive a "Letter of Notice" indicating that property may be affected by the separation distance requirements? If yes, please provide a copy.		

### III. ISSUANCE CRITERIA

		Yes	No
A.	Does the use comply with all applicable land use and development laws, including without limitation, zoning laws and urban design standards for the district in which the use is located?		
B.	Does the use abut a public right-of-way that is 60' or greater in width?		
C.	Does the use have a commercial building of at least 1,900 square feet located between the outdoor seating/activity area, and a vacant lot or a residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district?		

### IV. SITE PLAN REVIEW

Site Plan should include the following information: Does use meet Standard?

	Development Standard and Dimension	Yes	No
A.	Buffers		
B.	Conditional District Conditions		
C.	Dumpster/Recycling with screening		
D.	Height: Maximum		
E.	Lot size		
F.	Lot width		
G.	Parking required		
H.	Permitted Use		
I.	Rear Yard		
J.	Screening		
K.	Setback		
L.	Side Yard		
M.	Street Names and Right-of-Way Widths		
N.	Signage - Number and Size of Sign(s)		
O.	Zoning Board of Adjustment Variance #		

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#### V. OUTDOOR SEATING/ACTIVITY AREA

		Yes	No
A.	Is there an outdoor activity area?		
B.	Is the outdoor activity area in compliance with zoning regulations?		
C.	Is there an outdoor seating area?		
D.	Is the outdoor seating area in compliance with zoning regulations?		
E.	<p>Describe where outdoor activity is located on the premise along with number of tables, chairs and the total square footage.</p> <p><i>Provide site plan indicating location of outside activity area along with document such as approved floor plan, building permit, dated aerial photographs</i></p> <p><i>Extra pages may be submitted.</i></p>		

#### VI. OUTDOOR ENTERTAINMENT BETWEEN THE HOURS OF 11 PM and 6 AM

		Yes	No
A.	Is there outdoor entertainment between the hours of 11 PM and 6 AM?		
B.	<p>Description of all entertainment activity as of January 1, 2013.</p> <p><i>Provide supporting documentation such as newspaper articles, paid advertisement, etc.</i></p> <p><i>Extra pages may be submitted.</i></p>		

## Exemption Application

## VII. ATTESTATION

The requested exemption is for (place an X beside the applicable categories):

A.	<b>Outdoor Activity Area</b> too close to residential use in single family district		<b>Outdoor Activity Area</b> too close to vacant lot in single family district	
				Yes
				No
B.	All information submitted in this application is accurate and true?			

I swear or affirm each of the following: I have read and understood the Ordinance, including without limitation Section 12.546(3), and this application. I understand that the Certificate of Exemption shall be revoked for failure to comply with all applicable land use and development laws, including without limitation, zoning laws and urban design standards for the district in which the use is located; and laws and regulations in the future or for failure to maintain the conditions represented in the application. I represent that all facts I have provided in the application, including its attachments, are true and accurate to the best of my knowledge.

Applicant (Print Name) \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

I consent to this application and to the issuance of a Certificate of Exemption.

Property Owner (If different from applicant) \_\_\_\_\_ Signature \_\_\_\_\_  
 Date \_\_\_\_\_

## STAFF REVIEW

The property meets which criteria in order to qualify for the exemption?       **A**       **B**

Item	Code Requirement
A	The issuance of a Certificate of Exemption shall not otherwise excuse a violation of federal, state, or local laws and regulations, including the development and urban design standards of the zoning district in which the use is located.
B	Eating, Drinking, and Entertainment Establishment abuts a public right-of-way that is 60' or greater in width.
C	There is a commercial building of at least 1,900 square feet located between the outdoor seating/activity area, and a vacant lot or a residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district.