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Ordinance Book 58, Page 798

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

Petition No. 2013-090
Petitioner: Charlotte-Mecklenburg Planning Department

ORDINANCE NO. 5423

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 2: DEFINITIONS AND RULES OF CONSTRUCTION

1. PART 2: DEFINITIONS

- a. Amend Section 2.201, "Definitions" by removing the definition for "nightclubs", "restaurants" and replacing them with two new definitions for "Eating, Drinking and Entertainment Establishments". Add new definitions for "outdoor entertainment", "outdoor seating/activity area", and "entertainment". Modify the definition for "shopping center" and "restaurant, drive-in" by replacing the term "restaurant" with "Eating, Drinking and Entertainment Establishment". Also remove the term, "in whole, or in part" from the definition of "restaurant – drive in". All other definitions remain unchanged. The amended and new definitions shall read as follows:

Eating, Drinking and Entertainment Establishment. (See-Eating, Drinking and Entertainment Establishment, drive-in.)

Eating, Drinking and Entertainment Establishment, Type 1.

An establishment where food is prepared and beverages may be provided, excluding alcohol. Indoor and outdoor entertainment may be provided.

Eating, Drinking and Entertainment Establishment, Type 2.

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.

Entertainment.

Entertainment means any activity or game that is live, broadcast, or recorded, including, but not limited to, dancing, music, theater or comedy performance, sporting event, trivia game, or game of skill or chance.

Outdoor Entertainment.

Outdoor entertainment means any activity or game that is live, broadcast, or recorded, including dancing, music, theater or comedy performance, sporting event, trivia game, or game of skill or chance which occurs on the premises of, but outside, an Eating, Drinking and Entertainment Establishment. Entertainment occurs outdoors when it is outside a permanent enclosed area, contained by permanent walls and a permanent roof of the establishment.

Outdoor Seating/Activity Area.

Outdoor seating/activity area means any area outside the permanent building, including without limitation, patios, decks, rooftops, open areas, or parking lots where food or beverages are consumed or entertainment takes place.

Eating, Drinking and Entertainment Establishment, drive-in.

An establishment designed to accommodate the consumption of food and/or beverages in motor vehicles on the premises of such establishment, or a Eating, Drinking and Entertainment Establishment with a drive-in service window and/or outdoor service window having indoor seating accommodation for fewer than 50 patrons.

Shopping center.

A group of two or more retail establishments or Eating, Drinking and Entertainment Establishments, constructed and planned and developed with a unified design of buildings, with associated out parcels and coordinated parking and service areas.

B. CHAPTER 9: GENERAL DISTRICTS

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

- a. Amend Section 9.101, "Table of Uses", by amending Table 9.101 to replace the term "restaurant" and "nightclub, bar and lounge" with "Eating, Drinking and Entertainment Establishments". Add "Type 1" and "Type 2" as shown. Other changes include adding "PC" to the listing under the urban residential districts. The revised table entries shall read as follows:

b.

MULTI-FAMILY					
	R-8MF	R-12MF	R-17MF	R-22MF	R-43MF
OFFICE & BUSINESS USES					
Eating, Drinking and Entertainment Establishments (Type 1) with up to 10,000 square feet.	PC	PC	PC	PC	PC

URBAN RESIDENTIAL				
	UR-1	UR-2	UR-3	UR-C
OFFICE & BUSINESS USES				
Business and office uses permitted in B-1, except no drive-in windows or automotive sale, service, or repair. Maximum GFA is 50% of the ground floor area of the building in which located; each tenant or use is limited to a maximum of 3,000 square feet.		X/PC		
Business and office uses permitted in B-1, except no drive-in windows or automotive sale, service, or repair. Commercial uses are limited in floor area to two times the size of the building footprint. Business or office uses cannot be free-standing uses, but may be combined with residential uses in the same structure.			X/PC	
Business and office uses (including free-standing structures, and uses located within multi-family structures) permitted in B-1, except no drive-in windows or automotive sale, service, or repair.				X/PC

INSTITUTIONAL	
	INST
OFFICE & BUSINESS USES	
Eating, Drinking and Entertainment Establishments (Type 1)	PC

RESEARCH			
	RE-1	RE-2	RE-3
OFFICE & BUSINESS USES			
Eating, Drinking and Entertainment Establishments (Type 1)	PC	PC	X
Eating, Drinking and Entertainment Establishments (Type 2)			PC

OFFICE BUSINESS							
	O-1	O-2	O-3	B-1	B-2	B-D	BP
OFFICE & BUSINESS USES							
Eating, Drinking and Entertainment Establishments (Type 1), except for drive-in services as a principal use	PC	PC	PC	X	X	X	X
Eating, Drinking and Entertainment Establishments (Type 2)	PC	PC	PC	PC	PC	PC	PC
Eating, Drinking and Entertainment Establishments (Type 1) with drive-in service as a principal use					X		

MIXED USE			
	MX-1	MX-2	MX-3
OFFICE & BUSINESS USES			
Retail and office establishments and Eating, Drinking and Entertainment Establishments (Type 1) in multi-family buildings and attached buildings	PC	PC	PC
Eating, Drinking and Entertainment Establishments (Type 2)		PC	PC

MUDD & UMUD COMMERCIAL CENTER TRANSIT ORIENTED DEVELOPMENT						
	MUDD	UMUD	CC	TOD-R	TOD-E	TOD-M
OFFICE & BUSINESS USES						
Eating, Drinking and Entertainment Establishments (Type 1)	X	X	X			
Eating, Drinking and Entertainment Establishments (Type 1), with no drive-through windows.				X	X	X
Eating, Drinking and Entertainment Establishments (Type 2)	PC	PC	PC			
Eating, Drinking and Entertainment Establishments (Type 2), with no drive-through windows				PC	PC	PC

URBAN INDUSTRIAL INDUSTRIAL			
	U-I	I-1	I-2
OFFICE & BUSINESS USES			
Eating, Drinking and Entertainment Establishments (Type 1) operated by an employer on the site for the convenience of his employees only	X		
Personal services, banks, and day care centers operated by an employer on the site for the convenience of his employees only	X		
Eating, Drinking and Entertainment Establishments (Type 1), with or without drive-in service as a principal use		X	X
Eating, Drinking and Entertainment Establishment (Type 2), with or without drive-in service as a principal use		PC	PC

2. PART 3: MULTI-FAMILY DISTRICTS

- a. Amend Section 9.303, "Uses permitted under prescribed conditions", item (25) by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". All other entries remain unchanged. The revised entry shall read as follows:

(25) Retail and office establishments, Eating, Drinking and Entertainment Establishments (Type 1), and indoor recreation, provided that:

- (a) The establishment will be located within a building that contains at least 50 dwelling units;
- (b) The establishment will occupy no more than 25 square feet per dwelling unit in the building up to a maximum of 10,000 square feet;
- (c) The establishment will have no direct public entrance from the outside of the building; and
- (d) No merchandise or display of merchandise will be visible from outside the building.

3. PART 5: INSTITUTIONAL DISTRICT

- a. Amend Section 9.503, "Uses permitted under prescribed conditions", item (19) by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". In subsections (c) and (d) replace the term "restaurants" with "Eating, Drinking and Entertainment Establishments". All other entries remain unchanged. The revised entry shall read as follows:

(19) Retail establishments, offices, and Eating, Drinking and Entertainment Establishments (Type 1) provided that:

- (a) The principal use of the lot is institutional;
- (b) The principal use of the lot occupies at least 30,000 square feet of floor area;
- (c) Retail establishments, and Eating, Drinking and Entertainment Establishments, will occupy no more than 10 percent of the gross floor area of all buildings on the lot, and under no circumstances will such uses exceed 25% of the ground floor area;
- (d) The proposed use must be located within the same building as the principal use, and there will be no direct public entrance to the proposed use from outside the building, except for an Eating, Drinking and Entertainment Establishment;
- (e) No merchandise or display of merchandise will be visible from outside the building housing the proposed use; and
- (f) One wall sign is permitted to identify all internal uses provided that it is no larger than 16 square feet.

4. PART 6: RESEARCH DISTRICTS

- a. Amend Section 9.603, "Uses permitted under prescribed conditions", item (22) by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". In subsections (c) and (d) replace the term "restaurants" with "Eating, Drinking and Entertainment Establishments". All other entries remain unchanged. The revised entry shall read as follows:

(22) Retail establishments and Eating, Drinking and Entertainment Establishments (Type 1) provided that:

- (a) The principal use of the lot is for offices, distributive businesses, research laboratories, pilot plants, prototype production plants, or other production facilities;
- (b) The principal use of the lot occupies at least 30,000 square feet of floor area;
- (c) Retail establishments and Eating, Drinking and Entertainment Establishments will occupy no more than 10 percent of the gross floor area of all buildings on the lot and under no circumstances exceed 25 percent of the ground floor area, except an Eating, Drinking and Entertainment Establishment may occupy up to 50 percent of the ground floor;
- (d) If the proposed use is to be located within the same building as the principal use, then there will be no direct public entrance to the proposed use from outside the building except for an Eating, Drinking and Entertainment Establishment;
- (e) If the proposed use is to be located in a building separate from the principal use, then the proposed use will be designed and intended primarily for the use of persons who are employed by the principal use;
- (f) No display of merchandise shall be permitted outside the building; and
- (g) One wall sign is permitted to identify all internal commercial uses, provided that it is no larger than 16 square feet.

5. PART 7: OFFICE DISTRICTS

- a. Amend Section 9.703, "Uses permitted under prescribed conditions", items (12), subsection (b) by replacing the term "nightclubs, bars, lounges and restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1 and Type 2)". In item (12), subsection (c), replace the term "entertainment and restaurant purposes" with "Eating, Drinking and Entertainment Establishments (Type 1 and Type 2) and other entertainment". Amend item (27) by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". Amend item (28) by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1 and Type 2)". Amend item (28), subsection (c) and (d) by replacing the term "restaurants" or "a restaurant use" with "Eating, Drinking and Entertainment Establishments" in four places. Add a

new subsection (g) for "Type 2 Eating, Drinking and Entertainment Establishments". All other entries remain unchanged. The revised entries shall read as follows:

(12) Hotels and motels, provided that:

- (a) All buildings, off-street parking and service areas will be separated by a Class B buffer from any abutting property located in a residential district, abutting residential use or low intensity institutional use (See Section 12.302);
- (b) Retail and Eating, Drinking and Entertainment Establishments (Type 1 and Type 2) as accessory uses may be located in a hotel or motel having a minimum of 75 rental units.
- (c) Gross floor area for retail, Eating, Drinking and Entertainment Establishments (Type 1 and Type 2), and other entertainment activities will be limited to 75 square feet per rental unit. Ballrooms, conference rooms, meeting rooms and similar assembly facilities will not be included in determining gross floor area used for commercial purposes;
- (d) No merchandise or merchandise display window may be visible from outside the building;
- (e) No outside storage or display of merchandise will be permitted; and
- (f) One wall sign is permitted to identify all internal commercial uses, provided that the sign is no larger than 16 square feet.

(27) Retail and office establishments, Eating, Drinking and Entertainment Establishments (Type 1) and indoor recreation in multi-family buildings, subject to the regulations of subsection 9.303(25).

(28) Retail establishments and Eating, Drinking and Entertainment Establishments (Type 1 and Type 2) in office buildings, provided that:

- (a) The principal use of the lot is for offices;
- (b) The principal use of the lot occupies at least 30,000 square feet of floor area;

- (c) Retail establishments and Eating, Drinking and Entertainment Establishments, will occupy no more than 10 percent of the gross floor area of all buildings on the lot and under no circumstances shall exceed 25% of the ground floor area except an Eating, Drinking and Entertainment Establishment may occupy up to 50% of the ground floor area;

Retail establishments and Eating, Drinking and Entertainment Establishments located in a Pedestrian Overlay District (PED) will occupy no more than 20% of the gross floor area and shall only be located on the ground floor.

- (d) In all zoning districts, except PED, the proposed use must be located within the same building as the principal use, and there will be no direct public entrance to the proposed use from outside the building, except for an Eating, Drinking and Entertainment Establishment. In the PED zoning district, ground floor retail establishments may have entrances external to the building
- (e) No merchandise or display of merchandise will be visible from outside the building housing the proposed use; and
- (f) One wall sign is permitted to identify internal commercial uses, provided that the sign is no larger than 16 square feet.
- (g) Type 2 Eating, Drinking and Entertainment Establishments are subject to the regulations of Section 12.546.

6. PART 8: BUSINESS DISTRICTS

- a. Amend Section 9.802, "Uses permitted by right", item (77) by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". Amend item (78) by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". Other items remain unchanged. The revised entries shall read as follows:

- (77) Eating, Drinking and Entertainment Establishments (Type 1).
- (78) Eating, Drinking and Entertainment Establishments Type 1) drive-in service (B-2 only).

- b. Amend Section 9.803, "Uses permitted under prescribed conditions" by adding a new item (12.5) for "Eating, Drinking and Entertainment Establishments (Type 2)", with prescribed conditions. Amend item (19) by deleting the text and replacing with "Reserved". All other items remain unchanged. The revised item shall read as follows:

(12.5) Eating, Drinking and Entertainment Establishments (Type 2), provided that:

- (a) Eating, Drinking and Entertainment Establishments with drive-in service are allowed in B-2 only.
- (b) Eating, Drinking and Entertainment Establishments are subject to the regulations of Section 12.546.

(19) Reserved.

7. PART 8.5: MIXED USE DEVELOPMENT DISTRICT

- a. Amend Section 9.8502, "Mixed Use Development District; uses permitted by right" by deleting the entry for "Restaurants" and replacing it with "Eating, Drinking and Entertainment Establishments (Type 1)". All other entries remain unchanged. The revised entries shall read as follows:

Eating, Drinking and Entertainment Establishments (Type 1).

- b. Amend Section 9.8503, "Mixed Use Development District; uses permitted under prescribed conditions by adding an entry for "Eating, Drinking and Entertainment Establishments (Type 2)" in alphabetical order. Also delete the entry for "Entertainment establishments". All other entries remain unchanged. The new and deleted entry shall read as follows:

Eating, Drinking and Entertainment Establishments (Type 2), subject to the regulations of Section 12.546.

8. PART 9: UPTOWN MIXED USE DISTRICT

- a. Amend Section 9.902, "Uptown Mixed Use District; uses permitted by right" by amending the entry (13) by replacing "Restaurants; including open air or sidewalk cafes" with "Eating, Drinking and Entertainment Establishments (Type 1)". All other entries remain unchanged. The deleted entry shall read as follows:

(13) Eating, Drinking and Entertainment Establishments (Type 1).

- b. Amend Section 9.903, "Uptown Mixed Use District; uses permitted under prescribed conditions" by replacing item (10), "Entertainment establishments" with "Eating, Drinking and Entertainment Establishments (Type 2)", with

conditions. All other entries remain unchanged. The new entry shall read as follows:

- (10) **Eating, Drinking and Entertainment Establishments**
(Type 2), subject to the regulations of Section 12.546.

- c. Amend Section 9.906, "Uptown Mixed Use District; urban design and development standards, subsection (2); "Streetscape design standards", subsection (d), "Special regulations for Tryon Street and Brevard Street Area", subsection (4), "Urban open spaces", subsection (f), "Food" by replacing the term "cafe" with "Eating, Drinking and Entertainment Establishment". The revised entry shall read as follows:

- (f) **Food.** The provision of food facilities is encouraged. Food kiosks can count as open space provided they do not exceed 150 square feet in area. No more than one-half of the open space may be used for an open-air Eating, Drinking and Entertainment Establishment. Litter receptacles must be provided at a minimum of 4 cubic feet of receptacle capacity for each 800 square feet of open space.

- d. Amend Section 9.906, "Uptown Mixed Use District; urban design and development standards, subsection (2), "Streetscape design standards", subsection (d), "Special regulations for Tryon Street and Brevard Street Area", subsection (6), "First Floor Retail Required", by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments". The revised entry shall read as follows:

- (6) **First Floor Retail Required.** In order to stimulate pedestrian activity at the street level, the first floor (street level) of any new building over 100,000 square feet must devote a minimum of 50% of the net first floor area to retail activities, which promote a visual relationship to the street and encourage movement and activity at street level with the exception of the Brevard Street area (see Section 9.906(2)(d)(2)(a) and (b)). Retail activity refers to any use, which encourages street level activity in the building beyond the normal business day and is in addition to the daily work activities of the building tenants

Any expansion of an existing building which results in more than 100,000 square feet of new floor area must also comply with this requirement unless the new floor area is all in a vertical expansion which results in no new street level floor area. The minimum 50% area will be computed on the new street level floor area only.

The term retail includes not only sales of merchandise at retail but will also be construed to mean personal and business services, Eating, Drinking and Entertainment Establishments, galleries, and

similar uses but not financial institutions except 25% of the total square footage of required retail space may be utilized by retail banking, stock brokerage offices and other financial services.

Fifty percent of the square footage of a hotel lobby may be counted towards the required retail space.

For the purpose of this subsection, net floor area does not include stairways, elevator shafts, elevator lobbies, rest rooms, mechanical areas, security areas, or service areas. It is strongly encouraged but not mandated that all street level retail tenants which have sidewalk frontage be furnished with direct access to the sidewalk in addition to any other access that may be provided. If individual entrances are provided to street level retail tenants, which have sidewalk frontage, the required retail floor area may be reduced by 5% of the net floor area for each separate entrance up to a maximum of 5 entrances. This standard applies to all new development, which occurs in the area bounded by or along either side of College Street, 8th Street, Church Street, and Stonewall Street. This standard does not apply to any building with a street frontage of less than 24 feet. This first floor retail standard is also not applicable to convention centers and halls, conference centers, exhibition halls, merchandise marts, and similar uses.

9. PART 10: URBAN INDUSTRIAL DISTRICT

- a. Amend Section 9.1002, "Urban Industrial District; uses permitted by right", by adding a new item (2.5) titled, "Eating, Drinking and Entertainment Establishments (Type 1)". Also amend item (3) by deleting the terms "restaurants", "such as" and "his" in the sentence. The revised entry shall read as follows:

- (2.5) Eating, Drinking and Entertainment Establishments (Type 1) operated by an employer on the site for the convenience and use of employees only
- (3) Personal services, banks, or day care centers operated by an employer on the site for the convenience and use of employees only.

10. PART 11: INDUSTRIAL DISTRICTS

- a. Amend Section 9.1102, "Uses permitted by right", by replacing the term "Restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)" in item (61) and in item (62), replacing "Restaurant, drive-in services" with "Eating, Drinking and Entertainment Establishments (Type 1)". All other entries

remain unchanged. The revised entries shall read as follows

- (61) Eating, Drinking and Entertainment Establishments (Type 1)
 - (62) Eating, Drinking and Entertainment Establishments (Type 1), drive-in services
- b. Amend Section 9.1103, "Uses permitted under prescribed conditions" by amending item (30) by replacing the entry for "Nightclubs, bars and lounges" with the term "Reserved"; and adding a new item (16.5) titled "Eating, Drinking and Entertainment Establishments (Type 2)", with conditions. Add another item (16.6), titled, "Eating, Drinking and Entertainment Establishments (Type 2), drive-in services", with conditions. All other entries remain unchanged. The new and revised entries shall read as follows:
- (16.5) Eating, Drinking and Entertainment Establishments (Type 2), subject to the regulations of Section 12.546.
 - (16.6) Eating, Drinking and Entertainment Establishments (Type 2), drive-in services, subject to the regulations of Section 12.546.
 - (30) Reserved.

11. PART 12: TRANSIT ORIENTED DEVELOPMENT DISTRICTS

- a. Amend Section 9.1202, "Establishment of Transit Oriented Development Districts", subsection (1), "Residentially Oriented (TOD-R)", by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments". The revised subsection shall read as follows:
- (1) Residentially Oriented (TOD-R)
This transit oriented residential district is established to support high-density residential communities that also accommodate a limited amount of retail, institutional, civic, Eating, Drinking and Entertainment Establishments, service, and small employment uses within a pedestrian friendly area.
- Residential developments and residential components of multi-use developments shall have a minimum density of twenty (20) dwelling units per acre within ¼ mile walking distance from a transit station or a minimum density of fifteen (15) dwelling units per acre between ¼ mile and ½ mile walking distance from a transit station. The density shall be based on the residential portion of the site. The approved station area plan classifies parcels according to whether they are within the ¼ mile walking distance or between the ¼ mile to ½ mile walking distance.

Retail, institutional, civic, and office uses are permitted. Only up to 20% of the total development gross square footage that is composed of these uses may be credited toward meeting the minimum residential densities at a ratio of one (1) dwelling unit to 2,000 square feet of development.

- b. Amend Section 9.1205, "Uses Permitted by Right", by replacing item (20) "Restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". All other entries remain unchanged. The revised entry shall read as follows:

(20) Eating, Drinking and Entertainment Establishments (Type 1). No drive-through service windows permitted.

- c. Amend Section 9.1206, "Uses Permitted Under Prescribed Conditions", by changing the number of item (6) to (5.5) and replacing the term "Entertainment establishments" with "Eating, drinking, and entertainment establishments" with conditions. All other entries remain unchanged. The revised entry shall read as follows:

(5.5) Eating, Drinking and Entertainment Establishments (Type 2) provided that:

- (a) No drive-through service windows are permitted,
(b) Eating, Drinking and Entertainment Establishments are subject to the regulations of Section 12.546.

- d. Amend Section 9.1208, "Development Standards", subsection (5), "Floor Area Ratio (FAR)", subsection (c) by replacing the term "outdoor café" with "open air Eating, Drinking and Entertainment Establishments". All remaining sections remain unchanged. The revised subsection shall read as follows:

(c) Plazas, arcades, courtyards, open air Eating, Drinking and Entertainment Establishments, rooftop gardens, and widened public sidewalks that enhance pedestrian spaces and amenities can be credited toward meeting the minimum required FAR. If the pedestrian spaces/amenities are available to the public then the square footage shall be credited at 100%; if private, then the square footage shall be credited at 50%. In no instance shall more than 20% of the pedestrian area be credited toward the required FAR.

- e. Amend Section 9.1208, "Development Standards", subsection (6), "Parking Standards" by replacing the term "restaurants/nightclubs" with "Eating, Drinking and Entertainment Establishments" in two places in the table. All remaining sections remain unchanged. The revised subsection shall read as follows:

(6) Parking Standards

- (a) New permitted uses within this zoning district shall be required to meet the minimum/maximum number of off-street parking spaces as follows. All square footage is measured as "gross footage."

USE	MINIMUM/MAXIMUM NUMBER OF PARKING SPACES
Residential	Minimum of 1 space per dwelling unit for properties on blocks with single family zoning, no parking minimum for all other properties and a maximum of 1.6 parking spaces per dwelling unit.
Office	Maximum of one (1) parking space per 300 square feet of office space. Mixed-use developments and multi-use developments of residential and office uses may share parking spaces as per Section 12.203.
Eating, Drinking and Entertainment Establishments.	For all sites within 800' of single family zoning, minimum of one (1) parking space per 150 square feet of Eating, Drinking and Entertainment Establishment space. For all other sites, no minimum. Maximum of one (1) space per 75 square feet.
Retail	Maximum of one (1) space per 250 square feet.
All Other Non-Residential Uses	The maximum number of parking spaces permitted is listed as the minimum amount required in the Table 12.202, per non-residential use.

C. CHAPTER 10: OVERLAY DISTRICTS

I. PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY

- a. Amend Section 10.502, "General Definitions" by amending the definition for "Industrial Discharge" and "Water Dependent Structures" by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments". All other definitions remain unchanged. The revised definitions shall read as follows: All other definitions remain unchanged. The revised definitions shall read as follows:

Industrial Discharge. The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

1. wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
2. wastewater resulting from processes of trade or business,

including wastewater from laundromats and car washes, but not wastewater from Eating, Drinking and Entertainment Establishments;

3. storm water will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
4. wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Water Dependent Structures. Those structures for which the use requires access or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as Eating, Drinking and Entertainment Establishments, outlet for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

2. PART 6: CATAWBA RIVER/LAKE WYLIE WATERSHED OVERLAY

- a. Amend Section 10.602, "General Definitions" by amending the definition for "Industrial Discharge" and "Water Dependent Structures" by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments". All other definitions remain unchanged. The revised definitions shall read as follows:

Industrial Discharge. The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- (1) wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- (2) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from Eating, Drinking and Entertainment Establishments;
- (3) storm water will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
- (4) wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Water Dependent Structures. Those structures for which the use requires access or proximity to or sitting within surface waters to fulfill its

basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as Eating, Drinking and Entertainment Establishments, outlet for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

3. PART 7: LOWER LAKE WYLIE WATERSHED OVERLAY

- a. Amend Section 10.702, "General Definitions" by amending the definition for "Industrial Discharge" and "Water Dependent Structures" by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments". All other definitions remain unchanged. The revised definitions shall read as follows:

Industrial Discharge. The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

- (1) wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- (2) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from Eating, Drinking and Entertainment Establishments; .
- (3) stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or
- (4) wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Water Dependent Structures. Those structures for which the use requires access or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as Eating, Drinking and Entertainment Establishments, outlet for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

4. PART 8: PEDESTRIAN OVERLAY DISTRICT

- a. Amend Section 10.811, "Uses" by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments" in two places. Also in item (3), "Nightclubs, bars and lounges", replace the term "nightclubs, bars and lounges" with "Eating, Drinking and Entertainment Establishments (Type 2)". The revised section shall read as follows:

Section 10.811. Uses

The uses permitted in the PED shall include those permitted by right and under prescribed conditions in the underlying district, except outdoor storage, outdoor advertising signs, and drive-through service windows for Eating, Drinking and Entertainment Establishments, or retail uses. All permitted accessory uses will also be allowed except drive-thru windows for Eating, Drinking and Entertainment Establishments, and retail establishments and outdoor advertising signs. (*Petition No. 2009-011, § 10.802, 02/16/09*)

In addition the following uses shall be permitted subject to the following requirements:

- (1) Dwellings, mixed use, subject to the standards of PED.
- (2) Drive-through service windows for offices must be located to the rear of the building, and are limited to no more than four (4) drive-through stations, including lanes servicing Automatic Teller Machines (ATM's). (*Petition No. 2002-147, § 10.802(2), 01-21-03*)
- (3) Eating, Drinking and Entertainment Establishments (Type 2), subject to the regulations of Section 12.546.
- (4) Off street parking lots, that are not an accessory use, with 5 or more spaces shall be subject to the PED streetscape and screening standards.

The following use, which is not permitted in the underlying district, shall be permitted:

- (1) Residential uses in an underlying industrial district, subject to the standards of this overlay district.

- b. Amend Section 10.812, "Development standards", subsection (2), "Parking standards", Table 10.812(3), "Number of Parking Spaces", by replacing the term "restaurants/nightclubs" with "Eating, Drinking and Entertainment Establishments". All other entries remain unchanged. The revised table shall read as follows:

Table 10.812(3) Number of Parking Spaces

Use	Minimum/Maximum Number of Parking Spaces
Hotels and motels	Minimum 0.5 spaces per room
Religious institutions	Maximum One (1) space per 8 seats <i>(Petition No. 2002-147, § 10.803(6)(a), 01-21-03)</i>
Residential	Minimum One (1) space per dwelling unit. Minimum .25 spaces per unit for Multi-Family Elderly or Disabled
Eating, Drinking and Entertainment Establishments	Minimum One (1) space per 125 square feet
All Other Non-Residential Uses	Minimum One (1) space per 600 square feet

5. PART 9: TRANSIT SUPPORTIVE OVERLAY DISTRICT

a. Amend Section 10.907, "Development Standards, subsection (5), "Floor Area Ratio", subsection (c), by replacing the term "outdoor café" with "open air Eating, Drinking and Entertainment Establishment". All other subsections remain unchanged. The revised subsection shall read as follows:

(c) Plazas, arcades, courtyards, galleries, open air Eating, Drinking and Entertainment Establishments, rooftop gardens, and widened public sidewalks that enhance pedestrian spaces and amenities can be credited toward meeting the minimum required FAR. If the pedestrian spaces/amenities are available to the public then the square footage shall be credited at 100%; if private, then the square footage shall be credited at 50%. In no instance shall more than 20% of the pedestrian area be credited toward the required FAR.

b. Amend Section 10.907, "Development Standards", subsection (6), "Parking standards" by replacing the term "restaurants/nightclubs" in the table with "Eating, Drinking and Entertainment Establishments" in two places. All other subsections remain unchanged. The revised subsection and table shall read as follows:

(6) Parking standards

(a) New permitted uses within this zoning overlay district shall be required to meet the minimum/maximum number of off-street parking spaces as follows: All square footage is measured as "gross footage".

USE	MINIMUM/MAXIMUM NUMBER OF PARKING SPACES
Residential	Minimum of 1 space per dwelling unit for properties on blocks with single family zoning, no parking minimum for all other properties and a maximum of 1.6 parking spaces per dwelling unit.
Office	Maximum of one (1) parking space per 300 square feet of office space. Mixed-use developments and multi-use developments of residential and office uses may share parking spaces as per Section 12.203.
Eating, Drinking and Entertainment Establishments	For all sites within 800' of single family zoning, minimum of one (1) parking space per 150 square feet of Eating, Drinking and Entertainment Establishments space. For all other sites, no minimum. Maximum of one (1) space per 75 square feet.
Retail	Maximum of one (1) space per 250 square feet.
All Other Non-Residential Uses	The maximum number of parking spaces permitted is listed as the minimum amount required in the Table 12.202, per non-residential use.

c. Amend Section 10.909, "Exceptions", subsection (3), "Expansions of Existing Uses", subsection (b), subsection (3), subsection (b), by replacing the term "outdoor cafes" with "open air Eating, Drinking and Entertainment Establishments". All other subsections remain unchanged. The revised subsection shall read as follows:

- (b) Building expansions (for both conforming and non-conforming uses) are permitted for between 10% to 20% (total) of the gross floor area in existence at the effective date of the reclassification of the property. Expansions shall be subject to the following:
 - 1. The building expansion shall meet the minimum setback, yard, and height requirements of Section 10.907(1), (2), and (3).
 - 2. The urban design standards of Section 10.908 (1) through (4) shall apply to the new facade.
 - 3. The expansion shall be located between the existing building and the street, but shall not encroach into the required setback. If the expansion cannot be made without encroachment into the required setback, then the portion of the expansion that would encroach into the setback can be located elsewhere on the site.

A waiver of the location of the building expansion may be granted by the Planning Director if the expansion meets the

intent of the TS district and the following conditions are both met:

- a. Any non-conforming parking located between the building and the setback shall be eliminated. Any such elimination shall not require additional parking even if the site is rendered non-conforming with regard to parking, and
- b. There will be an addition of open air Eating, Drinking and Entertainment Establishments, patios, plazas, courtyards, open space, pedestrian seating areas, or other pedestrian oriented amenities on the site.

D. CHAPTER 11: CONDITIONAL ZONING DISTRICTS

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

- a. Amend Section 11.203, "Uses permitted under prescribed conditions", item (18) by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". Add a new item (8.5) titled, "Eating, Drinking and Entertainment Establishments (Type 2), with conditions. All other items remain unchanged. The revised and new entry shall read as follows:

(8.5) Eating, Drinking and Entertainment Establishments, (Type 2), (MX-2 and MX-3 only), subject to the regulations of Section 12.546.

(18) Retail and office establishments and Eating, Drinking and Entertainment Establishments (Type 1 only) in multi-family and attached buildings, provided that:

- (a) The establishment will be located within a building that contains at least 50 dwelling units;
- (b) Such establishments will occupy no more than 25 square feet per dwelling unit in the building up to a maximum of 10,000 square feet;
- (c) The establishment will have no direct public entrance from the outside of the building except for Eating, Drinking and Entertainment Establishments, and
- (d) No merchandise or display of merchandise will be visible from outside the building.

2. PART 4: COMMERCIAL CENTER DISTRICT

- a. Amend Section 11.402, "Uses permitted by right", item (26), "Restaurants" by replacing "Restaurants" with "Eating, Drinking and Entertainment Establishments (Type 1)". All other entries remain unchanged. The revised entry shall read as follows:

(26) Eating, Drinking and Entertainment Establishments (Type 1).

- b. Amend Section 11.403, "Uses permitted under prescribed conditions", item (7) by replacing "Nightclubs, bars and lounges" with the term, "Reserved". Also add a new item (6.05), "Eating, Drinking and Entertainment Establishments" with conditions. All other entries remain unchanged. The revised items shall read as follows:

(7) Reserved.

(6.05) Eating, Drinking and Entertainment Establishments (Type 2),
provided that:

- (a) Eating, Drinking and Entertainment Establishments are subject to the regulations of Section 12.546.
- (b) Principal use establishments with an accessory drive-in service window and/or outdoor service window having indoor seating accommodation for fewer than 50 patrons are not permitted in CC.

3. PART 7: RESEARCH DISTRICT

- a. Amend Section 11.702, "Uses permitted by right", item (17), "Restaurants" by replacing the entry with "Eating, Drinking and Entertainment Establishments (Type 1)". All other items remain unchanged. The revised item shall read as follows:

(17) Eating, Drinking and Entertainment Establishments (Type 1)

- b. Amend Section 11.703, "Uses permitted under prescribed conditions" by replacing subsection (2) "Nightclubs, bars and lounges" under the second paragraph with "Eating, Drinking and Entertainment Establishments (Type 2)", and adding prescribed conditions. All other subsections remain unchanged. The revised subsection shall read as follows:

Section 11.703. Uses permitted under prescribed conditions.
(Petition No. 2011-018, § 11.703, 05/23/11)

The same uses permitted under prescribed conditions in the RE-1 and RE-2 districts (Section 9.603) shall be permitted under prescribed conditions in the RE-3 district except for the following uses which are not permitted in RE-3:

- (1) Vehicle leasing offices and associated automobile parking.

The following additional uses shall be permitted provided they meet all requirements of this Part and all other requirements established in these regulations:

- (1) Childcare centers in a residence, subject to the regulations of Section 12.502.
- (2) Eating, Drinking and Entertainment Establishments (Type 2), subject to the regulations of Section 12.546.
- (3) Retail sales permitted in B-1, up to 10,000 square feet.
- (4) Retail sales permitted in B-1, over 10,000 square feet (RE-3 – Optional only).
- (5) Structured parking decks, subject to the regulations of 11.706(10).

- c. Amend Section 11.705, "Development standards", subsection (9), "Parking and Loading", subsection (a), "Parking Standards", subsection 1, by deleting the entry for "Nightclubs, bars and lounges" and changing the entry for "Restaurants" to "Eating, Drinking and Entertainment Establishments". The remaining items are unchanged. The revised section shall read as follows:

- (a) Parking Standards.

1. The minimum parking requirements for the RE-3 District are as follows:

Residential – 1.5 space per dwelling unit

Hotels/Motels – 1.0 space per room

Eating, Drinking and Entertainment Establishments – 1 space per 125 gross square feet

Retail – 1 space per 250 gross square feet

All Other Uses - 1 space per 400 gross square feet

E. CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY

1. PART 2: OFF-STREET PARKING AND LOADING

- a. Amend Section 12.202, "Required number of off-street parking and bicycle spaces", Table 12.202, "Minimum required off-street parking spaces by use", under the "Office and Business Uses" heading, under the "Hotels/motels" entry, replace the term "Restaurant/entertainment facility" with "Eating, Drinking and Entertainment Establishments". Delete the row for "Nightclubs, lounges and bars" in its entirety. In the row "Restaurants", replace the term "Restaurants" with "Eating, Drinking and Entertainment Establishments". All other entries remain unchanged. The revised entries shall read as follows:

Table 12.202

Permitted Uses	Number of Auto Parking Spaces Required	Long-term Bicycle Parking Spaces Required	Short-term Bicycle Parking Spaces Required
OFFICE AND BUSINESS USES:			
Hotels/motels (a) Per room for rent (b) Per meeting room capacity (c) Eating, Drinking and Entertainment Establishment		1 space per 20 rentable rooms	None
Eating, Drinking and Entertainment Establishments	1 space per 75 square feet	2, or 1 per 10,000 square feet	5% of auto parking

- b. Amend Section 12.206, "Location of required parking", subsection (2) by deleting the section in its entirety, and adding the term, "Reserved". All other subsections remain unchanged. The revised subsection shall read as follows:

(2) Reserved.

- c. Amend Section 12.214, "Number, size and location of loading spaces", Table 12.214, by replacing the term "Restaurant" with "Eating, Drinking and Entertainment Establishments". The revised entry shall read as follows:

Table 12.214

REQUIRED LOADING SPACES, BY USE.

LAND USE	GROSS FLOOR AREA (Square Feet)	LOADING AND UNLOADING SPACES REQUIRED	
		10 feet X 25 feet	10 feet X 50 feet
Office, Eating, Drinking and Entertainment Establishments, Hotel or Motel:	10,000 – 99,999	1	0
	100,000 – 149,999	0	1
	150,000 and over	0	2
Retail establishment, Shopping center, or any Industrial use:	0 – 4,999	1	0
	5,000 – 19,999	0	1
	20,000 – 49,999	0	2
	50,000 – 79,999	0	3
	80,000 – 99,999	0	4
	100,000 – 149,999	0	5
	150,000 and over	0	6

- d. Amend Section 12.302, "Buffer requirements", Table 12.302(a), "Minimum buffer requirements by use and district categories", under category "6. BUSINESS", by amending the two entries titled "Retail, Shopping Centers and Restaurants" by deleting the term "and Restaurants" in two rows. Also add three new rows titled "Eating, Drinking and Entertainment Establishments". All other entries remain unchanged. The revised entries shall read as follows:

Table 12.302(a)

MINIMUM BUFFER REQUIREMENTS BY USE AND DISTRICT CATEGORIES

DEVELOPING USES	SINGLE FAMILY USE OR ZONING	MULTI FAMILY USE OR ZONING	INSTITUTIONAL USE INTENSITY OR ZONING			PARKS AND GREENWAYS
			Low	Medium	High	
6. BUSINESS						
Retail, Shopping Centers, up to 50,000 sq. ft.	B	B	C			C
Retail, Shopping Centers more than 50,000 sq. ft.	B	B	C	C	C	C
Eating, Drinking and Entertainment Establishments (Type 1) under 50,000 sq. ft.	B	B	C			C
Eating, Drinking and Entertainment Establishments (Type 1) with more than 50,000 sq. ft.	B	B	C	C	C	C
Eating, Drinking and Entertainment Establishments (Type 2)	B	B	B	C	C	C

- e. Amend Section 12.413, "Drive-in and drive-through service lanes/windows", Table 12.413 by converting information and footnotes into a table format and by replacing the term "Restaurants" with "Eating, Drinking and Entertainment Establishments".

**Table 12.413
MINIMUM VEHICLE STORAGE REQUIREMENTS¹**

TYPE OF FACILITY	VEHICLE STORAGE
Bank	6 spaces per window ²
Eating, Drinking and Entertainment Establishment (Type 1)	8 spaces per window ³
Single vehicle automatic accessory use car wash	4 spaces per wash line
Automatic car wash	10 spaces per wash line
Self-service car wash	3 spaces per wash line
Drive-in theater	15% of the total parking capacity
Service stations	4 spaces per service pump island
Dry cleaners	3 spaces per window ²
Other uses	5 spaces per window

1. One vehicle space equals 20 feet.
 2. This requirement will be reduced to 3 spaces per window for savings and loan institutions and credit unions. For banks with more than 5 drive-up windows, the storage requirements shall not exceed a total of 20 vehicles.
 3. As measured from the pick-up window.
- f. Amend Section 12.544, "Breweries" by modifying subsection (1), subsection (a) by replacing the text, "at least one of the following uses associated with the brewery, and" with "an Eating, Drinking and Entertainment Establishment". Also replace the text, "restaurant, nightclub, bar or lounge" with "Eating, Drinking and Entertainment Establishment". Amend subsection (1)(a)(1) by replacing the text "restaurant, nightclub, bar or lounge use" with "Eating, Drinking and Entertainment Establishment". In the same subsection, replace the text, "to residential uses and districts" with "required in Section 12.546". In subsection (1)(a)(2) delete the text, "For breweries and all associated uses", and "associated restaurant, nightclub, bar or lounge", and "all associated uses". The revised entry shall read, "The minimum size of the Eating, Drinking and Entertainment Establishment shall be 20% of the total square footage for the brewery and the Eating, Drinking and Entertainment Establishment, or 1,500 square feet, whichever is less". In subsection (1)(b), replace "all associated uses" and "associated restaurant, nightclub, bar or lounge" with "the Eating, Drinking and Entertainment Establishment". In subsection (1)(c), delete the words, "associated" and "restaurant, nightclub, bar or lounge use" and replace with "Eating, Drinking and Entertainment Establishment". In subsection (2)(a), delete the words, "one of the following uses associated with the brewery and". In the same subsection, delete the words "a restaurant, nightclub, bar, or lounge". In the same subsection, replace "restaurant, nightclub, bar, or lounge" with "Eating, Drinking and Entertainment Establishment". In subsection (2)(a)(1) replace "restaurant, nightclub, bar or lounge use" with "Eating, Drinking and Entertainment Establishment". Add to sentence, "in accordance with the zoning district in which they are located". Delete the phrase, "to residential uses and districts". In subsection (2)(a)(2), delete the phrase, "For breweries and all associated uses" and "all associated uses". In the same subsection replace the term "restaurant, nightclub, bar, or lounge" with "Eating, Drinking and Entertainment Establishment". In subsection (2)(b) and (2)(c) delete the phrases, "all associated uses" and "for all uses" and "associated restaurant, nightclub, bar or lounge". All other subsections remain unchanged. The revised section shall read as follows:

Section 12.544 Breweries.

- (1) In TOD-M, TOD-E, MUDD and UMUD, breweries are subject to the following prescribed conditions:
 - (a) The brewery shall include an Eating, Drinking and Entertainment

Establishment located in the same building. The Eating, Drinking and Entertainment Establishment shall meet the following conditions:

1. All prescribed conditions associated with the Eating, Drinking and Entertainment Establishment shall be met in accordance with the zoning district in which they are located, including any separation distances required in Section 12.546.
 2. The minimum size of the Eating, Drinking and Entertainment Establishment shall be 20% of the total square footage for the brewery and the Eating, Drinking and Entertainment Establishment or 1,500 square feet, whichever is less.
 - (b) Maximum size for the brewery and the Eating, Drinking and Entertainment Establishment: 15,000 square feet. To encourage the adaptive reuse of older or underutilized buildings, the maximum size shall be increased to 25,000 square feet, if the brewery and Eating, Drinking and Entertainment Establishment locate in a building constructed prior to 1980.
 - (c) If the brewery is located on a public right-of-way, private street, or rapid transit line, the Eating, Drinking and Entertainment Establishment shall have fenestration through vision glass, doors or active outdoor spaces along 30% of the length of the building side that fronts the public right-of-way, private street, or rapid transit line. If the building architecture or site prohibits meeting the above condition, the Planning Director, or designee, may approve alternative approaches.
 - (d) Off-site distribution of manufactured beer is permitted if vehicular access is from a Class II (limited access arterial), Class III (major arterial), Class III-C (commercial arterial), Class IV (minor arterial), Class V-C (commercial street), or by a commercial cul-de-sac.
 - (e) All development and urban design standards of the district shall apply.
- (2) In PED and TS, breweries shall only be permitted when the underlying zoning district is B-1, B-2, I-1 or I-2, and the following prescribed conditions are met:
- (a) The brewery shall include an Eating, Drinking and Entertainment Establishment located in the same building. The Eating, Drinking

and Entertainment Establishment shall meet the following conditions:

1. All prescribed conditions associated with the Eating, Drinking and Entertainment Establishment shall be met in accordance with the zoning district in which they are located, including any separation distances required in Section 12.546.
 2. The minimum size of the Eating, Drinking and Entertainment Establishment shall be 20% of the total square footage for the brewery and the Eating, Drinking and Entertainment Establishment, or 15,000 square feet, whichever is less.
- (b) Maximum size for the brewery and Eating, Drinking and Entertainment Establishment: 15,000 square feet. To encourage the adaptive reuse of older or underutilized buildings, the maximum size shall be increased to 25,000 square feet, if the brewery and Eating, Drinking and Entertainment Establishment locate in a building constructed prior to 1980.
- (c) If the brewery is located on a public right-of-way, private street, or rapid transit line, the Eating, Drinking and Entertainment Establishment shall have fenestration through vision glass, doors or active outdoor spaces along 30% of the length of the building side that fronts the public right-of-way, private street, or rapid transit line. If the building architecture or site prohibits meeting the above condition, the Planning Director, or designee, may approve alternative approaches.
- (d) Off-site distribution of manufactured beer is permitted if vehicular access is from a Class II (limited access arterial), Class III (major arterial), Class III-C (commercial arterial), Class IV (minor arterial), Class V-C (commercial street), or by a commercial cul-de-sac.
- (e) All development and urban design standards of the district and underlying district, shall apply.
- g. Add a new section 12.546, titled, "Eating, Drinking, and Entertainment Establishments (Type 2 only)", with prescribed conditions and an exemption process that reads as follows:

Section 12.546. Eating, Drinking, and Entertainment Establishments (Type 2 only).

Type 2 Eating, Drinking and Entertainment Establishments are subject to the following prescribed conditions:

- (1) If food or beverages are consumed in an outdoor seating/activity area at any time between the hours of 11:00 p.m. and 8:00 a.m., the use is subject to one of the following prescribed conditions:
 - (a) The outdoor seating/activity area shall be separated by a distance of at least 100 feet from the nearest property line of a vacant lot or a residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district; or
 - (b) If the outdoor seating/activity area is less than 100 feet from the nearest property line of a vacant lot or a residential use (single family, duplex, triplex or quadraplex only) when 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).

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 residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district.

- (2) If outdoor entertainment occurs at any time between the hours of 11:00 p.m. and 8:00 a.m., then the following minimum separation distances shall be met, based on the zoning district in which the use is located:
 - (a) Minimum 100-foot separation distance in the MUDD, UMUD, TOD and TS zoning districts. The minimum required separation distance cannot be reduced as an optional provision unless the following conditions are met:
 - i. There are no principal residential structures within 225 feet of the portion of the property line along which the reduction is being requested;
 - ii. The optional request includes zoning conditions to mitigate the impact of a reduction in the separation distance including but not limited to: elevation

changes, structures located between the outdoor use and the property line, enhanced screening and buffering, and noise reduction features; and ,

- iii. The optional request does not reduce the separation distance requirement by more than 50%.
- (b) Minimum 250-foot separation distance in the PED zoning district. The minimum required separation distance cannot be reduced as an optional provision through the rezoning process. Nightclub, bar, lounge and Type 2 Eating, Drinking and Entertainment Establishments located in a PED zoning district, shall meet the separation distance standards established in an approved Pedscape Plan.
- (c) Minimum 400-foot 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.

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 residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district.

(3) Certificate of Exemption.

- (a) Business establishments that would have met each of the following criteria as of January 1, 2013 are eligible to apply for a Certificate of Exemption, the issuance of such Certificate shall constitute an exemption from the separation distance requirements of Section 12.546:
 - 1. Met the definition of a Type 2 Eating, Drinking and Entertainment Establishment;
 - 2. Had an outdoor seating/activity area located within the separation distances required in Section 12.546; and
 - 3. Provided outdoor entertainment between the hours of 11:00 p.m. and 8:00 a.m.
- (b) The Planning Director, or her or his designee, is authorized to issue a Certificate of Exemption and to establish administrative processes for such issuance.

(c) Notification of Application for Certificate of Exemption.

1. The Planning Director, or her or his designee, shall mail a written notice and a copy of the submitted Certificate of Exemption application to property owners located within the designated separation distance required in Section 12.546(2). Written comments may be submitted to the Planning Director, or her or his designee, within fifteen (15) days of the date of notification.
2. The Planning Director, or her or his designee, shall mail a written notice informing property owners within the designated separation distance of the decision (approval or denial) of the Certificate of Exemption.

(d) A Certificate of Exemption shall be issued if the following criteria apply:

1. 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
2. Either of the following applied to the Type 2 Eating, Drinking and Entertainment Establishment, on or after January 1, 2013:
 - i. The Type 2 Eating, Drinking and Entertainment Establishment abuts a public right-of-way that is 60 feet or greater in width; or
 - ii. A building of at least 1,900 square feet (excluding single-family, duplex, triplex and quadraplex buildings) is located between the outdoor seating/activity area of the Type 2 Eating, Drinking and Entertainment Establishment, and a vacant lot or a residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district. The building can be located either on- or off-premise.

- (e) A Type 2 Eating, Drinking and Entertainment Establishment must apply for a Certificate of Exemption within ninety (90) days from the date the Planning Director provides written notice to a Type 2 Eating, Drinking and Entertainment Establishment affected by the separation distances or within one (1) year from the date this ordinance becomes law, whichever first occurs. A pending variance petition shall stay enforcement of the application limitation period. The Planning Department shall make reasonable efforts to notify directly affected businesses of the enactment of this ordinance.
- (f) For a Type 2 Eating, Drinking and Entertainment Establishment that receives a Certificate of Exemption, the outdoor seating/activity area or building(s), as either existed as of January 1, 2013, may not be moved, expanded, enlarged, or changed. Routine repair and maintenance is permitted.
- (g) If a Type 2 Eating, Drinking and Entertainment Establishment receiving a Certificate of Exemption fails to maintain compliance with the requirements of Section 12.546(3) or the conditions represented or specified in its application for exemption, the Planning Director may revoke the Certificate of Exemption. Such revocation shall occur only after written notice and a reasonable opportunity to remedy the violation.
- (h) Any Type 2 Eating, Drinking and Entertainment Establishment building or outdoor seating/activity area 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 if a building permit for the repair or restoration is issued within twelve (12) months of the date of damage.
- (i) The exemption provided under Section 12.546(3) shall be revoked for any Type 2 Eating, Drinking and Entertainment Establishment that has visibly discontinued use as a Type 2 Eating, Drinking and Entertainment Establishment for twelve (12) consecutive months or obtains an approved change of use.
- (j) 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.

- (k) The land owner where the Certificate of Exemption is being requested, or a property owner of a vacant lot or a residential use (single family, duplex, triplex or quadraplex only) located within the specified separation distance, may appeal a denial, approval, or revocation of a Certificate of Exemption. Such appeal must be filed with the Zoning Board of Adjustment within thirty (30) days from the date of such action.

F. CHAPTER 13: SIGNS

- 1. Amend Section 13.102, "Definitions", item (O1), "Outparcel" by replacing the term "restaurants" with "Eating, Drinking and Entertainment Establishments". All other definitions remain unchanged. The revised definition shall read as follows:

(O1) Outparcel.

A parcel of land associated with a shopping center or multi-tenant property development, which is designated on an approved site plan as a location for a free standing structure with an intended use such as, but not limited to banks, saving and loans, dry cleaners, service stations, vehicle repair garages, offices, Eating, Drinking and Entertainment Establishments, retail establishments, or combination of uses thereof and adjoins the shopping center or multi-tenant property development or the parking and service drives associated with it on any side, other than the side fronting the public right-of-way.

- 2. Amend Section 13.102, "Definitions", item (S7), "Sign types", item (ap), "Marquee Sign", by removing the term "nightclub". All other definitions remain unchanged. The revised subsection shall read as follows:

(ap) Marquee Sign

A structure, bearing a sign, projecting over an entrance to a motion-picture theater, museum, art gallery, hotel, motel, convention center or hall, conference center, exhibition hall, merchandise mart, building for dramatical, musical, or cultural activity, stadium, coliseum, cabaret, or adult entertainment providing changeable copy that relates to the principal use on the premises.

- 3. Amend Section 13.106, "Signs not requiring a permit", item (15), "Signs not requiring a permit", by replacing the term, "restaurant" with "business. All other items remain unchanged. The item shall read as follows:

- (15) Signs not requiring a permit. The street address of the premise is not a sign or a part of a sign for the purposes of this code, except where the name and address are identical. Where the name and address are identical (e.g., a business named "Bay Street"), the name/address shall be considered a Business Sign, except as required by Section 13.101 (5).
(Petition No. 2003-009, §13.106(16), 2-17-03)

G. SUBJECT INDEX

- 1. Amend the Subject Index by replacing "Restaurants" with "Eating, Drinking and Entertainment Establishments". The revised entry shall read as follows:

Eating, Drinking and Entertainment Establishments
 Where permitted.....9.101
 Prescribed conditions.....12.546

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

Approved as to form:

Carolyn Johnson

 City Attorney

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 21st day of July, 2014, the reference having been made in Minute Book 137, and recorded in full in Ordinance Book 58, Page(s) 798-833.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of July, 2014.



Stephanie C. Kelly

 Stephanie C. Kelly, MMC NCCMC City Clerk