

1 **COMMON AREA ENTERTAINMENT PERMITS – S.L. 2019-182, Sec. 19**

2
3
4 14B NCAC 15B .1200 is proposed for adoption as follows:
5

6 **SECTION .1200 – COMMON AREA ENTERTAINMENT PERMITS**

7 **14B NCAC 15B .1201. DEFINITIONS**

8 In addition to the definitions found in G.S. 18B-101 and 18B-1000, the following definitions apply to this Section:

- 9 (1) “Common area” means portions of a building or structure and outdoor areas that are used jointly by
10 multiple businesses on a property or within a planned development project, whether such areas are
11 under common ownership or are subject to cross-access easements for use by multiple tenants, that
12 are used for pedestrian, non-vehicular purposes. Common areas do not include parking fields.
- 13 (2) “Designated consumption area” means the portion of a multi-tenant establishment’s common area,
14 including indoor and outdoor common areas, designated by a person issued a common area
15 entertainment permit as the area for consumption of alcoholic beverages.
- 16 (3) “Parking field” means an area designated by the property owners or common property owner’s
17 association for motor vehicle parking, including any areas identified for parking or access or egress
18 shown on any recorded plat or map, areas identified for parking by signage on the property, and
19 areas reserved for parking in any common declaration of restrictive covenants or shown on any
20 public documents included in any zoning or building permit process.
- 21 (4) “Shopping mall” means a building or structure, or multiple buildings and structures, some portion
22 of which is enclosed and air conditioned, on the same property, or within the same planned
23 development project that may be subject to a common declaration of restrictive covenants
24 administered by a common property owners’ association, and under common ownership, control or
25 property owner governance, that contains more than one business that sells at retail food, goods,
26 services, or a combination of food, goods, and services, that include or are connected by common
27 areas.
- 28 (5) “Tenant” means a person that owns or rents property within a multi-tenant establishment.
29

30 History Note: Authority G.S. 18B-100; 18B-207;18B-1001(21);

31 Eff. _____
32

33 **14B NCAC 15B .1202. COMMON AREA ENTERTAINMENT PERMIT REQUIREMENTS**

34 (a) In addition to the requirements for permits pursuant to 14B NCAC 15B .0102, the applicant for a common area
35 entertainment permit shall submit the following information to the Commission as part of the permit application:

- 1 (1) A plat showing the location of the common area of the multi-tenant establishment, including parking
2 fields and the location of all buildings sharing or having rights of access to and use of the common
3 area, with space occupied by a retail permittee labeled on the plat with the retail permittee's name;
4 (2) A list of all tenants by address of any building or structure that includes or is connected by common
5 areas. Each tenant shall be identified by business type that identifies whether the business sells
6 food, goods, or services. For tenants that hold ABC permits, the tenants shall also be identified by
7 the types of ABC permits and either by the permit number or the ABC permit file number each
8 business holds;
9 (3) A copy of the deed(s) or memorandum of lease to the real property that constitutes the multi-tenant
10 establishment showing rights of ownership or possession of the real property;
11 (4) If the common area is owned or controlled by a property owners' association, a copy of the common
12 declaration of restrictive covenants or other document creating the property owners' association and
13 granting authority to the property owner's association to control the common area;
14 (5) If the common area is subject to cross-access easements for use by multiple businesses, a copy of
15 all cross-access easements; and
16 (6) If the multi-tenant establishment is a shopping mall, certification by a licensed architect or engineer
17 that not more than fifty percent (50%) of the shopping mall's common areas are enclosed and air-
18 conditioned.

19 (b) The portion of the common area of a multi-tenant establishment designated by the owner or property owners'
20 association of the multi-tenant establishment as approved by the Commission as designated consumption area shall
21 be deemed the licensed premises for purposes of Chapter 18B of the General Statutes and this Chapter.

22 (c) A common area entertainment permit shall be revoked and surrendered if multi-tenant establishment fails to
23 continue to meet the definition of a multi-tenant establishment, or if the number of retail permittees contiguous to the
24 designated consumption area is less than two.

25
26 History Note: Authority G.S. 18B-100; G.S. 18B-207; 18B-1000(4a); 18B-1001(21);

27 Eff. _____
28

29 **14B NCAC 15B .1203. ALCOHOLIC BEVERAGE CONSUMPTION COMMON AREA**

30 (a) Prior to allowing consumption of alcoholic beverages within any common area of a multi-tenant establishment,
31 upon renewal of a common area entertainment permit, or at least 10 days prior to making any adjustments to an
32 approved designated consumption area, a common area entertainment permittee shall submit a plat or map as required
33 by G.S. 18B-1001(21)a. for approval by the Commission of the portion of the common area designated the designated
34 consumption area. The plat or map shall include the location and designation of buildings of the multi-tenant
35 establishment, and the location and identity of each retail permittee whose property is contiguous to the designated
36 consumption area. The map or plat shall also include a designation of all accesses to the designated consumption area,

1 including accesses from contiguous retail permittees and for the general public, and the restrooms required pursuant
2 to 14B NCAC 15A .0103(b).

3 (b) The designated consumption area shall have delineated vertical boundaries that the consumer would recognize as
4 indicating the boundaries that physically separate areas where consumption is allowed pursuant to this Section from
5 areas where consumption is not allowed. Delineated vertical boundaries shall be of sufficient height and density to
6 restrict a reasonable person's access to and from the designated consumption area except through designated entrances
7 and exits.

8 (c) Signs - Signs that include the information required pursuant to Paragraph (d) of this Rule shall be placed at the
9 entrance and exit sides of all accesses to the designated consumption areas as follows:

10 (1) The dimensions of the sign shall be at least two feet high and two feet wide;

11 (2) The lettering of the sign shall be at least two inches in height and background colors shall contrast
12 so that the notice may be discerned by the viewer;

13 (3) The sign shall be posted within 4 feet of the entrance to or exit from the designated consumption
14 area; and

15 (4) The lettering on the sign shall face outside of the entrance and inside of the exit of the designated
16 consumption area.

17 (d) Sign content – Signs required pursuant to Paragraph (c) of this Rule shall contain the following information:

18 (1) Designation where the designated consumption area begins and ends.

19 (2) Only alcoholic beverages sold by retail permittees whose permitted premises are contiguous to the
20 designated consumption area may be in the designated consumption area.

21 (3) Only alcoholic beverages contained in an open container containing the retail permittee seller's
22 name or registered trademark, unique physical address, and the date of sale shall be allowed in the
23 designated consumption area.

24 (4) A customer shall only possess or consume one alcoholic beverage at a time while in the designated
25 consumption area.

26 (5) Alcoholic beverages shall only be possessed and consumed in the designated consumption area
27 during the times authorized by the common area entertainment permittee during the hours in which
28 alcoholic beverages may be sold pursuant to G.S. 18B-1004.

29 (6) Notice that the customer shall dispose of any alcoholic beverages in his or her possession and shall
30 not possess alcoholic beverages when exiting the designated consumption area except when the
31 customer exits the designated consumption area into a retail permittee's premises contiguous to the
32 designated consumption area that allows the customer to enter the premises with the alcoholic
33 beverage.

34 (e) A retail permittee contiguous to the designated consumption area shall post a sign at the entrance to the retail
35 premises from the designated consumption area that states the retail permittee's policy with regards to allowing open
36 containers of alcoholic beverages to be brought onto the retail permitted premises from the designated consumption
37 area.

1
2 History Note: Authority G.S. 18B-100; G.S. 18B-207; 18B-1000(4a); 18B-1001(21);

3 Eff. _____
4

5 **14B NCAC 15B .1204. COMMON AREA ENTERTAINMENT AREA RESTRICTIONS**

6 (a) Alcoholic beverages sold for consumption in the designated consumption area shall be sold by retail permittees
7 whose permitted premises are contiguous to the designated consumption area. Alcoholic beverages sold for
8 consumption in the designated consumption area shall be sold and served on the retail permittee’s licensed premises.

9 (b) No retail permittee shall allow a customer to exit the retailer’s permitted premises with an open container of
10 alcoholic beverages unless the customer is exiting into the designated consumption area and the alcoholic beverages
11 are contained in a single, non-glass container containing no more than 16 fluid ounces that displays the name or
12 registered trademark of the retail permittee, the retail permitted premises physical address, the date the container was
13 sold to the customer, and the container displays in no less than 12-point font the statement “Drink Responsibly – Be
14 21.”.

15 (c) No alcoholic beverages shall be possessed or consumed within the designated consumption area that have not
16 been bought from a retail permittee who is a tenant of the multi-tenant establishment whose retail permitted premises
17 is contiguous to the designated consumption area.

18 (d) No alcoholic beverages shall be possessed or consumed within the designated consumption area except those
19 contained in the original container sold by the retail permittee in compliance with Paragraph (b) of this Rule.

20
21 History Note: Authority G.S. 18B-100; G.S. 18B-207; 18B-1000(4a); 18B-1001(21);

22 Eff. _____
23

24 **14B NCAC 15B .1205 COMMON AREA ENTERTAINMENT PERMITTEE OBLIGATIONS**

25 (a) A common area entertainment permittee shall ensure that all alcoholic beverages in the designated consumption
26 area are disposed of and all open containers are cleared from the designated consumption area during the hours
27 alcoholic beverages may not be sold under G.S. 18B-1004 or during times the common area entertainment permittee
28 does not allow alcoholic beverages to be consumed in the designated consumption area.

29 (b) No alcoholic beverages shall be allowed in a designated consumption area except during the hours when at least
30 two tenants holding retail permits contiguous to the designated consumption area are engaged in the sale of alcoholic
31 beverages.

32 (c) An employee or agent of the holder of a common area entertainment permit shall be present within the designated
33 consumption area at all times alcoholic beverages may be possessed and consumed within the designated consumption
34 area. These employees or agents shall wear attire visible to a consumer that identifies the individual as representing
35 the permittee with regards to enforcement of the rules of the designated consumption area.

36
37 History Note: Authority G.S. 18B-100; G.S. 18B-207; 18B-1000(4a); 18B-1001(21);

1 Eff. _____

2
3 14B NCAC 15B .0103 is proposed for amendment as follows:
4

5 **14B NCAC 15B .0103 ADDITIONAL PERMIT LIMITATIONS AND REQUIREMENTS**

6 (a) No permit for the possession, sale, or consumption of alcoholic beverages shall be issued to any establishment
7 when there are living quarters in or connected to the premises being permitted, and no permittee shall establish or
8 maintain living quarters in or connected to the permittee's licensed premises.

9 (b) No permit for the on-premises possession, sale, or consumption of alcoholic shall be issued to any establishment
10 unless there are two restrooms in working order on the premises. The Commission shall waive the two-restroom
11 requirement upon a showing by the permittee that it is not possible to have a second restroom in the existing premises
12 due to building restrictions under historical preservation or zoning laws, or building or fire codes. For a Common
13 Area Entertainment permittee, the restrooms requirement of this Paragraph may be met if at least two restrooms
14 located in the common area of the multi-tenant establishment of which the designated consumption area is a part are
15 available to individuals consuming in the designated consumption area or if at least two of the retail permitted premises
16 contiguous to the designated consumption area allow individuals to exit from the designated consumption area into
17 the retail premises for access to the retail permittee's restrooms.

18 (c) In determining the areas where alcoholic beverages may be sold and consumed, the Commission shall consider
19 the convenience of the permittee and patrons, allowing the maximum use of the premises consistent with the control
20 of the sale and consumption of alcoholic beverages. ~~Consumption~~ Except as authorized pursuant to a Common Area
21 Entertainment permit, consumption shall not be allowed in areas open to the general public other than patrons. To be
22 approved, any premises shall have delineated vertical boundaries that the consumer would recognize as indicating the
23 boundaries that physically separate areas where consumption is allowed from areas open to the general public other
24 than patrons.

25 (d) The sale and delivery of alcoholic beverages by permitted retail outlets located on fairgrounds, golf courses, ball
26 parks, race tracks, and other similar public places are restricted to an enclosed establishment in a designated place. No
27 alcoholic beverages shall be sold, served, or delivered by these outlets outside the enclosed establishment, nor in
28 grandstands, stadiums, or bleachers at public gatherings, except as provided in Paragraph (g) of this Rule. As used in
29 this Paragraph, the term "enclosed establishment" includes a temporary structure or structures constructed and used
30 for the purpose of dispensing food and beverages at events to be held on fairgrounds, golf courses, ball parks, race
31 tracks, and other similar places. Sales of alcoholic beverages may be made in box seats only under the following
32 conditions:

- 33 (1) table service of food and non-alcoholic beverages are available to patrons in box seats;
34 (2) no alcoholic beverages are delivered to the box seats area until after orders have been taken; and
35 (3) box seat areas have been designated as part of the permittee's premises on a diagram submitted by
36 the permittee, and the Commission has granted written approval of alcoholic beverage sales in these
37 seating areas.

1 (e) If one permittee has more than one location within a single terminal of an airport boarding at least 150,000
2 passengers annually and that permittee leases space from the airport authority, the permittee in such a situation may:

- 3 (1) obtain a single permit for all its locations in the terminal;
- 4 (2) use one central facility for storing the alcoholic beverages it sells at its locations; and
- 5 (3) pool the gross receipts from all its locations for determining whether it meets the requirements of
6 G.S. 18B-1000(6) and 14B NCAC 15B .0514.

7 (f) Unless the business otherwise qualifies as a wine shop primarily engaged in selling wines for off-premise
8 consumption, a food business qualifies for an off-premise fortified wine permit only if it maintains an inventory of
9 staple foods worth at least one thousand five hundred dollars (\$1,500) at retail value. Staple foods include meat,
10 poultry, fish, bread, cereals, vegetables, fruits, vegetable and fruit juices, and dairy products. Staple foods do not
11 include coffee, tea, cocoa, soft drinks, candy, condiments, and baked goods ingredients, except for ingredients also
12 listed as staple foods in this Paragraph.

13 (g) Notwithstanding Paragraph (d) of this Rule, holders of a retail permit pursuant to G.S. 18B-1001(1) may have in-
14 stand sales pursuant to G.S. 18B-1009, provided that:

- 15 (1) the permittee or the permittee's employee shall not wear or display alcoholic beverage branded
16 advertising;
- 17 (2) the permittee or the permittee's employee shall not use branded carrying trays, coolers, or other
18 equipment to transport malt beverage products;
- 19 (3) the permittee or the permittee's employee may display the malt beverage product names and prices
20 provided that all of the product names are displayed with the same font size and font style; and
- 21 (4) in-stand sales shall cease, whichever is earlier, upon the cessation of other malt beverage sales
22 otherwise in the sports facility or upon the commencement of:
 - 23 (A) the eighth inning during baseball games. However, if a single ticket allows entry to more
24 than one baseball game, then the eighth inning of the final game;
 - 25 (B) the fourth quarter during football and basketball games;
 - 26 (C) the sixtieth minute during soccer games;
 - 27 (D) the third period during hockey games;
 - 28 (E) the final 25 percent of the distance scheduled for automotive races; and
 - 29 (F) the final hour of the anticipated conclusion of a contest or event for all other events.

30
31 *History Note: Authority G.S. 18B-100; 18B-207; 18B-900; 18B-901; 18B-902; 18B-903; 18B-1000(3); 18B-1001;*
32 *18B-1008; 18B-1009;*
33 *Existing rule text was recodified to 14B NCAC 15B .0109, and current rule text was transferred*
34 *from 14B NCAC 15B .0102(c)-(l) Eff. July 1, 2018;*
35 *Readopted Eff. July 1, 2018;*
36 *Amended Eff. _____.*
37