

§ 18B-1001.5. Authorization of common area entertainment permit.

(a) Policy. – The intent of this section is to regulate open containers of alcoholic beverages that customers of a multi-tenant establishment take from a permittee's licensed premises into another area where consumption of the alcoholic beverages is allowed. This section shall not in any way limit the consumption or possession of alcoholic beverages otherwise allowed under this Chapter.

(b) Definitions. – For purposes of this section:

- (1) Common area. – An indoor or outdoor portion of a multi-tenant establishment that is open to the public.
- (2) Customer. – A person who purchases an alcoholic beverage from a permittee that is in a designated consumption area.
- (3) Designated consumption area. – An indoor or outdoor common area on the premises of a multi-tenant establishment designated by the owner or property owners' association of the multi-tenant establishment for consumption of alcoholic beverages and either of the following:
 - a. Any indoor or outdoor area of a permittee business that is contiguous to the designated common area.
 - b. Any indoor or outdoor area of a non-permittee business that is contiguous to the designated common area and that chooses to allow customers to bring open containers of alcoholic beverages onto its premises.
- (4) Mixed-use development. – An integrated development containing both residential and nonresidential uses and adhering to a comprehensive plan and located on a single tract of land, or on two or more tracts of land which may be separated only by a privately maintained street or other right-of-way, or which may be contained in a single building.
- (5) Multi-tenant establishment. – A building or structure, or multiple buildings and structures on the same property, or within the same planned development project, that may be subject to a common declaration of restrictive covenants administered by a common property owners' association, and under common ownership, control, or property owners' association governance, that contains or contain multiple businesses that sell food, goods, services, or a combination of food, goods, and services, and that include or are connected by common areas. The term multi-tenant establishment includes a mixed-use development.
- (6) Non-permittee business. – A business that is a commercial tenant of a multi-tenant establishment and does not hold any ABC permit.
- (7) Permittee. – A business that is a tenant of a multi-tenant establishment and that holds any of the following permits issued by the Commission:
 - a. An on-premises malt beverage permit issued pursuant to G.S. 18B-1001(1).
 - b. An on-premises unfortified wine permit issued pursuant to G.S. 18B-1001(3).
 - c. An on-premises fortified wine permit issued pursuant to G.S. 18B-1001(5).
 - d. A mixed beverages permit issued pursuant to G.S. 18B-1001(10).
 - e. A wine shop permit issued pursuant to G.S. 18B-1001(16).
 - f. A distillery permit issued pursuant to G.S. 18B-1100(5).

(c) Authorization. – A common area entertainment permit may be issued to the owner or property owners' association of a multi-tenant establishment that has at least two tenants

anywhere within the multi-tenant establishment that are permittees. A customer of a permittee may exit the permittee's licensed premises with an open container of the alcoholic beverage sold by the tenant and consume the alcoholic beverage within the confines of any indoor or outdoor designated consumption area.

(d) Designation of Areas Allowed for Consumption. – The owner or property owners' association of a multi-tenant establishment that holds a common area entertainment permit shall designate one or more areas as designated consumption areas. A designated consumption area may include the premises of any business that is open to customers, if the business chooses to allow outside alcoholic beverages on its premises during the days and hours set by the owner or property owners' association of the multi-tenant establishment pursuant to subsection (e) of this section. A permittee may be included in the designated consumption area even if it chooses to exclude open containers of alcoholic beverages purchased from other permittees. A designated consumption area may include privately maintained streets, parking spaces on privately maintained streets, sidewalks, and courtyards. Privately maintained streets and parking areas may be open to vehicular traffic during the dates and times when the designated consumption area is active. The boundaries of a designated consumption area must be marked in a way that clearly indicates to customers where the boundaries of the designated consumption area are located, such as with conspicuous signage, in the discretion of the owner or property owners' association. Vertical delineated boundaries shall not be required to indicate the boundaries of a designated consumption area. The owner or property owners' association of the multi-tenant establishment shall submit to the Commission for review and approval (i) a plat or site map of the multi-tenant establishment property with the designated consumption areas clearly marked or (ii) a detailed map of the relevant building or buildings on the multi-tenant establishment property with the designated consumption area clearly marked. The Commission shall reject any plat or map submitted under this subsection that does not meet the requirements of this section. The owner or property owners' association of the multi-tenant establishment shall submit a plat or map as required under this subsection for each renewal of the permit issued under this section and at least 10 days prior to making any adjustments to a designated consumption area.

(e) Days and Hours When Consumption is Allowed. – Customer-purchased alcoholic beverages may only be consumed within designated consumption areas during the hours in which the alcoholic beverage may be sold under G.S. 18B-1004, and the owner or property owners' association of the multi-tenant establishment may further limit the days and times in which an alcoholic beverage may be consumed in a designated consumption area. The owner or property owners' association of the multi-tenant establishment shall post signs in conspicuous locations on the multi-tenant establishment property indicating the days and times in which a customer may consume alcoholic beverages in a designated consumption area.

(f) Open Containers Sold by Permittees. – A permittee located in a designated consumption area may sell open containers of alcoholic beverages and allow customers to exit the premises to the designated consumption area in accordance with the following requirements:

- (1) The permittee shall only sell and serve alcoholic beverages on its licensed premises.
- (2) The permittee shall only sell an open container of an alcoholic beverage for consumption in the designated consumption area and off the premises of the permittee in a container that meets all of the following requirements:
 - a. The container clearly identifies the permittee from which the alcoholic beverage was purchased.
 - b. The container clearly displays a logo or some other mark that is unique to the designated consumption area in which it will be consumed.
 - c. No later than January 1, 2024, the container shall not be comprised of glass.

d. The container displays, in no less than 12-point font, the statement, "Drink Responsibly – Be 21."

e. The container shall not hold more than 16 fluid ounces.

(3) Nothing in this subsection shall be construed to authorize the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in G.S. 18B-1010.

(g) Limitations on Open Containers. – Unless open containers otherwise allowed by law are allowed in designated consumption areas by the owner or property owners' association of the multi-tenant establishment, the possession and consumption of an open container of an alcoholic beverage in a designated consumption area is subject to all of the following requirements:

(1) A customer may only possess and consume open containers of alcoholic beverages that were purchased from a permittee located in the designated consumption area.

(2) Customer-purchased open containers of alcoholic beverages in the designated consumption area shall only be in containers meeting the requirements set forth in subsection (f) of this section, except for open containers sold by a permittee for consumption on the permittee's premises.

(3) A customer may only possess and consume open containers of alcoholic beverages in the designated consumption area during the days and hours set by the owner or property owners' association of the multi-tenant establishment in accordance with subsection (e) of this section, not to exceed the hours for consumption authorized pursuant to G.S. 18B-1004.

(4) A customer shall not possess at one time open containers of alcoholic beverages in the designated consumption area in excess of the number of alcoholic beverages that may be sold and delivered by a retail permittee as set forth in G.S. 18B-1010.

(5) A customer shall dispose of any open container of an alcoholic beverage in the customer's possession prior to exiting the designated consumption area.

(6) Notwithstanding G.S. 18B-300 and G.S. 18B-301, a permittee or non-permittee business may allow a customer to possess and consume on the business's premises alcoholic beverages purchased from a permittee in the designated consumption area.

(h) Closed Containers. – A person, including a customer who is in possession of an open container of an alcoholic beverage authorized under this section, may possess alcoholic beverages in closed containers in a designated consumption area to the extent otherwise allowed by this Chapter.

(i) Responsibilities of Non-Permittee Businesses. – A non-permittee business that is part of a designated consumption area and that allows customers to bring alcoholic beverages onto its premises shall not be responsible for enforcement of this Chapter. All non-permittee businesses that are part of a designated consumption area and that allow customers to bring alcoholic beverages onto their premises shall clearly post signage on any exits that do not open to a designated consumption area indicating that alcoholic beverages may not be taken past that point. During the days and hours when the designated consumption area is active, a non-permittee business that allows customers to bring alcoholic beverages onto its premises shall allow law enforcement officers access to the areas of the premises accessible by customers.

(j) Responsibilities of Permit Holder. – The owner or property owners' association of a multi-tenant establishment shall comply with this section but shall not be responsible for enforcement of other sections of this Chapter. The Commission shall take no action against the owner or property owners' association of a multi-tenant establishment for violations of other sections of this Chapter unless the owner or property owners' association of the multi-tenant

establishment knowingly committed the violation or knowingly allowed the violation to occur.
(2022-49, s. 2(c).)