

REQUEST	Text amendment to Sections 2.201, 9.504, 9.603, 9.704, 9.802, 9.803, 9.8503, 9.903, 9.1003, 9.1103, 9.1206, 11.403, 12.510, and Table 9.101 of the Zoning Ordinance
SUMMARY OF PETITION	The petition proposes to: 1) modify the name of mobile food vending service; 2) allow the use in additional zoning districts, with prescribed conditions, as either a principal or accessory use; and 3) modify the prescribed conditions for mobile food vending.
PETITIONER AGENT/REPRESENTATIVE	Charlotte-Mecklenburg Planning Department Charlotte-Mecklenburg Planning Department
COMMUNITY MEETING	Meeting is not required.
STATEMENT OF CONSISTENCY	<p>The Zoning Committee found this petition to be consistent with the <i>Centers, Corridors and Wedges Growth Framework</i> goals, based on information from the staff analysis and the public hearing, and because:</p> <ul style="list-style-type: none"> • The amendment expands the employment base and broadens the economy to include emerging industries; • The mobile food vending regulations protect existing neighborhoods; • The use and regulations create walkable places that are vibrant and have a variety of activities. <p>Therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because the proposed text amendment:</p> <ul style="list-style-type: none"> • Balances the mobile food vending industry interests with the community interests; and • Expands the zoning districts where mobile food vendors can locate allowing new mobile food vending opportunities for vendors and customers; and • Reduces the separation distances required to residential uses by building upon the separation distances established for similar uses such as eating/drinking/entertainment establishments; and • Expands the initial permit validity period to 365 consecutive days, thereby reducing the number of permits or permit extensions required per year on each site; and • Adds new provisions allowing the gathering of four or more mobile food vendors (also known as rallies) on sites, allowing mobile food vending organizers to plan social events which add to the vibrancy of the area, and to create walkable places; and • Adds new provisions allowing mobile food vending special events in residential and institutional districts as an accessory use on non-residential lots, and to allow such uses as schools and religious institutions the opportunity to host mobile food vending events on their site; and • Modifies the parking requirements to provide additional parking for customers, thereby reducing the parking impacts on surrounding areas; <p>By a 7-0 vote of the Zoning Committee (motion by Spencer seconded by Wiggins).</p>

ZONING COMMITTEE ACTION	<p>The Zoning Committee voted 7-0 to recommend APPROVAL of this petition with the following modifications:</p> <ol style="list-style-type: none"> 1. Amend Section 9.101, "Use Table", to reflect that mobile food vending is currently allowed with prescribed conditions in the neighborhood service (NS) zoning district by adding a "PC" in the
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table:

PRINCIPAL USE	
OTHER USES	
	NS
Mobile Food Vending	PC

2. Amend Section 12.510(2)(i) by adding a 400-foot separation distance to a residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district if the mobile food vending use operates at any time between the hours of 11:00 p.m. to 7:00 a.m.
3. Amend Section 12.510(3) to allow special event permits in office districts on non-residential lots, subject to the listed prescribed conditions.

VOTE

Motion/Second: Spencer / Wiggins
 Yeas: Fryday, Lathrop, Majeed, McClung, Spencer, Watkins and Wiggins
 Nays: None
 Absent: None
 Recused: None

ZONING COMMITTEE DISCUSSION

Staff noted that the public hearing was held on January 17, 2017, and the Zoning Committee made a recommendation to approve the text amendment on January 25, 2017 by a vote of 4-2. At the City Council meeting on February 20, 2017, the Council voted unanimously to send the petition back to the Zoning Committee for refinement.

Staff reviewed three minor changes to the text amendment:

- Table 9.101, the "Use Table" was amended to reflect that mobile food vending is currently allowed, with prescribed conditions in the NS (neighborhood service) zoning district. All uses in the B-1 (neighborhood business) district are allowed in the NS district. Adding "PC" to the use table clarifies this.
- The separation distances were amended, based on concerns about the noise from generators impacting nearby residential areas. If the use operates at any time between the hours of 11:00 p.m. and 7:00 a.m., staff proposed that the minimum separation distance shall be 400 feet to a residential use (single family, duplex, triplex or quadraplex only) when located in a single family district. In all other instances, the use shall be located a minimum of 100 feet to a residential use located in a single family district, which is consistent with the separation distances for eating/drinking/entertainment establishments.
- The office district was added to the zoning districts where special event permits are allowed, on non-residential lots, as an accessory use, under prescribed conditions.

A Commissioner stated that this is an important change, and it keeps Charlotte vibrant.

Staff noted that this petition is consistent with the *Centers, Corridors and Wedges Growth Framework* goals.

STAFF OPINION

Staff agrees with the recommendation of the Zoning Committee.

FINAL STAFF ANALYSIS
(Pre-Hearing Analysis online at www.rezoning.org)

PLANNING STAFF REVIEW**• Background**

- The mobile food vending regulations were adopted on November 24, 2008.
- As the industry evolved over the years, there was a need to update the mobile food vending regulations to:
 - 1) account for the current business model for mobile food vending;
 - 2) balance community and industry concerns; and
 - 3) build upon the standards of similar uses like eating/drinking/entertainment establishments.
- Planning staff convened a Community Advisory Group, in January of 2014, that met a total of nine (9) times to update the regulations. Stakeholders included vendors, neighborhood leaders, residents, other business owners, and other interested parties.
- In addition, staff met with the Community Safety Committee, as well as City Council members, to discuss the draft recommendations and hear additional input and recommendations for staff consideration. Staff was asked by Council at a dinner meeting presentation in August 2015 to further refine the regulations to address rallies, special events, vending locations, and parking requirements.
- Development of the proposed text amendment has taken into consideration the input from the stakeholder group, including interdepartmental staff members.

• Proposed Request Details

The text amendment contains the following provisions:

• Overview and Highlights:

- Expands the number of zoning districts where this use can locate, either as a principal or accessory use, to allow mobile food vending opportunities for vendors and customers.
- Extends the permit validity period to 365 consecutive days and shifts the responsibility for obtaining a permit to the property owner.
- Modifies the prescribed conditions to allow mobile food vending rallies of four or more vendors on a site with an approved site plan, thereby allowing local, cultural, and food events.
- Modifies the parking requirements to provide additional parking for customers and relieve parking in adjacent residential and commercial areas.
- Adds new requirements to allow mobile food vending special events in residential, office and institutional districts on non-residential lots, as an accessory use only.
- Reduces separation distances to residential uses to match separation distances required for eating/drinking/entertainment establishments, except when the mobile food vending use operates between the hours of 11:00 p.m. to 7:00 a.m.

• Details of the text amendment provisions:

- **Name:** Updates the name of mobile food vending service by removing the term, "service".
- **Zoning Districts:** Expands the number of zoning districts where mobile food vending is permitted, with prescribed conditions:
 - Currently, mobile food vending is allowed as a principal use in the B-1, B-2, NS, MUDD, TOD-R, TOD-E, TOD-M, I-1, and I-2 zoning districts. The new added zoning districts are RE-1, RE-2, RE-3, BD, BP, CC, UMUD, and U-I.
 - As an accessory use, mobile food vending is currently allowed in the RE-1, RE-2, RE-3, B-1, B-2, NS, MUDD, TOD-R, TOD-E, TOD-M, I-1, and I-2 zoning districts. The new added zoning districts are INST, O-1, O-2, and O-3.
 - Removes mobile food vending as a principal use in the TOD-R district.
- **Prescribed conditions:**
 - **Permits:**
 - Expands the validity period of a permit. Instead of being valid at one location for 30 days (and renewable up to two additional times, for a period of 90 days per calendar year), the permit is proposed to be valid for 365 consecutive days at one location, and can be renewed annually.
 - Changes who applies for the permit. Instead of each mobile food vendor applying for a permit, the property owner of the site where the use(s) will locate will be required to apply for the permit.
 - **Location:**
 - Adds a new provision that the mobile food vending use may not block driveways or access to buildings on the site.
 - Removes the requirement that mobile food vending uses not locate on a site with ingress/egress access to a collector, local or cul-de-sac street.

- Adds a new provision that requires a site where four or more mobile food vendors are gathered to have access via a major or minor thoroughfare, collector, or non-residential local street.
- Deletes the requirement that the property owner grant permission to the mobile food vendor to locate on his/her property, since the property owner is now the entity applying for the permit.
- Hours of Operation: Eliminates the hour restrictions that currently are between 8:00 a.m. to 9:00 p.m.
- Separation Distances:
 - Eliminates the separation distance between mobile food vending uses, which currently is 400 feet.
 - Modifies the minimum separation distance between a mobile food vending use to a residential use by:
 - Changing the separation distance from 400 feet to 100 feet, except when the mobile food vending use is operating between the hours of 11:00 p.m. and 7:00 a.m., when a 400-foot separation distance is required.
 - Clarifying that a residential use is a single family, duplex, triplex or quadraplex located in a single family zoning district, which is the same criteria used for eating/drinking/entertainment establishments (EDEE).
 - Adds a new minimum separation distance of 50 feet from an eating/drinking/entertainment establishment (EDEE) that serves food, measured from the closest point of the EDEE entrance to the closest point of the mobile food vehicle or trailer. No separation is required if:
 - The mobile food vehicle/trailer is under the same ownership as the establishment serving food, and operated on the same lot; or
 - The vendor has written approval from all eating/drinking/entertainment establishments located within 50 feet of the vendor.
- Parking:
 - Modifies the parking requirements from one (1) space per 250 square feet of the mobile food unit to the following:
 - 1 vendor: No requirement.
 - 2-3 vendors: 2 parking spaces per vendor.
 - 4-12 vendors: 6 spaces total for the first 3 vendors and 3 spaces for each additional vendor.
 - 13+ vendors: 33 spaces total for the first 12 vendors and 6 spaces for each additional vendor.
 - Adds a new requirement to provide parking, even if the district does not have a parking requirement. Parking shall be in accordance with Section 12.202.
 - Adds a requirement that when a mobile food vendor is an accessory use on a site, the required parking shall not be located in any minimum required parking spaces for the principal use on the site.
- Site Plan Review: Adds a new provision that the property owner must submit a site plan for commercial review (by Neighborhood & Business Services, Charlotte Department of Transportation, and the City of Charlotte Fire Department) if four or more vendors are locating on a site. The setback and yard standards shall be met, and the site plan approval shall be valid for the duration of the use.
- Eliminated Provisions:
 - Eliminates the provision that if a vendor receives a notice of violation at the permit location, the operator or agent is not eligible to renew the permit at the same location during that calendar year. This provision is not needed, as the property owner is the applicant for a permit.
 - Also eliminates the following provision which is not applicable as the industry has evolved: "Any person or vendor shall not be relieved of complying with the mobile food vending regulations by reason of association with any local dealer, trader, operator, merchant, organization, or auctioneer, or by conducting the vending service in connection with, as part of, or in the name of any local dealer, trader, operator, merchant, organization or auctioneer."
- Special Event Permits: Modifies the regulations and deletes reference to non-profit, fundraising event regulations by including them in the new special event permit regulations:
 - Adds new provisions allowing special event permits in residential, office and institutional zoning districts on non-residential lots, such as schools and religious institutions, subject to the following regulations:
 - Mobile food vending vehicles and trailers are permitted at a special event, only as an accessory use on a site; and

- A special event duration shall be for one day with a maximum of ten events per year.
- Other requirements and modifications that apply to both mobile food vending and to special events:
 - Requires the setback, yard, buffer, and sight distance triangle requirements to be met;
 - Allows a mobile food vending use to locate on a site with a conditional site plan, if the approved site plan does not specifically prohibit mobile food vending;
 - Shifts the responsibility for providing trash receptacles and clean-up of the site at the end of the business day from the vendor to the property owner or designee;
 - Requires a minimum separation distance of 100 feet to a residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district, which is the same criteria used for eating/drinking/entertainment establishments, which is a similar use. If the mobile food vending use operates between the hours of 11:00 p.m. and 7:00 a.m. a separation distance of 400 feet is required to a residential use (single family, duplex, triplex or quadraplex only) when located in a single family zoning district;
 - Expands the applicability of local and state codes to include returning to the commissary daily, as required by state law.
- Adds a new provision that the property owner will be cited if no permit has been issued for a location; however, the vendor will be cited if the location does not have property owner approval.
- **Public Plans and Policies**
 - The petition is consistent with the *Centers, Corridors and Wedges Growth Framework* goals to:
 - 1) expand the employment base and broaden the economy to include emerging industries;
 - 2) protect established neighborhoods; and
 - 3) create walkable places that are vibrant and have a variety of activities.
- **TRANSPORTATION CONSIDERATIONS**
 - No comments.

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No comments received.
- **Charlotte Department of Neighborhood & Business Services:** Code Enforcement has worked with the Planning Department on this text amendment. Code Enforcement will rely on public safety partners for enforcement referrals after hours. Planning will partner to build a layer for permitting data on Virtual Charlotte to support administration of this ordinance.
- **Charlotte Fire Department:** No comments received.
- **Charlotte-Mecklenburg Schools:** Not applicable.
- **Charlotte-Mecklenburg Storm Water Services:** No issues.
- **Charlotte Water:** No issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No comments received.
- **Mecklenburg County Parks and Recreation Department:** No issues.

Attachments Online at www.rezoning.org

- Application
- Pre-Hearing Staff Analysis
- Department Comments
 - Charlotte Department of Neighborhood & Business Services Review
 - Charlotte-Mecklenburg Storm Water Services Review
 - Charlotte Water Review
 - Mecklenburg County Parks and Recreation Review

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