

## Memorandum

DATE: May 6, 2011

TO: Downtown Commission Members

FROM: Alan Glines, Urban Planner II

RE: Mobile Food Vending Considerations

Last Fall the Downtown Commission asked staff and Downtown Commission members Jimi Rentz and Rebecca Hecht to study the issue of mobile food vending and gather comment from public stakeholders. Since that time three meetings were held with stakeholders to review current regulations, ideas and concerns. The purpose of this review with the Downtown Commission is to receive direction about this topic as it moves forward through the review process as it pertains specifically to the CBD.

After multiple meetings with the stakeholder group the following items were agreed to by the majority of attendees:

- No roaming and vending
- No use of on-street parking spaces or right-of-way areas for vending
- Food sales occur from a private permitted parcel
- All Buncombe County Health Department Regulations apply and are summarized here:
  - Mobile kitchen inspected multiple times per year
  - The permit for the mobile kitchen must be linked with a restaurant or commissary
  - The mobile kitchen must leave the site each day for cleanup and storage
  - The mobile kitchen is treated just like a restaurant (requires refrigeration, hot water, etc.)
- Mobile vending policy will only allow food sales (services or merchandise not permitted)

### General City Requirements:

Since mobile food vending is by definition on wheels and must leave the site each day, normal building code requirements and rules surrounding equal access under the Americans with Disabilities Act do not apply. Separation between vendors and distance from property lines must be maintained. Site access and movement on the site would be reviewed by site plan. Staff is proposing that basic unimproved sites be brought up to some minimum standards for landscaping and sidewalk improvements in a similar way that any other parcel being developed would have to do. Also if there is already a use on the parcel the parking needs and demands would be considered depending on the parking requirements for that specific zoning district. As proposed when a site is approved for mobile vending it is considered a permanent use and no permit renewals are required. The individual vendors though, would be required to renew their permit each year.

The requirements from other Cities:

A number of the cities around the country have worked to develop ordinances to cover mobile food vending. A number of these cities have adopted a similar approach to what is proposed for Asheville and those ordinances were reviewed for concepts and highlights. The concepts for Asheville are not the most restrictive but are proposed to strike a balance in the community. Charlotte has an ordinance that is much more restrictive than Asheville and Portland Oregon is much more lenient.

Temporary Uses:

For commercial areas outside the Central Business District there is a limited option to apply for a temporary use permit. The temporary use permit covers such temporary activities as Christmas tree sales, pumpkin sales and mobile food vending. Altogether temporary uses of a parcel can not total more than 180 days during a year and individual permits for partial time periods may not overlap with another permit. A flexible part of the ordinance allows for the 180 days to be counted throughout the year and not concurrently counted (for example, someone could use a site each Monday, Wednesday and Friday throughout the year and total up to 180 days). Site improvements are not required for parcels used for a temporary use which is in recognition of the temporary nature of the activity. Mobile food vending is expressly prohibited in the Central Business District and at this time staff has not suggested changing that part of the ordinance because we would prefer to follow the permanent approval process for a site as previously described. Some community stakeholders have recommended that the hours for the mobile food vending for temporary uses be expanded to match the new ordinance until 2:30 AM. Currently the temporary uses must close by 10 PM.

Concerns:

There have been a number of concerns expressed during the stakeholder meetings generally summarized here:

- Anticipation that enforcement of locations and rules “after hours” will be difficult
- Erosion of quality in the downtown food scene because of random mobile food vending
- Inequity for the bricks and mortar restaurants that have invested in buildings and property downtown
- Limitations of some site improvements such as table and chairs and bathrooms to maintain mobile vending as a temporary use and not subject to the building code requirements
- Landscape and other site improvements being a potential burden

Recommendation: Staff recommends that the Downtown Commission review the mobile food vending considerations with specific application to the Central Business District and after public comment vote on the proposals that should be included in an eventual ordinance.

Attachment:

Mobile Vending Ordinance Considerations

