



Charlotte City Council
**COMMUNITY SAFETY
COMMITTEE**

Meeting Summary for November 11, 2014

COMMITTEE AGENDA TOPICS

- I. **Subject:** Mobile Food Vendors
Action: None
- II. **Next Meeting:** December 11, 2014 at noon

COMMITTEE INFORMATION

Present: Claire Fallon, Chair, Al Austin, Michael Barnes, Greg Phipps, and Kenny Smith
Visitor: Councilmember Mayfield
Time: 12:05 pm – 1:15 pm

ATTACHMENTS

1. Agenda Package
2. PowerPoint Mobile Uses Text Amendments

DISCUSSION HIGHLIGHTS

Chairwoman Fallon called the meeting to order and asked everyone in the room to introduce themselves. She then turned it over to Assistant City Manager Ann Wall.

Ms. Wall stated that there is one item on our agenda this afternoon, and it is a presentation on mobile food vendors, grocers and mobile retail sales. She then introduced Katrina Young with the Planning Department.

I. **Mobile Food Vendors**

Young: We are going to provide current regulations on mobile food trucks and also the opportunity to look at some other local retail. Just to give you a little bit of background, in 2006 staff worked with a Community Advisory Group to amend our regulations. Prior to that, there

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were no specific regulations specifically for mobile food trucks and we treated them as periodic retail sales. These regulations allowed mobile food trucks to stay on a site for no more than five days at a time. This required inspectors to come out twice, once to make sure the food truck was there and then to verify that they had left. The food truck was allowed to do that 12 times per year, so for a total of 60 days, they were allowed at one location and then they would have to move to another location.

Staff convened a Community Advisory Group, and we provided some recommendations and submitted those recommendations to the Community Safety Committee. The Community Safety Committee then recommended adoption of the text amendment to the full Council. That text amendment, which was 2008-079, was adopted in November 2008. Some of the issues that came out of that process were neighbors' complaints that there was no separation from the residential use. There were issues with noise and odors and they also had concerns at that time about the grouping of food trucks. We know that to be different now, but back in 2008 that was an issue.

Fallon: The other issue was that people congregated around it at night, and it became a hangout.

Young: That is correct. CMPD did have some concerns as well because in 2006 food trucks carried enormous amounts of cash. So there were concerns of robbery, loitering, noise and the odor. In amendment 2008-079, we called it mobile food vending, which included not only mobile food trucks but some other mobile uses as well. However, since that time, we have received requests to revisit the regulations. As I mentioned earlier, one of the concerns when we first started in 2006 was the clustering of the trucks. Well, now we have Food Truck Friday and some other events and people have really embraced clustering.

Smith: Regarding the clustering and the encroachment of neighborhoods, was this a particular neighborhood or was it a side of town, multiple neighbors?

Young: It started on South Boulevard. The food truck was very popular and created traffic issues; people were trying to get in and out of the site, so traffic was backed up on the right-of-way. It was also across the street from residential areas and was open late.

Fallon: I think the Committee also had some health concerns, whether they were regulated, whether they were inspected.

Young: We have received requests from the mobile food industry, Neighborhood and Business Services as well as Charlotte Center City Partners, to revisit some of our current regulations.

Barnes: Just to clarify my thinking, the food vendor area in South End is off Camden, right?

Young: Yes

Barnes: I wanted to make sure it was not on South Boulevard.

Young: No, that was when it first started. In January 2014, we launched this process; we have

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included as part of our Community Advisory Group, the industry mobile food vendors, neighborhood leaders, residents and other business owners. This Community Advisory Group has held five meetings.

Smith: How many local mobile food vendors were represented in the stakeholder group?

Young: I would estimate more than 20. The major issues identified through the Community Advisory Group were the locations; where they were allowed to locate. They had an issue with hours of operation (currently it is 9:00 to 9:00) and the vendors believed they were missing a lot of the breakfast and night life business, especially from individuals that are leaving night clubs. Neighbors had some concerns about proximity to the neighborhoods and also the secondary impacts which were trash and littering. The process permitting came up. Currently, you are allowed one permit per location, which is counter-productive to the model. As mobile food vendors, they want to be able to move around. It is very expensive as they have to pay for each permit every 30 days for each location. Also they were concerned about the separation of 400 feet from any other mobile food vendors, 400 feet is about a block. Under the current regulations mobile food trucks are supposed to have a 400-foot separation from each other.

Phipps: The location parameters or criteria, apart from the clustering, does that apply if a vendor wanted to go into a neighborhood for a special event to have a mobile food truck. Would they have to have a separate permit for that or would that be included in the initial permit?

Young: Currently, that is another issue that they wanted to discuss. Now, they were not allowed in residential districts, only in the commercial districts. There are opportunities to be in residential districts under special events.

Austin: Under our current ordinance, is our Food Truck Friday in violation?

Young: The particular one on SouthEnd we have been able to allow under Center City Partners vending regulations. They have special regulations to allow it, but there have been other sites. I believe it is the Optimist Park, NoDa area that was clearly a violation because there is no umbrella.

Austin: Have we had any issues or problems for the Police to respond to for clustering?

Young: We have received complaints from the ones in Optimist Park, not from South End to my knowledge.

Austin: Like what?

Young: Just that it is not an allowed use. Also there is supposed to be a 400-foot separation, and there is not. I believe, one of the food trucks was actually giving away alcohol, and that was a concern for them.

Barnes: That is illegal. You cannot sell booze out of a food truck.

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Young: They were not selling it, they were giving it away.

Austin: How did we respond to that? Were the Police called?

Young: I do not know because that was under Code Enforcement. Through the process, this was one of the issues.

Ms. Young continued reviewing her presentation and stated that in May staff made a presentation to the City Council on modifying changes to the ordinance. Council voted to send the proposed text amendment first to the Community Safety Committee for a recommendation prior to presenting it to the full Council.

While reviewing these changes, there have been some new developments, and we discovered that there are other trends that are occurring such as mobile grocers, mobile farmer's market type uses and mobile retail sales. I'm sure there will be others.

Barnes: We, as a Council, discussed the idea of mobile grocers talking about taking food into communities. For example, a lot of seniors cannot get to grocery stores, and we talked about converting a city bus to a grocery store. I do not recall any of us talking about retail sales. Where did that come from?

Young: From the industry, we have citizens that have an interest.

Barnes: What were they proposing to sell out of a mobile retail business?

Young: Pictures, clothes, products, shoes, etc.

Barnes: Which goes beyond where I want to go as a policymaker; I was talking about farmer's markets and food trucks, not a mobile Roses.

Young: So, that is the question and that is a good take away.

Smith: I would encourage you to look at it openly. In some of the more urban settings, people have gone to some of these shops, and it is a pretty cool concept.

Young: The question is, should we be reviewing all of these mobile uses under one umbrella or should we keep them separate? We have done some research and there is not one consistent way for all jurisdictions or even similarities. Each jurisdiction seems to kind of cater their ordinance to their preference, so it has been very difficult for us to say most use or typically use this method for regulating. Our goal is to come back with our recommendation for all of the uses, but we do need some guidance as to whether or not we should try to come with one grouping or if they should be separate.

Barnes: Is there anyone here from the City Attorney's office?

Wall: No.

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Barnes: I wonder why not because we are talking about the law. In order for me to answer some of the questions that I think you may have, I would actually want to talk about the law, so Ms. City Manager, if you could have someone come down please.

Maynard: Thomas Powers is on his way down.

Fallon: Did we discuss this in Planning years ago?

Campbell: We've not necessarily discussed it. Here is another kind of perspective about this subject matter. We are trying to simplify enforcing zoning regulations and simplify the regulations for customers who may be interested in creating these types of establishments, as well as neighborhoods who are very interested in protecting their neighborhoods. How can we best simplify the rules and regulations around mobile vending?

Fallon: The people that are paying rent to stores can be very resentful if somebody comes and parks outside and takes business away from them.

Campbell: The other perspective about that is requiring a certain distance or having that property owner's permission to be on their property. Obviously, we definitely would have to protect the integrity of the retail firm who has a permanent structure and those who choose to be in a mobile vending operation. What we find and have found historically is mobile vending is almost, from a business perspective, the incubation period. In most instances, a mobile vendor grows up to have a permanent store front, so that is what we are doing; we are incubating business establishments. Unfortunately, they are not able to afford the permanent building yet, so they operate out of a truck, and they grow their business, they get credibility and then they ultimately land in a permanent facility.

Smith: I think as we grow as a City, mobile food trucks are one of the quality of life aspects, especially for the younger folks who come here to take jobs. When we are competing against Portland, for these younger folks of all the economic development decisions we make, to me, is an easy no cost to the City way to promote economic development entrepreneurship and provide quality of life.

Barnes: I understand and we all agree, I think, that this is going to be one of those things that will be a part of future Charlotte and any metro area. The question becomes, as we balance the interest of people who have mobile businesses versus brick and mortar businesses, how do you respond to the needs and interests of those who pay real estate taxes, payroll tax, and pick up the garbage. And because we don't have quite a saturation yet of brick and mortar restaurants, it may be increasingly challenging to space, 400 feet here, and a 1,000 feet here. One of the things that I am trying to think through is whether there are legal challenges with regard to how we treat those different businesses and whether they are being treated the same. If I own a McDonald's and you tell me someone is going to put a mobile truck next door, I have a problem with that as a business owner because I have invested my money and you have invested money, too, but we are being treated somewhat differently by the government because you do not have to incur all the fees and expenses that I do with the brick and mortar facility. That is one of the issues and also are there any issues regarding contracting with a larger entity. For example, if I had a mobile

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retail business and I am selling jeans out of that, are there any issues regarding Target, Wal-Mart, CVS or Walgreen?

Fallon: Are we going to get into mobile pharmacies? I think that comes next because that is a community need where old people cannot get out. That becomes something different again with the different licensing and different permitting.

Campbell: What we see is a public demand for different types of services and then we see opportunities for private entrepreneurship is responding to that demand. Again, Mr. Barnes said something that was very important in terms of consistency of standards and whether we are treating a permanent building that has a retail use in it similar to how we are doing mobile vendors. The question for us was in addition to that permanent structure, are we treating and applying consistent standards for mobile vendors; that is actually the question that we are bringing to the Committee. Maybe we should be looking at a broader concept of mobile vending uses, and they can be a truck, a grocer, a pharmacy, or another retail use and we create some base standards that are across the board consistently. Then we specialize, if you are a truck, you have got to be regulated by the Health Department because you are doing food. So, we would have some kind of minimum baseline standards for every mobile vendor and then have some specific things that are tailored to whatever the use is that you want to do from a mobile vending.

Smith: Back to the issue of fairness and bricks and mortar, I think one thing to point out is the bricks and mortar business, for example Chipotle; those guys have individual locations and do about \$1.8 million to \$2.1 million per year, so while the mobile folks may not come down with some of the exact same standards, I don't think a lot of Taco trucks are doing \$2 million per year.

Phipps: I think when you talk about the legality and challenges, it could be fraught with challenges because, even now, you could have a CVS that will be suing a neighborhood Wal-Mart for non-compete clauses for certain products, so what is to say a mobile vendor parks next to a CVS or some other grocer or a Dollar General or whatever, what is to stop those kinds of challenges from taking place?

Campbell: There is not anything that prevents that, but there is nothing that prevents, for example, there are three QuickTrips, or when there is a service station on one corner and now there is a Shell that wants to come in and we've already got a QuickTrip or there is a Dollar Tree and now there is a Family Dollar. I hear this from Council members. We do not regulate tenants; we regulate land use. Our question to the Committee is the appropriateness of looking at mobile vendors in a broad perspective and developing against some baseline standards if you are a mobile vendor use, these are the standards that you must use and then have some specialized standards for unique different type uses like retail sales or grocers or whatever.

Smith: With regards to traffic and other things, the concerns I will get or feedback I have gotten is about landscape trucks in neighborhoods that park on busy roads. I am not equating landscape to what we are trying to accomplish with food trucks, but it is mobile vendors. This is All Green or Tru Green or whoever, if they are parking on Queens Road, it is 4:00 and traffic has to go around those folks. We have concerns, and there have been expressed concerns about trying to

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protect the integrity of the neighborhood, right-of-way issues and trying to avoid the situation in which food trucks, say on South Boulevard, impede traffic or whatever comes along that is blocking the right-of-way.

Barnes: Here is the difference, they have a call, they park, do their business and they are gone in about 45 minutes. The mobile food truck, for example, is parking for hours in order to sell their food products. The landscape, the pest control company, the other services park, and they are gone as soon as they finish the job.

Smith: In a lot of cases, the landscape guys will cluster and may be out there for a couple hours. My larger point is, as we look at the mobile vending industry, we have some other industries that in some ways are causing some of the issues we are hoping to alleviate with the food trucks.

Fallon: Ms. Campbell, I see this as a common land use because how do you handle someone who has an empty lot that will rent it out to different food vendors because then we have the problem of Planning saying what rezoning can go on that piece of property.

Campbell: That is why we have to make sure that we get these uses permitted in the appropriate districts.

Young: We do have current regulations for mobile food vending; we do not have regulations for mobile grocers and mobile retail sales. For mobile grocers and mobile farmer's market our research indicates this type of use is typically by a non-profit, and it is typically subsidized by government funding because the goal is to get the food to the food desert. It does not seem to be very profitable; it is not a very profitable use to just have fruits and vegetables. If it is more than food and vegetables that are being sold, I think the profit margin goes up.

Fallon: Are they successful?

Young: When they are subsidized, they seem to be.

Fallon: Do we regulate ice cream trucks?

Young: They are regulated under the peddler's regulations, and they are regulated by CDOT because they are on the right-of-way. They have codes that say they have to move every so often, and they have to move a block.

Austin: I noticed a lot of mobile car washes. Are there EPA standards around that?

Young: We dealt with that about three or four years ago. If they were set up in a commercial location and environmental health had certain standards where they had to provide run-off support. If it is just a mobile use and they are just washing and there is no pool of water, they were allowed to do it.

Austin: Would they also come under these other kinds of uses?

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Campbell: We had thought about it, but we could put them under other mobile uses because there are a lot of these out there right now.

Smith: So, if an office park, for example SouthPark, that would have food trucks come out on Wednesday, is that a violation of the existing ordinance?

Young: It is, if they are as close as 400 feet. We are looking at 800 feet.

Austin: Is the Committee saying that we are looking at overall mobile uses and then having specific rules for each one of these different vendors? In my eyes, based on what you are sharing with me on all the other possible uses that are coming out, that would probably be a good direction to go in. I would not think we could craft anything firm now because we are opening up a large can of stuff about what could be mobile.

Barnes: My sense is, we started this with food trucks and mobile grocers, and I recognize that there are a lot of other uses out there, but our focus has been on food, and we are doing that in an effort to provide for the safety and health of people in Charlotte who cannot easily access the grocery stores in the food desert. And, for the leisure activity, for example on Camden Road and SouthEnd actually would be the other end of it. I honestly had no expectation that we would begin to allow Roses on wheels. It just struck us as a public safety risk to have 10 or 12 trucks riding down Tryon Street. I thought that we were dealing with food and food issues and not dog washing, car washing, t-shirt sales, and the other mobile uses. It strikes me that we need to focus on what the Council was originally interested in as opposed to broadening the scope and including the other uses. If you are looking for a motion or need a motion, my motion would be to stick to those top two dashes - the food trucks and mobile grocery stores.

Smith: It sounds to me that we have got a lot of services that are being provided locally and that we are looking for a streamlined way to avoid a bunch of enforcement issues on some of these industries. Is that a fair assessment? And if we stick to food, and I agree with Mr. Barnes, I was not thinking of some of these other industries; I was thinking more from a food perspective. I would be inclined to see how we could simplify this and encompass some of these other businesses to see if it is worthwhile. I would assume that we would also be able to extrapolate from that the expertise that, if we only wanted to do foods, we should be able to take that away from the permit.

Fallon: The problem with that is this basically impacts land use and, when you do land use, you are not going to be able to narrow it. It is how we handle it when people come to us because people are using the land for those other things and impacting the community. So, do we wait and, when it is brought to us, regulate it then or try to talk about it then or do we say now everything is encompassed or do we limit ourselves to food deserts, things that the community needs?

Campbell: We are very comfortable with moving ahead with mobile vending, mobile grocers and trying to figure out what we need to focus on so there is actually some consistency between the mobile because it is all food, a mobile vendor that is selling stuff out of a food truck as prepared food and then someone who is not selling prepared food. That is fine with us. There is an issue

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with all of these other vendors who are operating in our community and are not being regulated, and that is not fair to the other vendors who are being regulated. Ms. Harmon reminded us that we are getting ready to go through a process of updating the Zoning Ordinance, but that is going to be a several year process and maybe we incorporate the broader mobile vending issue as part of that process.

Fallon: Do what we started to do; make a decision on that and then let the others piggyback after we have gotten the land use taken care of.

Campbell: Planning staff needs to make that recommendation.

Fallon: Do you want to define it to the original things that we started with?

Harmon: I think we would like to focus on a couple of things we originally started with, but also set standards in the Zoning Ordinance update to see if they do not apply to the larger realm of things. It would be a two phase process, we would focus on mobile food trucks and mobile grocery or whatever you want to call them in the near term, but we could also begin looking at the broader zoning ordinance issues of the second phase not too far following.

Fallon: We would start those things right away and the others can piggyback later on.

Barnes: I heard what Manager Campbell said, and I also heard what the Planning staff wanted to look at the food area grocer, food truck issue first and immediately thereafter begin to look at the broader categories. Then, what you would be doing is if, in the next 12 months we have some ordinance that the Council would vote on regarding food trucks, mobile grocers and as a part of the overall larger ordinance rewrite, we address the dog washing facilities, car washings, haircuts and all.

Harmon: Unless, through our process, we find that there is an easier way to get it all done, then I think that would be okay that we found an easy way to do it all.

Austin: So our rezoning and our process to update our ordinance - What process are we talking about? There will be other industries that will begin to pile up, so what will we do with them when all of a sudden there is Bob's Shoe Shop?

Harmon: We would cover it with a follow-up, but we would also need interpretations of the ordinance in the near term, and we are hoping that this will not take five years, but it would still linger behind the initial food piece of it. This would give us a chance also to watch and see what else is coming up and stay on top of it during that time frame.

Campbell: Let me clarify because I know this is very confusing. Let's step back to my Planning Director role and we can look at the concept of mobile vending. Again, have some baseline standards and then focus on these individual uses with more specific types of regulations. I do not want you to think that Planning Staff went out and tried to do something totally different from what was directed or that there is disagreement in the preferable direction for Planning staff. What I think I am hearing is that we will continue to work on the vending and the grocers,

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and that will be two totally separate processes. It still may be spring probably before Planning staff would come back with recommendations for either one or both. We are going to need to respond to all these different uses that, again, are in our community, and it is unfair that they are not being regulated and others are being regulated.

Smith: I fear that I'm in an awkward position where I may be arguing for more regulation. I just want to make sure that some of the entrepreneurs are not going out of business in the interim while the wheels of government work.

Barnes: Were there any issues from Police and Fire that we should know about that we have problems?

Kinniburgh: From a fire code perspective, the mobile nature of these enterprises takes a matter of fire code. About the only thing we can enforce on them are the general safety provisions. It is just general safety regulations that apply anywhere.

Pearsall: From a CMPD standpoint, I'm going to look it up because I know they mentioned Optimist Park, so I will find out what some of those issues were related to for those particular areas.

Barnes: This was not an action item, so I don't know if we need any motions. Do we?

Campbell: We were just bouncing ideas.

Harmon: I think we have sufficient direction.

Barnes: The notes from the meeting will reflect that the Committee was most interested in moving forward with regulations about mobile food related vending, mobile food trucks as well as grocers.

Smith: Regulations but more consistency.

Young: Our next steps will be to go back to the Community Advisory Groups, which are the mobile food truck and the mobile grocers. We will share with them the staff recommendation and get their feedback, tweak this text amendment and then come back with those recommendations to you and ask that you provide us with a recommendation to take to full Council.

Phipps: As part of next steps, can the record reflect that you all will be coming back in the spring of 2015?

Young: Or sooner.

Barnes: Here is the question I had, I do not necessarily have any interest in creating a budget line item for subsidizing mobile grocers, but in 2007 we learned that there was a situation with Loaves and Fishes. So I made a motion to have Council contribute \$50,000 to Loaves and Fishes

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and Harris Teeter matched it with \$30,000 worth of food, so they got \$80,000 in money and food because of the City. I imagine there are still some companies like Kroger, Food Lion and others who might be interested in working with some of these vendors to provide food that may be a day old or something and help them without the City having to stroke a check for \$50,000 to support mobile grocers.

Young: Some of those subsidies were actually like federal grants or where they would try to get foods.

Campbell: A lot of the zoning issues will not, unfortunately, address operations of those establishments. They will simply look at whether the uses are appropriate.

The meeting was adjourned at 1:15 p.m.

Community Safety Committee
Tuesday, November 11, 2014; 12:00 p.m. – 1:00 pm
Room 280

Committee Members: Claire Fallon, Chair
Michael Barnes, Vice Chair
Al Austin
Greg Phipps
Kenny Smith

Staff Resource: Ann Wall, Assistant City Manager

AGENDA

I. Mobile Food Vendors

Staff Resources: Katrina Young, Planning Department

The Committee will receive an update on efforts to amend the section of the Zoning Ordinance that regulates mobile food vendors. Staff will present information on: 1) identified stakeholder concerns and issues, 2) staff response to those issues, and 3) outline next steps in the process.

Action: None required; for information only.

II. Future Agenda Items

Staff Resource: Ann Wall, City Manager's Office

- Exclusionary Zones
- Review of Emergency Operations Plan

Next Meeting: December 11, 2014 at Noon

Distribution: Mayor/City Council
Bob Hagemann
Jon Hannan

Ron Carlee, City Manager
Stephanie Kelly
Thomas Powers

Leadership Team
Rodney Monroe
Tracy Evans





MOBILE USES TEXT AMENDMENTS

CHARLOTTE CITY COUNCIL
COMMUNITY SAFETY COMMITTEE

November 11, 2014



Purpose

- Update Council on **process to modify regulations governing mobile vending and other mobile uses.**





Project Background

- In 2006 staff worked with a Community Advisory Group **to amend the Zoning Ordinance to regulate mobile food vending.**
- Text amendment was reviewed by Council's **Community Safety Committee and recommended adoption** to the full Council.
- Text Amendment **#2008-079 was adopted** by Council in **November of 2008.**



Project Background

- Since that time staff has received numerous **requests to review the current mobile food vending regulations from:**
 - Mobile foods vendors
 - Other city departments
 - Charlotte Center City Partners



 **Project Background**

- Launched process in January of 2014
- Formed a Community Advisory Group to include:
 - Mobile Food Vendors
 - Neighborhood Leaders
 - Residents
 - Other Business Owners



 **Project Background**

MAJOR ISSUES IDENTIFIED



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graph TD; Locations --- MobileFoodVendors[Mobile Food Vendors]; MobileFoodVendors --- OperatingHours; OperatingHours --- Proximity[Proximity to Neighborhoods]; Proximity --- SecondaryImpacts[Secondary Impacts]; SecondaryImpacts --- Locations;
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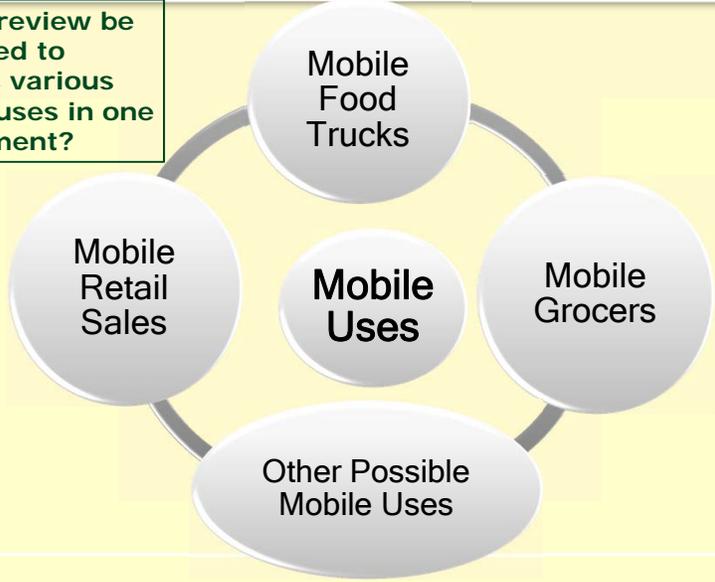
Project Background

- **On May 5, 2014 staff made a presentation to City Council on modifying changes** to the current mobile vending regulations.
- **Council voted to send the proposed text amendment first to the Community Safety Committee** prior to presenting to full Council at a public hearing.
- In the midst of the Community Advisory Group process for Mobile Food Truck, **staff received requests to amend the ordinance to allow other mobile type uses i.e.**
 - Mobile Grocers
 - Mobile Retail Sales



Focus of Review

Should review be expanded to address various mobile uses in one amendment?





Review of Regulations

- There are **current regulations** to address **mobile food vending**
- There are **no regulations** to address **mobile grocers**
- There are **no regulations** to address **mobile retail sales**



Mobile Food Truck



 **Mobile Grocers
Farmer's Market**



 **Mobile Retail**







CHARLOTTE.

Next Steps

- **Develop and review proposed text amendment** with:
 - Mobile Food Stakeholders Community Advisory Group
 - Mobile Grocers/Farmers Market Community Advisory Group
- **Review proposed text amendment** with Community Safety Committee
- **Hold public hearing** with full City Council

