

A RESOLUTION ADOPTING A STATEMENT EXPLAINING THE BOARD OF
ALDERMEN'S REASONS FOR ADOPTING AN AMENDMENT TO THE TEXT OF
THE CARRBORO LAND USE ORDINANCE
Resolution No. 189/2007-08

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO ALLOW MOBILE PREPARED FOOD VENDORS IN CERTAIN DISTRICTS

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is consistent with

Section 2. The Board concludes that its adoption of the above described amendment is reasonable and in the public interest because the Town seeks to provide for a range of non-residential development.

Section 3. This resolution becomes effective upon adoption.

:

A RESOLUTION ADOPTING A STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR REJECTING AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND USE ORDINANCE

WHEREAS, an amendment to the text of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO ALLOW MOBILE PREPARED FOOD VENDORS IN CERTAIN DISTRICTS

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is not consistent with Town of Carrboro Land Use Ordinance.

Section 2. The Board concludes that its rejection of the above described amendment is reasonable and in the public interest because existing policies are sufficient.

Section 3. This resolution becomes effective upon adoption.

AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO ALLOW MOBILE
PREPARED FOOD VENDORS IN CERTAIN DISTRICTS

****DRAFT 4-3-08****

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 15-15 (Definitions) of the Carrboro Land Use ordinance is amended by adding a new subsection (67.1) as follows:

(67.1) **Mobile Prepared Food Vendor.** A business in which food that is prepared and ready for consumption at the point of sale is sold from or out of a motor vehicle (as defined in Section 6-1 of the Town Code) that does not exceed eight feet in width or twenty-five feet in length and that is removed each day at the close of the food vendor business from the lot where the food is sold. In no case may a mobile prepared food vendor business operate between the hours of 2:30 a.m. and 6:00 a.m.

Section 2. Subsection 15-149(c)(4) of the Carrboro Land Use Ordinance is amended as follows:

The use of any motor vehicle (as defined in Section 6-1 of the Town Code), parked on a lot, as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted (as defined in Section 8-1 of the Town Code), except that the following shall not be prohibited by this subdivision: (i) retail sales of goods and food products manufactured, created or produced by the seller, (ii) the sale of food products on town property by persons authorized or acting on behalf of the town; (iii) the sale of prepared food by mobile prepared food vendors to the extent authorized in the Table of Permissible Uses and Section 15-176.5; and (iv) use of a motor vehicle in connection with an aluminum recycling operation to the extent authorized in the Table of Permissible Uses and other provisions of this chapter. Notwithstanding any other provision of this chapter, situations that exist on the effective date of this provision that are in violation thereof shall not be regarded as lawful, nonconforming situations thirty days after the effective date of this subdivision.

Section 3. Section 15-146 (The Table of Permissible Uses) is amended by adding a new use classification 8.600 entitled "Mobile prepared food vendors" and by adding the letter "z" opposite this use classification under the B-1(C), B-1(G) and M-1 zoning district columns to indicate that this use is permissible in those districts with a zoning permit.

Section 4. Article XI (Supplementary Use Regulations) is amended by adding a new section 15-176.5 as follows:

Section 15-176.5 Mobile Prepared Food Vendors

(a) Mobile prepared food vendors shall be located on lots where an existing non-residential use operates in a permanent building.

(b) As set forth in the Table of Permissible Uses, mobile prepared food vendors are permissible in the B-1(C), B-1(G) and M-1 districts (subject to the other provisions of this section). In addition, mobile prepared food vendors shall also be permissible on lots in the R-10 district where (and so long as) there exists a nonconforming retail business located in a permanent building.

(c) Notwithstanding the provisions of Section 15-154 (Combination Uses), a zoning permit may be issued for a mobile prepared food vendor, and in issuing the permit, the zoning administrator shall take into consideration only this use and not the other use or uses made of the lot where the mobile prepared food vendor is located (except that this use must comply with subsection (a)).

(d) Mobile prepared food vendors shall be subject to the building setback requirements of Section 15-184 but shall not be subject to the other provisions of Article XII or to the provisions of Articles XIII through XIX of this chapter. Notwithstanding the foregoing, no signage for these uses shall be allowed other than signs permanently attached to the motor vehicle.

(e) Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.

(f) Mobile prepared food vendors may not be located in any portion of a vehicle accommodation area where such location would prevent the use of required parking spaces during the regular hours of operation of the primary business on the lot, or otherwise interfere in a significant way with the movement of motor vehicles using such area.

(g) Mobile prepared food vendors shall not operate as a drive-through.

(h) A zoning permit issued for this use may be revoked not only for the reasons specified in Section 15-115 but also if the zoning administrator determines that the mobile prepared food vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety.

Section 5. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 6. This ordinance shall become effective upon adoption.

Excerpt of Carrboro Land Use Ordinance, May 8, 2008**Section 15-149 Permissible Uses and Specific Exclusions.**

(a) The presumption established by this chapter is that all legitimate uses of land are permissible within at least one zoning district in the town's planning jurisdiction. Therefore, because the list of permissible uses set forth in Section 15-146 (Table of Permissible Uses) cannot be all-inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(b) Notwithstanding subsection (a), all uses that are not listed in Section 15-146 (Table of Permissible Uses), even given the liberal interpretation mandated by subsection (a), are prohibited. Nor shall Section 15-146 (Table of Permissible Uses) be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

- (1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the fire prevention code adopted by reference in Section 12-11 of the Town Code.
- (2) Stockyards, slaughterhouses, rendering plants.
- (3) Use of a travel trailer as a residence, temporary or permanent.
- (4) The use of any motor vehicle (as defined in Section 6-1 of the Town Code), parked on a lot, as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted (as defined in Section 8-1 of the Town Code) except that the following shall not be prohibited by this subdivision: (i) retail sales of goods and food products manufactured, created or produced by the seller, (ii) the sale of food products on town property by persons authorized by or acting on behalf of the town; and (iii) use of a motor vehicle in connection with an aluminum recycling operation to the extent authorized on the Table of Permissible Uses and other provisions of this chapter. Notwithstanding any other provision of this chapter, situations that exist on the effective date of this provision that are in violation thereof shall not be regarded as lawful, nonconforming situations thirty days after the effective date of this subdivision. **(AMENDED 11/10/81; 6/22/82; 6/28/83)**
- (5) Construction by the developer of a major residential subdivision of an opaque fence, wall, or berm more than three feet in height

around any portion of the periphery of such subdivision, except where such fence, wall or berm is designed to shield the residents of such subdivision from the adverse effects of any adjoining nonresidential use other than a street. Notwithstanding the foregoing, a berm of more than three but less than four feet in height shall be allowed under the foregoing circumstances where (i) the side slopes of the berm are constructed at a steepness ratio of 4:1 to 6:1 and (ii) the average height of the berm does not exceed three feet. For purposes of this subsection, the term "developer" includes any entity that is under the control of the developer, including a homeowners association that is under the developer's control. **(AMENDED 05/19/98, 08/24/99)**

- (6) Construction of gates that prevent access to private roads serving five or more lots or dwelling units. **(AMENDED 05/25/99)**

ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

Administration
 (919) 245-2575
 (919) 644-3002 (FAX)
 www.co.orange.nc.us



306F Revere Road
 P. O. Box 8181
 Hillsborough, NC 27278



TRANSMITTAL DELIVERED VIA EMAIL

May 29, 2008

Patricia J. McGuire, AICP
 Planning Administrator
 Town of Carrboro
 301 W. Main St.
 Carrboro, NC 27510

Dear Trish:

Thank you for the opportunity to review the following ordinance amendment received by us on May 27, 2008 and proposed for town public hearing on June 24, 2008:

- **Allowing mobile prepared food vendors in certain districts.**
- **Nutrient load-reducing, best management practices required.**

We find no inconsistency with the adopted *Joint Planning Area Land Use Plan* on these proposed amendments and have no additional comment.

Sincerely,

Perdita Holtz, AICP
 Planning Systems Coordinator

cc: Laura Blackmon, ICMA-CM, Orange County Manager
 Craig Benedict, AICP, Orange County Planning Director



TOWN OF CARRBORO

Planning Board

301 West Main Street, Carrboro, North Carolina 27510

RECOMMENDATION

THURSDAY, JUNE 19, 2008

Land Use Ordinance Text Amendment to establish mobile food vendors as a permissible use in certain districts

Motion was made by David Clinton and seconded by Rich Bell that the Planning Board recommends that the Board of Aldermen adopt the draft ordinance establishing mobile food vendors as a permissible use in certain districts.

VOTE: AYES: Barton, Bell, Clinton, Paulsen, Seifs
ABSENT/EXCUSED: Carnahan, Chadbourne, Cook, Poulton, Warner
NOES: Fritz
ABSTENTIONS: None

Associated Findings

By a unanimous show of hands, the Planning Board membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Furthermore, the Planning Board of the Town of Carrboro finds that the proposed text amendment is consistent with the following adopted or accepted planning documents:

The noted sections of Carrboro Vision2020: 3.61, and 3.63 pertaining to economic diversity.

Heidi Paulsen, First Vice-Chair

06/20/08