



**Planning and Zoning Commission  
September 4, 2019 Meeting**

**Staff Report**

**DATE:** August 27, 2019  
**TO:** Planning and Zoning Commission Members  
**FROM:** Ryan Lipp, Senior Planner

**SUBJECT:** **Text Amendment – TA-2019-06 Article 4, Zoning Districts and Dimensional Regulation, Table 4.6-1, Principal Uses Permitted in Zoning Districts, Article 5, Supplemental Use Regulations and Appendix A**, – Public Hearing to consider a text amendment to Article 4, Table 4.6-1, Article 5 and Appendix A of the Unified Development Ordinance (UDO), to allow mobile food vending within the CC (Center City), C-1 (Light Commercial and Office), and the C-2 (General Commercial) districts with specific standards.

**A. Actions Requested by Planning and Zoning Commission Members**

1. Hold Public Hearing
2. Consider Resolution to Adopt a Statement of Consistency for TA-2019-06
3. Consider motion to recommend approval of proposed text amendments by City Council

**B. Decision and Required Votes to Pass Requested Action**

Article 3.8 of the UDO addresses the procedures for processing amendments to the text of the ordinance. Per Section 3.8.2, "*Any person, board, department, or commission may apply for a change in zoning ordinance text*". The proposed text amendment was initiated by the Planning Department.

Per Sections 3.8.3.2 and 3.8.3.3 of the UDO, a majority vote of the Planning and Zoning Commission is required to recommend approval of a text amendment. A recommendation to approve is then forwarded to City Council who shall, either approve or deny the text amendment by a majority vote.

**C. Background**

Staff is proposing to amend Article 4, Table 4.6-1, Article 5, Supplemental Use Regulation, and Appendix A to allow for mobile food vending as a permitted use in the CC (Center City), C-1 (Light

Commercial and Office), and C-2 (General Business) zoning districts with standards. This text amendment proposes to:

1. Permit the use within the CC, C-1, and C-2 districts
2. Delete Mobile Food Vending Service from 5.22.2.8, delete Section 5.22.3.4 and add standards in Article 5.38 of the UDO (see attached for reference)
3. Amend the definition for mobile food vending in Appendix A

#### **D. Fiscal Considerations**

The proposed text amendment helps foster small business investment and economic development in mixed-use corridors and the urban core.

#### **E. Policy Issues**

The proposed text amendment to the UDO is **attached** and shown as **additions and deletions**:

#### **F. Legal Issues**

None

#### **G. Alternative Courses of Action and Staff Recommendation**

The Planning and Zoning Commission may choose to recommend approval or denial of the text amendment as presented. The Commission may also add, delete, or change any of the language as proposed.

Based on the foregoing analysis, staff recommends **approval** of the proposed text amendments to **Article 4, Table 4.6-1, Article 5, and Appendix A** of the Unified Development Ordinance.

#### **The following actions are required to recommend approval of TA-2019-06**

1. Consider Resolution to Adopt a Statement of Consistency for TA 2019-06
2. Consider motion to recommend approval of proposed text amendments by City Council.

#### **The following actions are required to recommend denial of TA-2019-06**

1. Consider Resolution to not Adopt a Statement of Consistency for TA 2019-06
2. Consider motion to recommend denial of proposed text amendments by City Council.

#### **H. Attachments**

1. Application for Text Amendment to the Unified Development Ordinance
2. Proposed UDO changes: Article 4, Article 5, and Appendix A
3. Resolution to Adopt a Statement of Consistency

#### **I. Issue Reviewed By:**

City Manager  
City Attorney  
City Engineer  
Planning Director



Planning and Zoning Commission and Board of Adjustment
General Application Form
(Not for Site Plan Review Submittals)

Type of Action Requested (Check One):

- Variance
Conditional Use Permit
Subdivision Exception
Zoning Text Amendment (checked)
Appeal
SIA Application
Nonconformity Adjustment
Watershed Boundary Modification
Zoning Map Amendment
Conditional Zoning Map Amendment

Applicant: Zachary D. Gordon, AICP Planning Director
Owner:

Address: 401 Laureate Way
Kannapolis, NC 28081

Telephone: 704-920-4355

Email: zgordon@kannapolisnc.gov

Legal relationship of applicant to property owner: N/A

Property Location/Address: N/A

Tax Parcel Number: N/A Zoning District: N/A Acreage of Site: N/A

Zachary D. Gordon
Applicant Name (Print) Property Owner Name (Print)

Applicant Signature & Date (with signature) July 10, 2019
Property Owner Signature & Date

The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.

For Staff Use Only:

Filing Fee: Receipt #

Application No.: Date Submitted (Complete):



**CITY OF KANNAPOLIS**

**AN APPLICATION TO AMEND THE TEXT OF  
THE UNIFIED DEVELOPMENT ORDINANCE**

I Zachary D. Gordon, AICP, hereby make application for an amendment to the following section(s) of the Unified Development Ordinance:

Article 4, Table 4.6-1, Appendix A, Article 5

In the space provided below, or on a separate sheet, present your requested text for the Ordinance provisions in question:

**See attached Staff Report**

---

State your reasons for amending the text of the Ordinance:

**See attached Staff Report**



---

Signature of applicant

**Fee:** Please refer to fee schedule to determine applicable fees. All fees are nonrefundable and help to cover administrative and notification costs.

---

**TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

P - Permitted Use S - Permitted Use with Supplemental Regulations in Article 5 and/or Article 11 (see "§ 0.00" for reference)

C - Conditional Use (-) Prohibited Use

USE	NAICS	ZONING DISTRICTS																
		AG	RE	RL	RM-1	RM-2	RV	RC	B-1	O-I	CC*	C-1	C-2	CD-R <sup>A</sup>	CD*	I-1*	I-2	
Equestrian Boarding & Riding Arenas, Commercial	81291, 71131	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Equipment Rental & Leasing (with indoor storage)	53321, 5324	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-	-	
Equipment Rental & Leasing (with outdoor storage)(§ 11.1)	53231, 5324	-	-	-	-	-	-	-	-	-	-	P/S	-	(24)P/S	P/S	-	-	
Electronics & Appliance Rental	53221	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	
Electronics, Camera & Appliance Stores	443	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	
Electronic Gaming Operations (§ 5.31) <sup>(23)</sup>	-	-	-	-	-	-	-	-	-	-	-	-	C/S	-	-	P/S	P/S	
Farmer's Market	44523	P	-	-	-	-	-	-	P	-	P	-	P	-	-	-	-	
Fitness & Recreational Sports Centers <sup>(2)</sup>	713490	-	-	-	-	-	-	-	C	-	P	P	P	-	P	P	-	
Florist	4531	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-	
Formal Wear & Costume Rental	53222	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	
Furniture & Home Furnishings	442	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-	
Furniture/Party Supply/Sporting Goods Rental	53229	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-	
Game Preserves	7114	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
General Merchandise Stores (less than 25,000 sq. ft.)	452	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	
Gift, Novelty & Souvenir Stores	45322	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-	
Grocery/Food Stores (excl. convenience stores)	4451, 4452	-	-	-	-	-	-	-	C	-	P	P	P	-	P	-	-	
Heavy Truck, RV, and Semi-Trailer Leasing <sup>(1)</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	
Hobby, Toy & Game Stores	45112	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-	
Hotel, Motels & Extended Stay Lodging Facilities	72111	-	-	-	-	-	-	-	-	-	P	-	P	-	P	-	-	
Ice Vending Operations	-	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	P/S	P/S	
Jewelry, Luggage and Leather Goods	4483	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-	
Lawn & Garden Supply (with outdoor storage) (§ 11.1)	4442	-	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	P/S	-	
Lawn & Garden Supply (with no outdoor storage)	4442	-	-	-	-	-	-	-	P	-	P	P	P	-	P	P	-	
Liquor Sales (ABC stores)	4453	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	
LP Gas & Heating Oil Dealers	45431	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	-	
Manufactured Home Sales (§ 5.23)	45393	-	-	-	-	-	-	-	-	-	-	-	P/S	-	-	-	-	
Micro-brewery ( <sup>25</sup> §5.37)	-	-	-	-	-	-	-	-	-	-	P/S	-	P/S	-	-	-	-	
Miniature Golf course	713990	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	
Mini-warehousing/Self-storage Leasing (§ 5.15) <sup>(15)</sup>	53113	-	-	-	-	-	-	-	-	-	-	-	C/S	-	-	C/S	C/S	
<b>Mobile Food Vending (§ 5.38)</b>		-	-	-	-	-	-	-	-	-	P/S	P/S	P/S	-	-	-	-	
Motion Picture Theaters (excl. drive-in)	512131	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	
Motion Picture Theaters, drive-in	512132	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-	-	
Motorcycle, Boat & RV Dealers, New & Used	4412	-	-	-	-	-	-	-	-	-	-	-	P	-	-	P	-	
Musical Instrument & Supplies	45114	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-	
Nurseries	44422	P	-	-	-	-	-	-	-	-	-	C	P	-	P	-	-	
Office Supplies & Stationery Stores	45321	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-	
Parking Lots & Structures, Commercial	-	-	-	-	-	-	-	-	-	-	P	P	P	-	P	P	P	
Pawnshops (subject to NCGS, Chapter 91A)	522298	-	-	-	-	-	-	-	-	-	C	C	P	-	-	-	-	
Pet & Pet Supply Stores	45391	-	-	-	-	-	-	-	-	-	P	P	P	-	P	-	-	
Pharmacies, Health & Personal Care Stores	446	-	-	-	-	-	-	-	P	-	P	P	P	-	P	-	-	

5.22.2.8. PERIOD OF TIME BETWEEN PERMITS.

Temporary Use Type	Per Location				Section of UDO
	Min. Permit Length	Time Between Expiration	Max. Time Allowed Per year	Permit Required	
Agriculture Products, Non-Residential	180 days	NA	180 days**	Yes	5.22.3.2
Agriculture Products, Residential	7 days	NA	180 days**	Yes	5.22.3.2
Amusement Enterprises	21 days	90 days *	21 days**	Yes	5.22.5
Fireworks Stands	45 days	90 days *	45 days**	Yes	5.22.3.1
<del>Mobile Food Vending Service</del>	<del>30 days</del>	<del>Renewable</del>	<del>90 days</del>	<del>Yes</del>	<del>5.22.3.5</del>
Promotional Activities	7 days	1 day*	21 days	Yes	5.22.7
Contractors Office, Equipment, Sheds	30 days	NA	12 months	Yes	5.22.4.1
Real Estate Office, Trailer	6 months	Renewable	12 months	Yes	5.22.4.2
Real Estate Office, Model Home	6 months	Renewable	12 months	Yes	5.22.4.3
Single Family, Temporary Structure	12 months	NA	12 months**	Yes	5.22.4.4
Religious Events, Offsite	30 days	Renewable	60 days	Yes	5.22.6
Religious Events, Onsite	NA	NA	NA	No	5.22.9.1
Sidewalk Vendors	90 days	90 days *	90 days**	Yes	5.22.3.4
Special Events and Activities	NA	NA	NA	No	5.22.9.2
Yard Sales	2 days	Renewable	8 days	Yes	5.22.8

\*The period of time between an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on the same parcel per fiscal year (July 1st to June 30th).

\*\*Even if at any time the temporary use does not occupy the permitted site, the noted day/month limit shall not be extended

**5.22.3. TEMPORARY RETAIL SALES USES.**

**5.22.3.1. Fireworks Stand.** Limited to only non-residential zones <sup>(2)</sup>. A maximum of one (1) structure, not to exceed 120 square feet in area, shall be allowed. The structure must be portable and completely removed at the end of the permit period.

**5.22.3.2 Seasonal Sale of Agricultural Products.** (including Christmas Trees). <sup>(2)</sup>A maximum of one (1) building/display booth shall be allowed and may cover a maximum of 400 square feet in non-residential districts. The <sup>(1)</sup>building/display booth must be portable and completely removed at the end of the period. A maximum display area of 100 square feet shall be allowed in residential districts. Such residential sales are limited to selling excess vegetables and fruits incidental to the residence. Residential seasonal sales shall be limited to the daylight hours.

**5.22.3.3. Sidewalk Vendors** <sup>(2)</sup>Limited non-residential outdoor sales (sidewalk vendors) may receive a temporary use permit if the sales activities are incidental to the primary use, the sales activity is conducted with property owner permission and the display area is located in the C-1 or C-2 zoning districts. The display area shall not extend beyond the sidewalk or concrete apron entrance of the building, nor encroach into a public right-of-way. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use. <sup>(2)</sup>Temporary sales activities are prohibited on vacant property and from vehicles.

~~**5.22.3.4 <sup>(2)</sup>Mobile Food Vending Service.** The sale of food or beverages from a mobile food vending unit shall only be permitted in the C-1 or C-2 zoning districts on occupied lots. Mobile food vending services are prohibited on vacant properties. The mobile food vending service shall not be located in any required setback, any sight distance triangle, or required buffer. Trash receptacles must be provided for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food, and other such waste. Such receptacle shall be located no more than 10 feet from the mobile food vendor. The vendor is responsible for removing all trash, litter, and refuse from the site at the end of each business day. The hours of operation shall be between 8:00am and~~

~~9:00pm. The mobile food vending service shall provide one (1) parking space per 250 square feet of the mobile food vending unit. The mobile food vending service shall not be located in any minimum required parking spaces for other businesses on the site. There shall be a minimum of 400 feet of separation from any other mobile food vending service. These restrictions shall not be applicable to special events recognized by the City where mobile food vendors are permitted or non-profit fundraising events of five (5) days or less. <sup>(2)</sup>A zoning compliance permit must be placed in the front window of the mobile food vendor vehicle or trailer while in use.~~

**5.22.4. REAL ESTATE DEVELOPMENT AND CONSTRUCTION-RELATED TEMPORARY USES.**

**5.22.4.1. <sup>(1)</sup>Contractors Office and Equipment / Storage Sheds.** Accessory to a Construction Project (Residential and/or non-residential) Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one (1) year as and if approved by the Administrator. A construction trailer may be used for a contractor's office and/or for the contractor's storage of equipment and/or materials. All temporary buildings and trailers shall be completely removed from the site within thirty (30) days of issuance of either a Certificate of Occupancy on the last permitted Residential unit and/or completion of the Non-Residential construction project which has been issued a Certificate of Occupancy.

**5.22.4.2. <sup>(1)</sup>Real Estate Office in a Construction or a Temporary Modular Unit.**

Temporary structures, such as a construction trailer(s) and/or temporary modular unit(s) may be used as a real estate sales office, promotion and management office in any new construction project for the sale and promotion of properties within that project and/or its future phases only. Such a temporary use shall be allowed in all zoning districts, <sup>(2)</sup>if approved by the Administrator. A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

**5.22.4.3. Real Estate Office in a Model Home.**

Accessory to Construction of a New Residential Development, <sup>(2)</sup>if approved by the Administrator.

(1) City Council approved 12/12/2005

(2) TA-2009-02 - City Council approved /5/11/2009

## 5.38 MOBILE FOOD VENDING

### 5.38.1 APPLICABILITY.

The provisions of this Section shall apply to any mobile food vending as defined in Appendix A and allowed in Table 4.6-1 (See Article 4) subject to the provisions below.

### 5.38.2 Permit Requirement.

**5.38.2.1** A mobile food vendor, or the property owner, on which mobile food vending will be placed shall obtain a zoning clearance permit. Permits must be posted in a visible location on the mobile food vending unit.

**5.38.2.2** The property owner will be issued a notice of violation if no permit has been issued for the location. However, the mobile food vendor will be cited if located on a property without property owner approval.

**5.38.2.3** A permit shall be valid for one calendar year and must be renewed on an annual basis.

**5.38.2.4** All applicable local and state regulations, including, but not limited to, Health Department, Environmental Health, and Environmental Protection, shall be met.

### 5.38.3 Site Criteria

**5.38.3.1** No mobile food vending unit shall be located in any required setback, sight distance triangle, or required buffer, nor shall any drive aisle, loading/service area, pedestrian walkway, emergency access, or fire lane be impeded.

**5.38.3.2** Trash receptacles must be provided by the property owner, or designee, for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food and other such waste. Such trash receptacles shall be located no more than 10 feet from the mobile food vending unit. The property owner, or designee, is responsible for removing all trash, litter, and refuse from the site at the end of each business day.

**5.38.3.3** No mobile food vending unit shall operate as a drive-thru service.

**5.38.3.4** In all districts where food trucks are allowed, the mobile food vending unit shall provide one (1) parking space per 250 square feet of the mobile food vending unit. Mobile food vending units located in the Center City (CC) district are exempt from this regulation.

**5.38.3.5** Any sidewalk encroachment shall require permit approval from the Public Works Department.

**5.38.3.6** Mobile food vending units are required to returned to their associated commissary at the end of each business day.

**5.38.3.7** These restrictions shall not be applicable to special events recognized by the City where mobile food vending is permitted or non-profit events of five (5) days or less.

MINOR THOROUGHFARE - A Minor Thoroughfare as designated on the Cabarrus-South Rowan MPO Thoroughfare Plan.

MITIGATION - The minimization of impacts to existing vegetation and wildlife habitat as a result of development in the resource area, and that lost vegetation and wildlife habitat are restored or recreated.

MIXED USE DWELLING - See BUILDING, MIXED USE

MIXED USE DEVELOPMENT OR MIXED-USE PROJECT - A proposed development that includes primary non-residential and primary residential uses on the same development site.

**MOBILE FOOD VENDING SERVICE** – A service establishment operated from a licensed and moveable vehicle (with or without an attached trailer), a portable vending cart, or mobile food stand that sells food and/or drink processed or prepared on-site to walk-up customers.

MOBILE HOME - A single-family dwelling, factory built and factory-assembled residence which does not comply with the National Manufactured Homes Construction Safety and Standards Act (42 U.S.C. § 5401, 1978, as amended) or the State Building Code.

MODERATE INCOME HOUSING - Housing reserved for occupancy or ownership by persons or households whose annual gross income does not exceed one hundred percent (100%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

MODULAR HOME - A dwelling unit constructed in accordance with the standards set forth in the State Building Code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home may consist of one or more sections transported to the site in a manner similar to a mobile home or manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

MOTEL - A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.

MOTOR HOME - A vehicular-designed unit built on, or permanently attached to, a self-propelled vehicle chassis, van, or chassis cab, which is an integral part of the complete vehicle, to provide temporary living quarters for recreational, camping, or travel use.

MOTOR VEHICLE - See VEHICLE, MOTOR

MOTOR VEHICLE REPAIR SHOP - See AUTOMOBILE REPAIR SHOP

MOTORSPORTS COMPLEX - A facility consisting of a racetrack, seating, concession areas, suites, and parking facilities, with accessory offices, residences, and/or retail facilities, and which is utilized primarily for the hosting of automobile racing events.

MULTI-FAMILY DWELLING - A structure arranged, designed, and intended to be the residence of more than one family, with each family having independent cooking and bathing facilities.

MULTIPLE DWELLING - See APARTMENT HOUSE

MUNICIPALITY - An incorporated city or town.

MUNICIPAL STREET - A street or highway accepted by the City and which is not a State Highway. (Source: 19A NCAC § 20.0404).



**RESOLUTION TO ADOPT A STATEMENT OF CONSISTENCY WITH REGARD TO  
TEXT AMENDMENT TA-2019-06**

**WHEREAS**, Section 160A-383 (2013) of the North Carolina General Statutes specifies that the governing board shall also approve a statement describing whether its action is consistent with an adopted comprehensive and any other officially adopted plan that is applicable; and

**WHEREAS**, the text amendment to **Article 4, Zoning Districts and Dimensional Regulation, Table 4.6-1, Principal Uses Permitted in Zoning Districts, Article 5, Supplemental Use Regulations, and Appendix A, Definitions** of the Unified Development Ordinance (UDO) to allow mobile food vending in the CC (Center City), C-1 (Light Commercial and Office), and the C-2 (General Commercial) districts, is consistent with policy 5.1.4 Support Small Businesses and policy 5.6.1 Facilitate Development of Urban Centers, of the *Move Kannapolis Forward 2030 Comprehensive Plan*, because it helps foster small business investment and economic development in mixed-use corridors and the urban core; and

**WHEREAS**, the Planning and Zoning Commission conducted a Public Hearing on September 4, 2019 for consideration of text amendment Case# TA-2019-06 as submitted by the Planning Department staff;

**NOW, THEREFORE BE IT RESOLVED** that the Planning and Zoning Commission finds the text amendment as represented in Case TA-2019-06 is consistent with the *Move Kannapolis Forward 2030 Comprehensive Plan*, as well as state statutes, reasonable, and in the public interest, and is recommended for approval by the City Council based on consideration of the application materials, information presented at the Public Hearing, and the recommendation provided by Staff.

**Adopted this the 4<sup>th</sup> Day of September 2019;**

---

David Steele, Chairman  
Planning and Zoning Commission

Attest:

---

Pam Scaggs, Recording Secretary  
Planning and Zoning Commission